GENERAL LAWS

OF THE

STATE OF IDAHO

PASSED BY
THE FIRST REGULAR SESSION OF THE
FIFTY-FIRST IDAHO LEGISLATURE

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

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SECRETARY OF STATE

PETE T. CENARRUSA
Secretary of State
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CHAPTER 1
(H.B. No. 40)

AN ACT

RELATING TO THE SALES TAX; AMENDING SECTION 63-3620, IDAHO CODE, TO PROVIDE THAT THE SELLER SHALL HAVE THE BURDEN OF PROOF OF EXCLUSION FROM SALES TAX LIABILITY UNLESS A PROPERLY EXECUTED RESALE CERTIFICATE IS PROVIDED BY THE PURCHASER; AMENDING SECTION 63-3621, IDAHO CODE, TO PROVIDE THAT THE SELLER SHALL HAVE THE BURDEN OF PROOF OF GIVING RISE TO A CLAIM FOR EXEMPTION FROM SALES TAX, RATHER THAN THE PURCHASER; AMENDING SECTION 63-3622, IDAHO CODE, TO PROVIDE THAT THE SELLER SHALL HAVE THE BURDEN OF PROOF GIVING RISE TO A CLAIM FOR EXEMPTION FROM THE SALES TAX, RATHER THAN THE PURCHASER; 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; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION FOR SECTIONS 1, 2 AND 3; AND PROVIDING AN EFFECTIVE DATE FOR SECTIONS 4, 5 AND 6.

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 property 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 primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial.

SECTION 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 ~~purchaser~~ retailer shall have the burden of establishing the facts giving rise to such exemption by clear and convincing evidence ~~by--delivering~~ unless the purchaser delivers to the retailer an exemption certificate in such form as the tax commission may prescribe, signed by the pur-

chaser 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. 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 5. 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 con-

sumption 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.

(1) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than three (3) months, and which is not required to be registered or licensed under the laws of this state, or to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired by such person in another state while a bona fide resident thereof and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial.

SECTION 6. 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 7. (1) An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2 and 3 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 1991.

(2) Sections 4, 5 and 6 of this act shall be in full force and effect on and after January 1, 1992.

Approved February 7, 1991.

CHAPTER 2
(H.B. No. 47)

AN ACT
RELATING TO TECHNICAL CORRECTIONS TO TAX STATUTES; AMENDING SECTIONS 63-2510, 63-2513, 63-2554, 63-3615 AND 63-3635, IDAHO CODE, TO CORRECT CROSS REFERENCE ERRORS.

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

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

63-2510. PAYMENT OF TAX -- RETURNS -- ACCOUNTING FOR STAMPS. (1) The cigarette taxes imposed in section 63-25~~10~~06, Idaho Code, are due from the person required under section 63-2508, Idaho Code, to affix stamps, and are payable to the state tax commission monthly, together with the return required in this section.

(2) Every person owing cigarette taxes and every wholesaler shall file a return with the state tax commission in such form as the commission shall prescribe. The return shall report all taxes due regarding cigarettes received during the month or other reporting period, approved by the state tax commission, to which the return relates. The return shall contain such other information as the state tax commission shall require, and shall be signed by the person required to file the return or by such person's duly authorized agent. The return shall be filed on or before the twentieth day of the month following the end of the taxable period to which the return relates.

(3) The amount allowed as compensation for affixing stamps under section 63-2509, Idaho Code, shall be separately stated on the return as a credit against taxes due on the return.

(4) In addition to reporting the tax due as provided in this section, the return shall provide an accounting of all cigarette stamps acquired, held, and affixed by the wholesaler. The return shall include:

(a) The number of stamps which were held at the beginning of the reporting period and were not affixed to packages;

(b) The number of stamps acquired during the reporting period;

(c) The number of stamps affixed to packages during the reporting period;

(d) The number of unaffixed stamps held at the end of the reporting period; and

(e) The number, if any, of stamps lost or destroyed. If stamps are lost or destroyed, a statement describing the circumstances giving rise to the loss or destruction shall accompany the return.

(5) In the event that any stamps obtained by a wholesaler are lost, destroyed, or otherwise unaccounted for, the wholesaler shall be liable for an amount of tax equal to the tax on the number of cigarettes to which such stamps would have been affixed, unless the wholesaler can establish, by clear and convincing evidence, that a specific number of stamps were actually destroyed or mutilated in such a manner as to render them unusable.

(6) A wholesaler may claim a credit against taxes due on the tax return for taxes previously paid on cigarettes, which after stamps are affixed, become unmarketable and are returned to the manufacturer. When such return is verified in such manner as the state tax commission may, by regulation provide, the credit applies to the tax return for the month in which the verification occurs; except that, any amount of credit exceeding the tax due on the tax return may be carried forward to the succeeding tax return, in chronological order until exhausted.

SECTION 2. That Section 63-2513, Idaho Code, be, and the same is hereby amended to read as follows:

63-2513. CONTRABAND ARTICLES. Any unstamped cigarettes held, owned, possessed or in control of any person for a period of time longer than necessary to affix Idaho stamps, and hereby declared to be contraband goods, except as authorized under subsection (~~c~~b) of section 63-2512, Idaho Code, and may be seized by the state tax commission, or an employee of the state tax commission, or any peace officer, when directed by the state tax commission, without a warrant. Any vehicle, not a common carrier operating in interstate commerce, used in violating this act, shall likewise be subject to confiscation. Said cigarettes or vehicles seized shall be offered for sale. Fifteen (15) days' notice of the sale shall be given; net proceeds from the sale shall be deposited in the general fund. The state tax commission shall require the purchaser at the sale to affix the proper amount of tax stamps to cigarette packages.

SECTION 3. That Section 63-2554, Idaho Code, be, and the same is hereby amended to read as follows:

63-2554. CERTIFICATE OF REGISTRATION REQUIRED. From and after July 1, 1972, no person shall engage in the business of a distributor or subjobber of tobacco products at any place of business without first having received from the commission a certificate of registration as provided in section 63-25~~0~~53 or 63-2504, Idaho Code.

SECTION 4. That Section 63-3615, Idaho Code, be, and the same is hereby amended to read as follows:

63-3615. STORAGE -- USE. (a) The term "storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer.

(b) The term "use" includes the exercise of any right or power over tangible personal property incident to the ownership or the leasing of that property or the exercise of any right or power over tangible personal property by any person in the performance of a contract, or to fulfill contract or subcontract obligations, whether the title of such property be in the subcontractor, contractor, contractee, subcontractee, or any other person, or whether the titleholder of such property would be subject to the sales or use tax, unless such property would be exempt to the titleholder under section 63-3622~~(d)~~D,

Idaho Code, except that the term "use" does not include the sale of that property in the regular course of business.

(c) "Storage" and "use" do not include the keeping, retaining, or exercising of any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside the state, and thereafter used solely outside the state.

SECTION 5. That Section 63-3635, Idaho Code, be, and the same is hereby amended to read as follows:

63-3635. COLLECTION AND ENFORCEMENT. The collection and enforcement procedures provided by the Idaho Income Tax Act, sections 63-3030A, 63-3038, 63-3039, ~~63-3039A,~~ 63-3040, 63-3042, 63-3043, 63-3044, 63-3047, 63-3048, 63-3050 through 63-3064, 63-3065A and 63-3071, Idaho Code, shall apply and be available to the tax collector for enforcement of the provisions of this act and collection of any amounts due under this act, and said sections shall, for this purpose, be considered part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under this act, be described as sales and use tax liens and proceedings.

Approved February 7, 1991.

CHAPTER 3
(S.B. No. 1028)

AN ACT

RELATING TO FEES PAID BY INTERSTATE CARRIERS; AMENDING SECTION 61-812, IDAHO CODE, TO ELIMINATE A REDUNDANT REFERENCE TO APPLICATIONS FOR ASSIGNMENT OF MOTOR CARRIER PERMITS AND TO PROVIDE FOR COLLECTION OF FEES FOR INTERSTATE MOTOR CARRIERS' REGISTRATIONS OF AUTHORITY OR EXEMPTION CONSISTENT WITH THOSE ALLOWED BY FEDERAL LAW; AND DECLARING AN EMERGENCY.

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

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

61-812. FEES CONNECTED WITH ADMINISTRATION OF LAW. The commission shall charge and collect the following fees and none other, in the administration of this chapter:

a. Intrastate carriers.

Application for a permit shall be accompanied by an application fee of $150.00

Application for transfer of a permit 150.00

~~Application for the assignment of a permit ..... 150.00~~
Application for the issuance of a duplicate permit 10.00
Application for permit reinstatement 100.00
Application for permit suspension 25.00
~~Annual registration of interstate carrier authority or exemption ..... 25.00~~
Application for temporary permit 50.00
Annual regulatory fee per power unit of each common or contract motor carrier 21.00
Annual regulatory fee per power unit of each private motor carrier 7.00
The commission shall charge and collect reasonable fees for copies of papers and records as established by rule or general order of the commission.

b. Interstate carriers. (1) Except as provided in paragraph (2) of this subsection, the following fees shall be charged and collected:
Initial registration of interstate carrier authority or exemption 25.00
Annual renewal of interstate carrier authority or exemption for carrier with currently effective registration of authority or exemption 10.00
Name change for interstate carrier registered with commission . 10.00
For each identification issued by the state of Idaho for each vehicle operated under the authority of the motor carrier not to exceed 10.00
Lesser amounts for each vehicle may be set by rule or general order of the commission.

(2) If authorized by the United States pursuant to its authority under the commerce clause of the constitution of the United States, for the initial registration or the annual renewal of the registration of interstate carrier authority or exemption from interstate authority 25.00

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 8, 1991.

CHAPTER 4
(H.B. No. 3)

AN ACT

RELATING TO CRIME VICTIMS COMPENSATION; REPEALING SECTION 72-1026, IDAHO CODE, TO ALLOW THE CRIME VICTIMS COMPENSATION PROGRAM TO CONTINUE BEYOND JUNE 30, 1991.

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

SECTION 1. That Section 72-1026, Idaho Code, be, and the same is

hereby repealed.

Approved February 11, 1991.

CHAPTER 5
(H.B. No. 24)

AN ACT
RELATING TO CERTIFICATES OF COMPETENCY IN HUNTER EDUCATION; AMENDING SECTIONS 36-411 AND 36-412, IDAHO CODE, TO PROVIDE THAT CERTIFICATES ISSUED IN HUNTER EDUCATION ARE CERTIFICATES OF COMPLETION RATHER THAN CERTIFICATES OF COMPETENCY.

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

SECTION 1. That Section 36-411, Idaho Code, be, and the same is hereby amended to read as follows:

36-411. CERTIFICATE OF ~~COMPETENCY~~ COMPLETION IN HUNTER EDUCATION. (a) No hunting license shall be issued to a person born after January 1, 1975, unless the person has previously held a valid hunting license in this or another state or unless such person presents to the department of fish and game or one of its authorized license vendors, a certificate of ~~competency~~ completion in hunter education issued by the department under the hunter education program or proof that he holds the equivalent of such a certificate obtained either in Idaho or from an authorized agency or association of another state.

SECTION 2. That Section 36-412, Idaho Code, be, and the same is hereby amended to read as follows:

36-412. HUNTER EDUCATION PROGRAM -- INSTRUCTOR QUALIFICATIONS -- FEE. (a) The fish and game commission shall prescribe and administer a hunter education program to provide instruction in the safe handling of lawful hunting weapons. The program shall also include instruction on wildlife and natural resource conservation, respect for the rights and property of others, and survival in the outdoors. The commission may enter into agreements with public or private agencies and individuals in carrying out the provisions of this subsection.

(b) The department of fish and game shall recruit competent volunteer instructors. The department shall provide a course of instruction in the safe handling of legal hunting weapons, conservation of wildlife and natural resources, good conduct and respect for the rights and property of others, outdoor survival, and other appropriate subjects for training instructors. Instructors shall be issued certificates and shall on a voluntary basis, give instruction in a hunter education course, as established by the department of fish and game, to all eligible applicants.

(c) The commission shall establish a fee not to exceed two dollars ($2.00) to be assessed each individual obtaining instruction in hunter education for reimbursement for furnished materials. All stu-

dents successfully completing the course of instruction shall be issued a certificate of ~~competency~~ completion in hunter safety and good hunting conduct.

Approved February 11, 1991.

CHAPTER 6
(H.B. No. 1)

AN ACT

RELATING TO ATHLETIC EXHIBITIONS; AMENDING CHAPTER 4, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-422, IDAHO CODE, TO PROVIDE AN EXEMPTION FOR CERTAIN EDUCATIONAL ORGANIZATIONS.

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

SECTION 1. That Chapter 4, 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 54-422, Idaho Code, and to read as follows:

54-422. PUBLIC ENTITY EXEMPTION. The provisions of this chapter shall not apply to any athletic exhibition held under the auspices or sanction of (1) an established nonprofit secondary school activities organization or of its public or nonprofit accredited secondary school members; or (2) a higher education organization or its public or not-for-profit accredited higher education members.

Approved February 12, 1991.

CHAPTER 7
(H.B. No. 56)

AN ACT

RELATING TO INCOME TAX RETURNS; AMENDING SECTION 63-3004, IDAHO CODE, TO INCORPORATE CHANGES TO THE INTERNAL REVENUE CODE FOR 1990; AMENDING SECTION 63-3022, IDAHO CODE, TO INCORPORATE SPECIFIC SECTIONS OF THE INTERNAL REVENUE CODE; AMENDING SECTION 63-3036, IDAHO CODE, TO INCREASE THE MINIMUM AMOUNT OF WAGES PAID TO REQUIRE WITHHOLDING; AMENDING SECTION 63-3036A, IDAHO CODE, TO REQUIRE ESTIMATED TAX PAYMENTS BY CORPORATIONS HAVING A TAX LIABILITY OF FIVE HUNDRED DOLLARS OR MORE; AND DECLARING AN EMERGENCY AND A RETROACTIVE EFFECTIVE DATE FOR SECTIONS 1 AND 2.

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, 199~~0~~1.

(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 63-3022, 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 sections 243(a) and (c) and 244 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.

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

(1) a. The standard deduction as defined by section 63, Internal Revenue Code, plus contributions made to the state of Idaho for credit to the medical assistance account, if such contributions were not previously subtracted in arriving at taxable income, plus

b. Itemized expenditures of not to exceed one thousand dollars ($1,000) per cared for member incurred in providing personal care services to or for an immediate member of the taxpayer's family; such services may be provided either in the taxpayer's home or the family member's home; personal care services shall be as defined in chapter 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 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 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 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 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.

(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 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 employers exempt from withholding by the Internal Revenue Code shall at the time of the payment of wages, salaries, bonus or 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 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 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~~ thousand dollars ($15,000) for the tax year.

SECTION 4. That Section 63-3036A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3036A. PAYMENT OF ESTIMATED TAX. (a) Any corporation subject to this chapter which is required to make a payment of estimated taxes to the Internal Revenue Service and will have an Idaho income tax liability of five hundred dollars ($500) or more shall pay to the state tax commission estimated taxes due under this chapter.

(b) The provisions of the Internal Revenue Code relating to determination of reporting periods and the due dates of payments of estimated tax shall apply to the estimated payments due under this section.

(c) The amount of estimated tax due shall be determined as follows:

(1) Commencing with the calendar quarter that begins July 1, 1987, in the case of any corporation which was required to pay tax under this chapter for its immediately preceding taxable year, the amount of each quarterly payment for its current taxable year shall be twenty-five per cent (25%) of the lesser of:

(i) The tax amount required to be reported on the return for the immediately preceding taxable year; or

(ii) Ninety per cent (90%) of the tax required to be paid with the current year's return.

(2) Any corporation required to make estimated payments under this section and who makes annualized estimated payments under the Internal Revenue Code shall be permitted to annualize its estimated payments under this section in the manner prescribed by regulation of the state tax commission. Such regulations shall, to the extent practicable, follow the provisions of the Internal Revenue Code and the regulations thereunder relating to annualization of estimated payments.

(d) The amounts paid as estimated taxes pursuant to subsection (c) of this section shall be considered to be in part payment of the tax imposed by this chapter on the person reporting such estimated tax. The part payment shall apply to such tax for the tax year during which the reporting period for which the estimate is made occurs. In the event that such part payments, together with all other part payments, estimated payments, withheld taxes or other credits allowable

against the taxes imposed by this chapter shall exceed the amount of tax due, the state tax commission shall refund such excess within the time and in the manner prescribed in section 63-3035(e), Idaho Code, relating to refund of taxes withheld by employers.

(e) The provisions of this section shall in no way relieve any person from any obligation to file a return under any provision of this chapter at the time such return may be due. In the event that the estimated payments required under this section, together with any other part payments, estimated payments, withheld taxes or other credits applicable to the same taxable year are less than the amount of taxes imposed by this chapter, the unpaid tax shall be paid at the time prescribed in section 63-3034, Idaho Code.

(f) The payment due for the first full reporting period occurring after the effective date of this act, and the payment due for each of the next three (3) succeeding reporting periods shall be one-half (1/2) of the amount otherwise due under this section.

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, and retroactively to January 1, 1991.

Approved February 12, 1991.

CHAPTER 8
(H.B. No. 41)

AN ACT

REPEALING SECTION 12, CHAPTER 281, LAWS OF 1989; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 12, Chapter 281, Laws of 1989, 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 passage and approval.

Approved February 20, 1991.

CHAPTER 9
(H.B. No. 37)

AN ACT

RELATING TO THE COMMISSION ON THE ARTS; AMENDING SECTION 67-5602, IDAHO CODE, TO PROVIDE THAT MEMBERSHIP ON THE COMMISSION SHALL REPRESENT THE ETHNIC AND CULTURAL DIVERSITY OF THE STATE; AMENDING

SECTION 67-5603, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF MEMBERS OF THE COMMISSION TO STAGGERED TERMS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-5602, Idaho Code, be, and the same is hereby amended to read as follows:

67-5602. COMMISSION ON ARTS -- CREATION -- MEMBERSHIP. There is hereby created and established within the office of the secretary of state a state commission, to be known as the Idaho commission on the arts, to consist of thirteen (13) members, representative of the public, Idaho's ethnic and cultural diversity, the various fields of the performing and fine arts, and all geographic areas of our state. Each member shall be appointed by the governor from among citizens of the state who are widely known for their interest, competence, and experience in the performing and fine arts. In making such appointments, due consideration shall be given to the recommendations made by representative civic, educational and professional associations and groups concerned with or engaged in production or presentation of the performing and fine arts generally.

SECTION 2. That Section 67-5603, Idaho Code, be, and the same is hereby amended to read as follows:

67-5603. TERMS OF MEMBERS -- APPOINTMENT OF OFFICERS -- SERVICE OF MEMBERS -- COMPENSATION. The term of office of each member shall be four (4) years; provided, however that of the members appointed during or after March, ~~1979, six (6) shall be appointed for terms of two (2) years, and seven (7) for terms of four (4) years~~ 1991, the governor may appoint for a term of less than four (4) years so that not more than four (4) terms expire in any one (1) year. The governor shall designate a chairman and a vice-chairman from the members of the commission to serve as such at the pleasure of the governor. All vacancies shall be filled for the balance of the unexpired term in the same manner as original appointments. The members of the commission shall be compensated as provided by section 59-509(b), 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 February 20, 1991.

CHAPTER 10
(H.B. No. 75)

AN ACT

RELATING TO LIBRARY DISTRICT BUDGETS; AMENDING SECTION 33-2710, IDAHO CODE, TO STRIKE SUPERFLUOUS LANGUAGE, AND TO CORRECT A TYPOGRAPHI-

CAL ERROR.

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

SECTION 1. That Section 33-2710, Idaho Code, be, and the same is hereby amended 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~~ <u>incurred</u> the indebtedness.

Approved February 20, 1991.

CHAPTER 11
(H.B. No. 77)

AN ACT

RELATING TO THE IDAHO SAFE BOATING ACT; AMENDING SECTION 67-7028, IDAHO CODE, TO DELETE AMBIGUOUS LANGUAGE AS IT RELATES TO ENFORCEMENT OF WATERWAYS BY THE COUNTY SHERIFF.

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

SECTION 1. That Section 67-7028, Idaho Code, be, and the same is hereby amended to read as follows:

67-7028. ENFORCEMENT. ~~Insofar--as-is-possible,-t~~The sheriffs and deputy sheriffs of the respective counties shall be primarily responsible for the enforcement of this chapter and in the exercise of their authority may stop and board any vessel subject to law.

Approved February 20, 1991.

CHAPTER 12
(H.B. No. 33)

AN ACT

RELATING TO COMPENSATION PAID TO MEMBERS OF THE BRAND BOARD; AMENDING SECTION 25-1102, IDAHO CODE, TO INCREASE THE COMPENSATION PAID TO THE BRAND BOARD MEMBERS.

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

SECTION 1. That Section 25-1102, Idaho Code, be, and the same is hereby amended to read as follows:

25-1102. BOARD CREATED -- MEMBERSHIP AND ORGANIZATION. There shall be in the department of law enforcement of the state of Idaho a state brand board and such board is hereby created. The state brand board shall consist of five (5) members, three (3) of whom shall be experienced in, and while serving as a member of such board, continuously and principally, engaged in, the feeding or the production of beef cattle in Idaho and no two (2) of whom shall be from the same county; one (1) of whom shall be experienced in, and while serving as a member of such board, continuously and principally, engaged in, the operation of a licensed public livestock auction market, and one (1) of whom shall be experienced in, and while serving as a member of such board, continuously and principally, engaged as a dairy milk producer. The term of office of each member of said board shall be five (5) years, excepting that of the members of said board first appointed, one (1) shall be appointed to hold office until the first Monday in January, 1975, one (1) until the first Monday of January, 1976, and one (1) until the first Monday of January, 1977, one (1) until the first Monday of January, 1978, and one (1) until the first Monday of January, 1979. Vacancies occurring on the board other than by expiration of the term, shall be filled for the unexpired term only. Each of such members of the board, before entering upon the duties of his office, shall take and subscribe to the constitutional oath of office, and be bonded to the state of Idaho in the time, form and manner provided by chapter 8, title 59, Idaho Code. The members of the board shall be compensated as provided by section 59-509(~~f~~h), Idaho Code. Said compensation shall be paid in the same manner as other expenses of the state brand board are paid. Each member of said board shall be a qualified elector of the county from which he is chosen and must reside during his term of office, within the state of Idaho. Said board must hold a meeting quarterly and at any other times if so

requested by any member of the board. The governor shall appoint the members of such board, both initially and thereafter as vacancies occur therein, from the recommendations of the executive committee or board of directors of the Idaho cattle association, Idaho dairymen's association and licensed public livestock auction markets. Each such recommendation shall be of at least two (2) persons for each appointment to be made by the governor. If no such recommendation is made within thirty (30) days after the occurrence of any vacancy in the membership of such board, then the appointment may be made without such recommendation. If the person or persons recommended are not deemed eligible or fit by the governor, then he shall request two (2) additional names from the respective industry segment. A member of such board shall be ineligible to hold any other state or federal office providing full-time employment, or any county or elective office. After due notice and public hearing, the governor may remove any member for cause.

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

Approved February 20, 1991.

CHAPTER 13
(S.B. No. 1003)

AN ACT

RELATING TO INTERIM PROTECTED RIVERS; PROVIDING THAT THE WATER RESOURCE BOARD SHALL DESIGNATE A STRETCH OF THE SNAKE RIVER AS AN INTERIM PROTECTED RIVER, AND TO PROVIDE THAT THE WATER RESOURCE BOARD SHALL DETERMINE THAT CERTAIN ACTIVITIES ARE PROHIBITED; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the Water Resource Board shall designate the Snake River from Section 5, Township 11 South, Range 20 East, B.M. to King Hill, as an interim protected river pursuant to Section 42-1734D, Idaho Code. The Water Resource Board shall determine which of the activities listed in subsection (5) of Section 42-1734A, Idaho Code, shall be prohibited.

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 22, 1991.

CHAPTER 14
(H.B. No. 4)

AN ACT

RELATING TO PUBLIC WORKS CONTRACTOR LICENSING; AMENDING SECTION 54-1904, IDAHO CODE, TO ALLOW AN ADDITIONAL LICENSE CLASS TO EXECUTE CONTRACTS FOR PUBLIC WORKS INVOLVING AN ESTIMATED COST OF NOT MORE THAN SIX HUNDRED THOUSAND DOLLARS.

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

SECTION 1. That Section 54-1904, Idaho Code, be, and the same is hereby amended to read as follows:

54-1904. CLASSES OF LICENSES -- RIGHTS GRANTED UNDER LICENSES -- FEES. There shall be ~~five~~ <u>six</u> (~~5~~<u>6</u>) classes of licenses issued under the provisions of this act which are hereby designated as Classes AAA, AA, A, B, ~~and~~ C <u>and D</u>, the maximum fees for which shall be as hereinafter specified <u>and</u> in lieu of all other license taxes. Each applicant for a license hereunder shall specify the class of license applied for in his application.

For the purpose of licensing public works contractors under this act the board may adopt rules and regulations necessary to determine the classification according to their responsibility, and the type and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage as in this act provided.

Class "AAA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of more than $1,000,000 may, upon his application and the payment of a license fee of not to exceed $125, be granted a Class "AAA" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "AAA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AAA" license shall not exceed $125.

Class "AA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than $1,000,000 may, upon his application and the payment of a license fee of not to exceed $100, be granted a Class "AA" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "AA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AA" license shall not exceed $100.

<u>Class "A" license. Any contractor whose qualifications, ability</u>

and responsibility to execute contracts for public works involving an estimated cost of not more than $600,000 may, upon his application and the payment of a license fee of not to exceed $90.00, be granted a Class "A" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "A" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "A" license shall not exceed $90.00.

Class "~~A~~B" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than $250,000, may, upon his application and the payment of a license fee of not to exceed $75.00 be granted a Class "~~A~~B" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "~~A~~B" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "~~A~~B" license shall not exceed $75.00.

Class "~~B~~C" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than $100,000, may, upon his application and the payment of a license fee of not to exceed $50.00, be granted a Class "~~B~~C" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "~~B~~C" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "~~B~~C" license shall not exceed $50.00.

Class "~~C~~D" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than $50,000, may, upon his application and the payment of a license fee of not to exceed $25.00, be granted a Class "~~C~~D" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "~~C~~D" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "~~C~~D" license shall not exceed $25.00.

The board shall be vested with the power to fix annually the amount of the original and renewal license fees for each class of license for the ensuing license year. The amount of the license fees so fixed shall not exceed the maximum fees set forth in this section.

Each license issued by the board shall clearly indicate the type and scope of work for which the licensee is qualified and licensed and the holder of the license shall be permitted to submit proposals for and perform only those types of work specified in each such license; provided, however, that the board may extend the permissible type or scope of work to be done under any license when it is determined by the board that the applicant meets all of the requirements of this act to qualify him to do such other work.

Approved February 26, 1991.

CHAPTER 15
(H.B. No. 7)

AN ACT

RELATING TO THE STATE BOARD OF DENTISTRY; AMENDING SECTION 54-915, IDAHO CODE, TO INCREASE PROVISIONAL LICENSE FEES TO EQUAL ACTIVE STATUS LICENSE AMOUNT; AMENDING SECTION 54-916, IDAHO CODE, TO INCREASE THE CEILING ON APPLICATION FEES; AMENDING SECTION 54-920, IDAHO CODE, TO INCREASE THE CEILING ON ANNUAL LICENSE FEES; AND AMENDING SECTION 54-932, IDAHO CODE, TO INCREASE THE FEE FOR REISSUING LOST OR DESTROYED CERTIFICATES OR LICENSES.

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

SECTION 1. That Section 54-915, Idaho Code, be, and the same is hereby amended to read as follows:

54-915. QUALIFICATIONS REQUIRED FOR DENTIST OR DENTAL HYGIENIST EXAMINATION. No person hereafter shall be eligible for examination to be allowed to practice dentistry or dental hygiene in this state unless he or she:

(a) Be of good moral character and reputation, and not have been convicted of any felony, or of any misdemeanor involving moral turpitude;

(b) Shall, for dentistry, have successfully completed the course of study in dentistry in, and graduated and received a degree of doctor of dental surgery, doctor of dental medicine, or equivalent degree from a dental school accepted and approved by the board;

(c) Shall, for dental hygiene, be a high school graduate and have successfully completed the course of study in dental hygiene in, and received a certificate thereof from a dental hygiene school accepted and approved by the board.

(d) The board may issue provisional licenses to persons licensed to practice dentistry or dental hygiene in other states if such other states have qualifications for licensure no less strict than those of the state of Idaho. The provisional license shall be valid only until the next regularly scheduled examination and the board shall collect a fee of ~~$75.00~~ one hundred twenty-five dollars ($125) from the dentist applicant and ~~$25.00~~ sixty-seven dollars and fifty cents ($67.50) from the dental hygienist applicant prior to issuance of such provisional license. No such provisional license shall be issued to any person who has failed an examination given by the board or, prior to the effective date hereof, by the board of dental examiners.

SECTION 2. That Section 54-916, Idaho Code, be, and the same is hereby amended to read as follows:

54-916. APPLICATION FOR EXAMINATION -- FEE. Any person desiring to practice dentistry, a dental specialty or dental hygiene within the state of Idaho shall, in his own handwriting and under oath, make an application for examination in dentistry, a dental specialty or dental hygiene, as the case may be, on forms furnished by the board, which

forms shall call for information from the applicant as shall show his full, true name and that he possesses all the qualifications required by law for the examination applied for. The application and supporting instruments as shall be required, together with payment of an application fee of not less than ~~seventy-five~~ one hundred dollars (~~$75.00~~100), nor more than ~~one~~ three hundred ~~fifty~~ dollars (~~$150~~300) for dentists, the fee to be set by the rules and regulations of the board and not less than ~~twenty-five~~ fifty dollars (~~$25~~50.00), nor more than ~~seventy-five~~ one hundred fifty dollars (~~$75.00~~150) for dental hygienists, the fee to be set by the rules and regulations of the board, and not less than ~~one~~ two hundred fifty dollars (~~$100~~250) nor more than ~~three~~ six hundred dollars (~~$300~~600) for dental specialists, the fee to be set by the rules and regulations of the board, shall be filed with the board at a sufficient time, to be fixed by regulations, before an examination to permit the board to investigate into the moral character and reputation of the applicant and his possession of the other qualifications for examination. The fee shall not be refunded.

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~~ Two hundred dollars (~~$100~~200) for a dentist with an active status;

(b) ~~Fifty~~ One hundred dollars (~~$50.00~~100) for a dentist with an inactive status;

(c) ~~Fifty-five~~ One hundred ten dollars (~~$55.00~~110) for a hygienist with an active status;

(d) ~~Twenty-eight~~ Fifty-six dollars (~~$28~~56.00) for a hygienist with an inactive status;

(e) ~~One~~ Two hundred dollars (~~$100~~200) 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.

SECTION 4. That Section 54-932, Idaho Code, be, and the same is hereby amended to read as follows:

54-932. LOST OR DESTROYED CERTIFICATES OR LICENSES. If the certificate of qualification or the annual license of a dentist or dental hygienist be lost or destroyed, and such fact appear by affidavit of such dentist or dental hygienist filed with the board together with a fee of ~~$5.00~~ ten dollars ($10.00), the board shall issue a duplicate.

Approved February 26, 1991.

CHAPTER 16
(H.B. No. 80)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1301, IDAHO CODE, TO PRESCRIBE THE DUTIES AND RESPONSIBILITIES OF FIDUCIARIES OF THE PUBLIC EMPLOYEE RETIREMENT FUND.

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 -- DUTIES OF FIDUCIARIES OF RETIREMENT FUND. (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 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.

With respect to the retirement fund created in this chapter, the fiduciaries of the fund shall discharge their duties with respect to the fund solely in the interest of the members and their beneficiaries

(a) for the exclusive purpose of:

(i) providing benefits to members and their beneficiaries; and

(ii) defraying reasonable expenses of administering the system;

(b) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct

of an enterprise of a like character and with like aims;
(c) by diversifying the investments of the fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and
(d) in accordance with the provisions of the Idaho Code governing the system.

Approved February 26, 1991.

CHAPTER 17
(H.B. No. 81)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1360, IDAHO CODE, TO ELIMINATE THE PROHIBITION AGAINST REINSTATEMENT OF PREVIOUSLY CREDITED SERVICE AFTER A LAPSE OF MORE THAN TEN YEARS BETWEEN PERIODS OF EMPLOYEE STATUS AND TO PROVIDE FOR SUCH REINSTATEMENT WHENEVER REEMPLOYMENT OCCURS.

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

SECTION 1. That Section 59-1360, Idaho Code, be, and the same is hereby amended to read as follows:

59-1360. 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~~ After again becoming an employee such person 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.~~

Approved February 26, 1991.

CHAPTER 18
(S.B. No. 1001)

AN ACT

RELATING TO THE REAL ESTATE COMMISSION; AMENDING SECTION 54-2029, IDAHO CODE, TO ELIMINATE THE REQUIREMENT FOR ANNUAL HEARINGS ON EXAMINATION FEES AND LICENSE FEES AND TO PROVIDE THAT FURTHER HEARING AS TO FEES PREVIOUSLY ESTABLISHED BY THE COMMISSION PURSUANT TO NOTICE AND HEARING SHALL BE REQUIRED ONLY IN THE EVENT OF A PROPOSED INCREASE OR OTHER ALTERATION IN SUCH FEES.

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

SECTION 1. That Section 54-2029, Idaho Code, be, and the same is hereby amended to read as follows:

54-2029. QUALIFICATIONS FOR THE ISSUANCE OF LICENSES -- APPLICATION FOR LICENSE -- CONTENTS OF APPLICATION -- FEES -- TERMS OF LICENSES ISSUED. A. Except as provided in section 54-2031, Idaho Code, any person desiring to carry on the business of a real estate broker or real estate salesman in this state shall have and meet the following qualifications:

(1) The applicant must be at least eighteen (18) years of age;

(2) The applicant must not have had revoked a license or been refused a renewal of a license issued by the state of Idaho or any other state, as a real estate broker or salesman, if such revocation or refusal occurred within two (2) years prior to the date the application is submitted to the commission;

(3) The applicant must not have been convicted, issued any fine, placed on probation, received a withheld judgment or completed any sentence of confinement for or on account of a felony or a misdemeanor involving moral turpitude in a state or federal court within five (5) years prior to the date the application is submitted to the commission;

(4) The applicant must have complied with the educational requirements as provided for in subsection C of this section; the real estate education course requirements set forth in subsection C of this section must have been successfully completed within five (5) years prior to the date upon which the applicant makes application; provided, the commission may waive or modify the requirement that the real estate education courses must have been successfully completed within five (5) years prior to the date upon which the applicant makes application;

(5) If the application is for a real estate broker's license, the applicant must have been actively engaged as a licensed real estate salesman as provided for in subsection B(2) of this section.

If the commission determines that an applicant does not possess the aforementioned qualifications, it shall have the authority to deny the application. If the commission finds that the applicant employed any fraud, deception, misrepresentation, misstatement or any unlawful means in applying for a license or taking the examination, then the commission shall have the authority to deny the application.

B. Any person desiring to carry on the business of real estate broker or real estate salesman in this state shall make application for license therefor upon a form to be prescribed and furnished by the commission, giving his full name and address and the address of his principal place of business in the state of Idaho. Applications shall be made to and filed with the commission and be accompanied by:

(1) An examination fee in an amount not to exceed fifty dollars ($50.00) which shall not be refunded, shall be assessed to each applicant who has preregistered for the examination. If the applicant has not preregistered, an examination fee in an amount not to exceed sixty dollars ($60.00) shall be charged to the applicant. The exact examination fees shall be determined by the commission at the conclusion of a hearing called for such purposes to be con-

ducted~~,~~ pursuant to notice ~~each year~~. The fees ~~so established by the commission at such hearing to be in effect during the next ensuing year~~ shall be that amount which, in the discretion of the commission, ~~are~~ is sufficient to raise ~~that~~ the revenue required to administer the examination. The fee so established shall remain effective from year to year and further hearing shall be required only in the event an increase or other alteration in the fee is proposed by the commission.

(2) In addition to subsection B(1), an applicant for a real estate broker's license shall submit satisfactory evidence of having been actively engaged for two (2) years as a licensed real estate salesman within five (5) years prior to the date upon which the applicant makes application; provided, however, that said requirement may be modified or reduced, in whole or in part, at the discretion of the commission, based upon the educational background of the applicant, or his experience in related or affiliated business activities. The commission in its discretion may make such additional investigation and inquiry relative to the applicant as it shall deem advisable.

C. An applicant for an original salesman's license or a broker's license shall furnish proof that he is a graduate from an accredited high school or the holder of a certificate of general education development issued by proper authorities of public schools of any state. An applicant for an original salesman's license shall furnish to the commission proof that he has successfully completed a course of study consisting of at least thirty (30) classroom hours, or equivalent correspondence hours, of real estate courses, provided, that after December 31, 1988, the requirement shall be ninety (90) hours, which courses shall include but not be limited to: principles of real estate practice and canons of ethics pertaining thereto; the provisions of this act and rules and regulations of the commission; arithmetical calculations as used in real estate transactions; rudimentary principles of conveyancing; the general purposes and effects of deeds, deeds of trust, mortgages, land contracts of sales, leases, liens and listing contracts; fundamentals of land economics and appraisals; fundamentals of obligations between principal and agent; and applied skills; provided however, the commission may accept other courses in lieu of the above mentioned courses and may designate additional required courses.

An applicant for an original real estate broker's license shall furnish the commission satisfactory proof that he has successfully completed a total of ninety (90) hours of advanced classroom instruction, or equivalent correspondence hours, in real estate courses which courses shall include, but not be limited to: advanced principles of real estate practice, real estate office management and supervision of associates.

Any applicant for a license as a real estate broker or real estate salesman may submit a certification from any university, college or junior college, or from any privately owned school approved by the commission, that the applicant has successfully completed the prescribed courses within five (5) years prior to the date upon which the applicant makes application; and such certificate is considered to be in full compliance with the requirements of this act for the comple-

tion of a course of study.

D. For each year for which the license is issued or renewed, a license fee in an amount not to exceed one hundred dollars ($100) shall be charged for the issuance of real estate broker's, associate broker's and salesman's licenses, the exact fee for the issuance of each to be determined by the commission at the conclusion of a hearing called for such purpose ~~to be conducted,~~ pursuant to notice~~, each year~~. The ~~fee so established by the~~ commission ~~at such hearing to be in effect during the next ensuing year~~ shall ~~be that amount~~ establish fees which, in ~~the~~ its discretion ~~of the commission, and~~ are sufficient when added to the other fees charged and collected as authorized by law, ~~is sufficient~~ to raise that revenue required to administer the provisions of this chapter ~~which shall not be refunded.~~ Fees established as herein provided shall remain effective from year to year and further hearing shall be required only in the event an increase or other alteration in the fees is proposed by the commission.

E. There is established a staggered renewal period for licenses to coincide with the last day of the month of the birthdate of each licensee. A license renewal shall be for a two (2) year period and the license fee therefor shall be in an amount not to exceed two hundred dollars ($200).

F. Each license as a real estate broker or real estate salesman may be renewed by the commission upon the payment by the licensee of the renewal fee specified in this section, if that fee is paid on or before the first day of the month following the month of the birthdate of the licensee.

If the licensee fails to pay the renewal fee on or before the first day of the month following the month of the birthdate of the licensee, the commission may accept a later payment, subject to such conditions as the commission may require, including but not limited to the assessment of a late fee not to exceed fifteen dollars ($15.00); provided that between the last day of the month of his birthdate and the date of renewal of the license, the rights of the licensee under such license shall be suspended, and during such period of suspension it shall be unlawful for any licensee to do or attempt to offer to do any of the acts of the kind and nature described in the definitions of a real estate broker or real estate salesman in section 54-2022, Idaho Code, in consideration of compensation of any kind or expectation thereof.

A new license or renewal shall be for a term of one (1) year plus the months up to and including the next birthdate of the licensee. A license fee in an amount not to exceed two hundred dollars ($200) shall be charged for the issuance of a new real estate broker's, associate broker's or salesman's license, the exact fee to be determined in accordance with subsection D of this section.

Corporations and partnerships shall have established as the equivalent of a birthdate, the birthdate of the designated broker of each.

Branch offices shall have established as the equivalent of a birthdate, the birthdate of the real estate broker establishing the branch office.

G. Subsections G, H, I and J of this section shall apply to both an applicant for a renewal of a license which expires after June 30, 1989, and an applicant for a change in status from inactive licensure

to active licensure after June 30, 1989.

Each individual applicant for renewal of an active license shall, on or before the expiration date of the license, submit satisfactory proof to the commission of successful completion of not less than twelve (12) classroom hours of approved course work in addition to any other requirements for renewal.

The twelve (12) hours of course work shall apply to each license renewal period, and hours in excess shall not be accumulated or credited for the purposes of subsequent license renewals.

Inactive licensees may renew their licenses at the end of the license period without having completed the twelve (12) hours of course work required in this section. However, a license of an inactive licensee shall not be activated until the licensee has satisfactorily completed the total number of deficient hours of course work and filed evidence of such completion with the commission, except that no inactive licensee shall be required to make up more than the number of hours of course work required by this section for one (1) license period.

H. The commission may substitute all or a portion of the course work required by subsection G of this section when a licensee shows evidence of passing an approved challenge exam or of completing equivalent education determined by the commission to be in full compliance with such education requirements.

I. An extension of the time for completing the education requirements in accordance with subsection G of this section may be obtained by submitting with the regular renewal application, or application to activate, evidence showing that the applicant was unable to comply with such education requirements. Such evidence may be:

(1) Bona fide hardship preventing completion of the reinstatement requirements of an inactive license;

(2) Health reasons preventing attendance;

(3) Active duty in the military service with assignment to a permanent duty station outside of the state during the last twelve (12) months of a license period; or

(4) Other compelling cause beyond the control of the applicant while engaged in the real estate business.

J. Failure to provide the commission evidence of meeting the education requirement as set forth in subsection G of this section shall constitute grounds for denying an application for a renewal of an active license or denying an application for a change in licensure status from inactive to active.

Approved March 1, 1991.

CHAPTER 19
(S.B. No. 1025)

AN ACT

RELATING TO RETIRING COUNTY SHERIFFS AND DEPUTY COUNTY SHERIFFS; AMENDING CHAPTER 8, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-830, IDAHO CODE, TO PROVIDE THAT A COUNTY SHERIFF

RETIRING DURING OR UPON THE COMPLETION OF HIS TERM OF OFFICE, OR A RETIRING DEPUTY COUNTY SHERIFF HOLDING OR QUALIFIED TO HOLD POLICE OFFICER MEMBER STATUS UNDER THE IDAHO PUBLIC EMPLOYEE RETIREMENT SYSTEM MAY WITH THE CONSENT OF THE BOARD OF COUNTY COMMISSIONERS BE AWARDED HIS HANDGUN, SHERIFF'S BADGE AND IDENTIFICATION CARD UPON RETIREMENT.

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

SECTION 1. That Chapter 8, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-830, Idaho Code, and to read as follows:

31-830. AWARD TO COUNTY SHERIFF OR DEPUTY COUNTY SHERIFF OF HIS HANDGUN AND BADGE UPON RETIREMENT. (1) A county sheriff who retires during or upon the completion of his term of office under the provisions of the public employee retirement system of Idaho or the county's retirement system, whether under disability retirement or otherwise, may, with the consent of the board of county commissioners, be awarded his handgun and sheriff's badge along with the identification card issued by the county sheriff's department. The identification card shall have "RETIRED" printed on it, shall have no fixed expiration date and shall be signed by the county sheriff.

(2) Upon recommendation of the county sheriff and with the consent of the board of county commissioners, a deputy county sheriff holding police officer member status under the public employee retirement system of Idaho pursuant to section 59-1303(3)(b)(ii), Idaho Code, or if the county by which he is employed does not participate in the system, who would qualify for such status under the provisions of that section if the county were a participant in the system, may, upon his retirement, be awarded his handgun and sheriff's badge along with the identification card issued by the county sheriff's department. The identification card shall have "RETIRED" printed on it, shall have no fixed expiration date and shall be signed by the county sheriff. The award shall be available to any deputy county sheriff, as defined above, who leaves his employment with the county sheriff's department to retire under the provisions of the public employee retirement system of Idaho or the county's retirement system, whether under disability retirement or otherwise.

Approved March 1, 1991.

CHAPTER 20
(S.B. No. 1031, As Amended)

AN ACT

RELATING TO A PURPLE HEART RECIPIENT LICENSE PLATE; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-403A, IDAHO CODE, TO PROVIDE FOR A PURPLE HEART RECIPIENT LICENSE PLATE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-403A, Idaho Code, and to read as follows:

49-403A. PURPLE HEART RECIPIENT -- LICENSE PLATES. (1) Purple heart recipient license plates are available to any applicant who is a veteran or an active or retired member of any of the armed forces of the United States, reserve forces or Idaho national guard, and who furnishes proof of entitlement by providing one of the following documents:

(a) A copy of form DD214 or equivalent document showing an award of the purple heart medal;

(b) A copy of the certificate presented with the medal; or

(c) A copy of the military order describing the award of the medal to the applicant.

(2) In addition to the regular operating fee, the applicant shall be charged a fee of twenty-five dollars ($25.00) for the initial issuance of plates, and fifteen dollars ($15.00) upon each succeeding annual registration. The initial fee and the annual fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program which is provided to the public as a personal alternative to the standard license plate requirement. Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the registration shall expire, but the purple heart recipient may transfer his plates to another vehicle upon payment of the required transfer fees. He may only display the plates after receipt of new registration from the department. A purple heart recipient shall not register more than two (2) vehicles under the provisions of this section.

(3) The purple heart recipient license plates shall be of a color and design acceptable to the military order of the purple heart association and approved by the department, utilizing a numbering system as determined by the department.

SECTION 2. This act shall be in full force and effect on and after January 1, 1992.

Approved March 1, 1991.

CHAPTER 21
(H.B. No. 5)

AN ACT

RELATING TO ENGINEERS AND SURVEYORS; AMENDING SECTION 54-1220, IDAHO CODE, TO ALLOW THE EXECUTIVE SECRETARY OF THE BOARD TO BE THE PERSON RECEIVING CHARGES AGAINST REGISTRANTS OR CORPORATIONS HOLDING A CERTIFICATE OF AUTHORIZATION, TO ALLOW THE EXECUTIVE SECRETARY

TO BE THE PERSON MAKING AND FILING CHARGES, AND TO INCREASE THE TIME REQUIREMENT FOR THE BOARD TO HEAR CHARGES PREFERRED AGAINST A REGISTRANT FROM THREE MONTHS TO SIX MONTHS.

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

SECTION 1. That Section 54-1220, Idaho Code, be, and the same is hereby amended to read as follows:

54-1220. DISCIPLINARY ACTION -- PROCEDURES. (1) Any person may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of the rules of professional responsibility for professional engineers, professional land surveyors and corporations with certificate of authorization against any individual registrant or against any corporation holding a certificate of authorization. Repeated acts of negligence, incompetence, misconduct, or violations of the rules of professional responsibility may be considered as a gross act for disciplinary action. Such charges shall be in writing, and shall be sworn to by the person or persons making them and shall be filed with the executive secretary of the board. The executive secretary of the board may be the person making and filing the charges.

(2) All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within ~~three~~ six (~~3~~6) months after the date on which they shall have been preferred.

(3) The time and place for said hearing shall be fixed by the board and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such individual registrant or corporation holding a certificate of authorization at least thirty (30) days before the date fixed for the hearing. At any hearing, the accused individual registrant or corporation holding a certificate of authorization shall have the right to appear in person or by counsel, or both, to cross-examine witnesses in his or its defense, and to produce evidence and witnesses in his or its own defense. If the accused person or corporation fails or refuses to appear, the board may proceed to hear and determine the validity of the charges.

(4) If, after such hearing, the board votes in favor of sustaining the charges, the board may, in its discretion, impose an administrative penalty, not to exceed two thousand dollars ($2,000) for deposit in the general account of the state of Idaho. In addition, the board, in its discretion, may reprimand, suspend, revoke or refuse to renew the individual's certificate of registration or a corporation's certificate of authorization. The board may also, in its discretion, require the individual to practice under the supervision of another licensee, or require the individual to successfully complete continuing education courses as may be prescribed by the board.

Approved March 1, 1991.

CHAPTER 22
(H.B. No. 55)

AN ACT

RELATING TO CIRCUIT BREAKER PROPERTY TAX REDUCTION BENEFITS; AMENDING SECTION 63-117, IDAHO CODE, TO INCLUDE A DEPENDENT RECIPIENT OF DISABILITY BENEFITS IN THE DEFINITION OF "NONHOUSEHOLD MEMBER"; AMENDING SECTION 63-119, IDAHO CODE, TO PROVIDE FOR ESTABLISHING PROOF OF DISABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-117, Idaho Code, be, and the same is hereby amended to read as follows:

63-117. DEFINITIONS. As used in sections 63-117 through and including 63-125, Idaho Code:

(a) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code (as defined by section 63-3004, Idaho Code), alimony, support money, income from inheritances, nontaxable strike benefits, the gross amount of any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act, state unemployment insurance laws, and veterans' disability pensions and compensation), nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities, workmen's compensation and the gross amount of "loss of earnings" insurance. It does not include capital gains, gifts from nongovernmental sources, inheritances, or medical expenses as defined by section 213(e)(1)(A)(B) of the Internal Revenue Code, incurred by the household. Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed.

(b) "Household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, and accommodations and expenses. The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

(c) "Nonhousehold member" means any nonspouse who lives in the claimant's dwelling for the purpose of providing protective oversight, caregiving, or personal care services to the claimant, or who is receiving disability benefits pursuant to subsection (f)(iv) of this section.

(d) "Household income" means all income received by all persons of a household in a calendar year while members of the household.

(e) "Homestead" means the dwelling, owned by the claimant and occupied by the persons of a household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multi-dwelling or multi-purpose building and part of the land upon which it is built. ("Owned" includes a vendee in possession under a land contract and of one or more tenants in common). It does

not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(f) "Claimant" means a person who has filed a claim under the provisions of sections 63-117 through and including 63-125, Idaho Code. To be eligible to file a claim, a person must have been domiciled in this state during the calendar year immediately preceding the year in which his claim was filed, and must have owned a homestead, evidenced by proof of taxes levied, in this state during the calendar year immediately preceding the year in which his claim was filed, and:

(i) must be not less than sixty-five (65) years old on January 1 of the year in which his claim was filed, or

(ii) a fatherless child under the age of eighteen (18) years of age, or

(iii) a widow or widower, or

(iv) a disabled person who is receiving disability benefits pursuant to 42 USCA 423, 45 USCA 228, 45 USCA 231, or 5 USCA 8337, or

(v) a disabled veteran of any war engaged in by the United States, whose disability is recognized as a service connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice connected disabilities, in accordance with laws and regulations administered by the United States veterans administration, or

(vi) a person as specified in 42 USCA 1701 who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage, or otherwise, or

(vii) blind.

SECTION 2. That Section 63-119, Idaho Code, be, and the same is hereby amended to read as follows:

63-119. PROCEDURE FOR FILING CLAIMS. (1) Any claim filed shall be signed by the claimant. By signing such claim, the claimant shall attest to the truth of such claim, and shall be subject to the penalties provided by section 18-5401, Idaho Code, for stating as true any material fact known to be false. All claims shall be made on forms prescribed by the tax commission and shall be in triplicate. One (1) copy of the form shall be provided to the claimant, one (1) copy shall be kept for all county purposes, and one (1) copy shall be forwarded to the tax commission with the property tax reduction roll.

(2) By filing a claim under the provisions of sections 63-117 through and including 63-125, Idaho Code, a claimant does not relinquish any right he or any member of his household may have to tax exemption under section 63-105BB, Idaho Code. A county board of equalization may grant any such claimant, or any member of his household, an exemption under such section, if a claim has been filed under the provisions of sections 63-117 through and including 63-125, Idaho Code.

(3) If two (2) or more individuals of a household are able to meet the qualifications of a claimant, they may decide between themselves who may obtain a reduction in taxes under the provisions of sections 63-117 through and including 63-125, Idaho Code, but if they do not decide between themselves, then the reduction shall be divided equally among or between the claimants in the household.

(4) A claimant who requests nonhousehold member status for any nonspouse residing in the dwelling must provide a statement from the attending physician, verifying that the claimant would not be able to maintain residency in the dwelling in the absence of the nonhousehold member. To establish nonhousehold member status for any disabled nonspouse for whom the claimant provides care, the claimant must provide proof of disability from the recognizing agency.

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 1, 1991.

CHAPTER 23
(H.B. No. 61)

AN ACT

RELATING TO THE BOARD OF ACCOUNTANCY; AMENDING SECTION 54-211, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN EXAMINATION AND REEXAMINATION FEES.

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

SECTION 1. That Section 54-211, Idaho Code, be, and the same is hereby amended to read as follows:

54-211. LICENSES -- LICENSE PERIOD -- FEES. The board shall issue certificates and/or licenses to practice as a certified public accountant or a public accountant to persons who have qualified therefor in accordance with the provisions of this act and the rules and regulations of the board.

A certificate, once issued, shall continue in effect so long as the holder thereof complies with the provisions of this act.

Each license shall be issued for a period of one (1) year and will be effective until the first day of July next after its issuance.

The board shall collect an annual certification or license fee from all certificate holders or licensees in an amount not to exceed one hundred dollars ($100) as prescribed by the rules and regulations of the board, and those persons meeting the requirements for license renewal shall be issued a license for the following year.

The board shall collect examination and reexamination fees in an amount not to exceed one hundred fifty dollars ($1~~0~~50), as prescribed by the rules and regulations of the board or advisory committee.

The board may charge an amount not to exceed ten dollars ($10.00) as prescribed by the rules and regulations of the board for any certificate, original or replacement, to be issued as herein provided.

All certification fees, examination and reexamination fees, and certificate charges shall be collected and deposited in the state treasury in accordance with section 54-216, Idaho Code.

Approved March 1, 1991.

CHAPTER 24
(S.B. No. 1005)

AN ACT

RELATING TO THE COMPREHENSIVE STATE WATER PLAN; RATIFYING AND APPROVING THE COMPREHENSIVE STATE WATER PLAN FOR THE SOUTH FORK BOISE RIVER SUB-BASIN AS ADOPTED BY THE IDAHO WATER RESOURCE BOARD ON JUNE 29, 1990; AND DECLARING AN EMERGENCY.

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

SECTION 1. That pursuant to section 42-1734B(6), Idaho Code, the comprehensive state water plan for the South Fork Boise River sub-basin, adopted by resolution of the Idaho water resource board on June 29, 1990, be, and the same is hereby ratified and approved. In accordance with section 42-1734A, Idaho Code, the sub-basin plan includes protected river reach designations summarized as follows:

(1) The South Fork Boise River from Anderson Ranch Dam downstream to Black Canyon Creek as a recreational river;

(2) The South Fork Boise River from the mouth of Black Canyon Creek downstream to a point 250 yards upstream of Neal Bridge as a natural river;

(3) Lime Creek from its mouth to its headwaters and all tributaries on the north side of Lime Creek, including the north and middle forks and all their tributaries from their mouth to their headwaters, as natural rivers; and all remaining tributaries of Lime Creek from their mouth to their headwaters as recreational rivers; and

(4) Big Smoky Creek from its confluence with Calf Creek to its headwaters and all tributaries of Big Smoky Creek above and including Calf Creek from their mouth to their headwaters as natural rivers.

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 4, 1991.

CHAPTER 25
(H.B. No. 78)

AN ACT

RELATING TO THE PUBLIC DEPOSITORY LAW; REPEALING SECTION 57-112, IDAHO CODE, AND SECTION 85, CHAPTER 213, LAWS OF 1990, 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, and Section 85, Chapter 213, Laws of 1990, be, and the same are hereby repealed.

Approved March 1, 1991.

CHAPTER 26
(H.B. No. 79)

AN ACT

RELATING TO THE FIREFIGHTERS' RETIREMENT FUND; AMENDING SECTION 72-1403, IDAHO CODE, TO ADD DEFINITIONS OF "ACCUMULATED CONTRIBUTIONS" AND "REGULAR INTEREST"; AMENDING SECTION 72-1444, IDAHO CODE, TO PROVIDE THAT UPON SEPARATION FROM EMPLOYMENT A PAID FIREFIGHTER ELECTING TO WITHDRAW ACCUMULATED CONTRIBUTIONS SHALL RECEIVE REGULAR INTEREST CREDITED THEREON, TO PROVIDE FOR OPTIONAL REINSTATEMENT OF PREVIOUS CREDITED SERVICE UPON REEMPLOYMENT BY REPAYMENT TO THE RETIREMENT FUND OF ACCUMULATED CONTRIBUTIONS PLUS INTEREST, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE THAT A DESIGNEE OF THE DIRECTOR OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM MAY ADVISE A PAID FIREFIGHTER OF HIS RETIREMENT BENEFIT OPTIONS UPON SEPARATION FROM EMPLOYMENT.

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

SECTION 1. That Section 72-1403, Idaho Code, be, and the same is hereby amended to read as follows:

72-1403. DEFINITIONS. The following are definitions of terms used in this 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 firefighter.

(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 firefighters' retirement fund may count only toward the prescribed period of years for retirement as set out in sections 72-1446, 72-1464, 72-1465, and 72-1435, 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 72-1431 and 72-1432, Idaho Code, for that year.

(I) "Accumulated contributions" mean the sum of all amounts contributed by a firefighter to the retirement fund, pursuant to the provisions of chapter 14, title 72, Idaho Code, together with regular interest credited thereon.

(J) "Regular interest" means interest at the rate set from time to time by the board pursuant to section 59-1302(26), Idaho Code.

SECTION 2. That Section 72-1444, Idaho Code, be, and the same is hereby amended to read as follows:

72-1444. REFUND TO FIREFIGHTER TERMINATING EMPLOYMENT -- REPAYMENT ON REEMPLOYMENT -- CONVERSION OF CONTRIBUTIONS. (1) If the employment of a paid 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 hundred percent (100%) of ~~whatever sums he has~~ his accumulated contributedions. If such firefighter is subsequently reemployed as a paid firefighter with duties which involve or are incidental to fire-fighting, he ~~shall, within two (2) years from such employment, reimburse~~ may reinstate his previous credited service by repaying to the retirement ~~account to~~ fund the full ~~extent of the~~ amount ~~he received from said account upon said termination~~ of his accumulated contributions provided such repay-

ment includes payment of interest as determined by the board.

(2) In lieu of withdrawing his accumulated contributions as provided in subsection (1) of this section, a paid 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 firefighter at the contribution rate of a paid 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 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 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, or his designee, on the choices available. The firefighter may be accompanied during such interview by any person of his choice.

Approved March 1, 1991.

CHAPTER 27
(H.B. No. 97)

AN ACT

RELATING TO THE FIREMEN'S RETIREMENT FUND; AMENDING SECTIONS 72-1461, 72-1462, 72-1463, 72-1464 AND 72-1465, IDAHO CODE, TO DELETE THE PROVISO TERMINATING PAYMENT OF DEATH BENEFITS TO A PAID FIREFIGHTER'S SURVIVING SPOUSE UPON HIS OR HER REMARRIAGE AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 72-1461, Idaho Code, be, and the same is hereby amended to read as follows:

72-1461. 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~~s~~ injury from which death results, while in the 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 surviv-

ing 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 72-1471, 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 2. That Section 72-1462, Idaho Code, be, and the same is hereby amended to read as follows:

72-1462. 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 3. That Section 72-1463, Idaho Code, be, and the same is hereby amended to read as follows:

72-1463. 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 4. That Section 72-1464, Idaho Code, be, and the same is hereby amended to read as follows:

72-1464. 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 72-1403, 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 72-1431, 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 72-1403, 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 72-1435, 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 72-1471, 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 5. That Section 72-1465, Idaho Code, be, and the same is hereby amended to read as follows:

72-1465. 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 72-1403, 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. The monthly sum shall vary annually according to the determination of the cost of living adjustment as set forth in section 72-1471, 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 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 March 1, 1991.

CHAPTER 28
(H.B. No. 27)

AN ACT

RELATING TO THE TRANSFER OF ALCOHOLIC BEVERAGE LICENSES; AMENDING SECTIONS 23-908, 23-1005A AND 23-1317, IDAHO CODE, TO PROVIDE FOR

TRANSFER OF A LIQUOR LICENSE, AND TO PROVIDE AUTHORITY TO DENY A TRANSFER.

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

SECTION 1. That Section 23-908, Idaho Code, be, and the same is hereby amended to read as follows:

23-908. FORM OF LICENSE -- AUTHORITY -- EXPIRATION -- LIMITATIONS. (1) Every license issued under this act shall set forth the name of the person to whom issued, the location by street and number, or other definite designation, of the premises, and such other information as the director shall deem necessary. If issued to a partnership, the names of the persons constituting such partnership shall be set forth in the application. If issued to a corporation or association, the names of the principal officers and the governing board shall be set forth in the application. Such license shall be signed by the licensee and prominently displayed in the place of business at all times. Every license issued under the provisions of this act is separate and distinct and no person except the licensee therein named except as herein otherwise provided, shall exercise any of the privileges granted thereunder. All licenses shall expire at 1:00 o'clock A.M. on January 1st of the following year and shall be subject to renewal upon proper application. Renewal applications for liquor by the drink licenses accompanied by the required fee must be filed with the director on or before January 1st of the following year, provided, however, any licensee holding a valid license who fails to file an application for renewal of his current license on or before January 1st of the following year shall have a grace period of an additional thirty-one (31) days in which to file an application for renewal of his license and during which time he shall not be permitted to sell and dispense liquor by the drink at retail. No person shall be granted more than one (1) license in any city for any one (1) year; and no partnership, association or corporation holding a license under this act shall have as a member, officer or stockholder any person who has any financial interest of any kind in, or is a member of, another partnership or association or an officer of another corporation holding a license in the same city for the same year; provided that this section shall not prevent any person, firm or corporation, owning two (2) or more buildings on connected property in a city from making application for and receiving licenses permitting the sale of liquor by the drink in such building.

(2) An application to transfer any license issued pursuant to chapter 9, title 23, Idaho Code, shall be made to the director. Upon receipt of such an application, the director shall make the same investigation and determinations with respect to the transferee as are required by section 23-907, Idaho Code, and if the director shall determine that all of the conditions required of a licensee under chapter 9, title 23, Idaho Code, have been met by the proposed transferee, then the license shall be indorsed over to the proposed transferee by said licensee for the remainder of the period for which such license has been issued and the director shall ~~note his approval thereof upon such license~~ issue a license to the transferee.

(3) The director, in his discretion, may deny the transfer of a license during the pendancy of any proceedings for suspension or revocation which were instituted pursuant to the terms of this chapter.

(4) Each new license issued on or after July 1, 1980, shall be placed into actual use by the original licensee at the time of issuance and remain in use for at least six (6) consecutive months or be forfeited to the state and be eligible for issue to another person by the director after compliance with the provisions of section 23-907, Idaho Code. Such license shall not be transferrable for a period of two (2) years from the date of original issuance, except as provided by subsections (~~4~~5)(a), (b), (c), (d) or (e) of this section.

(~~4~~5) The fee for transferring a liquor license shall be ten per cent (10%) of the purchase price of the liquor license or the cost of good will, whichever is greater; except no fee shall be collected in the following events:

(a) The transfer of a license between husband and wife in the event of a property division; or

(b) The transfer of a license to a receiver, trustee in bankruptcy or similar person or officer; or

(c) The transfer of a license to the heirs or personal representative of the estate in the event of the death of the licensee; or

(d) The transfer of a license arising out of the dissolution of a partnership where the license is transferred to one or more of the partners; or

(e) The transfer of a license within a family whether an individual, partnership or corporation.

(~~5~~6) The fee for transferring a liquor license for other than a sale shall be fifty per cent (50%) of the per annum license fee set forth in section 23-904, Idaho Code; except no fee shall be collected for transfers as outlined in ~~section 23-908,~~ subsection (~~4~~5)(a), (b), (c), (d), or (e)~~, Idaho Code~~ of this section.

~~(6) The controlling interest in the stock ownership of a corporate licensee shall not be, directly or indirectly, sold, transferred, or hypothecated unless the licensee be a corporation, the stock of which is listed on a stock exchange in Idaho, or in the city of New York, state of New York, or which is required by law to file periodic reports with the securities and exchange commission. Provided, however, that in the event of the transfer of more than twenty five per cent (25%) of the authorized and issued stock of the corporation, it shall create a rebuttable presumption that such transfer constitutes a transfer of the controlling interest of such corporation.~~

SECTION 2. That Section 23-1005A, Idaho Code, be, and the same is hereby amended to read as follows:

23-1005A. TRANSFER OF LICENSE -- FEE -- APPLICATION FOR APPROVAL. (a) No brewer, dealer or wholesaler of beer license issued pursuant to section 23-1003, Idaho Code, or any beer retailer license issued pursuant to section 23-1010, Idaho Code, may be transferred to another person, including an executor, administrator, or trustee in bankruptcy of the estate of the licensee, unless the transferee shall first have obtained the approval of the director to such transfer upon application containing substantially the same information required of an

applicant for a brewer's, dealer's, wholesaler's or retailer's beer license, as the case may be. If the transferee possesses all the qualifications and none of the disqualifications for such license, the director shall approve the transfer~~,--which-approval-shall-be--attached and-made-a-part-of-the-license~~ by issuing a license to the transferee. The fee for each transfer of a brewer's, dealer's, wholesaler's or retailer's beer license shall be twenty dollars ($20.00), which fee shall accompany the application for transfer.

(b) Application for a transfer of any beer license from one location to another shall be made to the director on forms prescribed and furnished by the director. The director shall approve such transfer upon submission of the application and receipt by the director of a transfer fee of twenty dollars ($20.00).

(c) The director, in his discretion, may deny the transfer of a license during the pendancy of any proceedings for suspension or revocation instituted pursuant to the provisions of this chapter.

SECTION 3. That Section 23-1317, Idaho Code, be, and the same is hereby amended to read as follows:

23-1317. TRANSFER OF LICENSES -- FEE -- APPLICATION FOR APPROVAL. (a) No winery license, wine distributor's license, wine by-the-drink license, or retail wine license may be transferred to another person, including an executor, administrator, or trustee in bankruptcy of the estate of the licensee, unless the transferee shall first have obtained the approval of the director to such transfer upon application containing the substantially same information required of an applicant for a winery license, wine distributor's license or retail wine license, as the case may be. If the transferee possesses all of the qualifications and none of the disqualifications for such license, the director shall approve the transfer~~,--which--approval--shall--be attached--and--made--a-part-of-the-license~~ by issuing a license to the transferee. The fee for each transfer of a winery license, wine distributor's license, wine-by-the-drink license, or a retail wine license shall be twenty dollars ($20.00), which fee shall accompany the application for transfer.

(b) Application to transfer a winery license, wine distributor's license, wine by-the-drink license, or retail wine license from one location to another shall be made to the director on forms prescribed and furnished by the director. The director shall approve any such transfer upon submission of the application and receipt by the director of a transfer fee of twenty dollars ($20.00).

(c) The director, in his discretion, may deny the transfer of a license during the pendancy of any proceedings for suspension or revocation instituted pursuant to the provisions of this chapter.

Approved March 5, 1991.

CHAPTER 29
(S.B. No. 1007)

AN ACT

RELATING TO CARE, CUSTODY OR PROPERTY OF A MINOR OR WARD; AMENDING SECTION 15-5-104, IDAHO CODE, TO PROVIDE FOR A LONGER PERIOD OF PROTECTION IN THE CASE OF CERTAIN MILITARY PERSONNEL; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 15-5-104, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-104. DELEGATION OF POWERS BY PARENT OR GUARDIAN. A parent or a guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding six (6) months, <u>or in the case of military personnel serving beyond the territorial limits of the United States for a period not exceeding twelve (12) months,</u> any of his powers regarding care, custody, or property of the minor child or ward, except his power to consent to marriage or adoption of a minor ward.

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, 1991.

CHAPTER 30
(S.B. No. 1071)

AN ACT

RELATING TO OBSOLETE REFERENCES TO THE SECRETARY OF STATE; AMENDING SECTION 19-4803, IDAHO CODE, TO STRIKE REFERENCE TO THE SECRETARY OF STATE, AND TO INCLUDE THE DIRECTOR OF THE DEPARTMENT OF LAW ENFORCEMENT; AMENDING SECTIONS 22-2001, 33-1254, 33-1511, 33-4106 AND 38-1211, IDAHO CODE, TO STRIKE REFERENCE TO THE SECRETARY OF STATE; REPEALING CHAPTER 9, TITLE 37, IDAHO CODE; AMENDING SECTION 54-204, IDAHO CODE, TO STRIKE REFERENCE TO THE SECRETARY OF STATE; AMENDING SECTION 54-204, IDAHO CODE, AS AMENDED BY CHAPTER 213, LAWS OF 1990, TO STRIKE REFERENCE TO THE SECRETARY OF STATE; AMENDING SECTION 54-305, IDAHO CODE, TO STRIKE REFERENCE TO THE SECRETARY OF STATE, AND TO INCLUDE THE BUREAU OF OCCUPATIONAL LICENSES; AMENDING SECTION 54-1211, IDAHO CODE, TO STRIKE REFERENCE TO THE SECRETARY OF STATE; AMENDING SECTION 54-2413, IDAHO CODE, TO STRIKE REFERENCE TO THE SECRETARY OF STATE, AND TO INCLUDE THE BUREAU OF OCCUPATIONAL LICENSES; AMENDING SECTION 54-2811, IDAHO CODE, TO STRIKE REFERENCE TO THE SECRETARY OF STATE; REPEALING CHAPTER 5, TITLE 62, IDAHO CODE; AMENDING SECTION

72-1333, IDAHO CODE, TO STRIKE REFERENCE TO THE SECRETARY OF STATE, AND TO PROVIDE RULE-MAKING AUTHORITY TO THE DIRECTOR OF THE DEPARTMENT OF EMPLOYMENT; PROVIDING AUTHORITY FOR THE SECRETARY OF STATE TO DESTROY OR TRANSFER RECORDS; AND PROVIDING AN EFFECTIVE DATE FOR SECTION 9.

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

SECTION 1. That Section 19-4803, Idaho Code, be, and the same is hereby amended to read as follows:

19-4803. DUTIES OF SUPERINTENDENT. The superintendent, with the approval of the board of examiners and within the limits of any appropriation made available for such purposes, shall for such Idaho state police:

a. establish such ranks, grades and positions as shall appear advisable and designate the authority and responsibility in each such rank, grade and position;

b. for each such rank, grade and position set standards and qualifications and fix prerequisites of training, education and experience, prescribe the salaries to be paid and allowances to be granted, including uniform allowances, travel and subsistence allowances and allowances for removal of personal effects upon change of station pursuant to official orders from one (1) post of duty to another;

c. appoint such personnel to <u>such</u> rank, grade and position as are deemed by him to be necessary for the efficient operation and administration of the Idaho state police and devise and administer examinations designed to test applicants for the position therein, and only those applicants shall be appointed or promoted, who best meet the prescribed standards and prerequisites; provided, however, that all employees shall be selected in the manner provided for by section 19-4805, Idaho Code, and shall be probationers and on probation for a period of one (1) year from date of appointment;

d. formulate and place in effect such rules for the Idaho state police as from time to time appear to him advisable;

e. discharge, demote or temporarily suspend for reasonable cause, any employee of the Idaho state police without a hearing; provided however, that such employee may request a hearing, as provided in section 19-4805, Idaho Code, to determine whether such action of the superintendent was justified under the circumstances shown to exist;

f. prescribe by official order the uniform and equipment of the employees in such Idaho state police;

g. charge against each employee the value of any property of the state lost or destroyed through the carelessness or neglect of such employee;

h. station employees in such localities as he shall deem advisable for the enforcement of the laws of the state;

i. have purchased, or otherwise acquired, by the purchasing agent of the state, motor equipment and all other equipment and commodities deemed by him essential for efficient performance of the duties of the Idaho state police and purchase and install approved mechanical devices and equipment for the rapid transmission and broadcasting of information relative to crime, apprehension of criminals and the

administration of the business of the Idaho state police;

j. establish and maintain information, data, and fingerprint records for the identification of criminals as hereinafter provided, procure and maintain equipment therefor;

k. the superintendent shall cause a copy of the official order prescribing the uniform of the Idaho state police issued by him pursuant to subsection f of this section, together with a facsimile of such uniform and equipment, to be filed with the ~~secretary of state~~ director of the department of law enforcement. Any person who shall impersonate or hold himself out as a member of the Idaho state police without being a member of said Idaho state police or who shall without authority wear as clothing the prescribed uniform of the Idaho state police or any part thereof shall be guilty of a misdemeanor and shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or by both such fine and imprisonment.

1. (1) The personnel group insurance administrator in the department of administration shall continue, or procure, and administer a contract of group insurance on the lives of all eligible members of the Idaho state police.

(2) There shall be issued to every eligible member of the Idaho state police and pursuant to the contract provided for in subsection (1) thereof, a term group life insurance certificate in the face amount of fifty thousand dollars ($50,000) on the life of such members. Said insurance certificate shall set forth the name or names of such beneficiary or beneficiaries as the insured may name or designate.

(3) Any eligible person entering the employ of the Idaho state police as an active police officer after the effective date of this act shall be insured as other members of said Idaho state police immediately upon taking the oath of office.

(4) Every member of the Idaho state police, upon termination of active duty or permanent release, may surrender said certificate to the head of the department, or, at his option, may convert the insurance in accordance with the provisions of the contract, and no further premiums shall be paid on said policy by the state of Idaho.

(5) The superintendent is hereby directed to hereafter include in the biennial budget of the Idaho state police an amount sufficient to pay the annual costs accruing with respect to policies of insurance purchased under the provisions of this act.

(6) The premiums on the insurance herein provided for are to be paid one-half (1/2) by the employee and one-half (1/2) by the state. The superintendent is hereby authorized to make a monthly deduction on the payroll of the amount due from each employee under this act.

(7) Participation in and recovery on the group life insurance policy hereinbefore provided shall act to prevent recovery by any member of the Idaho state police of any and all claims against the state of Idaho other than claims coming under the jurisdiction of the industrial accident board. No provisions of title 41, Idaho Code, shall be construed to prohibit the execution of a contract to that effect.

SECTION 2. That Section 22-2001, Idaho Code, be, and the same is hereby amended to read as follows:

22-2001. PROMULGATION OF QUARANTINES. The director of the department of agriculture, by and with the approval of the governor, may, after investigations and hearings, establish, maintain and enforce such quarantines as he shall deem necessary by virtue of the facts established or determined by such investigations or hearings to protect any and all articles of agriculture or horticulture against infestation or infection by any insect or animal pest or plant disease or noxious weed, new to or not heretofore widely prevalent or distributed within and throughout the state of Idaho, by establishing such quarantine at the boundaries of the state or elsewhere within the state, and said director may make and enforce any and all such rules and regulations as shall be deemed necessary to prevent the introduction into or the spread within the state of Idaho of any insect or animal pest or plant disease or noxious weed, and to prevent any article which may be liable to carry any insect or animal pest or plant disease or noxious weed, which may be or is liable to be injurious to agriculture or horticulture, or to any agricultural or horticultural pursuit within the state of Idaho, or any part thereof, from passing over any quarantine line established and proclaimed pursuant to this act, and all such articles shall, during the maintenance of such quarantine, be inspected by the director, or by his authorized agent or any inspector duly authorized by him, and the director, or his authorized agent or inspector, shall not permit any such article to pass over such quarantine line during the maintenance of such quarantine, rules or regulations, except upon written release signed by said director, or his authorized agent or inspector. Before any quarantine amendment or regulation appertaining thereto shall become effective, the same shall be approved by the governor and shall be signed ~~in duplicate~~ by the governor~~,~~ and ~~one (1) copy thereof shall be~~ filed ~~in the office of the secretary of state and the other~~ in the office of the director.

SECTION 3. That Section 33-1254, Idaho Code, be, and the same is hereby amended to read as follows:

33-1254. PROFESSIONAL CODES AND STANDARDS -- ADOPTION -- PUBLICATION. The commission shall have authority to adopt recognized professional codes and standards of ethics, conduct and professional practices which shall be applicable to teachers in the public schools of the state, and submit the same to the state board of education for its consideration and approval. Upon their approval by the state board of education, the professional codes and standards shall be published by the board~~,--and--two--(2)--copies--of-the-same-shall-be-deposited-and lodged-in-the-office-of-the-secretary-of-state-and-shall-be--a--public record~~.

SECTION 4. That Section 33-1511, Idaho Code, be, and the same is hereby amended to read as follows:

33-1511. STATE BOARD OF EDUCATION -- POWERS AND DUTIES RELATED TO

TRANSPORTATION. In addition to powers and duties of the state board of education hereinbefore prescribed, the said state board shall:

1. Designate a member of its staff as supervisor of school transportation responsible for a school bus driver training program and such program shall provide for a qualified driver trainer for each school district and with such duties as the board may prescribe;

2. Adopt, publish and distribute, and from time to time as need therefor arises amend, minimum standards for the construction of school buses, which standards shall at no time be lower than those incorporated in the latest report of the National Conference on School Transportation, ~~copies of~~ which report shall be filed with the department of law enforcement~~, and with the secretary of state~~;

3. Approve the form(s) to be used for the inspection of school buses.

SECTION 5. That Section 33-4106, Idaho Code, be, and the same is hereby amended to read as follows:

33-4106. CONTRACTS KEPT ON FILE -- PUBLISHED. True copies of all contracts made on behalf of the state of Idaho pursuant to the agreement shall be kept on file with the state board of education ~~and in the office of the secretary of state~~. The state board of education shall publish all such contracts in convenient form.

SECTION 6. That Chapter 9, Title 37, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section 38-1211, Idaho Code, be, and the same is hereby amended to read as follows:

38-1211. ROSTER OF LICENSED SCALERS. A roster showing the names and places of business of all licensed scalers shall be published by the secretary of the board during the month of December of each year. Copies of this roster shall be mailed to each person so registered~~, placed on file with the secretary of state,~~ and furnished to the public upon request.

SECTION 8. 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.

~~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 9. That Section 54-204, as amended by Chapter 213, Laws

of 1990, Idaho Code, be, and the same is hereby amended to read as follows:

54-204. POWERS AND DUTIES [EFFECTIVE JULY 1, 1993]. 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 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 10. That Section 54-305, Idaho Code, be, and the same is hereby amended to read as follows:

54-305. GROUNDS FOR DISCIPLINE -- APPEAL -- PENALTIES -- SUBSEQUENT LICENSE. 1. The board may refuse to grant, or may temporarily suspend or otherwise restrict a license to practice architecture in this state for a period not to exceed two (2) years, or may revoke a license, upon any one (1) of the following grounds:

a. The employment of any fraud or deception in applying for a license or in passing the examination required under this chapter.

b. The employment of a fraud or deceit in the practice of his profession or procuring any contract in the practice of his profession by fraudulent means.

c. A display of incompetency or recklessness in the practice of architecture resulting in a detriment to life, health, or public safety.

d. The conviction, finding of guilt, receipt of a withheld judgment or suspended sentence in this or any other state for a felony or a misdemeanor, which misdemeanor involved a violation of the provisions of this act, a willful violation of state or local building codes, or a violation of other laws relating to public health and safety and which were committed in the course of practicing architecture.

e. Affixing of his signature to, or impressing his seal upon, any plans, drawings, specifications, or other instruments of service which have not been prepared by him, or under his immediate and responsible direction, or has permitted his name to be used for the purpose of assisting any person, not a licensed architect, to evade the provisions of this chapter.

f. Receiving of rebates, commissions, grants of money or other favors in connection with the work, without the knowledge of the party for whom he is working, or having a pecuniary interest in the performance of the contract for the work designed, planned or supervised by him without the knowledge and consent of the owner.

g. Practicing architecture contrary to the provisions and requirements of this chapter.

h. Violation of rules of conduct for architects which the board may adopt in accordance with guidelines published by the national

council of architectural registration boards.

i. Practicing architecture without being licensed, in violation of licensing laws of the jurisdiction in which the practice took place.

2. Before any license shall be revoked or suspended, or the issuance thereof denied under subsection 3 of section 54-302A, Idaho Code, the holder or applicant shall be entitled to at least twenty (20) days' notice in writing of the nature of the charge against him and of the time and place of the meeting before the board for the purpose of hearing and determining such charge. Any revocation or suspension of license shall be certified in writing by the said board and attested to with the official seal of said board affixed thereto; and such revocation or suspension of license shall be filed in the office of the ~~secretary-of-state,-who-shall-be-paid-the--usual--fee--for--filing similar-documents-in-his-office~~ bureau of occupational licenses.

3. The holder of any license may within twenty (20) days after the filing of such certificate with the ~~secretary-of-state~~ bureau of occupational licenses appeal from such order of revocation or suspension to the district court in the county where a copy of such license is filed, by filing with the clerk of said court a notice of appeal, together with a certified copy of the certificate of revocation or suspension and payment to said clerk a fee of five dollars ($5.00). Such appeal shall be conducted in accordance with chapter 52, title 67, Idaho Code.

4. Upon the finding of the existence of grounds for discipline of any person holding a license, seeking a license, or renewing a license under the provisions of this chapter, the board may impose one or more of the following penalties:

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

b. Revocation of the offender's license;

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

d. Refusal to renew the offender's license;

e. Placement of the offender on probation and supervision by the board for a period to be determined by the board;

f. Imposition of an administrative fine not to exceed two thousand dollars ($2,000).

5. Any person whose license has been revoked, suspended or the issuance of which has been denied by said board for cause and the order denying, revoking or suspending the same not having been revoked by a court of competent jurisdiction, may apply for a reissuance, reinstatement or issuance of a license and the board, for reasons it may deem sufficient, may reissue, reinstate or issue the license to such person, provided, however, that it shall not take such action until the expiration of one (1) year after the date of such order.

SECTION 11. That Section 54-1211, Idaho Code, be, and the same is hereby amended to read as follows:

54-1211. ROSTER. A complete roster showing the names and last

known addresses of all registered professional engineers, all registered professional land surveyors, all corporations holding certificates of authorization and all who possess current certification as engineers-in-training and as land surveyors-in-training may be published by the secretary of the board biennially. Copies of this roster shall be mailed to each person so registered or certified, who requests a copy, ~~and placed on file with the secretary of state~~ and may be distributed or sold to the public upon request.

SECTION 12. That Section 54-2413, Idaho Code, be, and the same is hereby amended to read as follows:

54-2413. REVIEW OF PROCEEDINGS REVOKING OR SUSPENDING CERTIFICATE OF REGISTRATION. Any revocation of certificate shall be certified in writing by the board and attested with the official seal of the board affixed thereto, and such revocation of certificate shall be filed in the office of the ~~secretary of state who shall be paid the usual fee for filing similar documents in his office~~ bureau of occupational licenses. The holder of any certificate may within twenty (20) days after the filing of such certificate with the ~~secretary of state~~ bureau of occupational licenses appeal from such order of revocation to the district court in the county where the holder resides by filing with the clerk of said court a notice of appeal, together with a certified copy of the certificate of revocation and payment to said clerk a fee of five dollars ($5.00). Such case shall be tried in said court de novo the same as all other cases are tried, and in case the said order of jurisdiction shall be reversed, a certified copy of such judgment shall be filed with ~~the secretary of state and~~ the board and, thereafter, the environmental health specialist whose certificate was revoked shall have his certificate reinstated. Any person whose certificate has been revoked by said board for cause and the order revoking the same shall not thereafter be reversed by a court of competent jurisdiction, shall not be granted another certificate in the state of Idaho for a period of one (1) year after the order of revocation.

SECTION 13. That Section 54-2811, Idaho Code, be, and the same is hereby amended to read as follows:

54-2811. ROSTER. A roster showing the names and places of business of all registered professional geologists shall be published by the secretary of the board during the month of December each year. Copies of this roster shall be mailed to each person so registered~~, placed on file with the secretary of state,~~ and furnished to the public upon request.

SECTION 14. That Chapter 5, Title 62, Idaho Code, be, and the same is hereby repealed.

SECTION 15. That Section 72-1333, Idaho Code, be, and the same is hereby amended to read as follows:

72-1333. AUTHORITY AND DUTIES OF THE DIRECTOR. (a) It shall be the duty of the director to administer this act. The director shall

have the power and authority to employ such persons, make such expenditures, require such reports, make such investigations, perform such travel pursuant to the provisions of this act, and take such other actions as he deems necessary or suitable to that end. He shall determine his own organization to be known as the "department of employment" which is hereby created, and which shall, for the purposes of section 20, article IV, of the Constitution of the state of Idaho, be an executive department of the state government. The references in the employment security law to "agency," and "employment security agency," are hereby deemed to be references to the "department of employment." The director shall determine methods of procedure in accordance with the provisions of this act, and shall have an official seal which shall be judicially noticed.

(b) The director shall have the power and authority pursuant to chapter 52, title 67, Idaho Code, to adopt, amend, or rescind such rules and regulations as may be necessary for the proper administration of this act, subject, however, to prior approval by the governor of the proposed action.

~~(1)--Adoption,-amendment,-or-rescinding-of--rules--shall--be--done only-after-a-public-hearing-or-opportunity-to-be-heard-thereon,-of which--proper--notice--thereof--has--been-given.-Action-taken-with respect-to-said-rules-shall-become-effective-ten-(10)--days--after filing--with-the-secretary-of-state-and-publication-in-one-or-more newspapers-of-general-circulation-of-this-state.~~

~~(2)--Regulations-shall-be-effective-upon-publication-in--a--manner not--inconsistent-with-the-provisions-of-this-act-which-the-director-shall-prescribe.~~

(c) Subject to the provisions of chapter 53, title 67, Idaho Code, the director is authorized and directed to provide for a merit system covering all persons, except the director, the division administrators, and one (1) exempt position to serve at the pleasure and discretion of the director, employed in the administration of the act and shall have authority, by regulation, to provide for all matters which are appropriate to the establishment and maintenance of such system on the basis of efficiency and fitness. The director is authorized to adopt such regulations as may be necessary to meet personnel standards promulgated by the secretary of labor pursuant to the Social Security Act, as amended, or other applicable federal laws and to provide for the maintenance of the merit system required under this section in conjunction with the merit system applicable to any other department or departments of this state which meet the personnel standards promulgated by the secretary of labor or other appropriate federal authority.

(d) Annually, not later than the 31st day of December, the director shall submit to the governor a report covering the administration and operation of this act during the preceding fiscal year ending June 30, and shall make such recommendations for amendments to this act as he deems proper.

SECTION 16. DISPOSITION OF RECORDS. (a) Whenever this act has struck a requirement for filing a type of document with the secretary of state which was duplicated by filing with another state agency, the secretary of state may destroy those documents in his files.

(b) Whenever this act has struck a requirement for filing a type of document with the secretary of state which was not duplicated by filing with another state agency, the secretary of state may transfer those documents to the state historical library if it is determined that they have historical significance, and otherwise may destroy them.

(c) Whenever this act has transferred the place of filing for a type of document from the secretary of state to another agency, the secretary of state and the head of the other agency may thereafter agree to transfer those documents filed before the effective date of this act to the agency which has acquired filing responsibility.

SECTION 17. Section 9 of this act shall be in full force and effect on and after July 1, 1993.

Approved March 7, 1991.

CHAPTER 31
(H.B. No. 72)

AN ACT

RELATING TO INSPECTION FEES FOR COMMERCIAL FERTILIZERS; AMENDING SECTION 22-619, IDAHO CODE, TO BRING THE TEN CENTS PER TON INSPECTION FEE INTO CONFORMANCE WITH THE ACTUAL CONTROLLING FEE OF FIFTEEN CENTS PER TON CITED IN SECTION 22-608, IDAHO CODE.

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

SECTION 1. That Section 22-619, Idaho Code, be, and the same is hereby amended to read as follows:

22-619. USE OF FUNDS RECEIVED. All moneys received by the director from the registration of various brands of commercial fertilizers and from the payment to him of moneys derived from the inspection fee charged of ~~ten~~ fifteen cents (10~~5~~¢) per ton on such fertilizers shall be paid into the state treasury and placed in a fund hereby created and to be known as the "Commercial Feed and Fertilizer Fund" and such moneys are hereby continuously appropriated for the purpose of carrying out the provisions of the Idaho Commercial Fertilizer Law and this act, and for the purpose of purchasing samples of feeds and fertilizers for testing and analysis; for making or procuring analyses to be made; for printing of such forms, licenses, and other records and supplies required for making this act effective, and for all other expenses properly incurred by or under the direction of said director, his assistants or agents and employees, whether such expense was incurred in the administration of this act or not; provided, however, that no obligation shall be incurred under this act and the appropriation therein contained in excess of the amounts available or in said "Commercial Feed and Fertilizer Fund."

Approved March 7, 1991.

CHAPTER 32
(H.B. No. 73)

AN ACT

RELATING TO WEIGHTS AND MEASURES; AMENDING SECTION 71-231, IDAHO CODE, TO DELETE THE DECENNIAL RECERTIFICATION REQUIREMENT FOR PRIMARY STANDARDS.

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

SECTION 1. 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~~ maintained in such calibration as prescribed by the national institute of standards and technology. 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, 1991.

CHAPTER 33
(H.B. No. 74)

AN ACT

RELATING TO BUTTER PACKAGING; AMENDING SECTION 71-237, IDAHO CODE, TO PERMIT RANDOM WEIGHT PACKAGES OF BUTTER TO BE SOLD ONLY ON THE PREMISES WHERE IT IS PRODUCED.

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

SECTION 1. That Section 71-237, Idaho Code, be, and the same is hereby amended to read as follows:

71-237. BUTTER AND OLEOMARGARINE -- UNITS OF WEIGHT PERMITTED. Butter, oleomargarine, and margarine shall be offered and exposed for sale and sold by weight, and only in units of one-quarter (1/4) pound, one-half (1/2) pound, one (1) pound or multiples of one (1) pound, avoirdupois weight; provided, that butter in random weight packages shall be sold only on the premises where it is produced.

Approved March 7, 1991.

CHAPTER 34
(H.B. No. 60)

AN ACT

RELATING TO SELF-INTERESTED CONTRACTS; AMENDING SECTION 18-1361, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE PROHIBITION AGAINST SELF-INTERESTED CONTRACTS WHERE THERE ARE LESS THAN THREE SUPPLIERS OF A GOOD OR SERVICE WITHIN A FIFTEEN MILE RADIUS OF WHERE THE GOOD OR SERVICE IS TO BE PROVIDED.

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

SECTION 1. That Section 18-1361, Idaho Code, be, and the same is hereby amended to read as follows:

18-1361. SELF-INTERESTED CONTRACTS -- EXCEPTION. Where there are less than ~~two (2)~~ three (3) 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 contract 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.

Approved March 7, 1991.

CHAPTER 35
(H.B. No. 84)

AN ACT

RELATING TO LIBRARY DISTRICTS; AMENDING CHAPTER 27, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2729, IDAHO CODE, TO PROVIDE A PLANT FACILITIES RESERVE FUND AND LEVY FOR LIBRARY DISTRICTS.

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

SECTION 1. 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 33-2729, Idaho Code, and to read as follows:

33-2729. PLANT FACILITIES RESERVE FUND AND LEVY. The library district board of trustees is authorized to create a plant facilities reserve fund as set forth in sections 33-804 and 33-901, Idaho Code.

Approved March 7, 1991.

CHAPTER 36
(H.B. No. 101)

AN ACT

RELATING TO DISEASES AMONG LIVESTOCK; AMENDING SECTION 25-210, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO PROVIDE AUTHORITY TO TEST ANIMALS, AND TO INCLUDE GAME BIRDS, NATIVE AND NONNATIVE UNGULATES IN THE DEFINITION OF ANIMALS; AMENDING SECTION 25-221, IDAHO CODE, TO INCLUDE NATIVE AND NONNATIVE UNGULATES IN THE DEFINITION OF LIVESTOCK; AMENDING SECTION 25-223, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, AND TO ADD PSEUDORABIES AS A DISEASE; AMENDING SECTION 25-224, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO INCLUDE TESTING, TO EXPAND THE PLACES FOR INSPECTION, TESTING, TREATING AND DISINFECTION, AND TO ADD PSEUDORABIES AS A DISEASE; AMENDING SECTION 25-225, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO ADD PLACES FOR DISINFECTION, AND TO ADD PSEUDORABIES AS A DISEASE; AMENDING CHAPTER 2, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-225A, IDAHO CODE, TO PROVIDE AUTHORITY TO DEPOPULATE HERDS OF SWINE INFECTED WITH PSEUDORABIES; AMENDING SECTION 25-227, IDAHO CODE, TO ADD PSEUDORABIES AS A DISEASE; AND AMENDING SECTION 25-228, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO ADD PLACES FOR DISINFECTION, AND TO ADD PSEUDORABIES AS A DISEASE.

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

SECTION 1. That Section 25-210, Idaho Code, be, and the same is hereby amended to read as follows:

25-210. POWERS OF VETERINARIANS AND INSPECTORS. In order to prevent the introduction or dissemination of disease among the animals of this state, the division shall be authorized and directed to quarantine any portion of this state and it shall be unlawful to move animals from or into such quarantined area except in accordance with the rules and regulations of the division; and state veterinarians, livestock inspectors and the inspectors or agents of the ~~bureau-of--animal industry--of--the~~ United States department of agriculture/animal and plant health inspection service/veterinary services under the joint supervision of the state division and chief of the United States ~~bureau-of-animal-industry~~ department of agriculture/animal and plant health inspection service/veterinary services shall be authorized and

empowered to inspect, quarantine, treat, test, and condemn, appraise, slaughter and dispose of any animals affected or infected with any contagious, infectious or communicable disease, or infected with the disease of epithelioma of the eye, commonly known as "cancer eye," or that have been exposed to any such disease, and quarantine, clean and disinfect all premises where such animals have been kept, and for this purpose the said inspectors, or agents, state and federal, are hereby authorized and empowered to enter any field, feed yard, barn, stable, railroad car, stock yards, truck, airplane, or other premises in this state where animals are kept. Said inspectors or agents, state and federal, shall be empowered to call on sheriffs, constables and peace officers to assist them in the discharge of their duties and in carrying out the provisions of this chapter and of said Acts of Congress approved May 29, 1884, and the Act of March 3, 1905. Such sheriffs, constables, and other peace officers shall give such assistance as may be requested by said inspectors in carrying out the provisions of this chapter and said Acts of Congress. The word animal or animals used in this section shall be construed to include poultry, game birds, native and nonnative ungulates; and the word disease shall be construed to include diseases of poultry, game birds, native and nonnative ungulates. Any deer, elk, moose, bighorn sheep or bison imported or transported by the department of fish and game shall be tested for the presence of certain communicable diseases that can be transmitted to domestic livestock. Those communicable diseases to be tested for shall be arrived at by mutual agreement between the department of fish and game and the department of agriculture.

SECTION 2. That Section 25-221, Idaho Code, be, and the same is hereby amended to read as follows:

25-221. LIVESTOCK. It shall be unlawful for any person, firm or corporation or its agents or employees to bring or cause to be brought in any manner whatsoever into this state livestock unless they are accompanied by a health certificate showing the livestock to be free from contagious, infectious or communicable diseases or exposure thereto, the certificate to be rendered in such form and manner as may be provided in the rules and regulations of the division. It shall further be unlawful to alter, change or modify an issued official health certificate. For the purposes of this chapter, the term "livestock" is defined as cattle, swine, horses, mules, ~~or~~ asses, native or nonnative ungulates.

SECTION 3. That Section 25-223, Idaho Code, be, and the same is hereby amended to read as follows:

25-223. SWINE -- PROTECTIVE RULES AND REGULATIONS. The division shall be authorized and empowered to make and enforce such rules and regulations as shall be deemed necessary in order to cooperate with the United States ~~bureau---of---animal--industry~~ department of agriculture/animal and plant health inspection service/veterinary services to prevent the introduction or dissemination of hog cholera, pseudorabies, or other contagious, infectious or communicable disease among swine or other livestock of this state. Swine shall not be

imported or brought into this state for any purpose except in accordance with the said rules and regulations. Swine shall not be exhibited at any fair or exhibition, except in accordance with the said rules and regulations. Hog cholera serum or virus shall not be manufactured or sold within this state except in accordance with the said rules and regulations.

SECTION 4. That Section 25-224, Idaho Code, be, and the same is hereby amended to read as follows:

25-224. SWINE -- INSPECTION, TESTING AND TREATMENT. The representatives of the division or the inspectors or agents of the United States ~~bureau of animal industry~~ department of agriculture/animal and plant health inspection service/veterinary services shall be authorized and empowered to enter any ~~field, feed yard, corral, barn, shed, stable, railroad car, stockyard or other~~ premises where swine are or have been kept, for the purpose of inspecting, testing, treating, or disinfecting swine, or inspecting, cleaning or disinfecting such premises for the purpose of controlling or eradicating hog cholera, pseudorabies, or any other infectious, contagious or communicable disease.

SECTION 5. That Section 25-225, Idaho Code, be, and the same is hereby amended to read as follows:

25-225. SWINE -- QUARANTINE. The representatives of the division or the inspectors or agents of the United States ~~bureau of animal industry~~ department of agriculture/animal and plant health inspection service/veterinary services shall be authorized and empowered to place under quarantine any swine affected or infected with, or exposed to hog cholera, pseudorabies, or any other infectious, contagious, or communicable disease, also to quarantine any ~~field, feed yard, corral, barn, shed, stable, railroad car, stockyard or any other~~ premises that may have contained any swine affected or infected with or exposed to hog cholera, pseudorabies, or other contagious, infectious or communicable disease. All quarantines shall be enforced according to the rules and regulations of the division.

SECTION 6. That Chapter 2, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-225A, Idaho Code, and to read as follows:

25-225A. SWINE -- PSEUDORABIES -- HERD DEPOPULATION. In order to prevent the introduction or dissemination of pseudorabies into or among the swine population of Idaho, the division of animal industries is granted authority to condemn pseudorabies infected herds and to require the destruction of such herds. The board of examiners is authorized and empowered upon the recommendation of the division to reimburse the owner by cash payment for pseudorabies affected or exposed animals which have been appraised and slaughtered or condemned by the direction of the division, provided that the state shall only pay the difference between appraised price less federal indemnity and

salvage for any livestock slaughtered or condemned under this section. In the event federal indemnity is unavailable, the state shall only pay the difference between appraised price and salvage. Appraisals shall be performed by a team comprised of an animal health representative, the owner and a person with experience in swine marketing. However, the director or his designee may grant a hearing to any person under such rules and regulations as the department may prescribe which are in compliance with chapter 52, title 67, Idaho Code, when the appraisal price is in dispute. An appeal may be taken from the decision of the director or his designee under the provisions of section 67-5215, Idaho Code.

SECTION 7. That Section 25-227, Idaho Code, be, and the same is hereby amended to read as follows:

25-227. SWINE -- DISPOSAL OF DISEASED CARCASSES. Any person, firm or corporation owning or having charge of any swine which have died of hog cholera, pseudorabies, or other contagious, infectious or communicable disease, shall within twenty-four (24) hours from the death of such animal, dispose of the carcass of such animal by burning or in such other manner as may be provided in the rules and regulations of the division.

SECTION 8. That Section 25-228, Idaho Code, be, and the same is hereby amended to read as follows:

25-228. SWINE -- DISINFECTION OF PENS AND OTHER PREMISES. The representatives of the division or the inspectors or agents of the United States ~~bureau----of---animal---industry~~ department of agriculture/animal and plant health inspection service/veterinary services shall be authorized and empowered to clean and disinfect any ~~pen;--feed--yard;-corral;-barn;-shed;-stable;-railroad-car;-stockyard; or-other~~ premises that may have contained swine affected or infected with or exposed to hog cholera, pseudorabies, or other contagious, infectious or communicable disease. Such disinfecting shall be done at the expense of the owner and under the supervision of the division, with a disinfecting agent, approved by and used in accordance with the rules and regulations of the division.

Approved March March 7, 1991.

CHAPTER 37
(H.B. No. 103)

AN ACT

RELATING TO POULTRY BRANDS; REPEALING CHAPTER 18, TITLE 25, IDAHO CODE.

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

SECTION 1. That Chapter 18, Title 25, Idaho Code, be, and the same is hereby repealed.

Approved March 7, 1991.

CHAPTER 38
(H.B. No. 114)

AN ACT
RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1602, IDAHO CODE, TO CORRECT DESIGNATIONS OF SUBSECTIONS.

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

SECTION 1. That Section 16-1602, Idaho Code, be, and the same is hereby amended to read as follows:

16-1602. DEFINITIONS. For purposes of this chapter:

(a) "Abused" means any case in which a child has been the victim of:

(1) Conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive or death, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence; or

(2) Sexual conduct, including rape, molestation, incest, prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child.

(b) "Abandoned" means the failure of the parent to maintain a normal parental relationship with his child, including but not limited to reasonable support or regular personal contact. Failure to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment.

(c) "Adjudicatory hearing" means a hearing to determine the truth of the allegations in the petition filed under this chapter.

(d) "Authorized agency" means the department, a local agency, a person, an organization, corporation, benevolent society or association licensed or approved by the department or the court to receive children for control, care, maintenance or placement.

(e) "Child" means an individual who is under the age of eighteen (18) years.

(f) "Child advocate coordinator" means a person or entity receiving moneys from the grant administrator for the purpose of carrying out any of the duties as set forth in section 16-1630, Idaho Code.

(g) "Commit" means to transfer legal and physical custody.

(h) "Court" means district court or magistrate's division

thereof, or if the context requires, a magistrate or judge thereof.

(i) "Custodian" means a person, other than a parent or legal guardian, to whom legal custody of the child has been given by court order or who is acting in loco parentis.

(j) "Department" means the department of health and welfare and its authorized representatives.

(k) "Disposition hearing" means a hearing to determine whether the best interests of the child require protective supervision or vesting legal custody of the child in an authorized agency.

(~~k~~l) "Family or household member" shall have the same meaning as in section 39-6303(2), Idaho Code.

(~~l~~m) "Grant administrator" means any such organization or agency as may be designated by the supreme court from time to time to administer funds from the guardian ad litem account in accordance with the provisions of this chapter.

(~~m~~n) "Guardian ad litem" means a person appointed by the court pursuant to a guardian ad litem volunteer program to act as special advocate for a child under this chapter.

(~~n~~o) "Guardian ad litem program" means the program to recruit, train and coordinate volunteer persons to serve as guardians ad litem for abused, neglected or abandoned children.

(~~o~~p) "Law enforcement agency" means a city police department, the prosecuting attorney of any county, state law enforcement officers, or the office of a sheriff of any county.

(~~p~~q) "Legal custody" means a relationship created by order of the court, which vests in a custodian the following duties and rights:

(1) To have physical custody and control of the child, and to determine where and with whom the child shall live.

(2) To supply the child with food, clothing, shelter and incidental necessities.

(3) To provide the child with care, education and discipline.

(4) To authorize ordinary medical, dental, psychiatric, psychological, or other remedial care and treatment for the child, including care and treatment in a facility with a program of services for children; and to authorize surgery if the surgery is deemed by two (2) physicians licensed to practice in this state to be necessary for the child.

(~~q~~r) "Mental injury" means a substantial impairment in the intellectual or psychological ability of a child to function within a normal range of performance and/or behavior.

(~~r~~s) "Neglected" means a child:

(1) Who is without proper parental care and control, or subsistence, education, medical or other care or control necessary for his well-being because of the conduct or omission of his parents, guardian or other custodian or their neglect or refusal to provide them; provided, however, no child whose parent or guardian chooses for such child treatment by prayers through spiritual means alone in lieu of medical treatment, shall be deemed for that reason alone to be neglected or lack parental care necessary for his health and well-being, but further provided this subsection shall not prevent the court from acting pursuant to section 16-1616, Idaho Code; or

(2) Whose parents, guardian or other custodian are unable to dis-

charge their responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity; or

(3) Who has been placed for care or adoption in violation of law.

(t) "Protective order" means an order created by the court granting relief as delineated in section 39-6306, Idaho Code, and shall be for a period not to exceed three (3) months unless otherwise stated herein. Failure to comply with the order shall be a misdemeanor.

(~~s~~u) "Protective supervision" means a legal status created by court order in neglect and abuse cases whereby the child is permitted to remain in his home under supervision by the department.

(~~t~~v) "Residual parental rights and responsibilities" mean those rights and responsibilities remaining with the parent after the transfer of legal custody, including but not necessarily limited to the right of visitation, consent to adoption, the right to determine religious affiliation, and the responsibility for support.

(~~u~~w) "Shelter care" means places designated by the department for temporary care of children pending court disposition or placement.

Approved March 7, 1991.

CHAPTER 39
(H.B. No. 154)

AN ACT

RELATING TO ADOPTIONS; AMENDING SECTION 16-1501, IDAHO CODE, TO PROVIDE CLARIFICATION OF WHEN MINORS OR ADULTS MAY BE ADOPTED; AMENDING SECTION 16-1502, IDAHO CODE, TO PROVIDE AN EXCEPTION TO CERTAIN AGE REQUIREMENTS IN THE ADOPTION OF ADULTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 16-1501, Idaho Code, be, and the same is hereby amended to read as follows:

16-1501. MINORS AND ADULTS MAY BE ADOPTED. Any minor child may be adopted by any adult person residing in and having residence in Idaho, in the cases and subject to the rules prescribed in this chapter~~;--provided-that-persons~~.

Persons not minors may be adopted by a resident adult in cases where ~~such-adoption-did-not-occur-during-the-minority-of-such--adopted person--by--reason--of-inadvertence,-mistake-or-neglect-and~~ the person adopting has sustained the relation of parent to such adopted person.

SECTION 2. That Section 16-1502, Idaho Code, be, and the same is hereby amended to read as follows:

16-1502. RESTRICTIONS AS TO COMPARATIVE AGE. The person adopting a child must be at least fifteen (15) years older than the person adopted, or twenty-five (25) years of age or older, except such age

restrictions or requirements shall not apply in cases where the adopting parent is a spouse of a natural parent, and except that such age restrictions or requirements shall not apply when the person adopting an adult shows to the satisfaction of the court that a substantial relationship as a parent has been maintained for a period in excess of one (1) year.

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

Approved March 12, 1991.

CHAPTER 40
(S.B. No. 1151)

AN ACT

RELATING TO THE POTATO COMMISSION; AMENDING SECTION 22-1213, IDAHO CODE, TO PROVIDE FOR CIVIL PENALTIES FOR VIOLATION OF STATUTES, RULES AND REGULATIONS AND LICENSING AGREEMENTS OF THE POTATO COMMISSION, TO PROVIDE A PROCEDURE FOR COLLECTION OF SUCH CIVIL PENALTIES, AND TO PROVIDE FOR OTHER REMEDIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 22-1213, Idaho Code, be, and the same is hereby amended to read as follows:

22-1213. PENALTY FOR VIOLATIONS. Any person who shall violate or aid in the violation of any of the provisions of this ~~act--shall--be guilty--of--a-misdemeanor-and-upon-conviction-thereof-be-punished-by-a fine-of-not-more-than-three-hundred-dollars-($300)-or-imprisonment-for a-period-not-to-exceed-ninety-(90)-days-or-both-such-fine-and--imprisonment--in-the-discretion-of-the-court,-and-all~~ chapter, any rules and regulations promulgated pursuant thereto, or the terms of any licensing agreement may be assessed a civil penalty by the commission or its duly authorized agent of not more than one thousand dollars ($1,000) for each offense and a civil penalty of not more than one thousand dollars ($1,000) for each day of continuing violation of such statute, rule or regulation or licensing agreement. No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to chapter 52, title 67, Idaho Code. If the commission or its agent 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 commission or its agent, it may enforce its penalty by action in the appropriate district court. Any person against whom the commission or its agent has assessed a civil penalty pursuant to this section may, within thirty (30) days of the final agency action making the assessment, appeal the assessment in accordance with section 67-5215, Idaho Code. All fines collected ~~for-violation-of-this~~

~~act~~ pursuant to this section shall be paid into the Idaho advertising and development fund. Nothing contained in this section shall be deemed to preclude the commission from pursuing any other civil or criminal remedies available to it as provided by law.

SECTION 2. 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 12, 1991.

CHAPTER 41
(H.B. No. 146)

AN ACT

RELATING TO WATER AND SEWER DISTRICTS; AMENDING SECTION 42-3212, IDAHO CODE, TO INCREASE THE DOLLAR AMOUNT BEFORE A NOTICE MUST BE PUBLISHED FOR BIDS ON ALL CONSTRUCTION CONTRACTS FOR LABOR, MATERIALS AND EQUIPMENT WITH EXCLUSIONS.

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

SECTION 1. That Section 42-3212, Idaho Code, be, and the same is hereby amended to read as follows:

42-3212. GENERAL POWERS OF BOARD. For and on behalf of the district the board shall have the following powers:

(a) To have perpetual existence;

(b) To have and use a corporate seal;

(c) To sue and be sued, and be a party to suits, actions and proceedings;

(d) Except as otherwise provided in this act, 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, and contracts with corporations, public or private, municipalities, or governmental subdivisions, and to cooperate with any one or more of them in building, erecting or constructing works, canals, pipelines, sewage treatment plants, and other facilities within or without the district. Except in cases in which a district will receive aid from a governmental agency, a notice shall be published for bids on all construction contracts ~~for work or material, or both,~~ involving an expense of ~~five~~ fifteen thousand dollars ($15,000) or more for labor, materials and equipment, which sum shall exclude design costs, bid advertising and related bidding expenses. The district may reject any and all bids, and if it shall appear that the district can perform the work or secure material for less than the lowest bid, it may proceed so to do;

(e) To borrow money and incur indebtedness and evidence the same by certificate, notes or debentures, and to issue bonds, in accordance with the provisions of this act;

(f) To acquire, dispose of and encumber real and personal prop-

erty, water, water rights, water and sewage systems and plants, and any interest therein, including leases and easements within or without said district;

(g) To refund any bonded indebtedness of the district without an election; provided, however, that the obligations of the district shall not be increased by any refund of bonded indebtedness. Otherwise, the terms and conditions of refunding bonds shall be substantially the same as those of an original issue of bonds;

(h) To have the management, control and supervision of all the business and affairs of the district, and the construction, installation, operation and maintenance of district improvements therein or therefor;

(i) To hire and retain agents, employees, engineers and attorneys;

(j) To have and exercise the power of eminent domain in the manner provided by law for the condemnation of private property for public use to take any property necessary to the exercise of the powers herein granted, both within and without the district;

(k) To construct and maintain works and establish and maintain facilities across or along any public street or highway, and in, upon, or over any vacant public lands, which public lands are now, or may become, the property of the state of Idaho, and to construct works and establish and maintain facilities across any stream of water or watercourse; provided, however, that the district shall promptly restore any such street or highway to its former state of usefulness as nearly as may be, and shall not use the same in such manner as to completely or unnecessarily impair the usefulness thereof;

(l) To fix and from time to time to increase or decrease water and sewer rates, tolls or charges for services or facilities furnished by the district, and to pledge such revenue for the payment of any indebtedness of the district. The board shall fix rates, tolls and charges and the time or times for the payment thereof. All such rates, tolls and charges not paid within thirty (30) days after the date fixed for the payment thereof shall become delinquent; the board shall certify all such delinquent rates, tolls and charges to the tax collector of the county by the district, not later than the first day of August and shall be, by said tax collector, placed upon the tax roll and collected in the same manner and subject to the same penalties as other district taxes; provided, however, that special assessments certified to the tax collector which are placed on property qualifying for a hardship exemption may be returned to the taxing district from which they originated if the special assessments are not paid within three (3) years. The date of priority of such lien shall be the date upon which such charge becomes delinquent. The board shall shut off or discontinue service for delinquencies in the payment of such rates, tolls or charges, or in the payment of taxes levied pursuant to this act, and prescribe and enforce rules and regulations for the connection with and the disconnection from properties of the facilities of the district. For health and sanitary purposes the board shall have the power to compel the owners of inhabited property within a sewer district to connect their property with the sewer system of such district, and upon a failure so to connect within sixty (60) days after written notice by the board so to do the board may cause such connec-

tion to be made and a lien to be filed against the property for the expense incurred in making such connection, provided, however, that no owner shall be compelled to connect his property with such system unless a service line is brought, by the district, to a point within two hundred (200) feet of his dwelling place;

(m) To adopt and amend by-laws not in conflict with the constitution and laws of the state for carrying on the business, objects and affairs of the board and of the district;

(n) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this act.

Approved March 13, 1991.

CHAPTER 42
(S.B. No. 1074)

AN ACT

RELATING TO RURAL CEMETERY ASSOCIATIONS; AMENDING SECTION 27-201, IDAHO CODE, TO PROVIDE THAT ANY THREE RESIDENTS MAY ORGANIZE AN ASSOCIATION; REPEALING SECTIONS 27-202, 27-203 AND 27-204, IDAHO CODE; AND AMENDING CHAPTER 2, TITLE 27, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 27-202, IDAHO CODE, TO PROVIDE FOR APPLICATION OF THE NONPROFIT CORPORATION ACT.

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

SECTION 1. That Section 27-201, Idaho Code, be, and the same is hereby amended to read as follows:

27-201. ORGANIZATION AUTHORIZED. Three (3) or more ~~citizens~~ residents of Idaho may organize a corporate nonprofit rural cemetery association as herein provided.

SECTION 2. That Sections 27-202, 27-203 and 27-204, Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Chapter 2, Title 27, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 27-202, Idaho Code, and to read as follows:

27-202. APPLICATION OF IDAHO NONPROFIT CORPORATION ACT. Each corporation created under the provisions of this chapter shall be governed by the provisions of the Idaho nonprofit corporation act, except insofar as they may be inconsistent with this chapter.

Approved March 13, 1991.

CHAPTER 43
(H.B. No. 90)

AN ACT

RELATING TO DUTIES OF THE STATE AUDITOR; REPEALING SECTION 31-1612, IDAHO CODE, RELATING TO THE DUTY OF THE STATE AUDITOR TO PRESCRIBE STANDARD BUDGET FORMS FOR COUNTIES.

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

SECTION 1. That Section 31-1612, Idaho Code, be, and the same is hereby repealed.

Approved March 15, 1991.

CHAPTER 44
(H.B. No. 19)

AN ACT

RELATING TO VIOLATION OF FISH AND GAME COMMISSION ORDERS AND REGULATIONS; AMENDING SECTION 36-105, IDAHO CODE, TO PROVIDE THAT PERSONS VIOLATING RULES, REGULATIONS OR ORDERS OF THE COMMISSION SHALL BE FOUND GUILTY AND PUNISHED AS SET FORTH IN SECTIONS 36-1401 AND 36-1402, IDAHO CODE; AND AMENDING SECTION 36-1401, IDAHO CODE, TO PROVIDE THAT VIOLATIONS OF RULES OR ORDERS OF THE COMMISSION ARE MISDEMEANORS.

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

SECTION 1. That Section 36-105, Idaho Code, be, and the same is hereby amended to read as follows:

36-105. COMMISSION ORDERS AND REGULATIONS. (a) Adoption and Publication of Rules, Regulations and Orders. All rules, regulations and orders adopted pursuant to the provisions of this title shall be made in accordance with chapter 52, title 67, Idaho Code. Said rules, regulations, and orders may also be given such other publicity as the commission may deem desirable.

(b) Violation of Rules, Regulations and Orders. All rules, regulations and orders made as herein provided shall have full force and effect as law and any person violating any such rule, regulation, or order of the commission, adopted and published as herein set forth, shall be found guilty ~~of a misdemeanor~~ and punished as set forth in sections 36-1401 and 36-1402, Idaho Code.

SECTION 2. That Section 36-1401, Idaho Code, be, and the same is hereby amended to read as follows:

36-1401. VIOLATIONS A MISDEMEANOR. Any person who shall violate

any of the provisions of this title, rules or regulations promulgated pursuant thereto, or orders of the commission, except where an offense is expressly declared to be a felony, shall be guilty of a misdemeanor.

Approved March 15, 1991.

CHAPTER 45
(H.B. No. 134)

AN ACT

RELATING TO CRIMINAL PENALTIES FOR DAMAGE TO UTILITIES; AMENDING SECTION 18-6802, IDAHO CODE, TO PROVIDE THAT INJURING AN ELECTRIC LINE OR POLE IS A MISDEMEANOR.

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

SECTION 1. That Section 18-6802, Idaho Code, be, and the same is hereby amended to read as follows:

18-6802. ELECTRIC LINES -- PUNISHMENT FOR INJURING. Any person who shall wilfully cut down or burn, or otherwise materially injure, any electric light pole, or shall shoot so as to materially injure any insulator, or knock said insulator loose from the pole to which it is attached, or otherwise materially injure such insulator, or who shall shoot any electric light wire, thereby breaking said wire, or who shall otherwise wilfully cut, break, or injure such wire, shall, upon conviction ~~thereof,--be--fined--not--less--than--twenty-five--dollars ($25.00)--nor-more-than-$100,-and-in-case-of-failure-to-pay-such-fine, shall--be-imprisoned-in-the-county-jail-one-(1)-day-for-every-two-dollars-($2.00)-of-such-fine~~ be guilty of a misdemeanor.

Approved March 15, 1991.

CHAPTER 46
(H.B. No. 312)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 1992; AND TRANSFERRING MONEYS TO THE GENERAL ACCOUNT.

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

SECTION 1. It is legislative intent that the expenditures for the Public Utilities Commission not exceed the following amount for the period July 1, 1991, through June 30, 1992:

FOR:	
Personnel Costs	$2,164,200
Operating Expenditures	1,149,200
Capital Outlay	74,200
TOTAL	$3,387,600
FROM:	
General Account	$ 205,400
Public Utilities Commission Account	3,182,200
TOTAL	$3,387,600

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
General Account	$ 205,400			$ 205,400
Public Utilities Commission Account	527,400	$ 158,400	$ 9,100	694,900
TOTAL	$ 732,800	$ 158,400	$ 9,100	$ 900,300
B. UTILITIES REGULATION:				
FROM:				
Public Utilities Commission Account	$1,095,700	$ 779,300	$36,900	$1,911,900
C. REGULATED CARRIERS:				
FROM:				
Public Utilities Commission Account	$ 335,700	$ 211,500	$28,200	$ 575,400
GRAND TOTAL	$2,164,200	$1,149,200	$74,200	$3,387,600

SECTION 3. Notwithstanding any other provisions of law, there is hereby appropriated from the Public Utilities Commission Account and transferred to the General Account an amount equal to the General Account expenditures of the Public Utilities Commission for the period July 1, 1991, through June 30, 1992.

Approved March 15, 1991.

CHAPTER 47
(H.B. No. 329)

AN ACT

APPROPRIATING MONEYS FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR FISCAL YEAR 1992; APPROPRIATING MONEYS TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR FISCAL YEAR 1991, IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 429, LAWS OF 1990; AND DECLARING AN EMERGENCY FOR SECTION 2 OF THIS ACT.

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 account for the period July 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Public Employee Retirement System Account	$1,387,800	$753,000	$30,900	$2,171,700

SECTION 2. In addition to the appropriation made by Section 1, Chapter 429, Laws of 1990, there is hereby appropriated to the Public Employee Retirement System 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:	
Operating Expenditures	$ 36,800
FROM:	
Public Employee Retirement System Account	$ 36,800

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 2 of this act shall be in full force and effect on and after passage and approval.

Approved March 15, 1991.

CHAPTER 48
(H.B. No. 323)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 1992.

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

SECTION 1. 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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
Insurance Administration Account	$ 652,600	$ 479,800	$25,000	$1,157,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
B. REGULATION:				
FROM:				
Insurance Administration Account	$1,183,100	$ 743,900	$ 7,600	$1,934,600
C. ARSON, FIRE AND FRAUD:				
FROM:				
Arson, Fire and Fraud Prevention Account	$ 362,400	$ 214,400	$15,200	$ 592,000
GRAND TOTAL	$2,198,100	$1,438,100	$47,800	$3,684,000

Approved March 15, 1991.

CHAPTER 49
(H.B. No. 18)

AN ACT

RELATING TO PENALTIES FOR VIOLATION OF FISH AND GAME LAWS; AMENDING SECTION 36-501, IDAHO CODE, TO PROVIDE PENALTIES FOR VIOLATIONS; AND AMENDING SECTIONS 36-902 AND 36-1402, IDAHO CODE, TO DELETE MAXIMUM FINES.

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

SECTION 1. That Section 36-501, Idaho Code, be, and the same is hereby amended to read as follows:

36-501. SALE AND PURCHASE OF WILDLIFE -- RESTRICTIONS -- EXCEPTIONS. It is a misdemeanor for any person to sell or buy any species of wildlife or parts thereof except as hereinafter provided.

(a) Sale of Unprotected Wildlife. The sale of legally taken species of wildlife classified as unprotected by law shall be lawful.

(b) Sale of Game Animals. The sale of legally taken hides, horns, or heads of game animals, when detached from the carcass, and mounted wildlife, where sale is not specifically prohibited by federal or state statutes or regulations, shall be lawful only when the wildlife to be sold is accompanied by a statement showing that the animals were lawfully taken.

(c) Sale of Furbearers. The sale of pelts and parts of furbearers when legally taken shall be lawful.

(d) Sale of Seized Wildlife. The sale and purchase of court confiscated, abandoned, or unclaimed wildlife shall be lawful when made in accordance with the provisions of section 36-1304, Idaho Code.

(e) Sale of Commercially Raised or Harvested Wildlife. The sale of wildlife legally raised or harvested commercially by properly licensed commercial operations shall be lawful.

(f) Sale of Steelhead Trout. 1. Any person holding a wholesale

steelhead trout buyer's license may purchase or sell steelhead trout in the state of Idaho that have been taken by Indian fishermen lawfully exercising fishing rights reserved by federal statute, treaty or executive order. A wholesale license is necessary to purchase steelhead trout directly from Indian fishermen or from any other seller whose principal place of business is located outside of the state of Idaho.

2. Any person holding a retail steelhead trout buyer's license may purchase steelhead trout in the state of Idaho from an Idaho licensed wholesale steelhead trout buyer, or from any Indian fisherman lawfully exercising fishing rights authorized by federal statute, treaty, or executive order. A licensed retail steelhead trout buyer may sell steelhead trout directly to the consumer or to an establishment that prepares steelhead trout for consumption.

3. Establishments that prepare steelhead trout for consumption must possess a wholesale or retail steelhead trout buyer's license; however, these licensed establishments may purchase steelhead trout from either wholesale or retail licensed steelhead trout buyers.

4. The fee for a wholesale license shall be fifty dollars ($50.00) per year. The fee for a retail license shall be ten dollars ($10.00) per year. All fees collected pursuant to this subsection shall be deposited in the fish and game account created pursuant to section 36-107, Idaho Code. These licenses shall expire December 31 of the year for which they are valid.

5. No license is required for any person purchasing steelhead trout for personal consumption from a licensed wholesale or retail steelhead trout buyer or from an Indian fisherman lawfully exercising fishing rights authorized by federal statute, treaty, executive order, or tribal code or regulation.

6. Purchases or sales under this section shall be made under conditions and reporting requirements prescribed by commission regulation, provided that said conditions and reporting requirements are limited to those necessary to identify the source of steelhead purchased.

Any person violating the provisions of this subsection shall be found guilty ~~of a misdemeanor~~ as provided in section 36-1401, Idaho Code, and ~~upon pleading guilty or being found guilty is punishable by a fine of not less than twenty five dollars (25.00) nor more than three hundred dollars ($300) or imprisonment for a period not in excess of six (6) months or by both such fine and imprisonment~~ shall be punished as set forth in section 36-1402, Idaho Code.

(g) Commission May Permit Sales. The commission may, by regulation, permit the sale of other parts of wildlife when such sale will not injuriously affect the species permitted.

(h) Any person who pleads guilty to or is found guilty of two (2) or more violations of the provisions of this section, occurring within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony if the violations consisted of sales not permitted by regulation, or any other violation of the provisions of this section, involving bighorn sheep, mountain goat, moose, elk, deer, pronghorn antelope, wild turkey, whistling swan, sturgeon or chinook salmon or parts of any of the aforementioned

animals, birds or fish.

SECTION 2. That Section 36-902, Idaho Code, be, and the same is hereby amended to read as follows:

36-902. UNLAWFUL FISHING METHODS -- DESTRUCTION OF FISH PROHIBITED -- EXCEPTIONS. Except as may be otherwise permitted by law or commission regulation it shall be a misdemeanor for any person to:

(a) Destructive Substances. Deposit, throw, place, allow or cause to pass into any of the waters of this state any deleterious drugs, toxicants, chemicals, poisonous substances, explosives, electrical current, or other material which may tend to destroy, kill, disable, or drive away fish.

(b) Mills. Operate any sawmill, reduction works or quartz mill upon any natural stream course or lake without having first constructed a proper dam for settling purposes as approved by the director.

(c) Net, Spear. Catch, attempt to catch or kill any species of fish whatever in any of the streams, rivers, lakes, reservoirs or waters of this state with any seine, net, spear, snag hook, weir, fence, basket, trap, gill net, dip net, trammel net or any other contrivance.

(d) Minnows. Take, transport, use or have in possession minnows, fish or the young of any fish or parts thereof for bait or to release in any manner live minnows, fish or the young of any fish into the waters of this state except where such use, possession or taking is done in connection with fishing in the waters of the Kootenai River.

(e) Chumming. Deposit or distribute any substance not attached to a hook for the purpose of attracting fish. Salmon eggs or other spawn may be used for bait only when attached to a hook on a line and fished in the conventional manner.

(f) Penalty. Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof: for subsections (a) and (b), be fined in a sum of not less than one hundred fifty dollars ($150) ~~nor more than three hundred dollars--($300)~~ for each offense, and/or by commitment to jail for a period of not more than six (6) months; for ~~the~~ subsection (c), not less than fifty dollars ($50.00) ~~nor more than three hundred dollars ($300)~~, and/or by commitment to jail for a period of not more than six (6) months; for subsections (d) and (e), as provided in section 36-1402, Idaho Code.

SECTION 3. That Section 36-1402, Idaho Code, be, and the same is hereby amended to read as follows:

36-1402. PENALTY -- MISDEMEANOR -- FELONY -- REVOCATION OF LICENSE -- DISPOSITION OF MONEYS. (a) Misdemeanor Penalty. Any person 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, 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 or 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 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 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 March 18, 1991.

CHAPTER 50
(H.B. No. 65, As Amended)

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTIONS 23-933, 23-1037 AND 23-1331, IDAHO CODE, TO APPLY SUSPENSION AND REVOCATION PROCEDURES TO EACH CHAPTER OF THE ALCOHOLIC BEVERAGES STATUTES, AND TO PROVIDE FOR THE REVOCATION OR SUSPENSION OF A RENEWED LICENSE.

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

SECTION 1. That Section 23-933, Idaho Code, be, and the same is hereby amended to read as follows:

23-933. SUSPENSION, REVOCATION, AND REFUSAL TO RENEW LICENSES. (1) The director may suspend, revoke, or refuse to renew a license issued pursuant to the terms of this ~~act~~ chapter for any violation of or failure to comply with the provisions of this ~~act~~ chapter or rules and regulations promulgated by the director or the state tax commission pursuant to the terms and conditions of this ~~act~~ chapter. Procedures for the suspension, revocation, or refusal to grant or renew licenses issued under this ~~act~~ chapter shall be in accordance with the provisions of chapter 52, title 67, Idaho Code.

(2) When the director determines to suspend such license, the

affected licensee may petition the director prior to the effective date of the suspension requesting that a monetary payment be allowed in lieu of the license suspension. If the director determines such payment to be consistent with the purpose of the laws of the state of Idaho and is in the public interest, he shall establish a monetary payment in an amount not to exceed five thousand dollars ($5,000). The licensee may reject the payment amount determined by the director, and instead be subject to the suspension provisions of subsection (1) of this section. Upon payment of the amount established, the director shall cancel the suspension period. The director shall cause any payment to be paid to the treasurer of the state of Idaho for credit to the state's general account in the state operating fund.

(3) Whenever any licensee who has exercised the privilege granted under subsection (2) of this section and has paid a monetary penalty in lieu of suspension shall be guilty of a subsequent violation which brings him under the purview of this section, such licensee shall be ineligible to again exercise the privilege of a monetary penalty, and the director shall proceed under the provisions of subsection (1) hereof.

(4) The suspension of a license for the sale of beer or wine shall automatically result in the suspension of any license for the sale of liquor held by the same licensee and issued for the same premises or location. Such additional suspension shall be equal in length to and run concurrently with the period of the original suspension.

(5) When a proceeding to revoke or suspend a license has been or is about to be instituted, during the time a renewal application of such license is pending before the director, the director shall renew the license notwithstanding the pending proceedings, but such renewed license may be revoked or suspended without hearing if and when the previous license is, for any reason, revoked or suspended.

SECTION 2. That Section 23-1037, Idaho Code, be, and the same is hereby amended to read as follows:

23-1037. DETERMINATION TO REVOKE, SUSPEND OR REFUSE RENEWAL OF LICENSE BY DIRECTOR -- MONETARY PENALTY. (1) In the event of a conviction of any brewer manufacturing beer in this state or of any wholesaler or retailer licensed under the provisions of this ~~act~~ chapter, of any law of the state of Idaho, or of the United States, regulating, governing or prohibiting the sale, manufacture, transportation or possession of alcoholic beverages or intoxicating liquor, or if the director shall determine that any such licensee has violated any of the provisions of this ~~act~~ chapter or any regulation of the director promulgated under the authority of this ~~act~~ chapter, the director may, in his discretion, and in addition to any other penalty imposed, determine to revoke the license of any such licensee, to suspend the same for a period not in excess of six (6) months, or to refuse to grant a renewal of such license after the date of its expiration.

(2) When the director determines to suspend such license, the affected licensee may petition the director prior to the effective date of the suspension requesting that a monetary payment be allowed in lieu of the license suspension. If the director determines such payment to be consistent with the purpose of the laws of the state of

Idaho and is in the public interest, he shall establish a monetary payment in an amount not to exceed five thousand dollars ($5,000). The licensee may reject the payment amount determined by the director, and instead be subject to the suspension provisions of subsection (1) of this section. Upon payment of the amount established, the director shall cancel the suspension period. The director shall cause any payment to be paid to the treasurer of the state of Idaho for credit to the state's general account in the state operating fund.

(3) Whenever any licensee who has exercised the privilege granted under subsection (2) of this section and has paid a monetary penalty in lieu of suspension shall be guilty of a subsequent violation which brings him under the purview of this section, such licensee shall be ineligible to again exercise the privilege of a monetary penalty, and the director shall proceed under the provisions of subsection (1) of this section.

(4) The suspension of a license for the sale of liquor or wine shall automatically result in the suspension of any license for the sale of beer held by the same licensee and issued for the same premises or location. Such additional suspension shall be equal in length to and run concurrently with the period of the suspension.

(5) When a proceeding to revoke or suspend a license has been or is about to be instituted, during the time a renewal application of such license is pending before the director, the director shall renew the license notwithstanding the pending proceedings, but such renewed license may be revoked or suspended without hearing if and when the previous license is, for any reason, revoked or suspended.

SECTION 3. That Section 23-1331, Idaho Code, be, and the same is hereby amended to read as follows:

23-1331. SUSPENSION, REVOCATION, AND REFUSAL TO RENEW LICENSES AND PERMITS -- MONETARY PENALTY. (1) The director may suspend, revoke, or refuse to renew a retail wine license, wine by the drink license, wine distributor's license, wine importer's license, winery license or vintner's license issued pursuant to the terms of this ~~act~~ chapter for any violation of or failure to comply with the provisions of this ~~act~~ chapter or rules and regulations promulgated by the director or the state tax commission pursuant to the terms and conditions of this ~~act~~ chapter. Procedures for the suspension, revocation or refusal to grant or renew licenses issued under this ~~act~~ chapter shall be in accordance with the provisions of chapter 52, title 67, Idaho Code.

(2) When the director determines to suspend such license, the affected licensee may petition the director prior to the effective date of the suspension requesting that a monetary payment be allowed in lieu of the license suspension. If the director determines such payment to be consistent with the purpose of the laws of the state of Idaho and is in the public interest, he shall establish a monetary payment in an amount not to exceed five thousand dollars ($5,000). The licensee may reject the payment amount determined by the director, and instead be subject to the suspension provisions of subsection (1) of this section. Upon payment of the amount established, the director shall cancel the suspension period. The director shall cause any payment to be paid to the treasurer of the state of Idaho for credit to

the state's general account in the state operating fund.

(3) Whenever any licensee who has exercised the privilege granted under subsection (2) of this section and has paid a monetary penalty in lieu of suspension shall be guilty of a subsequent violation which brings him under the purview of this section, such licensee shall be ineligible to again exercise the privilege of a monetary penalty, and the director shall proceed under the provisions of subsection (1) hereof.

(4) The suspension of a license for the sale of liquor or beer shall automatically result in the suspension of any license for the sale of wine held by the same licensee and issued for the same premises or location. Such additional suspension shall be equal in length to and run concurrently with the period of the original suspension.

(5) When a proceeding to revoke or suspend a license has been or is about to be instituted, during the time a renewal application of such license is pending before the director, the director shall renew the license notwithstanding the pending proceedings, but such renewed license may be revoked or suspended without hearing if and when the previous license is, for any reason, revoked or suspended.

Approved March 18, 1991.

CHAPTER 51
(H.B. No. 89)

AN ACT

RELATING TO THE STATE'S ACCOUNTING SYSTEM; REPEALING SECTIONS 57-801, 57-802, 57-803 AND 57-803A, IDAHO CODE; AND AMENDING SECTION 67-1018, IDAHO CODE, TO CLARIFY THE AUTHORITY OF THE STATE AUDITOR TO ESTABLISH AND MAINTAIN THE STATE'S ACCOUNTING SYSTEM.

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

SECTION 1. That Sections 57-801, 57-802, 57-803 and 57-803A, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 67-1018, Idaho Code, be, and the same is hereby amended to read as follows:

67-1018. AUTHORITY TO INSTALL BOOKKEEPING AND ACCOUNTING SYSTEM FOR STATE. (1) The provisions of this section reserve to the state auditor, in order to carry out the provisions and requirements of this section, the authority to establish funds in addition to those required by law or constitutional provisions.

(2) The state auditor shall have power to prescribe and install, to modify from time to time, and to enforce, an accurate and modern system of accounting and bookkeeping for the state of Idaho, to cover and include all its financial transactions and all funds, accounts, and property owned by or held in trust or custody of the state, and to that end may take all proceedings and make all investigations neces-

sary to procure the information for said purposes, and may also require the keeping of such books, records and accounts and the making of such reports as he may from time to time prescribe, in and by the office of the state auditor, and all other state ~~officers~~ offices, departments, boards and institutions.

(3) For the purpose of maintaining a uniform statewide accounting and reporting system, the state auditor shall define and classify the various funds, accounts, grants and other financial structures. This system shall normally reflect generally accepted governmental accounting principles developed by the governmental accounting standards board or its successor.

Approved March 18, 1991.

CHAPTER 52
(H.B. No. 119, As Amended in the Senate)

AN ACT

RELATING TO COUNTY MUSEUM BOARDS; AMENDING SECTION 31-4706, IDAHO CODE, TO PROVIDE THAT THE BOARD OF COUNTY COMMISSIONERS MAY LEVY THE BUDGET AMOUNT REQUESTED BY THE COUNTY MUSEUM BOARD, TO PROVIDE THAT THE MUSEUM BOARD IS A SEPARATE TAXING UNIT AND LEVY WITHIN THE COUNTY, TO PROVIDE THAT THE FIRST LEVY IS SUBJECT TO THE PROVISIONS OF SECTION 63-2220(1)(iii), IDAHO CODE, AND TO INCREASE THE AUTHORIZED LEVY FOR A COUNTY MUSEUM BOARD; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 31-4706, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ may make a levy upon all taxable property in the county in the amount requested by the county museum budget. No levy for the purposes of this chapter shall exceed ~~one~~ three-hundredths percent (.0~~1~~3%) 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 separate and distinct from any other taxing unit or tax levy within the county, and the district's first levy shall be subject to the provisions of section 63-2220(1)(iii), Idaho Code, under the provisions of the Idaho budget law and as such is empowered to issue tax anticipation 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.

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, 1991.

Approved March 18, 1991.

CHAPTER 53
(H.B. No. 185)

AN ACT

RELATING TO SCHOOL ELECTIONS; AMENDING SECTION 33-403, IDAHO CODE, TO PERMIT JUDGES AND CLERKS OF THE ELECTION TO SERVE FULL TIME OR PART TIME.

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

SECTION 1. That Section 33-403, Idaho Code, be, and the same is hereby amended to read as follows:

33-403. CONDUCT OF ELECTIONS. In all school elections each polling place shall be presided over by a board of election. Each board shall consist of one (1) or more judges and a clerk, who shall be qualified school district electors of the district. The board of election shall determine the time of duty of each judge and clerk as full time or part time on duty and require those who count the ballots to remain on duty until the ballots are counted. Before entering upon his duties, each member of the board of election shall take an oath, which shall be administered by any qualified school district elector of the district, faithfully to perform the duties of such member.

In any election involving excision and annexation of territory, or consolidation of districts, or division of a district, the board of county commissioners of any county affected by such election shall appoint the boards of election and designate the polling places within that county; and in all other school elections, the board of trustees of the district shall appoint the board or boards of election.

Polling places designated for school election shall conform to the

accessibility standards established by the secretary of state pursuant to the authority granted in section 34-302, Idaho Code.

While the polls are open neither the board of election nor any person shall give information on the progress of the election. All elections shall be by secret and separate ballot, each ballot to be in print, type or other legible writing. The ballots in each case shall be prepared by the person responsible for signing, posting and arranging the publishing of the notice of election, and shall be in such form that an elector may express a choice in the affirmative or in the negative of any proposition to be voted on or the election of any person, by marking a cross (X). Ballots shall carry a brief but clear statement of any proposition being submitted; and

1. In the case of an election involving the creation or assumption of debt, the amount of the issue, purpose and period of the issue, or the amount to be assumed;

2. In the case of election of trustees, the names of the nominees, together with space in which an elector may write in the name or names of other qualified persons;

3. In the case of an election involving excision and annexation of territory, or the consolidation of school districts, or the division of a school district, a description of the proposed change.

In all school elections, the ballots used by the electors shall be kept in a sealed container until the polls are closed at the time specified in the notice of election.

It is intended that no informalities in the conduct of school elections shall invalidate the same if the election shall have been otherwise fairly held.

Approved March 18, 1991.

CHAPTER 54
(H.B. No. 327)

AN ACT
APPROPRIATING MONEYS TO THE REGULATORY BOARDS FOR FISCAL YEAR 1992.

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. STATE ATHLETIC DIRECTOR:				
FROM:				
General Account		$ 5,000		$ 5,000
Athletic Account		4,400		4,400
TOTAL		$ 9,400		$ 9,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
B. BOARD OF PHARMACY:				
FROM:				
General Account	$ 36,200			$ 36,200
Pharmacy Board Account	223,100	$ 140,800		363,900
TOTAL	$ 259,300	$ 140,800		$ 400,100
C. BOARD OF ACCOUNTANCY:				
FROM:				
State Board of Accountancy Account	$ 132,600	$ 147,200	$ 4,000	$ 283,800
D. BOARD OF DENTISTRY:				
FROM:				
State Board of Dentistry Account	$ 88,800	$ 48,900	$ 3,000	$ 140,700
E. BOARD OF ENGINEERING EXAMINERS:				
FROM:				
Professional Engineers Account	$ 111,100	$ 102,500	$ 1,500	$ 215,100
F. BOARD OF MEDICINE:				
FROM:				
State Board of Medicine Account	$ 232,900	$ 175,500	$ 8,900	$ 417,300
G. BOARD OF NURSING:				
FROM:				
State Board of Nursing Account	$ 222,700	$ 137,700	$ 9,000	$ 369,400
H. BUREAU OF OCCUPATIONAL LICENSES:				
FROM:				
Occupational License Account	$ 434,500	$ 334,600	$ 4,800	$ 773,900
I. PUBLIC WORKS CONTRACTORS STATE LICENSE BOARD:				
FROM:				
Public Works Contractors State License Board Account	$ 168,200	$ 91,000	$ 5,000	$ 264,200
J. IDAHO REAL ESTATE COMMISSION:				
FROM:				
Idaho Real Estate Brokers Commission Account	$ 449,800	$ 238,700	$ 58,200	$ 746,700
K. PROFESSIONAL GEOLOGISTS BOARD:				
FROM:				
Professional Geologists Account	$ 16,500	$ 13,100		$ 29,600
L. BOARD OF OPTOMETRY:				
FROM:				
State Board of Optometry Account	$ 2,500	$ 12,500		$ 15,000
M. IDAHO CERTIFIED SHORTHAND REPORTERS BOARD:				
FROM:				
State Certified Shorthand Reporters Account	$ 6,300	$ 9,400	$ 5,000	$ 20,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
N. OUTFITTERS AND GUIDES BOARD:				
FROM:				
Outfitters and Guides Board Account	$ 139,000	$ 125,500	$ 9,700	$ 274,200
O. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Board of Veterinary Medicine Account	$ 22,700	$ 42,700		$ 65,400
GRAND TOTAL	$2,286,900	$1,629,500	$109,100	$4,025,500

Approved March 18, 1991.

CHAPTER 55
(H.B. No. 353)

AN ACT

RELATING TO TAX POLICIES FOR PERSONS SERVING IN A DESIGNATED COMBAT ZONE; AMENDING SECTION 63-3004, IDAHO CODE, AS AMENDED BY CHAPTER 7, LAWS OF 1991, TO GRANT RETROACTIVE APPLICATION TO THE AMENDMENTS TO SECTION 7508, INTERNAL REVENUE CODE; AMENDING SECTION 63-3022, IDAHO CODE, AS AMENDED BY CHAPTER 7, LAWS OF 1991, TO ALLOW A DEDUCTION FOR MILITARY COMPENSATION INCLUDED IN TAXABLE INCOME, AS DEFINED BY THE INTERNAL REVENUE CODE; AMENDING SECTION 63-112, IDAHO CODE, TO PROVIDE THAT MILITARY ABSENCE IN A DESIGNATED COMBAT ZONE WILL NOT IMPACT THE DETERMINATION OF LAND ACTIVELY DEVOTED TO AGRICULTURE; AMENDING SECTION 63-105DD, IDAHO CODE, TO PROVIDE THAT MILITARY ABSENCE IN A DESIGNATED COMBAT ZONE WILL NOT IMPACT THE DETERMINATION OF PROPERTY EXEMPT FROM AD VALOREM TAXATION; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3004, Idaho Code, as amended by Chapter 7, Laws of 1991, 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, 1991.

(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.

(c) That the amendments to section 7508, Internal Revenue Code,

as enacted by public law 102-2, 105 stat. 5 (1991), shall be in full force and effect as of the second day of August, 1990.

SECTION 2. That Section 63-3022, Idaho Code, as amended by Chapter 7, Laws of 1991, 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 sections 243(a) and (c) and 244 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~~;~~, only to the extent such income is included in "taxable income," as defined in section 63 of the Internal Revenue Code, and 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.

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

(1) a. The standard deduction as defined by section 63, Internal Revenue Code, plus contributions made to the state of Idaho for credit to the medical assistance account, if such contributions were not previously subtracted in arriving at taxable income, plus

b. Itemized expenditures of not to exceed one thousand dollars ($1,000) per cared for member incurred in providing personal care services to or for an immediate member of the taxpayer's family; such services may be provided either in the taxpayer's home or the family member's home; personal care services shall be as defined in chapter 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 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 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 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 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.

(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 3. That Section 63-112, Idaho Code, be, and the same is hereby amended to read as follows:

63-112. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED. (1) For ad valorem tax purposes, land which is actively devoted to agriculture shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one or more of the following qualifications:

(a) The total area of such land, including the homesite, is more than five (5) contiguous acres, and is actively devoted to agriculture which means:

(i) It is used to produce field crops, including, but not limited to, grains, feed crops, fruits, and vegetables; or

(ii) It is used by the owner for the grazing of livestock to be sold as part of a net profit making enterprise, or is leased by the owner to a bona fide lessee for grazing purposes; or

(iii) It is in a crop-land retirement or rotation program.

(b) The area of such land is five (5) acres or less and such land has been actively devoted to agriculture within the meaning of subsection (1)(a) of this section during the last three (3) growing seasons; and

(i) It agriculturally produces for sale or home consumption the equivalent of fifteen percent (15%) or more of the

owners' or lessees' annual gross income; or

(ii) It agriculturally produced gross revenues in the immediately preceding year of one thousand dollars ($1,000) or more. When the area of land is five (5) acres or less, such land shall be presumed to be nonagricultural land until it is established that the requirements of this subsection have been met.

(2) Land shall not be classified or valued as agricultural land which is part of a platted subdivision with stated restrictions prohibiting its use for agricultural purposes, whether within or without a city.

(3) Land utilized for the grazing of a horse or other animals kept primarily for personal use or pleasure rather than as part of a bona fide profit making agricultural enterprise shall not be considered to be land which is actively devoted to agriculture.

(4) Land actively devoted to agriculture, having previously qualified for exemption under this section in the preceding year, or which would have qualified under this section during the current year, shall not lose such qualification due to the owner's or lessee's absence in the current year by reason of active military service in a designated combat zone, as defined in section 112 of the internal revenue code. If an owner fails to timely apply for exemption as required in this section solely by reason of active duty in a designated combat zone, as defined in section 112 of the internal revenue code, and the land would otherwise qualify for exemption under this section, then the board of county commissioners of the county in which the land actively devoted to agriculture is located shall refund ad valorem taxes, if previously paid, in an amount equal to the exemption which would otherwise have applied.

SECTION 4. That Section 63-105DD, Idaho Code, be, and the same is hereby amended to read as follows:

63-105DD. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS. (1) During the tax year 1983 and each year thereafter, the first fifty thousand dollars ($50,000) of the market value for assessment purposes of residential improvements, or fifty percent (50%) of the market value for assessment purposes of residential improvements, whichever is the lesser, shall be exempt from ad valorem taxation.

(2) The exemption allowed by this section may be granted only if:

(a) The residential improvements are owner-occupied and used as the primary dwelling place of the owner as of January 1;

(b) The tax commission has certified to the board of county commissioners that all properties in the county which are subject to appraisal by the county assessor have, in fact, been appraised uniformly so as to secure a just valuation for all property within the county; and

(c) The owner has certified to the county assessor by April 15 that:

(i) He is making application for the exemption allowed by this section;

(ii) That the residential improvements are his primary dwelling place; and

(iii) That he has not made application in any other county for the exemption, and has not made application for the exemption on any other residential improvements in the county.

(3) An owner need only make application for the exemption described in subsection (1) of this section once, as long as all of the following conditions are met:

(a) The owner has received the exemption during the previous year as a result of his making a valid application as defined in subsection (2)(c) of this section.

(b) The owner still occupies the same residential improvements for which he made application.

(c) The residential improvements described in subsection (3)(b) of this section are owner-occupied and used as the primary dwelling place of the owner as of January 1.

(4) The exemption allowed by this section must be taken before the reduction in taxes provided by sections 63-117 through 63-125, Idaho Code, is applied.

(5) The legislature declares that this exemption is necessary and just.

(6) Residential improvements having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to the owner's absence in the current year by reason of active military service in a designated combat zone, as defined in section 112 of the internal revenue code. If an owner fails to timely apply for exemption as required in this section solely by reason of active duty in a designated combat zone, as defined in section 112 of the internal revenue code, and such improvements would have otherwise qualified under this section, then the board of county commissioners of the county in which the residential improvements are located shall refund ad valorem taxes, if previously paid, in an amount equal to the exemption which would otherwise have applied.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1991.

Approved March 18, 1991.

CHAPTER 56
(S.B. No. 1166)

AN ACT

RELATING TO THE RACING COMMISSION; AMENDING SECTION 54-2502, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 54-2507, IDAHO CODE, TO ALLOW THE RACING COMMISSION AUTHORITY TO LICENSE INTERSTATE COMBINED WAGERING POOLS; AMENDING SECTION 54-2512, IDAHO CODE, TO PROVIDE CONDITIONS ON LICENSEES PARTICIPATING IN AN INTERSTATE COMBINED WAGERING POOL; AMENDING SECTION 54-2515, IDAHO CODE, TO PROVIDE FOR CALCULATION OF BREAKAGE; AND DECLARING AN

EMERGENCY.

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

SECTION 1. That Section 54-2502, Idaho Code, be, and the same is hereby amended to read as follows:

54-2502. DEFINITIONS. Unless the context otherwise requires, words and phrases as used herein shall mean:

"Commission" shall mean the Idaho state racing commission, hereinafter created.

"Host facility" means the racetrack at which the race is run, or the facility which is designated as the host facility if the race is run in a jurisdiction which is not participating in the interstate combined wagering pool.

"Host jurisdiction" means the jurisdiction in which the host facility is located.

"Interstate combined wagering pool" means a pari-mutuel pool established in one (1) jurisdiction which is combined with comparable pari-mutuel pools from one (1) or more racing jurisdictions. Such pool is established for the purpose of establishing pay-off prices in the various jurisdictions.

"Persons" shall mean and include individuals, firms, corporations and associations.

"Race meet" shall mean and include any exhibition of thoroughbred, purebred, and/or registered horse racing, mule racing or dog racing, where the pari-mutuel system of wagering is used. Singular shall include the plural and plural shall include the singular; and words importing one gender shall be regarded as including all other genders.

"Racing jurisdiction" or "jurisdiction" means a governmental jurisdiction responsible for the regulation of pari-mutuel racing in that jurisdiction and which is a member of the association of racing commissioners international.

"Gross daily receipts" shall mean the total of all sums deposited in all pools for each race day.

"Pool" shall mean the total sum of all moneys wagered in each race for each type of bet. Types of bets include win, place, show, quinella, daily double, exacta, trifecta, etc., and such other types as are approved by the commission from time to time.

"Idaho centennial futurity" shall mean those races to be held in Idaho to promote Idaho bred horses and the centennial celebration. The races to be approved as centennial futurity races shall be those futurity and stakes races as are approved by the Idaho racing commission.

SECTION 2. That Section 54-2507, Idaho Code, be, and the same is hereby amended to read as follows:

54-2507. AUTHORITY OF COMMISSION. (1) The commission created by this act is hereby authorized and it shall be its duty to license, regulate, and supervise all race meets held in this state under the terms of this act, and to cause the various places where race meets are held to be visited and inspected at least once a year.

(2) Notwithstanding any other provision of this chapter, the commission may authorize any licensee to participate in an interstate combined wagering pool with one (1) or more other racing jurisdictions. Anytime that a licensee participates in an interstate pool, the licensee may adopt, with the authorization of the commission, the take-out of the host jurisdiction or facility.

(3) The commission may permit a licensee to use one (1) or more of its races for an interstate combined wagering pool at locations outside its jurisdiction, and may allow pari-mutuel pools in other states to be combined with pari-mutuel pools in its jurisdiction for the purpose of establishing an interstate combined wagering pool.

SECTION 3. 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 simulcast and/or televised races.

(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.

(5) The participation by a licensee in an interstate combined wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located.

(6) Pari-mutuel taxes or commissions may not be imposed on any amounts wagered in an interstate combined wagering pool other than amounts wagered within this jurisdiction.

(7) 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 4. That Section 54-2515, Idaho Code, be, and the same is hereby amended to read as follows:

54-2515. LICENSEE'S RIGHT TO WITHHOLD DEPOSITS. (1) In the event any government or governmental agency imposes a levy on a licensee, by a special tax on the money so deposited under the pari-mutuel system, or upon or against his receipts therefrom, the said licensee may withhold in addition to the aforesaid per centum and breakage, as provided in section 54-2513, Idaho Code, the amount of the tax so levied.

(2) Breakage for interstate combined wagering pools shall be calculated in accordance with the statutes or rules of the host jurisdiction, and must be distributed among the participating jurisdictions in a manner agreed to among the jurisdictions.

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 20, 1991.

CHAPTER 57
(H.B. No. 330)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 1992; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CERTAIN TRANSFERS BEING CONTINUOUSLY APPROPRIATED; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 1991; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the Idaho Transportation Department the following amount, to be expended for designated Divisions and Interdepartmental Services according to designated expense classes from the listed accounts for the period July 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. GENERAL SUPPORT DIVISION:					
(1) MANAGEMENT SERVICES					
FROM:					
State Highway Account	$ 4,290,300	$ 1,675,900	$ 669,400	$ 338,100	$ 6,973,700
(2) SUPPORT SERVICES					
FROM:					
State Highway Account	3,087,700	1,414,800	145,000		4,647,500
(3) MOTOR VEHICLE SERVICES					
FROM:					
State Highway Account	8,377,000	3,781,200	52,300		12,210,500
TOTAL	$15,755,000	$ 6,871,900	$ 866,700	$ 338,100	$ 23,831,700
B. HIGHWAYS DIVISION:					
(1) PROJECT DEVELOPMENT					
FROM:					
State Highway Account	$ 3,616,500	$ 441,900	$ 57,600		$ 4,116,000
(2) HIGHWAY OPERATIONS					
FROM:					
State Highway Account	4,943,800	1,220,200	164,300		6,328,300
Idaho Traffic Safety Commission Account				$ 836,000	836,000
(3) DISTRICT OPERATIONS					
FROM:					
State Highway Account	39,491,100	28,162,500	3,501,800		71,155,400
(4) CONTRACT CONSTRUCTION					
FROM:					
State Highway Account			129,869,400		129,869,400
(5) CAPITAL FACILITIES					
FROM:					
State Highway Account			730,000		730,000
TOTAL	$48,051,400	$29,824,600	$134,323,100	$ 836,000	$213,035,100
C. AERONAUTICS DIVISION:					
FROM:					
State Aeronautics Account	$ 544,300	$ 428,600	$ 12,000	$ 100,000	$ 1,084,900
D. PUBLIC TRANSPORTATION DIVISION:					
FROM:					
State Highway Account	$ 110,400	$ 76,900	$ 400	$1,017,500	$ 1,205,200
E. INTERDEPARTMENTAL SERVICES:					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
Interagency Billing and Receipts	$ 143,100	$ 1,037,800			$ 1,180,900
GRAND TOTAL	$64,604,200	$38,239,800	$135,202,200	$2,291,600	$240,337,800

SECTION 2. 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.

SECTION 3. In addition to the appropriation made by Section 2, Chapter 286, Laws of 1990, there is hereby appropriated to the Idaho Transportation Department the following amounts to be expended for the General Support Program according to the designated expenditure classes from the listed account for the period July 1, 1990, through June 30, 1991.

FOR:	
Personnel Costs	$ 33,700
Operating Expenses	86,600
TOTAL	$120,300
FROM:	
State Highway Account	$120,300

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 passage and approval.

Approved March 21, 1991.

CHAPTER 58
H.B. No. 332)

AN ACT

RELATING TO THE LEGISLATIVE ACCOUNT; AMENDING SECTION 67-451, IDAHO CODE, AS AMENDED BY SECTION 1, CHAPTER 392, LAWS OF 1989 AND BY SECTION 1, CHAPTER 393, LAWS OF 1989, TO PROVIDE FOR ADDITIONAL AMOUNTS TO BE PAID INTO THE LEGISLATIVE ACCOUNT; REPEALING SECTION 2, CHAPTER 392, LAWS OF 1989; APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE LEGISLATIVE ACCOUNT; APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE FOR SECTIONS 1, 2 AND 3 OF THE ACT, AND PROVIDING AN EFFECTIVE DATE AND CONDITION FOR SECTION 4 OF THE ACT.

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

SECTION 1. That Section 67-451, Idaho Code, as amended by Section 1, Chapter 392, Laws of 1989 and by Section 1, Chapter 393, Laws of 1989, be, and the same is hereby amended to read as follows:

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

(2) There is hereby appropriated out of the general account in the state operating fund and transferred into the legislative account, and commencing ~~June 1, 1989~~ March 1, 1991, the state auditor is authorized and directed to make such transfers in the amounts shown on each of the following dates in each year:

January 1	$ ~~900,000~~ 1,250,000
March 1	$ ~~900,000~~ 1,250,000
June 1	$ ~~650,000~~ 1,000,000
September 1	$ ~~800,000~~ 1,150,000

(3) The presiding officers of each house of the legislature are hereby authorized to make expenditures out of the legislative account for any necessary expenses of the legislature and the legislative account is hereby perpetually appropriated for any necessary expenses of the legislature. Necessary expenses of the legislature shall include, but are not necessarily limited to salaries and wages of officers, members, and employees of the legislature, consultants and other expert or professional personnel, travel expenses of officers, members, and employees of the legislature, other current expenses incurred in any operation or function of the legislature, premiums for life, accidental death and dismemberment, hospital, medical, surgical and major medical insurance for members of the legislature during their terms of office, and for employees of the legislature during the period of their employment, and capital outlay items necessary for any operation or function of the legislature. The signature of a presiding officer on any voucher or claim for payment shall be sufficient authority for the state auditor to pay the same. Expenses for any interim activity of the legislature or legislators shall be paid in the same manner. Expenses for any interim legislative committees shall be paid in the same manner, if previously authorized by concurrent resolution.

(4) The state auditor is hereby directed to devise and implement a financial reporting and control system for the purposes of this act that exempts legislative expenditures from any other provision of law, and the legislative account shall be specifically exempt from the provisions of chapter 35, title 67, Idaho Code, and shall be specifically exempt from the provisions of chapter 36, title 67, Idaho Code. Such system must produce a report as of the end of each calendar month that clearly shows additions to the account, the unexpended balance in the account, the expenditures to date, and the expenditures for the month reported, suitably detailed in such manner as the presiding officers

may instruct the state auditor. A copy of such report must be delivered to the presiding officer of each house of the legislature and to the governor by no later than the fifth working day of the following month.

SECTION 2. That Section 2, Chapter 392, Laws of 1989, being a prospective amendment to Section 67-451, Idaho Code, be, and the same is hereby repealed.

SECTION 3. There is hereby appropriated the sum of $350,000 from the General Account to the Legislative Account.

SECTION 4. There is hereby appropriated from the General Account to the Joint Legislative Oversight Committee created in Section 67-457, Idaho Code, the sum of $500,000 for the period July 1, 1991, through June 30, 1992, to be expended on order of the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

SECTION 5. (1) An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2 and 3 of this act shall be in full force and effect on and after March 1, 1991.

(2) Section 4 of this act shall be in full force and effect on and after July 1, 1991, and only upon passage and approval of House Bill No. 216, First Regular Session, Fifty-first Legislature.

Approved March 21, 1991.

CHAPTER 59
(H.B. No. 52)

AN ACT

RELATING TO THE PETROLEUM CLEAN WATER TRUST FUND; AMENDING SECTION 41-4902, IDAHO CODE, TO CLARIFY THAT THE INTENT OF THE LEGISLATURE IN CREATING THE TRUST FUND IS TO PROVIDE A METHOD FOR PETROLEUM STORAGE TANK OWNERS TO SATISFY THE FINANCIAL RESPONSIBILITY REQUIREMENTS OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY, AND TO CLARIFY THAT THE FUND SHALL BE AVAILABLE FOR COSTS INCURRED ONLY AS TO TANKS COVERED BY A CONTRACT OF INSURANCE BETWEEN THE OWNER OR OPERATOR AND THE TRUST FUND; AMENDING SECTION 41-4903, IDAHO CODE, TO DEFINE CONTAMINATION, TO INCLUDE CLEAN UP OF CONTAMINATED SOIL IN THE DEFINITION OF CORRECTIVE ACTION, TO CHANGE ENROLLMENT FEE TO APPLICATION FEE AND TO DEFINE APPLICATION FEE, TO REDEFINE LEGAL DEFENSE COSTS, TO DEFINE SITE, AND TO EXPAND THE DEFINITION OF UNDERGROUND STORAGE TANK REGULATIONS TO INCLUDE REGULATIONS PROMULGATED BY THE STATE OF IDAHO; AMENDING SECTION 41-4904, IDAHO CODE, TO CLARIFY THE PURPOSE OF THE TRUST FUND AND THE TYPES OF COSTS TO BE COVERED BY INSURANCE CONTRACTS ISSUED BY THE FUND, TO PROVIDE PROPER NOMENCLATURE AND TO CLARIFY THE DUTIES OF THE ADMINISTRATOR CONCERNING THE ESTABLISHMENT OF UNDERWRITING AND CLAIM PROCEDURES; AMENDING SECTION 41-4905, IDAHO CODE, TO CLARIFY THAT CONTRACTS OF INSURANCE SHALL SPECIFY THE APPLICABLE

LIMITS OF LIABILITY AND TO SPECIFY THAT THE LIMIT OF LIABILITY APPLICABLE TO THE TYPE OF TANK FROM WHICH THE RELEASE OCCURRED SHALL APPLY WHERE THE OWNER OR OPERATOR OWNS OR OPERATES MORE THAN ONE TYPE, AND TO PROVIDE THAT LIABILITY LIMITS MAY NOT BE COMBINED TO EXCEED THE HIGHEST PER OCCURRENCE OR ANNUAL AGGREGATE LIMITS FOR ANY SINGLE CATEGORY APPLICABLE TO AN INSURED OWNER OR OPERATOR; AMENDING SECTION 41-4908, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO CORRECT A REFERENCE, TO EXEMPT CERTAIN PRODUCTS SOLD AT RETAIL IN CONTAINERS OF FIFTY-FIVE GALLONS OR LESS, TO PROVIDE FOR SUSPENSION OF THE TRANSFER FEE WHEN THE UNENCUMBERED BALANCE IN THE FUND EQUALS THIRTY MILLION DOLLARS AND THE REINITIATION OF THE TRANSFER FEE WHEN THE UNENCUMBERED BALANCE EQUALS TWENTY MILLION DOLLARS; AMENDING SECTION 41-4909, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 41-4910, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF CONTRACTS OF INSURANCE, TO PROVIDE THAT ISSUANCE OF INSURANCE CONTRACTS FOR CERTAIN CATEGORIES OF TANKS MAY BE DEFERRED BY THE ADMINISTRATOR, TO SPECIFY THE FACTORS TO BE CONSIDERED BY THE ADMINISTRATOR IN DEFERRING ISSUANCE OF INSURANCE CONTRACTS, TO REQUIRE DOCUMENTATION OF ANY SUCH DEFERRAL IN THE PLAN OF OPERATION AND TO PROVIDE FOR ISSUANCE OF INSURANCE CONTRACTS TO DEFERRED CATEGORIES OF TANK OWNERS OR OPERATORS; AMENDING CHAPTER 49, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4910A, IDAHO CODE, TO SPECIFY THE PROVISIONS OF CONTRACTS OF INSURANCE AND TO PROVIDE FOR ANNUAL RENEWAL OF CONTRACTS OF INSURANCE; AMENDING SECTION 41-4911, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING CHAPTER 49, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4911A, IDAHO CODE, TO SPECIFY CONDITIONS UNDER WHICH CONTRACTS OF INSURANCE COVERING TANKS LOCATED ON A CONTAMINATED SITE MAY BE ISSUED AND TO PROVIDE THAT COSTS OF CORRECTIVE ACTION AND COMPENSATION FOR BODILY INJURY OR PROPERTY DAMAGE ARISING FROM PRIOR CONTAMINATION SHALL BE EXCLUDED FROM COVERAGE; AMENDING SECTIONS 41-4915, 41-4916, 41-4917 AND 41-4919, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 41-4921, IDAHO CODE, TO ELIMINATE A REDUNDANT REFERENCE TO THE ADOPTION OF RULES AND REGULATIONS BY THE ADMINISTRATOR; AMENDING SECTION 41-4923, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 41-4924, IDAHO CODE, TO PROVIDE THAT BYLAWS OF THE TRUST FUND AND THE PROPOSED CONTRACT OF INSURANCE SHALL BE SUBMITTED TO THE DIRECTOR OF THE DEPARTMENT OF INSURANCE WITH THE APPLICATION FOR REGISTRATION; AMENDING CHAPTER 49, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4924A, IDAHO CODE, TO PROVIDE FOR AMENDMENTS TO THE PLAN OF OPERATION FOR THE PURPOSE OF DEFERRING ISSUANCE OF INSURANCE CONTRACTS TO ANY CATEGORY OF TANK OWNER OR OPERATOR OR FOR ISSUING INSURANCE CONTRACTS TO ANY DEFERRED CATEGORY; AMENDING SECTION 41-4925, IDAHO CODE, TO CORRECT A GRAMMATICAL ERROR; REPEALING SECTIONS 41-4927, 41-4928 AND 41-4929, IDAHO CODE; AMENDING SECTIONS 41-4930, 41-4932, 41-4933, 41-4937, 41-4939, 41-4940, 41-4941 AND 41-4943, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 41-4946, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO LIMIT THE EXCLUSION FOR RAILROAD EMPLOYEES TO ACTIVITIES IN THE COURSE OF THEIR EMPLOYMENT; AMENDING SECTION 41-4947, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AND DECLARING AN EMER-

GENCY.

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

SECTION 1. That Section 41-4902, Idaho Code, be, and the same is hereby amended to read as follows:

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 and would provide a method for Idaho petroleum storage tank owners or operators to satisfy the financial responsibility requirements imposed on them by the federal environmental protection agency. 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~~ may be 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~~ covered by a contract of insurance between the owner or operator and the ~~state insurance~~ trust fund ~~and for which an enrollment fee has been paid into the fund to offset--the--administrative--costs--involved--in the effectuation of a insurance issued by the administrator of the fund.~~

SECTION 2. That Section 41-4903, Idaho Code, be, and the same is hereby amended to read as follows:

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.

(9~~4~~) "~~Enrollment~~Application fee" means the amount paid or payable by ~~a member subscriber into the Idaho petroleum clean water~~ an owner or operator applying for a contract of insurance with the trust fund to offset the costs of issuing contracts of insurance and other costs of administering this fund.

(4~~5~~) "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.

(6) "Contamination" means the presence of petroleum or petroleum products in surface or subsurface soil, surface water, or ground water.

(5~~7~~) "Commission" means the state tax commission of the state of Idaho.

(6~~8~~) "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 soil and 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~~9) "Department" means the department of insurance of the state of Idaho.

(8~~10~~) "Director" means the director of the department of insurance.

(10~~1~~) "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~~2~~) "Free product" means petroleum or petroleum products in the

nonaqueous phase, (e.g.., liquid not dissolved in water).

(~~12~~3) "Fund" or "trust fund" means the Idaho petroleum clean water trust fund.

(~~13~~4) "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~~5) "Legal defense costs" mean any expense that an owner or operator or the trust fund incurs in defending against claims or actions brought ~~under the provisions of this act~~ by the federal environmental protection agency or a state agency to require corrective action or to recover the costs of corrective action; or by or on behalf of a third party for bodily injury or property damage caused by a release.

(~~15~~6) "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~~7) "Manager" means the duly appointed manager of the state insurance fund of the state of Idaho.

(~~17~~8) "Noncommercial purposes" mean not for resale, with respect to motor fuels.

(~~18~~9) "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~~20) "Operator" means any person in control, or having responsibility for, the daily operations of a petroleum storage tank.

(~~20~~1) "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~~2) "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~~3) "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~~4) "Property damage" means injury or destruction to tangible property caused by an occurrence.

(~~24~~5) "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.

(2~~5~~6) "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.

(27) "Site" means a single parcel of property where petroleum or petroleum products are stored in a petroleum storage tank and includes all contiguous land, structures, other appurtenances, surface water, ground water, surface and subsurface soil, and subsurface strata within and beneath the property boundary.

(2~~6~~8) "State" means the state of Idaho or any office, department, agency, authority, commission, board, institution, hospital, college, university or other instrumentality thereof.

(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.

(~~27~~31) "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.

(~~3~~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, regulations promulgated by the state of Idaho as part of a state program for underground storage tank regulation under subtitle I, or other regulations affecting underground storage tank operations and management, including the uniform fire code adopted by the state of Idaho.

SECTION 3. That Section 41-4904, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ costs of corrective action and compensating third parties that are legally entitled to receive compensation for bodily injury and property damage arising out of accidental releases of petroleum from petroleum storage tanks covered by a contract of insurance between the owner or operator and the trust fund. 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~~ application 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 non-profit 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~~ application 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~~/~~ or operators of storage tanks ~~insured~~ covered by a contract of insurance issued by the trust fund.

(f) Actuarial functions of the trust fund to maintain credible and viable ~~statistices~~ 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~~ covered by a contract of insurance issued 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.

SECTION 4. That Section 41-4905, Idaho Code, be, and the same is hereby amended to read as follows:

41-4905. ~~DISBURSEMENT OF MONEYS FROM THE IDAHO PETROLEUM CLEAN WATER TRUST FUND~~ LIMITS OF LIABILITY FOR CONTRACTS OF INSURANCE ISSUED BY THE ADMINISTRATOR. ~~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~~ Contracts of insurance issued by the administrator shall contain the following per occurrence and annual aggregate limits of liability for 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~~ accidental releases ~~of petroleum~~ from covered petroleum 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.

(4) If an owner or operator owns or operates more than one (1) of the types of petroleum storage tanks listed in subsection (1) of this section, then the limit of liability applicable to the type of petroleum storage tank from which the accidental release occurred shall apply. In no event shall any of the limits of liability in subsection (1) of this section be combined to exceed the highest per occurrence and annual aggregate limits of liability for any single category in subsection (1)(a) through (1)(e) of this section applicable to an insured owner or operator.

SECTION 5. That Section 41-4908, Idaho Code, be, and the same is hereby amended to read as follows:

41-4908. SOURCE OF TRUST FUND -- ~~TANK-ENROLLMENT~~ APPLICATION FEES -- APPLICATION FOR ENROLLMENT -- TRANSFER FEES. (1) Every owner or operator of an underground storage tank may, if he desires to apply to the trust fund to insure the underground tank, make application for and pay into the trust fund an initial ~~enrollment~~ application fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank ~~enrolled~~ for which application for coverage is made.

(2) Every owner or operator of an above ground storage tank may, if he desires to apply to the trust fund to insure the above ground tank, make application for and pay into the trust fund an initial ~~enrollment~~ application fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank ~~enrolled~~ for which application for coverage is made.

(3) Every owner or operator of a farm tank or residential tank may, if he desires to apply to the trust fund to insure the tank, make application for and pay into the trust fund an initial ~~enrollment~~ application fee set by the administrator, but not to exceed twenty-five dollars ($25.00) for each tank ~~enrolled~~ for which application for coverage is made.

(4) Every owner or operator of a heating tank may, if he desires to apply to the trust fund to insure the tank, make application for and pay into the trust fund an initial ~~enrollment~~ application fee set by the administrator, but not to exceed five dollars ($5.00) for each tank ~~enrolled~~ for which application for coverage is made.

(5) The application for ~~enrollment~~ insurance 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~~/~~ or 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~~ release and the resultant costs to the trust fund.

(6) The administrator shall act upon the application for ~~enrollment~~ insurance 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~~ insurance 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, t~~The administrator shall determine if the applicant's storage tanks meet all the eligibility requirements and promptly notify the applicant of ~~his~~ the acceptance or nonacceptance ~~for coverage by the trust fund~~ of the application for insurance. 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~~ eligible for insurance under this chapter.

(7) In addition to the ~~enrollment~~ application 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 (2~~2~~3) 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. The fee imposed by this subsection shall not apply to (a) petroleum or petroleum products which are first delivered or stored in this state in a container of fifty-five (55) gallons or less if such container is intended to be transferred to the ultimate consumer of the petroleum or petroleum products or (b) petroleum or petroleum products delivered or stored in this state for the purpose of packaging or repackaging into containers of fifty-five (55) gallons or less if such container is intended to be transferred to the ultimate consumer of the petroleum or petroleum products.

(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~~ from the 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~~ thirty million dollars ($~~2~~30,000,000). Effective the first day of the second month following the date of such certification, the imposition of the transfer fee shall be suspended. Thereafter, the director shall certify to the commission when the unencumbered balance in the trust fund equals ~~ten~~ twenty million dollars ($~~1~~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 reinitiated.

SECTION 6. That Section 41-4909, Idaho Code, be, and the same is hereby amended to read as follows:

41-4909. DISTRIBUTION OF ~~ENROLLMENT~~ APPLICATION FEES AND TRANSFER FEES. (1) The ~~enrollment~~ application 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 current refund claims under this chapter paid from that account. Any refunds due and owing from the commission under this chapter shall be paid from the state refund account and those moneys are hereby continuously appropriated for that purpose.

SECTION 7. That Section 41-4910, Idaho Code, be, and the same is hereby amended to read as follows:

41-4910. ISSUANCE OF CONTRACTS OF INSURANCE ~~PROVIDED~~ BY THE ADMINISTRATOR OF THE IDAHO PETROLEUM CLEAN WATER TRUST FUND -- DEFERRAL. (1) ~~Upon-receipt-of-the-initial-enrollment-fee-from--an--owner/or operator--of-a-storage-tank-that-meets-the-eligibility-requirements-of this-chapter,-t~~The administrator ~~of-the-trust-fund-shall-cause--to--be~~ may issued~~--to-said-owner/operator~~ a contract of insurance ~~that~~ to an owner or operator of a petroleum storage tank that, based upon a consideration of the owner or operator's application for insurance and appropriate investigation by the administrator, 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~~ eligibility provisions of this chapter and the underwriting requirements established by the administrator.

(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.~~ The administrator may defer issuing contracts of insurance to certain categories of petroleum storage tank owners or operators if necessary for the sound operation of the trust fund.

(3) The administrator shall consider the following factors in determining whether to defer the issuance of contracts of insurance to any category of petroleum storage tank owners or operators:

(a) The underwriting capacity of the trust fund;

(b) Any requirement of federal or state law or regulation imposed on any category of petroleum storage tank owners or operators to demonstrate financial responsibility for corrective action and compensation to third parties for bodily injury and property damage arising from accidental releases from petroleum storage tanks;

(c) The ability of the administrator to process insurance applications from different categories of petroleum storage tank owners or operators.

(4) Any decision by the administrator to defer issuing contracts of insurance to any category of petroleum storage tank owners or operators shall be documented in the plan of operation, or an amendment thereto, submitted to the director of the department of insurance pursuant to sections 41-4924 or 41-4924A, Idaho Code, and subject to the director's approval.

(5) The administrator may issue contracts of insurance to deferred categories of petroleum storage tank owners or operators when the need for deferral documented in subsection (4) of this section no longer exists, as demonstrated by an amendment to the plan of operation submitted to and approved by the director of the department of insurance pursuant to section 41-4924A, Idaho Code.

SECTION 8. That Chapter 49, 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 41-4910A, Idaho Code, and to read as follows:

41-4910A. PROVISIONS OF CONTRACTS OF INSURANCE -- RENEWAL. (1) The contracts of insurance issued by the administrator shall meet the requirements of this chapter. To the extent consistent with this chapter, the contracts of insurance shall also satisfy the provisions of any requirement imposed by federal or state law or regulation on any category of petroleum storage tank owners or operators to demonstrate

financial responsibility for corrective action and compensation to third parties for bodily injury and property damage arising from accidental releases from petroleum storage tanks.

(2) Upon receipt of an annual application fee not exceeding twenty-five dollars ($25.00) for each aboveground tank, underground tank, farm tank or residential tank, or not to exceed five dollars ($5.00) for each heating tank covered by a contract of insurance, and upon receipt of evidence that the petroleum storage tanks continue to meet the eligibility provisions of this chapter and the underwriting requirements established by the administrator, the administrator shall issue an annual renewal of the contract of insurance to the owner or operator of said petroleum storage tanks.

SECTION 9. That Section 41-4911, Idaho Code, be, and the same is hereby amended to read as follows:

41-4911. STORAGE TANKS ELIGIBLE FOR ~~PARTICIPATION~~ INSURANCE. (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 41-4910A, 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.

SECTION 10. That Chapter 49, 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 41-4911A, Idaho Code, and to read as follows:

41-4911A. STORAGE TANKS LOCATED ON SITES WHERE CONTAMINATION IS PRESENT. (1) Notwithstanding the provisions of section 41-4911(1)(g), Idaho Code, an owner or operator of a petroleum storage tank located on a site where contamination is present may be eligible for insurance

covering the petroleum storage tanks located on that site if the contamination does not pose a threat to public health, safety or the environment; provided, however, that the trust fund shall not pay for any corrective action costs or compensation to third parties for bodily injury or property damage arising from the prior contamination present at the site.

(2) Any contamination which may migrate off-site; contaminate ground water; exceed federal or state standards, guidelines, criteria or contaminant levels for ground water or drinking water; or pose a fire, explosion or safety hazard may be deemed by the administrator to present a threat to public health, safety or the environment. An owner or operator of a petroleum storage tank located on a site where such contamination is present will not be eligible for insurance covering the petroleum storage tanks located on that site unless the contamination has been cleaned up or a plan for cleanup or removal approved pursuant to section 41-4911(1)(g), Idaho Code, is being implemented.

(3) Contracts of insurance issued to an owner or operator of a petroleum storage tank located on a site where contamination is present and where the administrator has determined that the contamination does not pose a threat to public health, safety or the environment shall exclude from coverage corrective action costs and compensation to third parties for bodily injury or property damage arising out of the prior contamination present at the site.

SECTION 11. That Section 41-4915, Idaho Code, be, and the same is hereby amended to read as follows:

41-4915. ENROLLED SUBSCRIBERS' LIABILITY ON JUDGMENT. (1) No action shall lie against any owner~~/~~ or 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~~/~~ or 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.

SECTION 12. That Section 41-4916, Idaho Code, be, and the same is hereby amended to read as follows:

41-4916. ACTIONS FOR COLLECTION IN CASE OF DEFAULT -- PENALTY -- CANCELLATION OF INSURANCE CONTRACT. (1) If an insured owner~~/~~ or 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~~/~~ or operator of a storage tank which fails to comply with section 41-4911, 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.

SECTION 13. That Section 41-4917, Idaho Code, be, and the same is hereby amended to read as follows:

41-4917. ~~WITHDRAWAL--FROM--TRUST--FUND~~ CANCELLATION OF INSURANCE. Any insured owner~~/~~ or operator of a storage tank may ~~withdraw-from-the trust-fund~~ cancel his insurance by returning his insurance contract to the administrator for cancellation. There shall be no refund of any ~~enrollment~~ application fees paid to the trust fund as all such fees shall be deemed fully earned when an insurance contract is issued or renewed.

SECTION 14. That Section 41-4919, Idaho Code, be, and the same is hereby amended to read as follows:

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~~/~~ or 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.

SECTION 15. That Section 41-4921, Idaho Code, be, and the same is hereby amended to read as follows:

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.

SECTION 16. That Section 41-4923, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ application fees 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~~ insured owner or operator a ~~written-statement~~ contract of insurance adequately and clearly stating all rights and obligations of the ~~members-of-the-trust--fund~~ insured owner or operator, 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.

SECTION 17. That Section 41-4924, Idaho Code, be, and the same is hereby amended to read as follows:

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 bylaws of the trust fund ~~agreement-under--which the--trust--fund--is--to--exist-and-operate~~ referred to in section 41-4930, Idaho Code;

(b) A copy of the proposed ~~written-statement-referred-to-in--subsection-(3)-of-section-41-4923,-Idaho-Code~~ contract of insurance;

(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.

SECTION 18. That Chapter 49, 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 41-4924A, Idaho Code, and to read as follows:

41-4924A. AMENDMENTS TO PLAN OF OPERATION. (1) Any amendment to the plan of operation prepared by the administrator for the purpose of deferring the issuance of contracts of insurance to any category of petroleum storage tank owners or operators or for issuing contracts of insurance to any deferred category of petroleum storage tank owners or operators shall be submitted to the director of the department of insurance.

(2) The director shall review the amendment and shall, with all reasonable promptness, approve, approve as modified, or disapprove of the amendment to the plan of operation. If the amendment is approved,

the administrator may issue contracts of insurance and otherwise operate the trust fund in a manner consistent with the amended plan of operation. If the amendment is disapproved, the administrator must operate the trust fund in a manner consistent with the provisions of the plan of operation as submitted to the director in the trust fund's application for registration under section 41-4924, Idaho Code.

(3) The director may request such relevant documentation and information, including an actuarial analysis of the underwriting capacity of the trust fund, as is reasonably necessary to evaluate the proposed amendment to the plan of operation.

(4) All procedures and policies concerning the approval, modification or disapproval of any amendment to the plan of operation 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.

SECTION 19. That Section 41-4925, Idaho Code, be, and the same is hereby amended to read as follows:

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 ~~or~~ 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.

SECTION 20. That Sections 41-4927, 41-4928 and 41-4929, Idaho Code, be, and the same are hereby repealed.

SECTION 21. That Section 41-4930, Idaho Code, be, and the same is hereby amended to read as follows:

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~~/~~ or

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.

SECTION 22. That Section 41-4932, Idaho Code, be, and the same is hereby amended to read as follows:

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/ or 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.

SECTION 23. That Section 41-4933, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ covered by a contract of insurance issued to the tank owner or operator 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~~ registration 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.

SECTION 24. That Section 41-4937, Idaho Code, be, and the same is hereby amended to read as follows:

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~~/~~ or operators insured by the trust fund.

SECTION 25. That Section 41-4939, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ insured owner or operator for the recovery of the amount of such depletion, for the benefit of the trust fund.

SECTION 26. That Section 41-4940, Idaho Code, be, and the same is hereby amended to read as follows:

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~~/~~ or 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.

SECTION 27. That Section 41-4941, Idaho Code, be, and the same is hereby amended to read as follows:

41-4941. LIQUIDATION OF TRUST FUND. (1) The annual tank ~~enrollment~~ application 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~~ registration 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~~ the director 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, 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.

SECTION 28. That Section 41-4943, Idaho Code, be, and the same is hereby amended to read as follows:

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~~/~~ <u>or</u> 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.

SECTION 29. That Section 41-4946, Idaho Code, be, and the same is hereby amended to read as follows:

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~~/~~ <u>or</u> operators of petroleum tanks, beneficiaries, and participants thereof. The provisions of this chapter shall not apply to any rail-

road, railroad corporation, or any employee thereof when such employee is acting in the course of his employment for any such railroad or railroad corporation.

SECTION 30. That Section 41-4947, Idaho Code, be, and the same is hereby amended to read as follows:

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~~/~~ or operators of petroleum storage tanks.

SECTION 31. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 21, 1991.

CHAPTER 60
(S.B. No. 1125)

AN ACT

RELATING TO SCHOLARSHIPS FOR MINORITY AND AT-RISK STUDENTS; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 46, TITLE 33, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE FOR PUBLIC POLICY, TO PROVIDE PURPOSES, TO DEFINE TERMS, TO PROVIDE CRITERIA FOR ELIGIBILITY AND TO PROVIDE MAXIMUM AMOUNTS OF SCHOLARSHIPS, TO PROVIDE DUTIES OF THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO, TO PROVIDE DUTIES OF PARTICIPATING POSTSECONDARY INSTITUTIONS, AND TO PROVIDE RELATIONSHIP TO A PROVISION OF THE HUMAN RIGHTS COMMISSION LAW.

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 46, Title 33, Idaho Code, and to read as follows:

CHAPTER 46
IDAHO MINORITY AND "AT-RISK" STUDENT SCHOLARSHIP ACT

33-4601. SHORT TITLE. This act shall be known and cited as the "Idaho Minority and 'At-Risk' Student Scholarship Act."

33-4602. PUBLIC POLICY. The legislature hereby recognizes and declares that substantial economic and social benefits accrue to the state because of an educated citizenry. The legislature further recognizes that certain talented students, because of their social, cultural and economic circumstances are "at-risk" of failing to obtain

the education necessary to realize their potential and that encouraging these at-risk students to enroll in Idaho postsecondary educational institutions is an important element for assuring the future prosperity of the state.

33-4603. PURPOSES. The purposes of this chapter are:

(1) To establish a state scholarship program for talented "at-risk" persons who will enroll in undergraduate academic and vocational programs in postsecondary institutions in the state; and

(2) To provide Idaho postsecondary institutions a tool to improve the recruitment and graduation rates of Idaho residents who are at-risk persons as defined in this chapter.

33-4604. DEFINITIONS. As used in this chapter:

(1) "At-risk person" means any Idaho resident who meets three (3) or more of the following five (5) criteria:

(a) Is a potential first-generation college student;

(b) Is handicapped as defined in section 504 of the rehabilitation act, 29 U.S.C. section 794;

(c) Is a migrant farmworker or other seasonal farmworker or a dependent of a migrant farmworker or other seasonal farmworker;

(d) Is a minority person as defined in this chapter; or

(e) Has financial need as defined in this chapter.

(2) "Board" means the state board of education and the board of regents of the university of Idaho.

(3) "Eligible student" means any graduate of an accredited Idaho secondary school who is an at-risk person as defined in this chapter and who declares his intention to matriculate in an eligible postsecondary institution in the state of Idaho during the education year immediately following application for an award under this program.

(4) "Farmwork" means any agricultural activity, performed for either wages or personal subsistence, on a farm, ranch or similar establishment.

(5) "Financial need" means the extent of a person's inability to meet the institutionally defined cost of education at an eligible postsecondary institution through parent, family and/or personal resources as determined under rules to be established by the state board of education.

(6) "Migrant farmworker" means a seasonal farmworker whose employment required travel that precluded the farmworker from returning to his permanent place of residence within the same day.

(7) "Minority person" means any Idaho resident who is a member of an ethnic group whose members historically have participated in postsecondary education at a rate lower than their occurrence in the population of the United States including, but not limited to, persons of native American, Afro-American, and Hispanic-American descent.

(8) "Potential first-generation college student" means a person neither of whose parents received a bachelor's degree.

(9) "Seasonal farmworker" means a person who, within the past twenty-four (24) months, was employed for at least seventy-five (75) days in farmwork, and whose primary employment was in farmwork on a temporary or seasonal basis (that is, not as a constant year-round

activity).
All terms not specifically defined in this chapter shall be defined as in sections 33-4303 through 33-4315, Idaho Code, governing the state of Idaho scholarship program.

33-4605. ELIGIBILITY -- MAXIMUM AMOUNTS -- CONDITIONS. The conditions governing this program and the size of awards shall be the same as those governing the state of Idaho scholarship program except as superseded by provisions of this chapter and as follows:

(1) Scholarships shall be awarded on the basis of high school records and other criteria to be established by the board. In the case of equally deserving applicants, priority shall be given to the applicant with the greatest financial need.

(2) The maximum number of scholarships in any given fiscal year shall be the amount of the fiscal year appropriation for this program divided by the amount of the maximum award for this program.

33-4606. DUTIES OF BOARD. The responsibilities of the board for this program shall be the same as for the state of Idaho scholarship program except as superseded by the provisions of this chapter and as follows:

(1) The board shall allocate funds for this program to participating institutions on the basis of total enrollment of at-risk persons.

(2) The board shall conduct audits and maintain fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of funds.

(3) The board shall promulgate rules and regulations as necessary to implement this program.

(4) The total of grant payments to a single recipient may not exceed the grant amount times the following number corresponding to the recipient's class standing as certified by the institution at the time of the initial award: freshman, four (4) years; sophomore, three (3) years; junior, two (2) years; and senior, one (1) year.

(5) The board each year shall compile a report on award recipients which shall include ethnic origin, sex, grade point average, class standing, and number of college credits completed.

(6) The board each year shall compile a report measuring the rates of minority student recruitment and retention at participating institutions.

33-4607. DUTIES OF PARTICIPATING INSTITUTIONS. Participating postsec-ondary institutions shall be responsible for:

(1) Selecting recipients of awards.

(2) Determining procedures for payment of awards.

33-4608. RELATIONSHIP OF CHAPTER TO SECTION 67-5909, IDAHO CODE. This act shall not be construed to be in violation of the provisions of section 67-5909, Idaho Code.

Approved March 21, 1991.

CHAPTER 61
(S.B. No. 1033)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO; AMENDING SECTION 59-1302, IDAHO CODE, TO PROVIDE THAT CREDIT MAY BE GIVEN FOR MILITARY SERVICE; AMENDING SECTION 59-1305, IDAHO CODE, TO PROVIDE FOR INDEMNIFICATION OF RETIREMENT BOARD MEMBERS AND RETIREMENT SYSTEM STAFF; AMENDING SECTION 59-1314, IDAHO CODE, TO DELETE A DUPLICATION OF THE APPEALS PROCESS; AMENDING SECTION 59-1342, IDAHO CODE, TO PROVIDE FOR AN EXCEPTION TO THE MAXIMUM RETIREMENT BENEFIT PERMITTED; AMENDING SECTION 59-1351, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO PROVIDE FOR THE SOCIAL SECURITY NORMAL RETIREMENT AGE; AMENDING SECTION 59-1353, IDAHO CODE, TO ADD SOCIAL SECURITY BENEFITS TO THE COMPUTATION OF DISABILITY RETIREMENT ALLOWANCES; AND AMENDING SECTION 9-340, IDAHO CODE, BY ADDING INACTIVE MEMBER RECORDS TO RECORDS EXEMPT FROM DISCLOSURE.

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 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 or federal statutes other than <u>military service or</u> social security for that same service.

(3) "Accumulated contributions" means the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" mean such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Average monthly salary" means one-sixtieth (1/60) of a member's salary during any base period in which his salary is greater than or equal to his salary in any other base period. "Base period" means any period of sixty (60) consecutive months during which such member makes a like number of contributions pursuant to sections 59-1331--59-1334, 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 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 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 chapter.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1331--59-1334, Idaho Code.

(16) "Firefighter" ~~"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 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, any thrift institution 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 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 59-1331--59-1334 and 59-1327, 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 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 59-1303, 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 chapter upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1304--~~59-1314~~ and 59-1305, 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 cred-

ited. 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 59-1305, Idaho Code, be, and the same is hereby amended to read as follows:

59-1305. POWERS AND DUTIES OF BOARD -- INDEMNIFICATION. (1) The board shall have the power and duty, subject to the limitations of this 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. Members of the retirement board, retirement system staff and retirement system mortgage committee members who shall be found to be fiduciaries of the fund, jointly and individually, shall be indemnified from all claims, demands, judgments, costs, charges and expenses, including court costs and attorney fees, and against all liability losses and damages of any nature whatsoever that retirement board members, retirement system staff or retirement system mortgage committee members shall or may at any time sustain by reason of any decision made in the scope or performance of their duties pursuant to the provisions of this section. 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 chap-

ter, 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 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 59-1314, 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 3. That Section 59-1314, Idaho Code, be, and the same is hereby amended to read as follows:

59-1314. RULES AND REGULATIONS -- PROCEDURES FOR HEARINGS PRIOR TO APPEALS -- APPEALS. (1) Subject to other provisions of this 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 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~~ report of the hearing officer 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~~ pursuant to the provisions of chapter 52, title 67, Idaho Code. 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 4. That Section 59-1342, Idaho Code, be, and the same is hereby amended to read as follows:

59-1342. 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 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 ~~59-1356~~ 59-1355, 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 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 section ~~59-1319A~~ 59-1355, 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 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, 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, 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. 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 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 the member's accrued benefit as of May 1, 1990, or 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, whichever is greater. If the ben-

efit 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 59-1351, Idaho Code, be, and the same is hereby amended to read as follows:

59-1351. 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 chapter except that the provisions of section 59-136~~2~~1(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~~ the social security normal retirement age for that member, 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~~ the social security normal retirement age for that member, 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 59-13~~5~~17, 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 6. That Section 59-1353, Idaho Code, be, and the same is hereby amended to read as follows:

59-1353. 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 and federal social security disability benefits, if any, without any reduction for worker's compensation;

(b) the annual amount payable under the provisions of any ~~workmen's~~ workers' compensation law because of the same disability plus the actual amount received from social security disability benefits.

(2) If a single payment is made under the provisions of any ~~workmen's~~ workers' 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~~ workers' compensation law shall take effect on the first of the month coinciding with or next following the effective date of such change.

SECTION 7. That Section 9-340, Idaho Code, be, and the same is hereby amended to read as follows:

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 section 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 exam-

ination 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~~ and inactive member 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.

Approved March 21, 1991.

CHAPTER 62
(H.B. No. 49, As Amended in the Senate)

AN ACT

RELATING TO THE REPORT OF ABANDONED PROPERTY, AND TO THE NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY; AMENDING SECTION 14-517, IDAHO CODE, TO REQUIRE THE HOLDERS OF ABANDONED PROPERTY WHO KNOW THE WHEREABOUTS OF THE OWNER OF SUCH PROPERTY TO TAKE NECESSARY STEPS TO PREVENT THE PROPERTY FROM BECOMING PRESUMABLY

ABANDONED; AMENDING SECTION 14-518, IDAHO CODE, TO EFFECT MORE EFFICIENT AND COST EFFECTIVE MEANS OF NOTIFYING OWNERS OF UNCLAIMED PROPERTY AND TO RESTORE A PROVISION REPEALED JANUARY 1, 1991; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 14-517, Idaho Code, be, and the same is hereby amended to read as follows:

14-517. REPORT OF ABANDONED PROPERTY. (1) A person holding property tangible or intangible, presumed abandoned and subject to custody as unclaimed property under this chapter shall report to the administrator concerning the property as provided in this section.

(2) The report must be verified and must include:

(a) Except with respect to travelers checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of twenty-five dollars ($25.00) or more presumed abandoned under this chapter;

(b) In the case of unclaimed funds of twenty-five dollars ($25.00) or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;

(c) In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible property, a description of the property and the place where it is held and may be inspected by the administrator and any amounts owing to the holder;

(d) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under twenty-five dollars ($25.00) each may be reported in the aggregate;

(e) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property; and

(f) Other information the administrator prescribes by rule as necessary for the administration of the provisions of this chapter.

(3) If the person holding property presumed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner or the holder has changed his name while holding the property, he shall file with his report all known names and addresses of each previous holder of the property.

(4) The report must be filed before November 1 of each year as of June 30 next preceding, but the report of any insurance company must be filed before May 1 of each year as of December 31 next preceding. On written request by any person required to file a report, the administrator may postpone the reporting date.

(5) All holders of property presumed abandoned under this section

that know the whereabouts of the owner of such property shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. Not more than one hundred twenty (120) days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner at his last known address informing him that the holder is in possession of property subject to this chapter if:

(a) The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate; or

(b) ~~The claim of the apparent owner is not barred by the statute of limitations; and~~

~~(c)~~ The property has a value of fifty dollars ($50.00) or more.

SECTION 2. That Section 14-518, Idaho Code, be, and the same is hereby amended to read as follows:

14-518. NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY. (1) The administrator shall cause a notice to be published ~~not later than March 1, or in the case of property reported by insurance companies, September 1, of the~~ annually each year ~~immediately following the report required by section 14-517, Idaho Code~~, at least once a week for two (2) consecutive weeks in ~~a~~ newspapers of general circulation, or in a published notice distributed, one (1) time only, concurrently with a newspaper of general circulation in the county of this state in which is located the last known address of any person to be named in the notice. If no address is listed or the address is outside this state, the notice must be published in a newspaper ~~of~~ which has general circulation, or in a published notice distributed concurrently with a newspaper ~~of~~ which has general circulation in the county in which the holder of the property has its principal place of business within this state. Provided however, the names and addresses located in a state which will receive the accounts because of reciprocal agreements as permitted by section 14-535, Idaho Code, need not be published. In the case of a notice which is distributed concurrently with a newspaper, the provisions of section 60-105, Idaho Code, relating to rates for official notices shall not apply.

(2) The published notice must be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property" and contain:

(a) The names in alphabetical order and last known address, if any, of persons listed in the report and entitled to notice ~~within the county as specified in subsection (1) of this section~~;

(b) A statement that information concerning the property ~~and the name and last known address of the holder~~ may be obtained by any person possessing an interest in the property by addressing an inquiry to the administrator; and

(c) A statement that ~~if proof of claim is not presented by the owner to the holder and the owner's right to receive the property is not established to the holder's satisfaction before April 20, or, in the case of property reported by insurance companies, before October 20, the property will be placed not later than May~~

~~1,-or-in-the-case-of-property-reported-by-insurance-companies,-not later-than-November-1,~~ the property is in the custody of the administrator and all ~~further~~ claims must ~~thereafter~~ be directed to the administrator~~;-and~~

~~(d)--The-administrator-may-also,--in--its--discretion,--print--the names-of-holders-of-unclaimed-property.~~

(3) The administrator is not required to publish in the notice any items of less than fifty dollars ($50.00) unless the administrator considers their publication to be in the public interest.

~~(4) Not-later-than-March-1,-or-in-the-case-of--property--reported by--insurance-companies,-not-later-than-September-1,-of-the-year-immediately-following-the-report-required-in-section-14-517,--Idaho--Code, the--administrator-shall-mail-a-notice-to-each-person-whose-last-known address-is-listed-in-the-report-and-who--appears--to--be--entitled--to property-of-the-value-of-fifty-dollars-($50.00)-or-more-presumed-abandoned--under--this--chapter-and-any-beneficiary-of-a-life-or-endowment insurance-policy-or-annuity-contract-for-whom-the-administrator-has--a last-known-address.~~

~~(5)--The-mailed-notice-must-contain:~~

~~(a)--A-statement-that,-according-to-a-report-filed-with-the-administrator,--property--is--being-held-to-which-the-addressee-appears entitled;~~

~~(b)--The-name-and-last-known-address-of--the--person--holding--the property--and--any--necessary-information-regarding-the-changes-of name-and-last-known-address-of-the-holder;-and~~

~~(c)--A-statement-that,-if-satisfactory-proof-of-claim-is-not--presented--by--the--owner--to-the-holder-by-the-date-specified-in-the published-notice,-the-property-will-be-placed-in--the--custody--of the--administrator--and-all-further-claims-must-be-directed-to-the administrator.~~

~~(6)~~ This section is not applicable to sums payable on travelers checks, money orders, and other written instruments presumed abandoned under section 14-504, Idaho Code.

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

Approved March 21, 1991.

CHAPTER 63
(H.B. No. 271)

AN ACT

RELATING TO COMMUNITY PROPERTY; AMENDING SECTION 32-912, IDAHO CODE, TO CLARIFY THAT COMMUNITY PROPERTY MAY NOT BE SOLD, CONVEYED OR ENCUMBERED UNLESS BOTH HUSBAND AND WIFE JOIN IN THE EXECUTION OF THE SALE AGREEMENT, DEED OR OTHER INSTRUMENT OF CONVEYANCE.

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

SECTION 1. That Section 32-912, Idaho Code, be, and the same is hereby amended to read as follows:

32-912. CONTROL OF COMMUNITY PROPERTY. Either the husband or the wife shall have the right to manage and control the community property, and either may bind the community property by contract, except that neither the husband nor wife may sell, convey or encumber the community real estate unless the other joins in executing ~~and acknowledging~~ the sale agreement, deed or other instrument of conveyance~~,~~ by which the real estate is sold, conveyed or encumbered, and any community obligation incurred by either the husband or the wife without the consent in writing of the other shall not obligate the separate property of the spouse who did not so consent; provided, however, that the husband or wife may by express power of attorney give to the other the complete power to sell, convey or encumber community property, either real or personal. All deeds, conveyances, bills of sale, or evidences of debt heretofore made in conformity herewith are hereby validated.

Approved March 21, 1991.

CHAPTER 64
(H.B. No. 342)

AN ACT

APPROPRIATING MONEYS TO THE STATE INSURANCE FUND FOR FISCAL YEAR 1992; SPECIFYING THE SCOPE OF THE APPROPRIATION; APPROPRIATING MONEYS TO THE STATE INSURANCE FUND IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 172, LAWS OF 1990; AND DECLARING AN EMERGENCY FOR SECTION 3 OF THIS ACT.

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 administration of the State Insurance Fund 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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. STATE INSURANCE FUND:				
FROM:				
State Insurance Fund Account	$4,624,000	$1,462,400	$118,400	$6,204,800
II. UNDERGROUND STORAGE TANKS:				
FROM:				
Clean Water Trust Fund Account	$ 665,400	$ 437,400		$1,102,800
TOTAL	$5,289,400	$1,899,800	$118,400	$7,307,600

SECTION 2. Moneys appropriated in Section 1 for the Underground

Storage Tanks Program are pursuant to Section 41-4904(5)(a), Idaho Code. Amounts necessary to pay all other expenses, losses and claims incurred related to insuring governmental or private entities against legal liability due to petroleum product releases shall be perpetually appropriated to the manager of the State Insurance Fund as trustee, under the provisions of Section 41-4914, Idaho Code.

SECTION 3. In addition to the appropriation made by Section 1, Chapter 172, Laws of 1990, 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	$334,700
Operating Expenditures	140,400
Capital Outlay	90,200
TOTAL	$565,300
FROM:	
State Insurance Fund Account	$565,300

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 passage and approval.

Approved March 21, 1991.

CHAPTER 65
(S.B. No. 1016, As Amended)

AN ACT

RELATING TO THE SPECIAL COMMITTEE ON PERSONNEL MATTERS; AMENDING SECTION 67-455, IDAHO CODE, TO PROVIDE FOR AN EXPANSION IN THE MEMBERSHIP OF THE SPECIAL LEGISLATIVE COMMITTEE ON PERSONNEL MATTERS, AND TO PROVIDE ADDITIONAL DUTIES.

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)~~ not more than six (6) members of the ~~state~~ 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)~~ not more than six (6) 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 president pro tempore shall appoint a co-chair from among the senate members of the committee, who must be a member of the senate human resources committee. The speaker of the house shall appoint a co-chair from among the house members of the committee, who must be a member of the house state affairs committee.

The committee shall have as a primary duty and responsibility the task of recommending any change in employee compensation to each session of the legislature. The committee shall be guided by the recommendations for changes in employee compensation made by the personnel commission, and by the recommendations of the governor.

The committee shall have as ~~a-primary~~ another 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~~ another 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.

Approved March 21, 1991.

CHAPTER 66
(S.B. No. 1017)

AN ACT

RELATING TO STATE EMPLOYEES EXEMPT FROM THE PROVISIONS OF CHAPTER 53, TITLE 67, IDAHO CODE; AMENDING SECTION 67-5303, IDAHO CODE, TO PROVIDE THAT MANAGEMENT EMPLOYEES INVOLVED WITH FRESH FRUIT AND VEGETABLE INSPECTIONS ARE CLASSIFIED EMPLOYEES.

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

SECTION 1. That Section 67-5303, Idaho Code, be, and the same is hereby amended to read as follows:

67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state of Idaho and all employees in such departments, except those employees specifically defined as nonclassified, shall be classified employees, who are subject to this act and to the system of personnel administration which it prescribes. Nonclassified employees shall be:

(a) Members of the state legislature and all other officers of the state of Idaho elected by popular vote, and persons appointed to fill vacancies in elective offices, and employees of the state legislature.

(b) Members of statutory boards and commissions and heads of departments appointed by and serving at the pleasure of the governor, and members of advisory boards and councils appointed by the departments.

(c) All employees and officers in the office, and at the residence, of the governor; and all employees and officers in the offices of the lieutenant-governor, secretary of state, attorney general, state treasurer, state auditor, and state superintendent of public instruction who are appointed on and after the effective date of this act.

(d) Except as otherwise provided by law, not more than one (1) declared position for each board or commission and/or head of a participating department in addition to those declared to be nonclassified by other provisions of law.

(e) Part-time professional consultants who are paid on a fee basis for any form of legal, medical or other professional service, and who are not engaged in the performance of administrative duties for the state.

(f) Judges, temporary referees, receivers and jurors.

(g) All employees of the Idaho supreme court and district courts.

(h) All employees of the Idaho state bar.

(i) Assistant attorneys general attached to the office of the attorney general.

(j) Officers and members of the teaching staffs of state institutions and the professional staff of the Idaho department of education administered by the board of regents and the board of education, and the professional staffs of the Idaho department of vocational education and vocational rehabilitation administered by the state board for vocational education. The word "officer" as used in this subsection

means presidents, vice presidents, deans, or directors, or employees in any positions meeting all of the following criteria:

1. Answers directly to or is responsible to a person occupying an administrative position no lower than the dean or director level; and,

2. Is involved in or substantially participates in the development of policy; and,

3. Receives an annual salary of not less than the equivalent of step one (1) of pay grade twenty-four (24) of the state salary schedule; and,

4. Requires not less than an earned bachelor's degree from an accredited college or university, or equivalent as prescribed by the personnel commission.

(k) Employees of the military division not assigned to the bureau of disaster services.

(l) Patients, inmates or students employed in a state institution.

(m) Persons employed in positions established under federal grants, which, by law, restrict employment eligibility to specific individuals or groups on the basis of nonmerit selection requirements. Such employees shall be termed "project exempt" and the tenure of their employment shall be limited to the length of the project grant, or twenty-four (24) months, or four thousand one hundred sixty (4,160) hours of credited state service, whichever is of the shortest duration. No person hired on a project-exempt appointment shall be employed in any position allocated to the classified service.

(n) Temporary employees.

(o) All employees and officers of the following named commodity commissions, and all employees and officers of any commodity commission created hereafter: the Idaho potato commission, as provided in chapter 12, title 22, Idaho Code; the Idaho honey advertising commission, as provided in chapter 28, title 22, Idaho Code; the Idaho bean commission, as provided in chapter 29, title 22, Idaho Code; the Idaho prune commission, as provided in chapter 30, title 22, Idaho Code; the Idaho hop grower's commission, as provided in chapter 31, title 22, Idaho Code; the Idaho wheat commission, as provided in chapter 33, title 22, Idaho Code; the Idaho pea and lentil commission, as provided in chapter 35, title 22, Idaho Code; the Idaho apple commission, as provided in chapter 36, title 22, Idaho Code; the Idaho cherry commission, as provided in chapter 37, title 22, Idaho Code; the Idaho mint grower's commission, as provided in chapter 38, title 22, Idaho Code; the state board of sheep commissioners, as provided in chapter 1, title 25, Idaho Code; the state brand board, as provided in chapter 11, title 25, Idaho Code; the Idaho beef council, as provided in chapter 29, title 25, Idaho Code; and the Idaho dairy products commission, as provided in chapter 31, title 25, Idaho Code.

(p) All inspectors of the fresh fruit and vegetable inspection service of the Idaho department of agriculture, except those positions involved in the management of the program.

(q) All employees of the division of correctional industries within the department of correction.

Approved March 21, 1991.

CHAPTER 67
(S.B. No. 1032)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1316, IDAHO CODE, TO CLARIFY THAT THE DIRECTOR MAY INTERPRET STATE UNEMPLOYMENT INSURANCE COVERAGE REQUIREMENTS CONSISTENT WITH FEDERAL CONFORMITY REQUIREMENTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 72-1316, Idaho Code, be, and the same is hereby amended to read as follows:

72-1316. COVERED EMPLOYMENT. (a) The term "covered employment" means an individual's entire service, including service in interstate commerce, performed by him for wages or under any contract of hire, written or oral, express or implied.

(b) Notwithstanding any ~~of the~~ other provisions of ~~this act~~ state law, services shall be deemed to be in covered employment if with respect to such services a tax is required to be paid or was required to be paid the previous year pursuant to the provisions of the federal unemployment tax act imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or ~~which~~ if the director determines that as a condition for full tax credit against the tax imposed by the federal unemployment tax act ~~is~~ such services are required to be covered under this act.

(c) Services covered by an election pursuant to section 72-1352, Idaho Code, and services covered by an election duly approved by the director in accordance with an arrangement pursuant to section 72-1344, Idaho Code, shall be deemed to be covered employment during the effective period of such election.

(d) Services performed by an individual for remuneration shall, for the purposes of the employment security law, be covered employment:

(1) Unless it is shown:

(A) That the worker has been and will continue to be free from control or direction in the performance of his work, both under his contract of service and in fact, and

(B) That the worker is engaged in an independently established trade, occupation, profession, or business;

(2) Even though such individual meets the exemption of subsection (d)(1)(A) and (B) of this section but performs services;

(A) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages, or laundry or dry cleaning services for his principal;

(B) As a traveling or city salesman engaged upon a full-time basis in the solicitation on behalf of, and the transmission to his principal (except for side line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants,

or other similar establishments for merchandise for resale or supplies for use in their business operations.

(e) The term "covered employment" shall include an individual's entire service, performed within or both within and without this state,

(1) If the service is localized in this state; or

(2) If the service is not localized in any state but some of the service is performed in this state and

(A) The individual's base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state, or

(B) The individual's base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state.

(3) Service shall be deemed to be localized within a state if

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

(4) The term "covered employment" shall include an individual's service, wherever performed within the United States, or Canada, if

(A) Such service is not covered under the unemployment compensation law of any other state, the Virgin Islands, or Canada, and

(B) The place from which the service is directed or controlled is in this state.

(f) The term "covered employment" shall include the services of an individual who is a citizen of the United States, performed outside the United States, (except in Canada) in the employ of an American employer (other than service which is deemed "covered employment" under the provisions of subsection (e) of this section or the parallel provisions of another state's law); if

(1) The employer's principal place of business in the United States is located in this state; or

(2) The employer has no place of business in the United States; but

(A) The employer is an individual who is a resident of this state; or

(B) The employer is a corporation which is organized under the laws of this state; or

(C) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(3) None of the criteria of provision~~s of~~ (1) or (2) of this subsection ~~(e)~~ are met but the employer has elected coverage in this state, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits based on such service, under the law of this state;

(4) An "American employer" for purposes of this subparagraph means a person who is:

(A) An individual who is a resident of the United States; or

(B) A partnership if two-thirds (2/3) or more of the partners are residents of the United States; or

(C) A trust if all of the trustees are residents of the United States; or

(D) A corporation organized under the laws of the United States or of any state;

(5) For purposes of this subsection (f) the term "United States" means the states, the District of Columbia, and the Commonwealth of Puerto Rico, and the Virgin Islands.

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

Approved March 21, 1991.

CHAPTER 68
(S.B. No. 1088)

AN ACT

RELATING TO VACANCIES IN OFFICE; REPEALING SECTION 59-915, IDAHO CODE; AND AMENDING CHAPTER 9, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-915, IDAHO CODE, TO PROVIDE FOR FILLING VACANCIES IN PUBLIC OFFICE.

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

SECTION 1. That Section 59-915, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 9, Title 59, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 59-915, Idaho Code, and to read as follows:

59-915. VACANCY IN OFFICE -- POSSESSION PENDING QUALIFICATION OF SUCCESSOR. When a vacancy occurs in a public office, the office and duties shall be assumed until the election or appointment and qualification of a successor as follows:

(1) Of the office of the county clerk, auditor and recorder or treasurer, by the senior deputy as designated in section 31-2006, Idaho Code. If no deputy is available, then the board of county commissioners shall assume the office until the election or appointment of a successor.

(2) Of any state executive officer, by the chief deputy, under the supervision of the governor.

Approved March 21, 1991.

CHAPTER 69
(S.B. No. 1118)

AN ACT

RELATING TO SECURED TRANSACTIONS; AMENDING SECTION 28-9-402, IDAHO CODE, TO PROVIDE FOR AMENDMENT OF NAMES OR ADDRESSES ON CERTAIN MULTIPLE FINANCING STATEMENTS AND TO PROVIDE FEES; AMENDING SECTION 28-9-403, IDAHO CODE, TO REVISE CERTAIN DUTIES OF THE FILING OFFICER AND TO REVISE CERTAIN FEES; AND AMENDING SECTION 28-9-405, IDAHO CODE, TO REVISE REQUIREMENTS FOR FINANCING STATEMENTS AND TO REVISE CERTAIN FEES.

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.

(c) The secretary of state may by administrative rule prescribe a system whereby a secured party may amend its name or address on multiple financing statements by one (1) writing signed by the secured party. The secretary of state may provide in the rule a fee schedule for such bulk amendments. This paragraph shall not

apply to financing statements for farm products, fixtures, timber to be cut or minerals.

(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:

(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 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 effectiveness whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeed-

ing 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) 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~~ six dollars ($~~2~~6.00) if the statement is typed or machine printed on the standard form prescribed by the secretary of state and otherwise shall be ~~three~~ ten dollars ($~~3~~10.00). ~~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 statement 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.

SECTION 3. That Section 28-9-405, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-405. ASSIGNMENT OF SECURITY INTEREST -- DUTIES OF FILING OFFICER -- FEES. (1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself ~~or a copy thereof on the face or back of the statement~~. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in section 28-9-403(4). ~~The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be three dollars ($3.00) if it is in the standard form prescribed by the secretary of state, and otherwise shall be four dollars ($4.00), plus in each case an additional fee of two dollars ($2.00) for each name more than one against which the financing statement is required to be indexed.~~

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the

collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. ~~He shall note the assignment on the index of the financing statement, or i~~In the case of a fixture filing, or a filing 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, he shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be ~~two~~ six dollars ($~~2~~6.00) if the statement is in the standard form prescribed by the secretary of state and otherwise shall be ~~three~~ ten dollars ($~~3~~10.00)~~, plus in each case an additional fee of two dollars ($2.00) for each name more than one against which the statement of assignment is required to be indexed~~. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing, subsection (6) of section 28-9-402, may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this title.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

Approved March 21, 1991.

CHAPTER 70
(S.B. No. 1120)

AN ACT

RELATING TO SECURED TRANSACTIONS; AMENDING SECTION 28-9-403, IDAHO CODE, TO PROVIDE THAT CONTINUATION STATEMENTS RELATED TO FARM PRODUCTS MUST BE SIGNED BY THE DEBTOR AND THE SECURED PARTY.

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

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~~,~~ or, if it relates to farm products, by the debtor and the secured party, and must 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 ~~effectiveness~~ 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) 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 typed or machine printed on the standard form prescribed by the secretary of state and otherwise shall be three dollars ($3.00). 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 March 21, 1991.

CHAPTER 71
(S.B. No. 1122)

AN ACT

RELATING TO BRANDS; AMENDING SECTION 25-1101, IDAHO CODE, TO PROVIDE FOR AN IDENTIFICATION MARK, DEVICE OR DOCUMENT PRESCRIBED BY RULES OF THE BOARD.

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

SECTION 1. That Section 25-1101, Idaho Code, be, and the same is hereby amended to read as follows:

25-1101. DEFINITIONS. As used in this chapter, and elsewhere in the Idaho Code where applicable:

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

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

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

"Brand" means ~~an~~ one, either, or both of the following:

(1) An identification mark, device or document prescribed by rules of the board that cannot be switched from one (1) animal to another without destruction or disfigurement of the mark, device or document. Any such mark or device, except for the location in or on the animal, shall be subject to the same restrictions, requirements, inspections, fees and penalties as the permanent identification marks described in the following paragraph (2).

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

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

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

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

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

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

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

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

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

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

Approved March 21, 1991.

CHAPTER 72
(S.B. No. 1148)

AN ACT

RELATING TO DOGS; AMENDING SECTION 25-2807, IDAHO CODE, TO PROHIBIT STATE OR LOCAL GOVERNMENT ENTITIES FROM RESTRICTING THE USE OF ELECTRONIC LOCATING COLLARS ON DOGS.

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

SECTION 1. That Section 25-2807, Idaho Code, be, and the same is hereby amended to read as follows:

25-2807. DOGS AS PROPERTY -- PROOF OF VALUE. Dogs are property; and when the value of any dog is material in any civil or criminal proceeding in this state, the same may be established under the usual rules of evidence relating to values of personal property. No entity of state or local government may by ordinance or regulation prevent the owner of any dog from protecting it from loss by the use of an electronic locating collar.

Approved March 21, 1991.

CHAPTER 73
(S.B. No. 1131)

AN ACT

RELATING TO INDEBTEDNESS OF HOSPITAL DISTRICTS; AMENDING SECTION 39-1339, IDAHO CODE, TO PERMIT A HOSPITAL DISTRICT TO CREATE AN INDEBTEDNESS OF ONE HUNDRED THOUSAND DOLLARS OR MORE FOR THE ACQUISITION, CONSTRUCTION, OR RECONSTRUCTION OF REAL PROPERTY, INCLUDING BUILDINGS AND FIXTURES.

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

SECTION 1. 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~~ one hundred thousand dollars ($~~5~~100,000) 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.

Approved March 21, 1991.

CHAPTER 74
(S.B. No. 1182)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 1992.

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, 1991, through June 30, 1992:

FOR:	
Personnel Costs	$1,747,200
Operating Expenditures	381,700
Capital Outlay	65,000
TOTAL	$2,193,900
FROM:	
Finance Administration Account	$2,193,900

Approved March 21, 1991.

CHAPTER 75
(S.B. No. 1188)

AN ACT

APPROPRIATING MONEYS TO THE BOARD OF MEDICINE AND BOARD OF NURSING IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 292, LAWS OF 1990; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 292, Laws of 1990, there is hereby appropriated to the listed regulatory boards the following amounts to be expended according to the designated expenditure classes from the listed accounts for the period July 1, 1990, through June 30, 1991:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
A. BOARD OF MEDICINE:			
FROM:			
State Board of Medicine Account		$20,000	$20,000
B. BOARD OF NURSING:			
FROM:			
State Board of Nursing Account	$3,700	$15,000	$18,700
TOTAL	$3,700	$35,000	$38,700

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

Approved March 21, 1991.

CHAPTER 76
(S.B. No. 1189)

AN ACT
APPROPRIATING MONEYS TO THE HISPANIC COMMISSION FOR FISCAL YEAR 1992.

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 classes from the listed accounts, for the period July 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$48,400	$16,600	$2,300	$67,300
Hispanic Commission Account		13,600		13,600
TOTAL	$48,400	$30,200	$2,300	$80,900

Approved March 21, 1991.

CHAPTER 77
(S.B. No. 1190)

AN ACT
APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 1992; 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, 1991, through June 30, 1992:

FOR:	
Personnel Costs	$74,600
Operating Expenditures	14,600
TOTAL	$89,200

FROM:

General Account	$89,200

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 according to 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 1, Chapter 227, Laws of 1990, for the period July 1, 1991, through June 30, 1992.

Approved March 21, 1991.

CHAPTER 78
(S.B. No. 1196)

AN ACT

AMENDING SECTION 1, CHAPTER 140, LAWS OF 1990, RELATING TO THE APPROPRIATION FOR THE LOTTERY COMMISSION; ADDING LEGISLATIVE INTENT TO CLARIFY THE SCOPE OF THE APPROPRIATION; ADDING LEGISLATIVE INTENT REGARDING THE CLASSIFICATION OF COMMISSION EMPLOYEES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 140, Laws of 1990, be, and the same is hereby amended to read as follows:

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~~	1,418,900
Operating Expenditures	~~6,925,000~~	4,694,700
Capital Outlay	~~80,000~~	337,500
TOTAL	~~$8,183,300~~	6,451,100
FROM:		
State Lottery Account	~~$8,183,300~~	6,451,100

SECTION 2. It is legislative intent that amounts necessary to pay prizes, retailer commissions, advertising and promotional costs shall be continuously appropriated to the Lottery Commission under the provisions of Section 67-7428, Idaho Code.

SECTION 3. It is legislative intent that Commission employees subject to the provisions of Chapter 53, Title 67, Idaho Code, as stipulated in Section 67-7409, Idaho Code, and who are employed by the Commission prior to passage and approval of this act, shall be classified under the provisions of Idaho Personnel Commission rules contained in Section 04, IDAPA 28.

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

Approved March 21, 1991.

CHAPTER 79
(S.B. No. 1199)

AN ACT

APPROPRIATING MONEYS FOR COMMUNITY COLLEGE SUPPORT FOR FISCAL YEAR 1992.

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, 1991, through June 30, 1992:

FROM:

General Account $8,823,100

Approved March 21, 1991.

CHAPTER 80
(S.B. No. 1020)

AN ACT

RELATING TO ALLOCATION OF FUNDS TO SOIL CONSERVATION DISTRICTS; AMENDING SECTION 22-2727, IDAHO CODE, TO REVISE THE FORMULA FOR ALLOCATION OF FUNDS TO SOIL CONSERVATION DISTRICTS.

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

SECTION 1. 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 equally to the various Idaho soil conservation districts on the basis of the criteria established in the preceding paragraph.

~~All f~~Funds appropriated to the Idaho soil conservation commission for distribution to soil conservation districts shall be allocated equally to the various soil conservation districts in a sum not to exceed five thousand dollars ($5,000) per district. All funds appropriated to the soil conservation commission for distribution to soil conservation districts in excess of five thousand dollars ($5,000) per district 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 and funds or services allocated to each district by authorized officials or other local units of government or organizations.

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

Approved March 21, 1991.

CHAPTER 81
(S.B. No. 1092)

AN ACT

RELATING TO VACANCIES IN COUNTY OFFICES; AMENDING SECTION 59-906, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF A PERSON TO REPLACE AN ELECTED OFFICER TO BE EFFECTIVE ON THE DAY FOLLOWING THE DATE OF THAT OFFICER'S RESIGNATION.

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

SECTION 1. That Section 59-906, Idaho Code, be, and the same is hereby amended to read as follows:

59-906. COUNTY OFFICES -- VACANCIES~~, HOW FILLED~~. (1) Except as provided in subsection (2) of this section, a~~A~~ll vacancies in any county office of any of the several counties of the state, except that of the county commissioners (who shall be appointed by the governor), shall be filled by appointment by the county commissioners of the county in which the vacancy occurs in accordance with the procedure prescribed below until the next general election, when such vacancy shall be filled by election.

The vacancy shall be filled as follows: the county central commit-

tee of the same political party, if any, of the former officer, whose office is vacant, shall submit a list of three (3) nominations to the board of county commissioners within fifteen (15) days from the day the office is vacated. The board of county commissioners shall fill the vacancy by appointment from the submitted list within fifteen (15) days. Should no appointment be made within fifteen (15) days, the county central committee of the political party submitting the nominations shall designate one (1) of the three (3) nominees to fill the vacancy. The person selected shall be a person who possesses the same qualifications at the time of his appointment as those provided by law for election to the office. Upon failure of the committee to make a selection before the expiration of the additional fifteen (15) day period, the board of county commissioners shall, within five (5) days, fill the vacancy by appointing a person having the same qualifications at the time of his appointment as those provided by law for election to the office. If the person who has vacated the office has not been affiliated with a political party, the vacancy shall be filled by the board of county commissioners by appointment of a person having the same qualifications at the time of his appointment as those provided by law for election to the office.

(2) When a county elected officer, except a county commissioner, gives a written notice of intent to resign to the board of commissioners of the county of which he is an elected officer, and when the notice of intent to resign specifies the effective date of the resignation, the county central committee of the same political party of the officer whose office is being vacated, may submit a list of three (3) nominations to the board of county commissioners prior to the effective date of the resignation. The board of county commissioners shall fill the vacancy by appointment from the submitted list to be effective on the day following the date the office is vacated by the former officer. The person selected shall be a person who possesses the same qualifications at the time of his appointment as those provided by law for election to the office. In the event the county elected officer rescinds his notice of intent to resign by notifying the board of county commissioners in writing prior to the effective date of his resignation, all actions taken by either the county central committee or the board of county commissioners to fill the anticipated vacancy, shall be null and void. If no appointment is made prior to the day the office is vacated, the provisions of subsection (1) of this section shall apply.

Approved March 21, 1991.

CHAPTER 82
(H.B. No. 235)

AN ACT

RELATING TO THE USE TAX; AMENDING SECTION 63-3621, IDAHO CODE, TO PROVIDE AN EXEMPTION FOR MATERIALS DONATED TO A NONPROFIT ORGANIZATION, THE STATE OF IDAHO OR ANY POLITICAL SUBDIVISION OF THE STATE FOR INCORPORATION INTO REAL PROPERTY OF THE DONEE.

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

SECTION 1. 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 -- EXEMPTIONS. 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 person who makes the sale 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 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.

(1) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than three (3) months, and which is not required to be registered or licensed under the laws of this state, or to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired by such person in another state while a bona fide resident thereof and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this

state was not actual and substantial.

(m) The use tax herein imposed shall not apply to the storage, use or other consumption of tangible personal property which is or will be incorporated into real property and which has been donated to and has become the property of:

(1) A nonprofit organization as defined in section 63-3622O, Idaho Code; or

(2) The state of Idaho; or

(3) Any political subdivision of the state.

This exemption applies whether the tangible personal property is incorporated in real property by the donee, a contractor or subcontractor of the donee, or any other person.

Approved March 21, 1991.

CHAPTER 83
(S.B. No. 1215)

AN ACT

APPROPRIATING MONEYS TO THE STATE AUDITOR FOR FISCAL YEAR 1992; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; APPROPRIATING MONEYS TO THE STATE AUDITOR IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 404, LAWS OF 1990; AND DECLARING AN EMERGENCY FOR SECTION 4 OF THIS ACT.

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

SECTION 1. 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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. AUDITING AND ACCOUNTING:					
FROM:					
General Account	$1,292,600	$1,310,400	$ 141,100		$2,744,100
II. COMPUTER CENTER:					
FROM:					
Data Processing Services Account	$1,924,700	$1,158,600	$1,638,000		$4,721,300
III. SAFIRS:					
FROM:					
General Account	$ 212,900	$ 688,400			$ 901,300
IV. BOARD OF EXAMINERS:					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account				$7,700	$ 7,700
GRAND TOTAL	$3,430,200	$3,157,400	$1,779,100	$7,700	$8,374,400

SECTION 2. It is legislative intent that an amount, not to exceed $1,000 of the amounts appropriated in Section 1, may be used at the discretion of the State 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 according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 3. There is hereby reappropriated to the State Auditor for the Auditing and Accounting and SAFIRS programs any unexpended and unencumbered General Account balances appropriated by Section 2, Chapter 404, Laws of 1990, for the Auditing and Accounting, Financial Improvement Practices, and SAFIRS programs, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

SECTION 4. In addition to the appropriation made by Section 2, Chapter 404, Laws of 1990, there is hereby appropriated to the State Auditor 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
FOR:					
I. AUDITING AND ACCOUNTING:					
FROM:					
General Account	$9,100	$106,000			$ 115,100
II. COMPUTER CENTER:					
FROM:					
Data Processing Services Account			$1,000,000		$1,000,000
III. BOARD OF EXAMINERS:					
FROM:					
General Account				$91,500	$ 91,500
GRAND TOTAL	$9,100	$106,000	$1,000,000	$91,500	$1,206,600

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 passage and approval.

Approved March 22, 1991.

CHAPTER 84
(S.B. No. 1060)

AN ACT

RELATING TO ADJUDICATION OF WATER RIGHTS; AMENDING SECTION 42-1408A, IDAHO CODE, TO SHORTEN THE PERIOD FOR FILING NOTICES OF CLAIMS TO WATER RIGHTS FOLLOWING THE SECOND ROUND OF SERVICE OF THE COMMENCEMENT NOTICE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-1408A, Idaho Code, be, and the same is hereby amended to read as follows:

42-1408A. SERVICE OF NOTICE OF ORDER COMMENCING A GENERAL ADJUDICATION. (1) Upon entry of a district court's order commencing a general adjudication, the director shall prepare a notice of order, using plain and concise language, that contains the following information or enclosures:

(a) an order commencing a general adjudication has been entered, the date of entry of the order, and the district court that entered the order;

(b) an illustration of the boundaries of the water system to be adjudicated;

(c) that section 42-1409, Idaho Code, requires in a general adjudication all claimants, except as specifically excluded by law, to file for each water right, a notice of claim on a form furnished by the director; failure to file a required notice of claim will result in a court determination that no water right exists for the use of water for which the required notice of claim was not filed;

(d) a notice of claim is required for any water right license and for any water right permit on file for which the director requires a permit holder to file a notice of claim in accordance with section 42-1409, Idaho Code; a notice of claim may be filed for any other water right permit;

(e) a notice of claim is not required for a water right evidenced by an application on file with the department;

(f) a notice of claim, if the court order excludes any uses from an adjudication, may be filed for the excluded use prior to the filing of the director's report with the district court and the right will be determined, even though a notice of claim is not required;

(g) a notice of claim is not required for any person who receives water solely by virtue of ownership of shares of stock in, or by being located within the boundaries of, a water delivery organiza-

tion, if the water delivery organization holds legal title to the water right and if the water delivery organization files a notice of claim;

(h) the date set by the director for filing a timely notice of claim, which shall not be less than ninety (90) days after service;

(i) the locations at which the notice of claim forms will be available and at which a reasonably detailed map of the boundaries of the water system will be posted;

(j) section 42-1414, Idaho Code, requires each claimant, other than those exempted by federal law, to pay a variable fee with a notice of claim; failure to pay the fee will result in rejection of the notice of claim; failure to file a timely notice of claim will result in the assessment of a late fee in the amount of fifty dollars ($50.00) or fifteen per cent (15%) of the original filing fee, whichever is greater;

(k) section 42-1409, Idaho Code, requires that all purchasers of a water right inquire of the director whether a notice of claim has been filed, and if not, to file a notice of claim, except as specifically excluded by law, and that all claimants and purchasers provide the director written notice of any change in ownership, along with some evidence of ownership or of any change in mailing address; and

(l) the files of the district court will contain affidavits of service or other documents stating the persons served with a copy of the notice of order.

(2) The director shall serve copies of the notice of order on the parties to the general adjudication as follows:

(a) the director shall serve the notice of order on the state of Idaho and the United States;

(b) the director shall serve the notice of order on claimants other than the persons in paragraph (a) of subsection (2) of this section, initially by publication once a week for three (3) consecutive weeks in a newspaper of general circulation published in each county in which any part of the water system, which is the subject of the general adjudication, is located. If there is no newspaper published within a county, then the copies shall be published in a newspaper having general circulation in that county;

(c) the director shall post the notice of order in each county courthouse, county recorder's office, and county assessor's office in which any part of the water system is located. The director shall complete the posting on or before the date of the last publication within each county;

(d) the director shall serve the notice of order by ordinary mail on each person listed as owning real property on the real property assessment roll within the boundaries of the water system to be adjudicated at the address listed on the real property assessment roll; and

(e) the director shall file a copy of the notice of order commencing a general adjudication in the office of the county recorder in each county in which any part of the water system is located; notwithstanding the provisions of section 5-505, Idaho Code, the notice, from the time it is filed with the recorder for

record, is constructive notice of the contents thereof within the county in which the notice is recorded, to subsequent purchasers and mortgagees.

(3) The director shall send the notice of order by ordinary mail to all persons who submit a written request to the director to be notified of the commencement of an adjudication. The director may circulate copies in any additional manner the director deems appropriate.

(4) Upon expiration of the period for filing notices of claims, the director shall compare the notices of claims with department records and other information reasonably available to determine whether there are any rights to water from the water system for which no notice of claim was filed. In the event the director determines that not all claimants have filed claims, the director shall make a reasonably diligent effort in accordance with the court order to determine the land to which the possible claim is appurtenant, the last known owner of that land, and the last known address of that owner. The director shall serve a notice of order on the last known owner in accordance with the court order. The notice shall contain the information specified in subsection (1) of this section, except that the notice shall state the additional period of time, in no case less than ~~ninety (90)~~ thirty (30) days from the date the notice is served, in which the notice of claim must be received by the director.

(5) The director shall file with the district court such proof of service as may be required to demonstrate compliance with the above requirements.

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

Approved March 26, 1991.

CHAPTER 85
(S.B. No. 1027, As Amended)

AN ACT

RELATING TO PEARL HARBOR SURVIVOR LICENSE PLATES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-415B, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF A SPECIAL PEARL HARBOR SURVIVOR LICENSE PLATE TO QUALIFYING INDIVIDUALS.

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

SECTION 1. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-415B, Idaho Code, and to read as follows:

49-415B. PEARL HARBOR SURVIVOR SPECIAL PLATES. (1) Any veteran who was on active duty in the armed forces of the United States and

assigned or stationed at Pearl Harbor, Hawaii, on December 7, 1941, and who has been released or discharged from the armed forces under other than dishonorable conditions, may upon application to the department, register and receive for not more than one (1) motor vehicle, special Pearl Harbor survivor number plates in lieu of regular number plates.

(2) In addition to the regular annual registration fee, the applicant shall be charged an initial fee of twenty-five dollars ($25.00) for the issuance of the plates and an annual renewal fee of fifteen dollars ($15.00). The initial fee and the annual fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program which is provided to the public as a personal alternative to the standard license plate requirement. Whenever a qualifying survivor of the Japanese attack on Pearl Harbor on December 7, 1941 transfers or assigns his title or interest to a vehicle especially registered under this section, the registration shall expire, but the Pearl Harbor survivor may hold his special plates which he may have reissued to him upon the payment of the required transfer fees. He may only display those plates after receipt of a new registration from the department.

(3) Pearl Harbor survivor plates shall bear the characters: "Pearl Harbor Survivor" followed by three (3) numerals, and shall in all other respects be as provided by law.

Approved March 26, 1991.

CHAPTER 86
(H.B. No. 71)

AN ACT

RELATING TO MOTOR VEHICLE EQUIPMENT; AMENDING SECTION 49-929, IDAHO CODE, TO CLARIFY THAT THE STANDARDS AND SPECIFICATIONS FOR LAMPS ON SNOW REMOVAL EQUIPMENT SHALL BE ADOPTED BY THE DIRECTOR OF THE IDAHO TRANSPORTATION DEPARTMENT.

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

SECTION 1. That Section 49-929, Idaho Code, be, and the same is hereby amended to read as follows:

49-929. LIGHTS ON SNOW REMOVAL EQUIPMENT. It shall be unlawful to operate any snow removal equipment on any highway unless lamps on the equipment comply with and are lighted when and as required by the standards and specifications adopted by the director <u>of the Idaho transportation department.</u>

Approved March 26, 1991.

CHAPTER 87
(H.B. No. 82, As Amended in the Senate)

AN ACT

RELATING TO THE UNIFORM PROBATE CODE; AMENDING SECTION 15-3-801, IDAHO CODE, TO PROVIDE FOR OPTIONAL PUBLICATION OF NOTICE TO CREDITORS, TO PROVIDE FOR WRITTEN NOTICE TO CREDITORS AND TO PROVIDE THAT THE PERSONAL REPRESENTATIVE SHALL NOT BE LIABLE TO ANY CREDITOR OR SUCCESSOR OF THE DECEDENT FOR GIVING OR FAILING TO GIVE NOTICE; AMENDING SECTION 15-3-802, IDAHO CODE, TO ADD CLARIFYING LANGUAGE; REPEALING SECTION 15-3-803, IDAHO CODE; AMENDING CHAPTER 3, PART 8, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-3-803, IDAHO CODE, TO PROVIDE TIME LIMITATIONS AFTER WHICH CLAIMS AGAINST A DECEDENT'S ESTATE ARE BARRED; AMENDING SECTION 15-3-807, IDAHO CODE, TO SPECIFY THE TIME PERIOD AFTER WHICH CLAIMS AGAINST THE ESTATE MAY BE PAID AND TO PROVIDE CLARIFYING LANGUAGE; AMENDING SECTION 15-3-1003, IDAHO CODE, TO PROVIDE THAT UPON CLOSING AN ESTATE BY SWORN STATEMENT THE PERSONAL REPRESENTATIVE SHALL VERIFY THAT THE TIME LIMITATIONS FOR PRESENTATION OF CREDITORS' CLAIMS HAVE EXPIRED AND TO PROVIDE CLARIFYING LANGUAGE; AND AMENDING SECTION 15-3-1006, IDAHO CODE, TO PROVIDE THAT A CLAIM BY A CREDITOR OF THE DECEDENT AGAINST A DISTRIBUTEE IS BARRED TWO YEARS AFTER THE DECEDENT'S DEATH.

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

SECTION 1. That Section 15-3-801, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-801. NOTICE TO CREDITORS. (a) Unless notice has already been given under this section, a personal representative upon his appointment ~~shall~~ may publish a notice to creditors once a week for three (3) successive weeks in a newspaper of general circulation in the county announcing his appointment and address and notifying creditors of the estate to present their claims within four (4) months after the date of the first publication of the notice or be forever barred.

(b) A personal representative may give written notice by mail or other delivery to any creditor, notifying the creditor to present his claim within four (4) months after the published notice if given as provided in subsection (a) of this section or within sixty (60) days after the mailing or delivery of the notice, whichever is later, or be forever barred. Written notice must be the notice described in subsection (a) of this section or a similar notice.

(c) The personal representative is not liable to any creditor or to any successor of the decedent for giving or failing to give notice under this section.

SECTION 2. That Section 15-3-802, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-802. STATUTES OF LIMITATIONS. (a) Unless an estate is insolvent, the personal representative, with the consent of all successors

whose interests would be affected, may waive any defense of limitations available to the estate. If the defense is not waived, no claim ~~which--was~~ barred by ~~any~~ a statute of limitations at the time of the decedent's death ~~shall~~ may be allowed or paid.

(b) The running of ~~any~~ statute of limitations measured from ~~some other~~ an event other than death ~~and advertisement for claims against a decedent~~ or the giving of notice to creditors is suspended during the four (4) months following the decedent's death but resumes thereafter as to claims not barred pursuant to the sections which follow.

(c) For purposes of ~~any~~ statute of limitations, the proper presentation of a claim under section 15-3-804 ~~of this Part~~, Idaho Code, is equivalent to commencement of a proceeding on the claim.

SECTION 3. That Section 15-3-803, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 3, Part 8, Title 15, Idaho Code, be, and the same is hereby amended by the addition of a NEW SECTION, to be known and designated as Section 15-3-803, Idaho Code, and to read as follows:

15-3-803. LIMITATIONS ON PRESENTATION OF CLAIMS. (a) All claims against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by another statute of limitations or nonclaim statute, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented within the earlier of the following dates:

(1) two (2) years after the decedent's death; or

(2) within the time provided in section 15-3-801(b), Idaho Code, for creditors who are given actual notice, and within the time provided in section 15-3-801(a), Idaho Code, for all creditors barred by publication.

(b) All claims described in subsection (a) of this section barred by the nonclaim statute of the decedent's domicile before the giving of notice to creditors in this state are also barred in this state.

(c) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) a claim based on a contract with the personal representative, within four (4) months after performance by the personal representative is due;

(2) any other claim, within the later of four (4) months after it arises, or the time specified in subsection (a)(1) of this section.

(d) Nothing in this section affects or prevents:

(1) any proceeding to enforce any mortgage, pledge, or other lien

upon property of the estate;

(2) to the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which he is protected by liability insurance; or

(3) collection of compensation for services rendered and reimbursement for expenses advanced by the personal representative or by the attorney or accountant for the personal representative of the estate.

SECTION 5. That Section 15-3-807, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-807. PAYMENT OF CLAIMS. (a) Upon the expiration of ~~four (4) months from the date of the first publication of the notice to creditors~~ the earlier of the time limitations provided in section 15-3-803, Idaho Code, for the presentation of claims, the personal representative shall proceed to pay the claims allowed against the estate in the order of priority prescribed, after making provision for homestead, family and support allowances, for claims already presented ~~which~~ that have not yet been allowed or whose allowance has been appealed, and for unbarred claims ~~which~~ that may yet be presented, including costs and expenses of administration. By petition to the court in a proceeding for the purpose, or by appropriate motion if the administration is supervised, a claimant whose claim has been duly allowed but not paid ~~as provided herein~~ may secure an order directing the personal representative to pay the claim to the extent ~~that~~ funds of the estate are available ~~for the payment~~ to pay it.

(b) The personal representative at any time may pay any just claim ~~which~~ that has not been barred, with or without formal presentation, but he is personally liable to any other claimant whose claim is allowed and who is injured by ~~such~~ its payment if:

(1) ~~the~~ payment was made before the expiration of the time limit stated in subsection (a) of this section and the personal representative failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants; or

(2) ~~the~~ payment was made, due to ~~the~~ negligence or wilful fault of the personal representative, in such manner as to deprive the injured claimant of ~~his~~ priority.

SECTION 6. That Section 15-3-1003, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-1003. CLOSING ESTATES -- BY SWORN STATEMENT OF PERSONAL REPRESENTATIVE. (a) Unless prohibited by order of the court and except for estates being administered in supervised administration proceedings, a personal representative may close an estate by filing with the court no earlier than six (6) months after the date of original appointment of a general personal representative for the estate, a verified statement stating that he, or a ~~prior~~ previous personal representative whom he has succeeded, has or have:

(1) ~~published notice to creditors as provided by section 15-3-801 of this code and that the first publication occurred more than six~~

~~(6) months prior to the date of the statement~~ determined that the time limitation for presentation of creditors' claims has expired;

(2) fully administered the estate of the decedent by making payment, settlement or other disposition of all claims ~~which~~ that were presented, expenses of administration and estate, inheritance and other death taxes, except as specified in the statement, and that the assets of the estate have been distributed to the persons entitled. If any claims remain undischarged, the statement ~~shall~~ must state whether the personal representative has distributed the estate subject to possible liability with the agreement of the distributees or ~~it shall~~ state in detail other arrangements ~~which~~ that have been made to accommodate outstanding liabilities; and

(3) sent a copy thereof to all distributees of the estate and to all creditors or other claimants of whom he is aware whose claims are neither paid nor barred and has furnished a full account in writing of his administration to the distributees whose interests are affected thereby.

(b) If no proceedings involving the personal representative are pending in the court one (1) year after the closing statement is filed, the appointment of the personal representative terminates.

SECTION 7. That Section 15-3-1006, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-1006. LIMITATIONS ON ACTIONS AND PROCEEDINGS AGAINST DISTRIBUTEES. Unless previously adjudicated in a formal testacy proceeding or in a proceeding settling the accounts of a personal representative or otherwise barred, the claim of any claimant to recover from a distributee who is liable to pay the claim, and the right of any heir or devisee, or of a successor personal representative acting in their behalf, to recover property improperly distributed or the value thereof from any distributee is forever barred at the later of (~~1~~i) three (3) years after the decedent's death; or (~~2~~ii) one (1) year after the time of distribution thereof, except if the claim is by a creditor of the decedent, it is forever barred two (2) years after the decedent's death. This section does not bar an action to recover property or value received as the result of fraud.

Approved March 26, 1991.

CHAPTER 88
(H.B. No. 343)

AN ACT

APPROPRIATING MONEYS TO THE LOTTERY COMMISSION FOR FISCAL YEAR 1992; EXPRESSING LEGISLATIVE INTENT TO CLARIFY THE SCOPE OF THE APPROPRIATION; AND EXPRESSING LEGISLATIVE INTENT REGARDING THE CLASSIFICATION OF COMMISSION EMPLOYEES.

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 for administrative costs according to the designated expense classes from the listed account for the period July 1, 1991, through June 30, 1992:

FOR:	
Personnel Costs	$1,560,500
Operating Expenditures	4,694,700
Capital Outlay	600,000
TOTAL	$6,855,200
FROM:	
State Lottery Account	$6,855,200

SECTION 2. It is legislative intent that amounts necessary to pay prizes, retailer commissions, advertising and promotional costs shall be continuously appropriated to the Lottery Commission under the provisions of Section 67-7428, Idaho Code.

SECTION 3. It is legislative intent that Commission employees subject to the provisions of Chapter 53, Title 67, Idaho Code, as stipulated in Section 67-7409, Idaho Code, and who are employed by the Commission prior to passage and approval of this act, shall be classified under the provisions of Idaho Personnel Commission rules contained in Section 04, IDAPA 28.

Approved March 26, 1991.

CHAPTER 89
(S.B. No. 1187)

AN ACT

RELATING TO DRIVER'S LICENSES; AMENDING SECTION 49-105, IDAHO CODE, TO DELETE THE DEFINITION OF "SPECIAL CLASS D" DRIVER'S LICENSE; AMENDING SECTION 49-302, IDAHO CODE, TO CLARIFY UNDER WHAT CONDITIONS A NONRESIDENT IS EXEMPT FROM LICENSING; AMENDING SECTION 49-303, IDAHO CODE, TO PROVIDE THAT NO PERSON UNDER AGE SEVENTEEN SHALL BE LICENSED AND TO PROVIDE FOR THE ISSUANCE OF A LICENSE TO ANY PERSON FIFTEEN OR SIXTEEN YEARS OF AGE UNDER CERTAIN CONDITIONS; AMENDING SECTION 49-305, IDAHO CODE, TO DELETE THE PROVISION FOR THE ISSUANCE OF A SPECIAL CLASS D DRIVER'S LICENSE AND TO PROVIDE FOR THE ISSUANCE OF A LICENSE TO PERSONS FIFTEEN AND SIXTEEN YEARS OF AGE UNDER CERTAIN CONDITIONS; AMENDING SECTION 49-313, IDAHO CODE, TO PROVIDE FOR THE RETESTING OF DRIVER SKILLS FOR CERTAIN PERSONS UPON APPLICATION FOR A DRIVER'S LICENSE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

49-105. DEFINITIONS -- D.

(1) "Dealer" means every person in the business of buying, selling or exchanging three (3) or more new or used vehicles, new or used motorcycles or motorscooters, manufactured homes, travel trailers or motor homes in any calendar year, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, or who has an established place of business for the sale, lease, trade, or display of these vehicles. 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 withdrawal by the department of commercial 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.

(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 operation of any combination of motor vehicles with a gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Recreational vehicles are exempted from this class of license. Persons holding a valid class A license may also operate vehicles requiring a class B, C, 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 requiring a class C license, with any appropriate endorsements, and vehicles 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

requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in section 49-123, Idaho Code.

~~(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-B-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 commercial vehicles or 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 - Tank 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 2. That Section 49-302, Idaho Code, be, and the same is hereby amended to read as follows:

49-302. WHAT PERSONS ARE EXEMPT FROM LICENSE. The following persons are exempt from licensing if driving privileges are not suspended, cancelled or revoked, disqualified, denied or refused:

(1) Any person while driving or operating any special mobile equipment, farm tractor, or implement of husbandry moved on a highway.

(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 car-

rier; and

(d) Used within one hundred fifty (150) miles of the person's farm.

(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~~ fifteen (14~~5~~) 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 with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age, and only if Idaho residency is not established.

(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.

(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.

(9) Any active duty 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 commercial driver's license to operate military vehicles.

SECTION 3. That Section 49-303, Idaho Code, be, and the same is hereby amended to read as follows:

49-303. WHAT PERSONS SHALL NOT BE LICENSED. The department shall not issue any driver's license, and if issued, may revoke or cancel the driver's license of a person who:

(1) As an operator of a vehicle requiring a class D driver's license, is under the age of ~~sixteen~~ seventeen (16~~7~~) years, except that the department may issue a ~~special~~ driver's license to any person who has successfully completed an approved driver training course and who is at least ~~fourteen~~ fifteen (14~~5~~) years of age ~~upon--meeting--the requirements--of--section--49-305,-Idaho-Code~~, with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age.

(2) As an operator of a vehicle requiring a class D driver's

license, is under the age of ~~sixteen~~ seventeen (16~~7~~) 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 4. That Section 49-305, Idaho Code, be, and the same is hereby amended to read as follows:

49-305. INSTRUCTION PERMITS~~,~~ AND TEMPORARY ~~AND SPECIAL~~ LICENSES. (1) Upon passage of a knowledge test for the license class type, the 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. ~~Except--when--operating-a-motorcycle,-t~~That person must be accompanied by an adult licensed driver 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, and who has successfully completed an approved driver training course may apply for a class D instruction permit with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age.

(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 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 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-class D-license-to-any-person-who:~~

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

~~(b)--Whose--parent(s)--or-guardian(s)-and-employer-have--certified on-a-form-furnished-by-the--department--that--a--special--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-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.~~

SECTION 5. That Section 49-313, Idaho Code, be, and the same is hereby amended to read as follows:

49-313. EXAMINATION OF APPLICANTS. (1) The sheriff or deputy shall examine every applicant for an 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.

(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.

(4) Any person who has successfully completed an approved driver training course and who applies for a driver's license more than three (3) months after completion of the driver training course shall be required to retake the skill test in addition to any other tests required upon application for a driver's license.

(5) 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.

(~~5~~6) 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~~7) 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.

(~~7~~8) 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~~9) 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~~10) 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 6. This act shall be in full force and effect on and after September 1, 1991. Special class D licenses issued under the provisions of section 49-305, Idaho Code, shall remain in effect until expiration at sixteen (16) years of age for those drivers who are at least fifteen (15) years of age prior to the effective date of this act. The special class D license shall be considered a class D license with driving privileges restricted to daylight hours only, until the age of sixteen (16) years, for any special class D driver who attains the age of fifteen (15) years on or after the effective date of this act. No license shall remain in effect if suspended or revoked by the department as otherwise required by law.

Approved March 27, 1991.

CHAPTER 90
(S.B. No. 1124)

AN ACT
RELATING TO THE POW/MIA SCHOLARSHIP ACT OF 1972; AMENDING SECTION 33-4302, IDAHO CODE, TO EXPAND THE COVERAGE OF THE ACT.

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

SECTION 1. That Section 33-4302, Idaho Code, be, and the same is hereby amended to read as follows:

33-4302. SCHOLARSHIPS -- STATE AID. Children of any Idaho citizen who is a resident of the state of Idaho on or after the effective date of this act and who has been determined by the federal government to be a prisoner of war or missing in action or died of injuries or wounds sustained in action in southeast Asia, including Korea, or who shall become so hereafter, in any area of armed conflict in which the United States is a party, shall be admitted to attend any public institution of higher education or public vocational-technical school within the state of Idaho without the necessity of paying tuition and fees therefor; that such student shall be provided with books, equipment and supplies necessary for pursuit of such program of enrollment not to exceed ~~one~~ two hundred dollars ($~~1~~200) per quarter, semester, intensified semester, or like educational period; that such student shall be furnished on-campus housing and subsistence not to exceed ~~one~~ two hundred dollars ($~~1~~200) for each month he is enrolled under this program; provided, however, that such educational benefits shall not exceed a total of thirty-six (36) months or four (4) nine (9) month periods; provided further, that such child shall meet such other educational qualifications as such institution of higher education or vocational-technical school has established for other prospective students of this state.

Affected institutions shall in their preparation of future budgets include therein costs resultant from such tuition, fee, book, equipment, supply, housing and subsistence loss for reimbursement thereof from appropriations of state funds.

Applicants for the scholarship program herein prescribed shall provide institutional administrative personnel with documentation of their rights under this act.

Approved March 27, 1991.

CHAPTER 91
(S.B. No. 1013)

AN ACT
RELATING TO THE MOTOR VEHICLE NONRESIDENT VIOLATOR COMPACT; AMENDING TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 25, TITLE

49, IDAHO CODE, TO PROVIDE FINDINGS AND DECLARATION OF POLICY AND PURPOSE, TO PROVIDE DEFINITIONS, TO PROVIDE A PROCEDURE FOR ISSUING JURISDICTION, TO PROVIDE A PROCEDURE FOR A HOME JURISDICTION, TO PROVIDE APPLICABILITY OF OTHER LAWS, TO PROVIDE COMPACT ADMINISTRATOR PROCEDURES, TO PROVIDE FOR ENTRY INTO THE COMPACT AND WITHDRAWAL, TO PROVIDE EXCEPTIONS, TO PROVIDE AMENDMENTS TO THE COMPACT, AND TO PROVIDE CONSTRUCTION AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 25, Title 49, Idaho Code, and to read as follows:

CHAPTER 25
NONRESIDENT VIOLATOR COMPACT

49-2501. ENACTMENT OF COMPACT. The nonresident violator compact hereinafter called "the compact" is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

NONRESIDENT VIOLATOR COMPACT

ARTICLE I

Findings and Declaration of Policy

(1) The party jurisdictions find that:

(a) In most instances, a motorist who is cited for a traffic violation in a jurisdiction other than his home jurisdiction must post collateral or bond to secure appearance for trial at a later date; or if unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or is taken directly to court for his trial to be held. In some instances, the motorist's driver's license may be deposited as collateral to be returned after he has complied with the terms of the citation. The purpose of the practices described is to ensure compliance with the terms of a traffic citation by the motorist who, if permitted to continue on his way after receiving the traffic citation, could return to his home jurisdiction and disregard his duty under the terms of the traffic citation.

(b) A motorist receiving a traffic citation in his home jurisdiction is permitted, except for certain violations, to accept the citation from the officer at the scene of the violation and to immediately continue on his way after promising or being instructed to comply with the terms of the citation.

(c) The practice described in paragraph (a) of this subsection causes unnecessary inconvenience and, at times, a hardship for the motorist 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 arrangement can be made.

(d) The deposit of a driver's license as a bail bond, as described in paragraph (a) of this subsection, is viewed with disfavor.

(e) The practices described herein consume an undue amount of law

enforcement time.

(2) It is the policy of the party jurisdictions to:

(a) Seek compliance with the laws, ordinances and administrative rules and regulations relating to the operation of motor vehicles in each of the jurisdictions.

(b) Allow motorists to accept a traffic citation for certain violations and proceed on their way without delay whether or not the motorist is a resident of the jurisdiction in which the citation was issued.

(c) Extend cooperation to its fullest extent among the jurisdictions for obtaining compliance with the terms of a traffic citation issued in one jurisdiction to a resident of another jurisdiction.

(d) Maximize effective utilization of law enforcement personnel and assist court systems in the efficient disposition of traffic violations.

(3) The purpose of this compact is to:

(a) Provide a means through which the party jurisdictions may participate in a reciprocal program to effectuate the policies enumerated in subsection (2) hereof in a uniform and orderly manner.

(b) Provide for the fair and impartial treatment of traffic violators operating within party jurisdictions in recognition of the motorist's right of due process and the sovereign status of a party jurisdiction.

ARTICLE II

Definitions

As used in this compact, the following words have the meaning indicated, unless the context requires otherwise:

(1) "Citation" means any summons, ticket or other official document issued by a police officer for a traffic violation containing an order which requires the motorist to respond.

(2) "Collateral" means any cash or other security deposited to secure an appearance for trial, following the issuance by a police officer of a citation for a traffic violation.

(3) "Compliance" means to appear in court or pay the fine and costs specified in the citation or to fulfill an obligation arising from any other option expressly stated upon the citation.

(4) "Court" means a court of law or traffic tribunal.

(5) "Driver's license" means any license or privilege to operate a motor vehicle issued under the laws of the home jurisdiction.

(6) "Home jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator.

(7) "Issuing jurisdiction" means the jurisdiction in which the traffic citation was issued to the motorist.

(8) "Jurisdiction" means a state, territory or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, provinces of Canada or other countries.

(9) "Motorist" means a driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction.

(10) "Personal recognizance" means an agreement by a motorist made at the time of issuance of the traffic citation that he will comply with the terms of that traffic citation.

(11) "Police officer" means any individual authorized by the party jurisdiction to issue a citation for a traffic violation.

(12) "Terms of the citation" mean those options expressly stated upon the citation.

ARTICLE III

Procedure for Issuing Jurisdiction

(1) When issuing a citation for a traffic violation, a police officer shall issue the citation to a motorist who possesses a driver's license issued by a party jurisdiction and shall not, subject to the exceptions noted in subsection (2) hereof, require the motorist to post collateral to secure appearance, if the officer receives the motorist's personal recognizance that he will comply with the terms of the citation.

(2) Personal recognizance is acceptable only if not prohibited by law. If mandatory appearance is required, it should take place immediately following issuance of the citation.

(3) Upon failure of a motorist to comply with the terms of a traffic citation, the appropriate official shall report to the licensing authority of the jurisdiction in which the traffic citation was issued of the failure to comply.

(4) Upon receipt of the report, the licensing authority of the issuing jurisdiction shall transmit to the licensing authority in the home jurisdiction of the motorist, the information in a form and content as contained in the compact manual.

(5) The licensing authority of the issuing jurisdiction need not suspend the privilege of a motorist for whom a report has been transmitted.

(6) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation if the date of transmission is more than six (6) months after the date on which the traffic citation was issued.

(7) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation where the date of issuance of the citation predates the most recent of the effective dates of entry for the two (2) jurisdictions affected.

ARTICLE IV

Procedure for Home Jurisdiction

(1) Upon receipt of a report of a failure to comply from the licensing authority of the issuing jurisdiction, the licensing authority of the home jurisdiction shall notify the motorist and initiate a suspension action, in accordance with the home jurisdiction's procedures, to suspend the motorist's driver's license until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the home jurisdiction licensing authority.

(2) The licensing authority of the home jurisdiction shall maintain a record of actions taken and make reports to issuing jurisdictions as provided in the compact manual.

ARTICLE V

Applicability of Other Laws

Except as expressly required by the provisions of this compact, nothing contained herein shall be construed to affect the right of any party jurisdiction to apply any of its other laws relating to license to drive to any person or circumstance, or to invalidate or prevent

any driver license agreement or other cooperative arrangements between a party jurisdiction and a nonparty jurisdiction.

ARTICLE VI

Compact Administrator Procedures

(1) 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 party jurisdiction to be known as the compact administrator. The compact administrator shall be appointed by the jurisdiction executive and will serve and be subject to removal in accordance with the laws of the jurisdiction he represents. A compact administrator may provide for the discharge of his duties and the performance of his functions as a board member by an alternate. An alternate may not be entitled to serve unless written notification of his identity has been given to the board.

(2) 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 votes on the board are cast in favor. Action by the board shall be only at a meeting at which a majority of the party jurisdictions are represented.

(3) The board shall elect annually, from its membership, a chairman and vice chairman.

(4) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party jurisdiction, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(5) The board may accept for any of its purposes and functions under this compact, any and all donations, grants of money, equipment, supplies, materials and services, conditional or otherwise, from any jurisdiction, the United States or any other governmental agency, and may receive, utilize and dispose of the same.

(6) The board may contract with, or accept services or personnel from any governmental or intergovernmental agency, person, firm or corporation, or any private nonprofit organization or institution.

(7) 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 VII

Entry Into Compact and Withdrawal

(1) This compact shall become effective when it has been adopted by at least two (2) jurisdictions.

(a) Entry into the compact shall be made by a resolution of ratification executed by the authorized officials of the applying jurisdiction and submitted to the chairman of the board.

(b) The resolution shall be in a form and content as provided in the compact manual and shall include statements that in substance are as follows:

1. A citation of the authority by which the jurisdiction is empowered to become a party to this compact.

2. Agreement to comply with the terms and provisions of the

compact.

3. That compact entry is with all jurisdictions then party to the compact and with any jurisdiction that legally becomes a party to the compact.

(c) The effective date of entry shall be specified by the applying jurisdiction, but it shall not be less than sixty (60) days after notice has been given by the chairman of the board of compact administrators or by the secretariat of the board to each party jurisdiction that the resolution from the applying jurisdiction has been received.

(2) A party jurisdiction may withdraw from this compact by official written notice to the other party jurisdictions, 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 jurisdiction. No withdrawal shall affect the validity of this compact as to the remaining party jurisdictions.

ARTICLE VIII

Exceptions

The provisions of this compact shall not apply to parking or standing violations, highway weight limit violations or violations of law governing the transportation of hazardous materials.

ARTICLE IX

Amendments to the Compact

(1) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the board of compact administrators and may be initiated by one (1) or more party jurisdictions.

(2) Adoption of an amendment shall require endorsement of all party jurisdictions and shall become effective thirty (30) days after the date of the last endorsement.

(3) Failure of a party jurisdiction to respond to the compact chairman within one hundred twenty (120) days after receipt of the proposed amendment shall constitute endorsement.

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 party jurisdiction or of the United States or the applicability thereof to any government agency, person or circumstance is held invalid, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any jurisdiction party thereto, the compact shall remain in full force and effect as to the remaining jurisdictions and in full force and effect as to the jurisdiction affected as to all severable matters.

SECTION 2. This act shall be in full force and effect on and after January 1, 1992.

Approved March 27, 1991.

CHAPTER 92
(S.B. No. 1095)

AN ACT

APPROPRIATING THREE HUNDRED THOUSAND DOLLARS OR SUCH LESSER AMOUNT THEREOF AS MAY BECOME AVAILABLE FROM THE FUNDS MADE AVAILABLE TO THE DEPARTMENT OF EMPLOYMENT OF THE STATE OF IDAHO PURSUANT TO SECTION 903 OF THE SOCIAL SECURITY ACT, AS AMENDED, FOR THE PURCHASE OF REAL AND PERSONAL PROPERTY, FOR THE CONSTRUCTION OF OFFICE BUILDINGS FOR USE BY THE DEPARTMENT OF EMPLOYMENT, AND FOR REPAIRING, REMODELING AND MAINTAINING OFFICE BUILDINGS FOR USE OF THE DEPARTMENT OF EMPLOYMENT; AND PROVIDING THAT NO PART OF THE MONEY APPROPRIATED SHALL BE OBLIGATED AFTER THE EXPIRATION OF THE TWO-YEAR PERIOD BEGINNING WITH THE FIRST DAY OF JULY, 1991.

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

SECTION 1. There is hereby appropriated out of the funds made available to the Department of Employment of the State of Idaho, pursuant to Section 903 of the Social Security Act, as amended, the sum of $300,000 or such lesser amount thereof as may become available as this state's share of funds allocated under the provisions of said Section 903 of the Social Security Act, as amended, to be used for the purpose of the purchase of real and personal property, the construction of office buildings for use by the Department of Employment, and for repairing, remodeling and maintaining office buildings used by the Department of Employment of the State of Idaho, as authorized by and subject to the limitations of Section 72-1346(e), Idaho Code, and Section 72-1348(d), Idaho Code.

SECTION 2. No part of the money hereby appropriated shall be obligated after the expiration of the two-year period beginning with the first day of July, 1991.

Approved March 27, 1991.

CHAPTER 93
(S.B. No. 1024)

AN ACT

RELATING TO COUNTY ELECTIONS; AMENDING CHAPTER 20, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-2012, IDAHO CODE, TO PROVIDE FOR THE APPLICATION OF THE PROVISIONS OF THE STATE'S CAMPAIGN EXPENDITURE REPORTING LAW TO COUNTY ELECTIONS.

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

SECTION 1. That Chapter 20, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 31-2012, Idaho Code, and to read as follows:

31-2012. APPLICATION OF CAMPAIGN REPORTING LAW TO CERTAIN COUNTY ELECTIONS. The provisions of sections 67-6601 through 67-6616 and 67-6623 through 67-6628, Idaho Code, insofar as they relate to the reporting of campaign contributions and expenditures are hereby made applicable to all elections for county elected officers in counties of the state, except that the clerk of the district court shall stand in place of the secretary of state.

Approved March 27, 1991.

CHAPTER 94
(S.B. No. 1224)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 1992; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 202, LAWS OF 1990; AND DECLARING AN EMERGENCY FOR SECTION 3 OF THE 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 Correction not exceed the following amount for the period July 1, 1991, through June 30, 1992:

FROM:	
General Account	$37,476,800
Interagency Billing and Receipts Account	915,500
Probation and Parole Receipts Account	646,800
Penitentiary Income Account	948,700
Job Training Partnership Account	191,200
Law Enforcement Grants Account	231,000
On the Job Training Account	88,100
TOTAL	$40,498,100

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION AND INSTITUTIONAL SUPPORT:					
FROM:					
General Account	$ 4,469,300	$2,832,600	$1,571,500	$786,100	$ 9,659,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Job Training Partnership Account	182,700	8,500			191,200
On the Job Training Account	76,000	12,100			88,100
Probation and Parole Receipts Account	33,300	6,800			40,100
TOTAL	$ 4,761,300	$2,860,000	$1,571,500	$786,100	$ 9,978,900
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Account	$ 6,829,100	$1,217,900	$ 117,000		$ 8,164,000
Penitentiary Income Account		948,700			948,700
Interagency Billing and Receipts Account	46,600	97,400			144,000
TOTAL	$ 6,875,700	$2,264,000	$ 117,000		$ 9,256,700
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Account	$ 2,548,700	$ 824,300	$ 51,600	$ 48,700	$ 3,473,300
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Account	$ 1,481,300	$ 652,400	$ 113,000		$ 2,246,700
Interagency Billing and Receipts Account	17,600	53,900	15,000		86,500
TOTAL	$ 1,498,900	$ 706,300	$ 128,000		$ 2,333,200
E. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Account	$ 1,339,900	$ 441,800	$ 22,800		$ 1,804,500
Interagency Billing and Receipts Account	97,400	92,200	58,500		248,100
TOTAL	$ 1,437,300	$ 534,000	$ 81,300		$ 2,052,600
F. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General Account	$ 3,707,300	$1,021,500	$ 48,700		$ 4,777,500
G. ST. ANTHONY WORK CAMP:					
FROM:					
General Account	$ 952,100	$ 275,500			$ 1,227,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Interagency Billing and Receipts Account		164,000	$ 40,700		204,700
TOTAL	$ 952,100	$ 439,500	$ 40,700		$ 1,432,300
H. FIELD AND COMMUNITY SERVICES:					
FROM:					
General Account	$ 4,513,000	$ 845,900	$ 528,300		$ 5,887,200
Probation and Parole Receipts Account	548,900	57,800			606,700
Law Enforcement Grants Account	175,700	55,300			231,000
Interagency Billing and Receipts Account		187,200	45,000		232,200
TOTAL	$ 5,237,600	$1,146,200	$ 573,300		$ 6,957,100
I. PAROLE COMMISSION:					
FROM:					
General Account	$ 165,000	$ 69,800	$ 1,700		$ 236,500
GRAND TOTAL	$27,183,900	$9,865,600	$2,613,800	$834,800	$40,498,100

SECTION 3. In addition to the appropriation made by Section 2, Chapter 202, Laws of 1990, there is hereby appropriated to the Department of Correction 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, 1990, through June 30, 1991:

A. ADMINISTRATION AND INSTITUTIONAL SUPPORT:

FOR:	
Operating Expenditures	$ 49,500
Capital Outlay	8,500
Trustee and Benefit Payments	767,700
TOTAL	$ 825,700
FROM:	
General Account	$ 825,700
B. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:	
FOR:	
Capital Outlay	$ 40,000
FROM:	
Interagency Billing and Receipts Account	$ 40,000
C. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:	
FOR:	
Personnel Costs	$ 215,000
FROM:	
General Account	$ 215,000

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 passage and approval.

Approved March 27, 1991.

CHAPTER 95
(S.B. No. 1223)

AN ACT

APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 1992.

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. COMPENSATION:					
FROM:					
Industrial Administration Account	$1,792,300	$ 627,900	$ 68,700	$ 651,900	$3,140,800
B. REHABILITATION:					
FROM:					
Industrial Administration Account	$1,906,100	$ 484,600	$136,100		$2,526,800
C. CRIME VICTIMS:					
FROM:					
Crime Victims Compensation Account	$ 117,300	$ 31,400		$1,069,000	$1,217,700
GRAND TOTAL	$3,815,700	$1,143,900	$204,800	$1,720,900	$6,885,300

Approved March 27, 1991.

CHAPTER 96
(S.B. No. 1222)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 1992; 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, 1991, through June 30, 1992:

FROM:	
General Account	$1,182,900
State Historical Society Foundation Account	210,400
Historical Preservation Account	497,000
TOTAL	$1,890,300

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. HISTORICAL PRESERVATION AND EDUCATION:					
FROM:					
General Account	$ 721,200	$244,100	$107,100	$ 2,500	$1,074,900
State Historical Society Foundation Account	1,700	108,100	5,000		114,800
Historical Preservation Account	373,100	83,900		40,000	497,000
TOTAL	$1,096,000	$436,100	$112,100	$42,500	$1,686,700
B. HISTORIC SITES MAINTENANCE AND INTERPRETATION:					
FROM:					
General Account	$ 53,000	$ 40,400	$ 14,600		$ 108,000
State Historical Society Foundation Account	70,300	25,300			95,600
TOTAL	$ 123,300	$ 65,700	$ 14,600		$ 203,600
GRAND TOTAL	$1,219,300	$501,800	$126,700	$42,500	$1,890,300

SECTION 3. There is hereby reappropriated to the State Board of Education for the Idaho State Historical Society any unexpended and unencumbered balances of the General Account moneys appropriated by Section 2, Chapter 343, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

Approved March 27, 1991.

CHAPTER 97
(S.B. No. 1219)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR THE SPECIAL PROGRAMS FOR FISCAL YEAR 1992; 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, 1991, through June 30, 1992:

FROM:	
General Account	$3,361,600
Paul L. Fowler Scholarship Account	10,600
State Student Incentive Grant Account	216,100
TOTAL	$3,588,300

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. FOREST UTILIZATION RESEARCH:					
FROM:					
General Account	$ 357,500	$ 45,000	$ 33,400		$ 435,900
B. IDAHO GEOLOGICAL SURVEY:					
FROM:					
General Account	$ 473,200	$ 60,100	$ 5,000		$ 538,300
C. SCHOLARSHIPS AND GRANTS:					
FROM:					
General Account				$1,685,000	$1,685,000
Paul L. Fowler Scholarship Account		$ 800		9,800	10,600
State Student Incentive Grant Account				216,100	216,100
TOTAL		$ 800		$1,910,900	$1,911,700
D. MUSEUM OF NATURAL HISTORY:					
FROM:					
General Account	$ 354,500	$ 35,200	$ 99,100		$ 488,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
E. SMALL BUSINESS DEVELOPMENT CENTERS:					
FROM:					
General Account				$ 213,600	$ 213,600
GRAND TOTAL	$1,185,200	$141,100	$137,500	$2,124,500	$3,588,300

SECTION 3. 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 2, Chapter 417, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

SECTION 4. There is hereby reappropriated to the Board of Regents of the University of Idaho for the Idaho Geological Survey Program any unexpended and unencumbered balance of the moneys appropriated by Section 2, Chapter 417, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

SECTION 5. 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 417, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

SECTION 6. There is hereby reappropriated to the State Board of Education for the Museum of Natural History any unexpended and unencumbered balance of the moneys appropriated by Section 2, Chapter 417, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

SECTION 7. There is hereby reappropriated to the State Board of Education for the Small Business Development Centers any unexpended and unencumbered balance of the moneys appropriated by Section 2, Chapter 417, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

Approved March 27, 1991.

CHAPTER 98
(S.B. No. 1198)

AN ACT

RELATING TO MAGISTRATES; AMENDING SECTION 1-2223, IDAHO CODE, TO DELETE LANGUAGE REQUIRING CERTAIN MAGISTRATES BEING CERTIFIED AS HAVING RECEIVED ADEQUATE TRAINING TO HANDLE JUVENILE DELINQUENCY

MATTERS.

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

SECTION 1. That Section 1-2223, Idaho Code, be, and the same is hereby amended to read as follows:

1-2223. MAGISTRATE JUDGES HANDLING JUVENILE DELINQUENCY CASES. (1) Each magistrate judge in a judicial district who is assigned juvenile delinquency matters shall receive instruction in a course designed for training of judges of juvenile courts.

(2) Each magistrate judge to whom this section applies shall attend instruction provided when it is offered for the first time after his appointment, election or assignment, unless he is excused by written order of the supreme court.

(3) The administrative director of the courts shall arrange for giving appropriate instruction to magistrate judges as required by the provisions of this section.

~~(4)--On--and--after--July--1,--1991,--no-magistrate-judge-shall-be assigned-juvenile-delinquency-matters-unless-certified-by-the--supreme court-as-having-received-adequate-training-and-being-qualified-to-handle-juvenile-delinquence-matters.~~

Approved March 27, 1991.

CHAPTER 99
(S.B. No. 1170)

AN ACT

RELATING TO A PACIFIC NORTHWEST ECONOMIC REGION; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 78, TITLE 67, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS; TO CREATE THE PACIFIC NORTHWEST ECONOMIC REGION, TO PROVIDE FOR ITS POLICY AND PURPOSES, TO PROVIDE FOR ELIGIBLE PARTIES AND EFFECTIVE DATES, TO PROVIDE FOR ITS ORGANIZATIONAL STRUCTURE, TO PROVIDE FOR DUTIES AND RESPONSIBILITIES, TO PROVIDE FOR MEMBERSHIP ON POLICY COMMITTEES, AND TO PROVIDE GENERAL PROVISIONS; TO PROVIDE FOR COOPERATIVE ACTIVITIES; AND APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT.

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 78, Title 67, Idaho Code, and to read as follows:

CHAPTER 78
PACIFIC NORTHWEST ECONOMIC REGION

67-7801. LEGISLATIVE FINDINGS. The legislature finds that there is a new emerging global economy in which countries and regions located in specific areas of the world are forging new cooperative

arrangements.

The legislature finds that these new cooperative arrangements are increasing the competitiveness of the participating countries and regions, thus increasing the economic benefits and the overall quality of life for the citizens of the individual countries and regions.

The legislature also finds that the Pacific northwest states of Alaska, Idaho, Montana, Oregon and Washington and the Canadian provinces of Alberta and British Columbia are in a strategic position to act together, as a region, thus increasing the overall competitiveness of the individual states and provinces that will provide substantial economic benefits for all of their citizens.

67-7802. PACIFIC NORTHWEST ECONOMIC REGION. The Pacific northwest economic region is hereby enacted into law and entered into by the state of Idaho as a party, and is in full force and effect in accordance with the terms of this agreement.

THE PACIFIC NORTHWEST ECONOMIC REGION

ARTICLE I -- Policy and Purpose

States and provinces participating in the Pacific northwest economic region shall seek to develop and establish policies that: promote greater regional collaboration among the seven (7) entities; enhance the overall competitiveness of the region in international and domestic markets; increase the economic well-being of all citizens in the region; and improve the quality of life of the citizens of the Pacific northwest.

States and provinces recognize that there are many public policy areas in which cooperation and joint efforts would be mutually beneficial. These areas include, but are not limited to: international trade; economic development; human resources; the environment and natural resources; energy; and education. Parties to this agreement shall work diligently to establish collaborative activity in these and other appropriate policy areas where such cooperation is deemed worthwhile and of benefit to the participating entities. Participating states and provinces also agree that there are areas in which cooperation may not be feasible.

The substantive actions of the Pacific northwest economic region may take the form of uniform legislation enacted by two (2) or more states and/or provinces or policy initiatives endorsed as appropriate by participating entities. It shall not be necessary for all states and provinces to participate in each initiative.

ARTICLE II -- Eligible Parties and Effective Date

Each of the following states and provinces is eligible to become a party to this agreement: Alaska, Alberta, British Columbia, Idaho, Montana, Oregon and Washington. This agreement establishing the Pacific northwest economic region shall become effective when it is executed by one (1) state, one (1) province, and one (1) additional state and/or province in a form deemed appropriate by each entity. This agreement shall continue in force and remain binding upon each state and province until renounced by it. Renunciation of this agreement must be preceded by sending one (1) year's notice in writing of intention to withdraw from the agreement to the other parties to the agreement.

ARTICLE III -- Organizational Structure

Each state and province participating in this agreement shall appoint representatives to the Pacific northwest economic region. The organizational structure of the Pacific northwest economic region shall consist of the following: a delegate council consisting of four (4) legislators from each participating state and four (4) representatives from each participating province and an executive committee consisting of one (1) legislator from each participating state and/or province who is a member of the delegate council. Policy committees may be established to carry out further duties and responsibilities of the Pacific northwest economic region.

ARTICLE IV -- Duties and Responsibilities

The delegate council shall have the following duties and responsibilities: facilitate the involvement of other government officials in the development and implementation of specific collaborative initiatives; work with policy-making committees in the development and implementation of specific initiatives; approve general organizational policies developed by the executive committee; provide final approval of the annual budget and staffing structure for the Pacific northwest economic region developed by the executive committee; and other duties and responsibilities as may be established in the rules and regulations of the Pacific northwest economic region. The executive committee shall perform the following duties and responsibilities: elect the president and vice president of the Pacific northwest economic region; approve and implement general organizational policies; develop the annual budget; devise the annual action plan; act as liaison with other public and private sector entities; and other duties and responsibilities established in the rules and regulations of the Pacific northwest economic region. The rules and regulations of the Pacific northwest economic region shall establish the procedure for voting.

ARTICLE V -- Membership of Policy Committees

Policy committees dealing with specific subject matter may be established by the executive committee.

Each participating state and province shall appoint legislators to sit on these committees in accordance with its own rules and regulations concerning such appointments.

ARTICLE VI -- General Provisions

This agreement shall not be construed to limit the powers of any state or province or to amend or repeal or prevent the enactment of any legislation.

67-7803. COOPERATIVE ACTIVITIES. It is the intent of this act to direct and encourage the establishment of cooperative activities between the seven (7) legislative bodies of the region. The state representatives to the Pacific northwest economic region shall work through appropriate channels to advance consideration of proposals developed by this body.

SECTION 2. There is hereby appropriated from the General Account to the Legislative Account the sum of $15,000, for the period July 1, 1991, through June 30, 1992, for the purpose of funding this state's activities in the Pacific Northwest Economic Region.

Approved March 27, 1991.

CHAPTER 100
(S.B. No. 1107)

AN ACT

RELATING TO THE SETTING OF SPEED LIMITS IN RESIDENTIAL NEIGHBORHOODS OF URBAN AREAS; AMENDING SECTION 49-119, IDAHO CODE, TO DEFINE RESIDENTIAL NEIGHBORHOOD; AMENDING SECTION 49-207, IDAHO CODE, TO PROVIDE THAT THE RESIDENTIAL CHARACTER OF THE NEIGHBORHOOD ABUTTING A HIGHWAY IN AN URBAN DISTRICT SHALL BE A FACTOR IN SETTING SPEED LIMITS; AND AMENDING SECTION 49-654, IDAHO CODE, TO PROVIDE THAT THIRTY-FIVE MILES PER HOUR IS MAXIMUM SPEED LIMIT IN A RESIDENTIAL NEIGHBORHOOD OF AN URBAN DISTRICT WHICH MAXIMUM SPEED LIMIT MAY BE REDUCED.

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

SECTION 1. That Section 49-119, Idaho Code, be, and the same is hereby amended to read as follows:

49-119. DEFINITIONS -- R.

(1) "Racing" means the use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle, or to test the physical stamina or endurance of drivers over long-distance driving routes.

(2) "Radio operator, amateur" means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation and holding a conditional class license or higher.

(3) "Railroad" means a carrier of persons or property upon cars operated upon stationary rails.

(4) "Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

(5) "Railroad sign" or "signal" means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(6) "Recreational vehicle" means a motor home, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy. It does not include pick-up hoods, shells, or canopies designed, created or modified for occupational usage. School buses or van type vehicles which are converted to recreational use, are defined as recreational vehicles.

(7) "Registered owner" means any person required to register a vehicle, whether or not a lien holder appears on the title in the records of the department.

(8) "Registration" means the registration certificate or certificates and license plate or plates issued under the laws of this state pertaining to the registration of vehicles.

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

(10) "Rescission of sale." (See section 28-2-608, Idaho Code)

(11) "Resident" means a person who has resided within Idaho continuously for a period of at least ninety (90) days, not including a full-time student who is a resident of another state, however, any person residing in Idaho and gainfully employed in Idaho, or a full-time student in the state of Idaho, may declare his residency, notwithstanding that the period of residency is less than ninety (90) days.

(12) "Residential district." (See "District", section 49-105, Idaho Code)

(13) "Residential neighborhood" for purposes of this chapter, is an area abutting a highway which is used primarily for nontransient human habitation, parks and churches.

(14) "Revocation of driver's license" means the termination by formal action of the department or as otherwise provided in this title of a person's driver's license or privilege to operate a motor vehicle on the highways, which terminated driver's license or privilege shall not be subject to renewal or restoration except that an application for a new driver's license may be presented and acted upon by the department after the expiration of the applicable period of time prescribed in this title.

(145) "Ridesharing arrangement" means the nonprofit transportation in a passenger motor vehicle with a seating capacity not exceeding fifteen (15) people including the driver, which is not otherwise used for commercial purposes or as a public conveyance, whereby a fixed group, not exceeding fifteen (15) people including passengers and driver, is transported between their residences or nearby termini, and their places of employment or educational or other institutions or termini near those places, in a single daily round trip where the driver is also on the way to or from his place of employment or education or other institution.

(156) "Right-of-way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other. The term shall not be interpreted to mean that a highway user is relieved from the duty to exercise reasonable care at all times and from doing everything to prevent an accident. Failure to yield right-of-way shall not be construed as negligence per se or as prima facie evidence of negligence.

(167) "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of sidewalks, shoulders, berms and rights-of-way.

SECTION 2. That Section 49-207, Idaho Code, be, and the same is hereby amended to read as follows:

49-207. MUNICIPAL REGISTRATION PROHIBITED -- POWER TO ENACT REGULATORY ORDINANCES NOT ABOLISHED. (1) Authorities of counties and cities shall have no power to pass, enforce or maintain any ordinance requiring from any owner of a vehicle or any dealer to which this title shall be applicable, any tax, license or permit for the free use of the public highways of a county or city, or prohibiting or exclud-

ing any owner or dealer from the free use of such highways or excluding or prohibiting any vehicle registered in compliance with the provisions of this title from the free use of the highways. Powers given by general statutes to local authorities in cities to enact general ordinances applicable equally and generally to all vehicles and the use of highways to bring about the orderly passage of vehicles upon certain highways in such cities where the traffic is heavy and continuous, and powers given to cities to regulate vehicles offered to the public for hire, or processions, assemblages or parades on the highways or in public places shall remain in full force and effect, and all ordinances which may have been or which may be enacted in pursuance of those powers shall remain in full force and effect. These provisions of law shall not be construed to prevent cities from enacting and enforcing general ordinances prescribing additional requirements as to speed, manner of driving, or operating vehicles on any of the highways of such cities, and prescribing other requirements pertaining to signals to be given by drivers or operators of motor vehicles, the carrying of lights on motor vehicles, the turning of motor vehicles on highways, and requirements for motor vehicles in passing other vehicles and pedestrians.

(2) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering or traffic investigation, or the residential character of the neighborhood abutting the highway in an urban district that the speed limit permitted under this title is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway or because of the residential character of the neighborhood abutting the highway in an urban district, the local authority may determine and declare a reasonable and safe maximum limit which:

(a) Decreases the limit within an urban district; or

(b) Increases the limit within a nonresidential area of an urban district but not to more than fifty-five (55) miles per hour; or

(c) Decreases the limit outside an urban district.

(3) Local authorities in their respective jurisdictions shall determine by an engineering or traffic investigation the proper maximum speed not exceeding a maximum limit of fifty-five (55) miles per hour for all arterial highways and shall declare a reasonable and safe maximum limit which may be greater or less than the limit permitted under this title for an urban district.

(4) Any altered limit established shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice are erected upon the highway. Any alteration of maximum limits on state highways or extensions in a municipality by local authorities shall not be effective until the alteration has been approved by the department.

SECTION 3. That Section 49-654, Idaho Code, be, and the same is hereby amended to read as follows:

49-654. BASIC RULE AND MAXIMUM SPEED LIMITS. (1) No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person

shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding highway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(2) Where no special hazard exists that requires lower speed for compliance with subsection (1) of this section the limits as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of the maximum limits:

(a) Thirty-five (35) miles per hour or a lesser maximum speed adopted pursuant to section 49-207(2)(a), Idaho Code, in any residential neighborhood of any urban district.

(b) Thirty-five (35) miles per hour in any urban district;

(~~b~~c) Sixty-five (65) miles per hour on highways designated as permissible by federal law;

(~~c~~d) Fifty-five (55) miles per hour in other locations.

(3) (a) When the maximum speed on a given highway is set at fifty-five (55) miles per hour, a violation of such speed limit shall be an infraction, and subject to punishment as provided in section 18-113A, Idaho Code, unless the conditions listed in paragraph (i) below exist.

(i) If the posted speed limit on the stretch of highway where the violation occurred was sixty-five (65) miles per hour or more prior to January 2, 1974, and the speed of the vehicle was seventy (70) miles per hour or less, then the violation is an infraction, but the maximum fine that may be imposed shall be five dollars ($5.00), no jail sentence shall be imposed, no violation point counts shall be assessed, and such violation shall not be a moving traffic violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer.

(b) When the maximum speed on a given highway is set at sixty-five (65) miles per hour, a violation of such speed limit shall be an infraction, and subject to punishment as provided in section 18-113A, Idaho Code, unless the conditions listed in paragraph (i) below exist.

(i) If the posted speed limit on the stretch of highway where the violation occurred was sixty-five (65) miles per hour or more prior to January 2, 1974, and the speed of the vehicle was seventy (70) miles per hour or less, then the violation is an infraction, but the maximum fine that may be imposed shall be five dollars ($5.00), no jail sentence shall be imposed, no violation point counts, and such violation shall not be a moving traffic violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer.

Approved March 27, 1991.

CHAPTER 101
(S.B. No. 1061)

AN ACT

RELATING TO WATER DISTRICTS; AMENDING SECTION 42-605, IDAHO CODE, TO DELETE THE WORD IRRIGATION AND TO REVISE THE METHOD OF VOTING AT ANNUAL WATER DISTRICT MEETINGS BASED UPON THE AVERAGE ANNUAL DOLLAR AMOUNT BILLED FOR A PERSON'S QUALIFYING WATER RIGHT IN PREVIOUS YEARS; AMENDING CHAPTER 6, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-605A, IDAHO CODE, TO PROVIDE A PROCEDURE FOR DETERMINING ANNUAL WATER DISTRICT ASSESSMENTS AND VOTING RIGHTS FOR NONCONSUMPTIVE WATER RIGHTS ADMINISTERED BY THE WATERMASTER, TO EXEMPT INSTREAM FLOW WATER RIGHTS FROM THE PAYMENT OF ASSESSMENTS, AND TO PROVIDE A PROCEDURE FOR CONTESTING THE AMOUNT OF AN ASSESSMENT FOR A NONCONSUMPTIVE WATER RIGHT; AMENDING SECTION 42-608, IDAHO CODE, TO PROVIDE A PROCEDURE FOR EXTENSION OF THE WATERMASTER'S TERM OF SERVICE BY ORDER OF THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES, AND TO MAKE CERTAIN ORGANIZATIONAL AND WORD USAGE CHANGES; AND DECLARING AN EMERGENCY.

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

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

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

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

shall send its notification at least thirty (30) days prior to said meeting date.

(3) At such meeting there shall be elected a watermaster for such water district, and such other regular assistants as such meeting shall deem necessary, and such meeting shall prior to the election of such watermaster and assistants fix the compensation to be paid them during the time actually engaged in the performance of their duties.

(4) At such meeting each person present, owning or having the use for the ensuing ~~irrigation~~ season of any water right in the stream or water supply comprising such water district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources, shall be entitled to a number of votes equal to the ~~rate of flow in cubic feet per second including any fractions thereof, of said qualifying water right~~ average annual dollar amount and any fraction thereof assessed for that person's qualifying water right for the previous five (5) years, or such lesser number of years as the right has been assessed. If a right has not previously been assessed, a person present, owning or having the use of the right for the ensuing season shall be entitled to a number of votes equal to the dollar amount and any fraction thereof which the right would have been assessed had it existed and been reasonably used when water was available under the priority of the right during the previous season.

(~~4~~5) Such meeting shall choose a chairman and secretary and shall determine the manner and method of electing watermasters and assistants. Within five (5) days after such meeting the chairman and secretary shall forward a certified copy of the minutes of such meeting to the department of water resources.

(~~5~~6) A corporation or a water delivery organization, including, but not limited to corporations, water companies, irrigation districts, irrigation companies and canal companies, shall be considered a person for the purpose of this section and shall cast its vote by someone to be designated by the corporation; provided, that each stockholder in said corporation shall be entitled to as many votes as he shall have units of cubic feet per second or fraction thereof, of water in the stream or water supply comprising such water district.

(~~6~~7) Should said meeting not be held, or should said watermaster not be chosen or his compensation fixed as above provided, then the department of water resources is authorized to appoint such watermaster and fix his compensation.

(~~7~~8) The department of water resources may remove any watermaster whenever such watermaster fails to perform his duty as watermaster, upon complaint in that respect being made to the department in writing, by one (1) person owning or having the right to the use of a water right in such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources provided, that upon investigation the department, after a hearing with the other water users of said district, which shall be held in the district, finds such charge to be true, and the department may appoint a successor for the unexpired term.

(~~8~~9) Before entering upon the duties of his office, said watermaster shall take and subscribe an oath before some officer

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

SECTION 2. That Chapter 6, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-605A, Idaho Code, and to read as follows:

42-605A. NONCONSUMPTIVE WATER RIGHTS -- ASSESSMENTS -- VOTING. (1) Notwithstanding other provisions of this chapter, the setting of annual water district assessments and the voting of permitted, licensed and decreed water rights administered by the watermaster solely for nonconsumptive purposes shall be determined in accordance with the provisions of this section. For purposes of this chapter, a water right is nonconsumptive if so designated by provisions of the permit or license issued by the department of water resources, or otherwise so designated by the director, or by decree of the court allowing use of the right to continue when the diversion of earlier priority water rights from the same source has been reduced or stopped by action of the watermaster.

(2) A nonconsumptive water right is subject to the provisions of this section if water is taken into man-made facilities for beneficial use whether or not the water leaves the river or stream channel. Instream flow water rights held in the name of governmental entities or agencies for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, transportation and navigation values, and water quality shall be exempt from the payment of assessments and the rights shall not be voted. The procedure for collection and payment of the assessments shall be the same as used for consumptive water rights under this chapter.

(3) In preparing the next year's budget, the watermaster shall determine an assessment for the ensuing year for each water right used solely for nonconsumptive purposes. The assessment shall be sufficient to pay the additional costs and expenses for watermaster services for data collection, water measurement, delivery of water, and record keeping directly attributable to delivery of the water right.

(4) The assessment shall not become final until adopted as part of the water district budget at the annual meeting of water users in accordance with section 42-612, Idaho Code. The assessment shall not exceed an amount necessary to pay for watermaster services associated with the nonconsumptive right. Nothing in this section shall affect the right, under section 42-612, Idaho Code, of the water users at the annual meeting to provide by resolution for a minimum charge for watermaster services, except as to those instream flow rights exempt from the payment assessments under this section.

(5) The holder of a water right assessed under the provisions of this section who desires to contest the amount of an assessment for a nonconsumptive water right shall file a written petition with the

director of the department of water resources stating the grounds for contesting the assessment and requesting a hearing. The petition must be filed with the director within thirty (30) days after the billing is mailed to the holder of the water right as provided in section 42-613 or 42-618, Idaho Code. The hearing before the director and any judicial review thereof shall be in accordance with the provisions of section 42-1701A, Idaho Code. The filing of a petition under this section shall not relieve the holder of a nonconsumptive water right from the obligation to pay the assessment when due and payable. The amount of any excessive or deficient assessment determined by a final order of the director shall be credited or collected in the succeeding year in the manner provided under section 42-614, Idaho Code.

(6) At water district meetings, each person present holding a water right used solely for nonconsumptive purposes shall be entitled to a number of votes equal to the average dollar amount and any fraction thereof assessed in accordance with subsection (3) of this section for that person's qualifying nonconsumptive water right for the previous five (5) years, or such lesser number of years as the right has been assessed in accordance with subsection (3) of this section. If a nonconsumptive right has not been assessed in previous years using subsection (3) of this section, a person present owning or having the use of the right for the ensuing season shall be entitled to a number of votes equal to the dollar amount and any fraction thereof which the right is assessed under subsection (3) of this section for the ensuing season.

SECTION 3. That Section 42-608, Idaho Code, be, and the same is hereby amended to read as follows:

42-608. WATERMASTER'S TERM OF SERVICE. (1) Said watermasters shall not begin their work until they have been called upon by three (3) or more owners or managers of ditches or persons controlling ditches, in the several districts, by application in writing, stating that there is a necessity for the use and control of the waters of such district.

(2) In the absence of application or in water districts in which there are five (5) or ~~less~~ fewer adjudicated water rights, the watermaster may be called upon to assume his duties at any time the department of water resources finds that there is a necessity for the use and control of the waters of the district.

(3) The watermaster shall not continue performing services after the necessity therefor shall cease, which shall be determined by the department of water resources, and ~~in no event~~ which shall not be after the first of November of each year, unless determined necessary by the director of the department of water resources or otherwise provided by the rules and regulations of the respective districts, adopted at the annual water users' meeting.

(4) At any annual meeting the water users may, by resolution, provide that the watermaster shall serve throughout the year. The department of water resources, upon receipt of a certified copy of the minutes of said meeting containing such resolution and upon the receipt of the oath ~~and official bond~~ of said watermaster, as provided for in section 42-605, Idaho Code, shall immediately issue a certifi-

cate of appointment ordering said watermaster to assume his duties at once and continue the same throughout the year as provided for in said resolution.

(5) The director of the department of water resources, upon receipt of a petition requesting an extension of the watermaster's term of service in any year from the holder of a water right authorizing the diversion or storage of water during the time period for which the extension is sought and upon a determination of necessity therefor shall extend the watermaster's term of service for the period of time determined necessary by the director in any year. Payment for watermaster services during the extended term of service ordered by the director shall be the responsibility of the holders of water rights delivered by the watermaster during the extended term of service. For the purpose of determining voting rights at a water district meeting, amounts paid for watermaster services pursuant to this subsection shall be included in the calculation of annual assessment amounts and assessment rates under sections 42-605 and 42-605A, Idaho Code.

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

Approved March 27, 1991.

CHAPTER 102
(S.B. No. 1119, As Amended)

AN ACT

RELATING TO DESTRUCTION OF LIVESTOCK; AMENDING SECTION 18-7037, IDAHO CODE, AS ENACTED BY CHAPTER 126, LAWS OF 1990, TO REDESIGNATE THE SECTION, AND TO ALLOW THE DESTRUCTION OF INJURED LIVESTOCK IF CERTAIN CRITERIA ARE MET.

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

SECTION 1. That Section 18-7037, Idaho Code, as enacted by Chapter 126, Laws of 1990, be, and the same is hereby amended to read as follows:

18-703~~7~~8. 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.

(3) The provisions of this section shall not apply to any peace officer, veterinarian or officially designated animal control officer

who, in the discharge of his official duties is called upon the scene of injured livestock and cannot contact the owner or caretaker of the injured animal within thirty (30) minutes, and he reasonably determines that the injured animal is suffering to such a degree that humane destruction is warranted, and he humanely destroys or causes the animal to be humanely destroyed.

Approved March 27, 1991.

CHAPTER 103
(S.B. No. 1214)

AN ACT
APPROPRIATING MONEYS FOR THE COMMISSION ON WOMEN'S PROGRAMS FOR FISCAL YEAR 1992; 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 classes from the listed accounts for the period July 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$12,500	$11,500	$500	$24,500
Commission on Women's Programs Account		500		500
TOTAL	$12,500	$12,000	$500	$25,000

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

Approved March 27, 1991.

CHAPTER 104
(S.B. No. 1213)

AN ACT
APPROPRIATING MONEYS TO THE PUBLIC HEALTH TRUST ACCOUNT FOR THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 1992.

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

SECTION 1. There is hereby appropriated $4,093,500 from the Gen-

eral Account to be deposited in the Public Health Trust Account for the period July 1, 1991, through June 30, 1992.

Approved March 27, 1991.

CHAPTER 105
(S.B. No. 1203)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 1992; 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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$172,800	$ 39,700	$10,900	$ 223,400
Interagency Billing and Receipts Account	440,400	413,600	32,500	886,500
TOTAL	$613,200	$453,300	$43,400	$1,109,900

SECTION 2. Of the amount appropriated from the Interagency Billing and Receipts Account for Operating Expenditures in Section 1, an amount not to exceed $294,900 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, 1991, through June 30, 1992, any other provisions of law notwithstanding.

SECTION 3. It is legislative intent that an amount, not to exceed $1,000 of the amount appropriated in Section 1, may be used at the discretion of the State Treasurer to assist in defraying expenses relating to or resulting from the discharge of the State Treasurer's official duties. Such moneys shall be accounted for according to 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 in Section 1, Chapter 100, Laws of 1990, to be used for nonrecurring expenditures only, for the period July 1, 1991, through June 30, 1992.

Approved March 27, 1991.

CHAPTER 106
(S.B. No. 1209)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 1992; 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, 1991, through June 30, 1992:

FOR:	
Office of the Secretary of State	$ 855,700
Centralized Uniform Commercial Code	712,200
Commission on Uniform Laws	15,400
Idaho Commission on the Arts	1,370,100
TOTAL	$2,953,400
FROM:	
General Account	$2,327,900
Idaho Commission on the Arts Account	555,700
Interagency Billing and Receipts Account	69,800
TOTAL	$2,953,400

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, 1991, through June 30, 1992:

	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	$ 620,100	$215,600	$ 20,000		$ 855,700
B. CENTRALIZED UNIFORM COMMERCIAL CODE:					
FROM:					
General Account	$ 367,000	$240,200	$105,000		$ 712,200
C. COMMISSION ON UNIFORM LAWS:					
FROM:					
General Account		$ 15,400			$ 15,400
D. IDAHO COMMISSION ON THE ARTS:					
FROM:					
General Account	$ 228,200	$117,700	$ 9,000	$389,700	$ 744,600
Idaho Commission on the Arts Account	124,400	125,500		305,800	555,700
Interagency Billing and Receipts Account		54,000		15,800	69,800
TOTAL	$ 352,600	$297,200	$ 9,000	$711,300	$1,370,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
GRAND TOTAL	$1,339,700	$768,400	$134,000	$711,300	$2,953,400

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 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 according to the 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 and for the Centralized Uniform Commercial Code Program by Section 2, Chapter 104, Laws of 1990, for the period July 1, 1991 through June 30, 1992.

Approved March 27, 1991.

CHAPTER 107
(S.B. No. 1210)

AN ACT
APPROPRIATING MONEYS FOR THE HUMAN RIGHTS COMMISSION FOR FISCAL YEAR 1992.

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$239,800	$ 97,200	$7,000	$344,000
Human Rights Federal Account	60,200	41,500		101,700
TOTAL	$300,000	$138,700	$7,000	$445,700

Approved March 27, 1991.

CHAPTER 108
(S.B. No. 1211)

AN ACT

APPROPRIATING MONEYS FOR THE STATE LIQUOR DISPENSARY FOR FISCAL YEAR 1992.

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Liquor Account	$4,091,800	$3,113,200	$457,600	$7,662,600

Approved March 27, 1991.

CHAPTER 109
(S.B. No. 1218)

AN ACT

APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 1992; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the State Library Board the following amount, to be expended according to the designated expense classes from the listed accounts for the period July 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$1,236,700	$466,500	$234,100	$ 21,200	$1,958,500
Library Services and Construction Act Account	182,500	163,300	55,000	572,800	973,600
Interagency Billing and Receipts Account		10,000	7,000	58,000	75,000
TOTAL	$1,419,200	$639,800	$296,100	$652,000	$3,007,100

SECTION 2. There is hereby reappropriated to the State Board of

Education for the State Library Board any unexpended and unencumbered balances of the General Account moneys appropriated by Section 1, Chapter 277, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

Approved March 27, 1991.

CHAPTER 110
(S.B. No. 1158)

AN ACT

RELATING TO PUBLIC SCHOOL DISTRICT FACILITY NEEDS; TO CREATE A STATEWIDE SCHOOL FACILITIES NEEDS ASSESSMENT COMMITTEE, AND PROVIDING FOR ITS DUTIES; AMENDING SECTION 33-905, IDAHO CODE, TO PROVIDE A DISTRIBUTION FORMULA FOR MONEYS IN THE SCHOOL DISTRICT BUILDING ACCOUNT FOR FISCAL YEARS 1992, 1993 AND 1994, AND TO STRIKE OBSOLETE PROVISIONS; TO PROVIDE FOR REPORTS FROM SCHOOL DISTRICTS; AMENDING SECTION 67-7434, IDAHO CODE, TO CLARIFY WHEN PAYMENTS FROM THE LOTTERY ACCOUNT ARE TO BE MADE; APPROPRIATING MONEYS FROM STATE LOTTERY MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR USE OF THE COMMITTEE; AND DECLARING AN EMERGENCY FOR SECTION 1.

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

SECTION 1. (1) There is hereby established the statewide school facilities needs assessment committee in the department of administration. The committee shall authorize a complete and comprehensive study to be conducted of the current status of public school facilities including educational technology that will identify facility, technology and nontraditional needs of each school district over the course of the next ten (10) years. School facilities include all structures and facilities in which public school pupils receive instruction. Technology includes, without limitation, electronic media devices and processes. Nontraditional needs include those processes, practices and procedures which are not customarily or usually in place in the public schools in this state in 1991.

(2) The committee shall consist of the following members:

(a) One (1) member appointed by the chairman of the state building authority.

(b) One (1) member appointed by the director of the department of administration.

(c) One (1) member appointed by the director of the department of labor and industrial services.

(d) One (1) member appointed by the board of registration of professional engineers and professional land surveyors.

(e) One (1) member appointed by the Idaho education association.

(f) One (1) member appointed by the Idaho association of school administrators.

(g) One (1) member appointed by the Idaho school trustees association.

(h) One (1) member appointed by the Idaho parent-teacher associa-

tion.

(i) One (1) member appointed by the Idaho association of builders and contractors.

(j) Such members as may be appointed by the governor or by the state superintendant of public instruction as ex officio members, without voting privileges.

(3) The committee shall meet for the first time at the direction of the administrator of the division of public works, who shall coordinate the appointments. All members of the committee must be appointed by July 1, 1991. The committee shall organize by electing a chair, a vice chair, and such other officers as desired. Thereafter the committee shall meet at the call of the chair.

(4) The department of administration shall provide staff services and logistical support to the committee.

(5) The committee shall develop a request for a proposal to conduct the study by not later than October 15, 1991, and shall contract for the conduct of the study by not later than January 1, 1992.

(6) The committee shall monitor the progress of the study, which must be completed and presented to the committee by not later than January 15, 1993.

(7) The committee shall review the study report and present the findings of the study to the legislature by not later than February 1, 1993, and shall make recommendations to implement the findings to the legislature by not later than January 15, 1994. At the same time as the committee makes its recommendations to the legislature, the committee shall make recommendations to the state board of education on school building standards.

(8) The committee shall expend no more than five percent (5%) of the moneys set aside and appropriated to it in section 5 for committee expenses for travel and lodging.

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) Commencing July 1, 1994, t~~T~~he 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. By not later than August 31 of 1991, 1992 and 1993, moneys in the account shall be distributed to each of the several school districts, in the proportion that the average daily attendance of that district for the previous school year bears to the total average daily attendance of the state during the previous school year. Average daily attendance shall be calculated as provided in section 33-1002 4., Idaho Code.

5. 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--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. (1) By not later than December 1 of 1991, 1992, 1993 and 1994, each school district shall report to the state department of education the projects on which moneys received from the school district building account were expended. The state department of education shall transmit a summary of such reports to the legislature by not later than January 15 of the following year.

(2) By not later than December 1 of 1991, 1992 and 1993, each school district shall report to the state department of education the planned uses for the moneys received from the school district building account. The state department of education shall transmit a summary of such reports to the legislature by not later than January 15 of the following year.

SECTION 4. That Section 67-7434, Idaho Code, be, and the same is hereby amended to read as follows:

67-7434. LOTTERY DIVIDENDS. ~~At least annually~~ Annually, on July 1, the lottery shall transfer one-half (1/2) of its net income to the permanent building account and one-half (1/2) of its net income to the school district building account , after reserving sufficient moneys to ensure the continuation of the lottery, as determined by the director and commission.

A one (1) time allotment of two hundred thousand dollars ($200,000) of the lottery's first year dividends shall be allocated and used by the permanent building fund advisory council for the construction of a Vietnam veterans memorial in the state.

SECTION 5. Of the amount to be paid by the state lottery on July 1, 1991, to the School District Building Account $500,000 is hereby set aside and appropriated to the Department of Administration for the exclusive use of the Statewide School Facilities Needs Assessment Committee.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after its passage and approval.

Approved March 27, 1991.

CHAPTER 111
(S.B. No. 1037)

AN ACT

RELATING TO COOPERATIVE SERVICE AGENCIES; AMENDING SECTION 33-317, IDAHO CODE, TO CLARIFY THE PROCESS FOR PAYMENT OF MONEYS TO COOPERATIVE SERVICE AGENCIES BY SCHOOL DISTRICTS.

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

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

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

A properly constituted cooperative service agency may request from its member school districts funding to be furnished by a tax levy not to exceed one-tenth of one percent (.1%) for a period not to exceed ten (10) years by such member school districts. Such levy must be authorized by an election held in each of the school districts pursuant to ~~sections--33-401--33-406~~ chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election. Moneys received by the member school districts from this source shall be transferred to the cooperative service agency upon receipt ~~by the school districts~~ of billing from the agency. Excess revenue over billing must be kept in a designated account by the district, with accrued interest, and may only be spent as budgeted by the agency.

Approved March 27, 1991.

CHAPTER 112
(S.B. No. 1204)

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 1992; LIMITING THE APPROPRIATION FOR THE OFFICE OF THE STATE BOARD OF EDUCATION; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE AMOUNT OF THE GENERAL ACCOUNT APPROPRIATION THAT IS TO BE SPENT FOR RESEARCH; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO HOW ONE TIME MONEYS SHALL BE SPENT; 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, 1991, through June 30, 1992:

FOR:	
General Education Programs	$171,619,400
FROM:	
General Account	$141,444,000
State Endowment Funds	6,547,100
Interagency Billing and Receipts Account	23,628,300
TOTAL	$171,619,400

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 $100,000 of the General Account for the period

July 1, 1991, through June 30, 1992.

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. It is legislative intent that of the amount appropriated in Section 1 of this act, $5,000,000 shall be expended for the following one time purposes: (a) $2,000,000 for the state match of a grant from the National Science Foundation to remodel Renfrew Hall at the University of Idaho; and (b) $3,000,000 to be divided by the State Board of Education among Boise State University, Idaho State University and Lewis-Clark State College for one time critical needs.

SECTION 5. 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, 1991, through June 30, 1992, the provisions of Section 67-3516(1), (3) and (4), Idaho Code, notwithstanding.

SECTION 6. 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 86, Laws of 1990, to be used for nonrecurring expenditures only, for the period July 1, 1991, through June 30, 1992.

Approved March 27, 1991.

CHAPTER 113
(S.B. No. 1030, As Amended)

AN ACT

RELATING TO MOTOR VEHICLE LICENSE PLATES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-404A, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF SPECIAL LICENSE PLATES FOR MEMBERS OF THE ARMED FORCES RESERVES OF THE UNITED STATES, AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-404A, Idaho Code, and to read as follows:

49-404A. MEMBERS OF THE ARMED FORCES RESERVE -- SPECIAL PLATES. (1) Any active member of the armed forces reserves of the United

States who is the owner of a vehicle required to be registered under section 49-402(1), Idaho Code, may, upon application to the department, register not more than two (2) passenger motor vehicles and receive for each vehicle special license plates in lieu of regular numbered plates. The special license plates shall be designated by the department with the word "RESERVIST" centered along the bottom edge and be numbered in sets of two (2) with a different number following appropriate letters as follows: United States Army Reserve: Army (number); United States Navy Reserve: Navy (number); United States Marine Corps Reserve: USMC (number); United States Air Force Reserve: USAF (number); and United States Coast Guard Reserve: USCG (number). Proof of being an active member in the United States armed forces reserves must be furnished to the department before special plates will be issued. Special license plates issued under this section shall be issued under the staggered registration process provided for in section 49-402(1), Idaho Code.

(2) Any branch of the armed forces reserves of the United States shall, prior to an individual's discharge from duty in that branch of the armed forces reserve, require that the special armed forces reserve license plates either be turned back to the department or exchanged for other proper license plates as a condition of discharge.

(3) In addition to the regular annual operating fees required in section 49-402(1), Idaho Code, the applicant shall pay an initial program fee of twenty-five dollars ($25.00) and an annual program fee of fifteen dollars ($15.00) upon each succeeding annual renewal. The initial fee and the annual fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program which is provided to the public as a personal alternative to the standard license plate requirement. When a plate holder transfers or assigns his title or interest in the vehicle registered under this section, the registration shall expire, but the special plates may be transferred to another vehicle upon payment of the required transfer fee. Special plates shall only be displayed after receipt of the new registration.

(4) The design and numbering scheme of the military reservist special plate shall be coordinated by the department with representatives of the armed forces reserves. However, the department shall have the final approval of the plate design and numbering scheme to ensure conformity within existing issues of plates and to contain costs within the limit of the fees received from applicants.

SECTION 2. This act shall be in full force and effect on and after January 1, 1992.

Approved March 27, 1991.

CHAPTER 114
(H.B. No. 208)

AN ACT

RELATING TO DISTRICT MAGISTRATES COMMISSIONS; AMENDING SECTION 1-2203, IDAHO CODE, TO PROVIDE THAT TWO ATTORNEYS SHALL BE VOTING INSTEAD

OF NONVOTING MEMBERS OF DISTRICT MAGISTRATES COMMISSIONS, TO ALLOW FOR ATTORNEY MEMBERS TO SUCCEED THEMSELVES FOR TWO ADDITIONAL TERMS, TO PROVIDE TERMS FOR ELECTED MEMBERS AND MAYORS, TO DELETE OUTDATED LANGUAGE AND TO CORRECT GRAMMATICAL ERRORS.

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

SECTION 1. That Section 1-2203, Idaho Code, be, and the same is hereby amended to read as follows:

1-2203. DISTRICT MAGISTRATES COMMISSION -- MEMBERS. (1) There is hereby established in each judicial district of the state of Idaho a district magistrates commission to be known as the "district magistrates commission of the .... judicial district," the members of which shall consist of the chairman of the board of county commissioners of each county in the district or member of such board designated by the chairman, the mayors of three (3) municipalities, one (1) of whom shall be from a city of over ten thousand (10,000) population, in the district to be appointed by the governor, two (2) qualified electors residing within the district to be appointed by the governor, ~~and~~ the administrative judge of the district or district judge of the district designated by him~~.--Two~~, and two (2) attorneys nominated by the district bar associations in each district and appointed by the Idaho state bar ~~shall-serve-as-nonvoting-members-of-the-district-magistrates commission-in-each-district~~. Each of the members shall be over the age of majority and shall be and remain a citizen of the United States, a bona fide resident of the state and district and of good moral character.

(2) Forthwith after making any appointments to such commissions the respective appointing authorities shall duly certify in writing to the administrative director of the courts and to the secretary of state the following facts with respect to each appointee:

(a) Full name,

(b) Age,

(c) Residence address,

(d) If employed, the nature of his occupation and business address,

(e) The name of the district magistrate commission to which appointed,

(f) The date of expiration of term for which appointed,

(g) Except for the initial appointees under this act, the name of the person he succeeds on the commission, and,

(h) If a voting member other than a mayor or district judge or magistrate, his political party.

(3) ~~The--two--(2)--attorney--members--shall--serve-in-an-advisory capacity-and-without-vote-but-may-serve-as-vice-chairman-or-secretary. No-voting-member-shall-be-licensed-to-practice-law--in--Idaho--and n~~No voting member, other than the persons appointed while serving as mayor or county commissioner and district judge shall hold any city, county or state elective office or be employed by the state or any city or county while he is member of the commission.

(4) The two (2) attorney ~~advisory~~ members shall serve for a term of two (2) years and may succeed themselves for two (2) additional

terms. The ~~other-voting~~ qualified elector members shall serve terms of six (6) years each and may succeed themselves. ~~Provided,-however,-that all-appointments~~ The mayors shall serve terms of six (6) years and may succeed themselves, provided that their terms will end when they cease to hold the office which entitles them to membership on the commission. Appointments to fill vacancies shall be made by the initial appointing authority for the unexpired term~~;-provided,--further,--that the--initial--appointments--made--pursuant-to-this-act-shall-expire-as follows:~~

~~(a)--Those-made-by-the-governor-shall-expire-on-June-30,-1981,-and~~
~~(b)--Those-made-by-the-district-judges-and--by--the--district--bar associations-shall-expire-on-June-30,-1979.~~

(5) A vacancy on the commission shall be caused by a voting member dying, resigning, moving his residence ~~to--without~~outside the district, moving his residence to another county and, in the case of a mayor, district judge or county commissioner member, loseing his status as such official for any reason; provided, however, that except in the case of death or resignation of a voting member he shall continue to serve until his successor is duly appointed and qualified. A vacancy on the commission shall be caused by an attorney advisory member dying, resigning, moving his residence to without the district or being suspended or disbarred from the practice of law. It shall be the duty of any member who has become disqualified for any reason promptly to report that fact in writing to the chairman and secretary of the commission. It shall be the duty of the chairman or secretary promptly to report in writing to the appropriate appointing authority, the existence of any vacancy on the commission.

Approved March 27, 1991.

CHAPTER 115
(H.B. No. 92)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3027A, IDAHO CODE, TO AMEND THE APPLICATION OF THE INCOME TAX LAWS TO THE INCOME OF PART-YEAR OR NONRESIDENT INDIVIDUALS, TRUSTS AND ESTATES FOR TAX YEARS 1985, 1986 AND 1987; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

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

63-3027A. COMPUTING TAXABLE INCOME OF PART-YEAR OR NONRESIDENT INDIVIDUALS, TRUSTS AND ESTATES. (a) For tax years beginning on or after January 1, 1988:

(a1) In computing a taxable income of a part-year or nonresident individual, trust, or estate, the standard deduction or nonbusiness deductions, as allowed by the internal revenue code,

if applicable, and the exemptions, as defined in section 151 of the internal revenue code, shall all be allowed in the proportion that the Idaho adjusted gross income of the taxpayer, as computed under this chapter bears to the total adjusted gross income from all sources before any deductions therefrom. The adjusted gross income, as used in this section, shall mean adjusted gross income, as defined in section 62 of the internal revenue code.

(~~b~~2) Idaho adjustments to income necessary in computing Idaho adjusted gross income shall be based on:

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

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

(~~3~~iii) Any other appropriate basis for making the adjustment.

The specific adjustments necessary under this section shall be detailed and explained in regulations adopted by the state tax commission.

(b) For tax years beginning after December 31, 1984, and before January 1, 1988, only:

(1) In computing the tax of a part-year or nonresident individual, trust or estate, the tax imposed by section 63-3024, Idaho Code, shall be equal to the tax computed upon total taxable income in the same manner as a resident and then multiplied by the proportion that the adjusted gross income of the taxpayer from Idaho sources bears to the total adjusted gross income from all sources, which factor shall not be greater than one hundred percent (100%).

(2) In the case of a nonresident or part-year resident individual, trust or estate, the apportionment factor calculated in paragraph (1) of this subsection (b) shall be modified by adjusting both the taxpayer's adjusted gross income and the adjusted gross income from Idaho sources to reflect the items of income and deduction used to compute the taxable income as provided in section 63-3022, Idaho Code.

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

Approved March 27, 1991.

CHAPTER 116
(H.B. No. 265)

AN ACT

RELATING TO TRANSMISSION OF CONVICTED PERSONS TO THE CUSTODY OF THE BOARD OF CORRECTION OR THE DEPARTMENT OF CORRECTION; AMENDING SECTION 20-237, IDAHO CODE, TO PROVIDE CONDITIONS FOR THE DEPARTMENT OF CORRECTION TO TAKE CUSTODY OF A CONVICTED PERSON; AMENDING SECTION 19-2519, IDAHO CODE, TO PROVIDE FOR DELIVERY OF DOCUMENTS TO

THE DIRECTOR OF CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 20-237, Idaho Code, be, and the same is hereby amended to read as follows:

20-237. TRANSMISSION OF CONVICTED PERSONS TO PENITENTIARY OR CUSTODY OF BOARD -- NOTICE OF CONVICTION TO DIRECTOR -- TRANSPORTED BY GUARDS -- TIME FOR NOTICE. When any person is convicted in any court of the state and sentenced to imprisonment and committed to the custody of the state board of correction, or sentenced to suffer the death penalty, the sheriff of the county in which such conviction shall have been had shall immediately, upon passing of sentence, notify the director that a person is in his custody. Such notice shall be transmitted by either telegraph or telephone, followed by a written confirmation by certified mail. As soon as possible upon receipt of such notice, the director shall dispatch one or more ~~guards~~ correctional officers, as may be necessary, from ~~said prison~~ the department to the place where the ~~said~~ convicted person is detained, to secure and convey said convicted person to ~~the state penitentiary~~ any department of correction facility, or other facility within the state designated by the state board of correction. The convicted person, ~~and--the~~ a certified copy of the judgment ~~from the sheriff shall be delivered into custody of the director; provided, that the judge of the court in which any person is convicted may, by--order--duly--made,--direct--the sheriff of the county in which a term of court is being held, to withhold--the--notice herein provided, until the last day of the then current term of court, if such judge has reason to believe that more than one person shall be convicted at such term,~~ a copy of the presentence investigation report, if any, a copy of any disciplinary reports filed against the convicted person while in the sheriff's custody and all of the additional documents and allowable personal property, including medications as set forth in section 20-243, Idaho Code, shall be delivered into the custody of the director or his representative at the time of or prior to the delivery of the convicted person to the department. If all such records, documents, and property are not delivered at that time, the director or his representative may refuse to accept or transport the convicted person to a department facility.

SECTION 2. That Section 19-2519, Idaho Code, be, and the same is hereby amended to read as follows:

19-2519. ENTRY OF JUDGMENT -- RECORD. (a) When judgment upon a conviction is rendered, the clerk must enter the same upon the minutes, stating briefly the offense for which the conviction was had and must without unnecessary delay annex together and file the following papers, which constitute a record of the action:

1. A copy of the minutes of a challenge interposed by the defendant to the panel of a grand jury, or to an individual grand juror, and the proceedings and the decisions thereon.
2. The indictment and copy of the minutes of the plea or demurrer.

3. A copy of the minutes of a challenge interposed to the panel of the trial jury or to an individual juror, and the proceedings and decision thereon.
4. A copy of the minutes of the trial.
5. A copy of the minutes of the judgment.
6. Any bill or bills of exceptions.
7. The written charges asked of the court, and refused with the court's endorsement thereon.
8. A copy of all requested instruction showing those given and those refused with the court's endorsement thereon, together with a copy of all instructions given on the court's own motion.

(b) As soon as possible upon entry of the judgment of conviction the clerk shall deliver to the sheriff of the county a certified copy of the judgment along with a copy of the presentence investigation report, if any, for delivery to the director of correction pursuant to section 20-237, Idaho Code.

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

Approved March 27, 1991.

CHAPTER 117
(H.B. No. 128)

AN ACT
RELATING TO CERTIFICATES OF NOMINATION OR ELECTION; AMENDING SECTION 34-1208, IDAHO CODE, TO PROVIDE A LONGER TIME PERIOD FOR THE COUNTY CLERK TO ISSUE CERTIFICATES OF NOMINATION.

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

SECTION 1. That Section 34-1208, Idaho Code, be, and the same is hereby amended to read as follows:

34-1208. CERTIFICATES OF NOMINATION OR ELECTION. Immediately after the primary election canvass the county clerk shall issue certificates of nomination to the political party candidates of each party who receive the highest number of votes for their particular county office, and the candidates so certified shall have their names placed on the general election ballot. On or before the eighth day after the primary election canvass, the county clerk shall issue certificates of election to the precinct committeemen of each political party who receive the highest number of votes in their precinct. Provided that to be elected, a precinct committeeman shall receive a minimum of five (5) votes. In the event no candidate receives the minimum number of votes required to be elected, a vacancy in the office shall exist and shall be filled as otherwise provided by law. The county clerk shall also certify by registered mail the results of both the primary and the presidential primary elections to the secretary of

state. The form for such certificate shall be prescribed by the secretary of state and be uniform throughout the state.

Approved March 27, 1991.

CHAPTER 118
(H.B. No. 95, As Amended in the Senate)

AN ACT

RELATING TO THE SALES TAX; AMENDING SECTION 63-3622O, IDAHO CODE, TO PROVIDE THAT SALES TO, DONATIONS TO, AND PURCHASES BY FOOD BANKS AND SOUP KITCHENS ARE EXEMPT FROM SALES TAX; 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, donations to, and purchases by food banks or soup kitchens, and sales to or 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 and nonresident nonprofit colleges, universities, primary and secondary schools which have a branch campus, or facility located in this state, 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, reser-

voirs, 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.

(f) "Food banks or soup kitchens" shall mean the Idaho foodbank warehouse, inc. and any nonprofit corporation or association one of whose primary purposes is the furnishing or providing of food or food products to others without charge.

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, 1991.

CHAPTER 119
(H.B. No. 46, As Amended)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1313, IDAHO CODE, TO SUBSTITUTE THE TERM "TAXABLE WAGE RATE" FOR THE TERM "CONTRIBUTION RATE"; AMENDING SECTION 72-1319, IDAHO CODE, TO SUBSTITUTE THE TERM "TAXABLE WAGE RATE" FOR THE TERM "CONTRIBUTION RATE"; AMENDING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1319B, IDAHO CODE, TO DEFINE TAXABLE WAGE RATE; AMENDING SECTION 72-1322, IDAHO CODE, TO SUBSTITUTE THE TERM "TAXABLE WAGE RATES" FOR THE TERM "CONTRIBUTION RATES"; AMENDING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1347A, IDAHO CODE, TO ESTABLISH THE EMPLOYMENT SECURITY RESERVE FUND AND THE DEPARTMENT OF EMPLOYMENT SPECIAL ADMINISTRATION FUND; AMENDING SECTION 72-1350, IDAHO CODE, TO REDUCE UNEMPLOYMENT INSURANCE CONTRIBUTION RATES BY AN AMOUNT EQUAL TO THE RESERVE TAX RATE, TO PROVIDE THAT THE TAXABLE WAGE RATE SCHEDULE FOR EACH CALENDAR YEAR SHALL BE DETERMINED BY THE BALANCE OF THE EMPLOYMENT SECURITY FUND AND THE RESERVE FUND, TO SUBSTITUTE THE TERM "TAXABLE WAGE RATE" FOR THE TERM "CONTRIBUTION RATE" AND TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 72-1351, IDAHO CODE, TO SUBSTITUTE THE TERM "TAXABLE WAGE RATE" FOR THE TERM "CONTRIBUTION RATE"; AMENDING SECTION 72-1359, IDAHO CODE, TO SUBSTITUTE THE TERM "TAXABLE WAGE RATE" FOR THE TERM "CONTRIBUTION RATE"; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 72-1313, Idaho Code, be, and the same is hereby amended to read as follows:

72-1313. COMPUTATION DATE. The term "computation date" means the

June 30 preceding the commencement of the calendar year for which a covered employer's ~~contribution~~ taxable wage rate is effective except that the charging of benefits to a covered employer's account shall be made in accordance with the formula as provided in section 72-1351(b), Idaho Code.

SECTION 2. That Section 72-1319, Idaho Code, be, and the same is hereby amended to read as follows:

72-1319. ELIGIBLE EMPLOYER. (a) To determine experience ratings for the year 1969 and every calendar year thereafter, the term "eligible employer" means a covered employer who has completed a qualifying period as defined in subsection (b) of this section, and who has filed all payroll reports required, has paid, on or before the cut-off date, all contributions and penalties due and has established a record of accumulated contributions in excess of benefits charged to his account. For the purposes of this section, delinquencies of a minor nature may be disregarded if showing is made to the satisfaction of the director that such covered employer has acted in good faith and that forfeiture of a reduced ~~contribution~~ taxable wage rate because of such minor delinquency would be inequitable.

(b) "Qualifying period" shall be the period of three (3) consecutive years ending on the computation date in which, during all of said years, the employer shall be chargeable for benefits under this state law, except, that a new employer shall have a qualifying period of one (1) year ending on the computation date in which, during all of said year, the employer shall be chargeable for benefits under this state law.

(c) If the director finds that an employer's business is closed solely because of the entrance of one or more of the owners, officers, partners, or the majority stockholder into the armed forces of the United States, of any of its allies, or of the United Nations after January 1, 1951, such employer's account shall not be terminated; and, if the business is resumed within 2 years after the discharge or release from active duty in the armed forces of such person or persons, the employer's experience shall be deemed to have been continuous throughout such period. The experience factor as defined in section 72-1351(a)(1) of any such employer shall be the total contributions paid by such employer minus all benefits (including benefits paid to any individual during the period such employer was in the armed forces) based upon wages paid by him prior to his entrance into such forces, divided by the average of his annual payrolls for the number of fiscal years immediately preceding the computation date such employer has been in business prior to and after service in the armed forces, using a minimum of two (2) fiscal years and a maximum of four (4) fiscal years.

SECTION 3. That Chapter 13, 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 72-1319B, Idaho Code, and to read as follows:

72-1319B. TAXABLE WAGE RATE. The term "taxable wage rate" means

the numerical values provided in subsection 72-1350(g), Idaho Code, for the purpose of establishing contribution rates and reserve tax rates for covered employers.

SECTION 4. That Section 72-1322, Idaho Code, be, and the same is hereby amended to read as follows:

72-1322. EXPERIENCE RATING DEFINED. The term "experience rating" means a method of determining variable ~~contribution~~ taxable wage rates allowed to covered employers.

SECTION 5. That Chapter 13, 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 72-1347A, Idaho Code, and to read as follows:

72-1347A. EMPLOYMENT SECURITY RESERVE FUND -- SPECIAL ADMINISTRATION FUND. (a) There is hereby established in the state treasury a special trust fund, separate and apart from all other public moneys or funds of this state, to be known as the employment security reserve fund, hereinafter "reserve fund." Except as provided herein, all proceeds from the reserve tax defined in subsection (b) of this section shall be paid into the reserve fund and shall be mingled and undivided. The moneys in the reserve fund may be used by the director for loans to the employment security fund, section 72-1346, Idaho Code, as security for loans from the federal unemployment insurance trust fund, and for the repayment of any interest bearing advances, including interest, made under title XII of the social security act, 42 USC 1321 through 1324, and shall be continuously available to the director for expenditure in accordance with the provisions of this section. The state treasurer shall be the ex officio treasurer and custodian of the reserve fund and shall invest said moneys in accordance with existing law and rules promulgated pursuant thereto. The state treasurer shall disburse the moneys from the reserve fund in accordance with the directions of the director.

(b) Effective January 1, 1991, a reserve tax shall be and is hereby imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code. The reserve tax shall be due and payable at the same time and in the same manner as contributions. For calendar year 1991 and each year thereafter if the reserve fund is less than one percent (1%) of state taxable wages in the penultimate year as of December 31 of the preceding calendar year, the reserve tax rate for all eligible, standard-rated and deficit employers shall be equal to the taxable wage rate then in effect less the assigned contribution rate. The terms and conditions of the provisions of this chapter which apply to the payment and collection of contributions also apply to the payment and collection of the reserve tax imposed by this subsection, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section and the collection of the reserve tax created in this subsection, the director is granted all rights, authority, and prerogatives granted the director under the provisions of

this chapter. Moneys collected from an employer delinquent in paying contributions and reserve taxes shall first be applied to pay any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to pay delinquent contributions to the employment security fund, section 72-1346, Idaho Code, and delinquent reserve taxes to the reserve fund pursuant to this section. Any interest and penalties collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any interest or penalties refunded under this subsection shall be paid out of that same fund. Reserve taxes paid pursuant to this subsection may not be deducted in whole or in part by any employer from the wages of individuals in its employ. All reserve taxes collected pursuant to this subsection shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the reserve fund established in subsection (a) of this section. Except as to reserve taxes unpaid on the date on which they are due and payable, no reserve taxes shall be collected or paid into the reserve fund during a calendar year if, as of December 31 of the preceding calendar year, the balance of the reserve fund equals or exceeds one percent (1%) of the state taxable wages for the penultimate calendar year, or exceeds forty-nine percent (49%) of the actual balance of the employment security fund, section 72-1346, Idaho Code. This subsection is repealed effective January 1, 1996, unless, prior to that date, the Idaho legislature approves the continuation of this subsection by repealing this sunset clause.

(c) The interest earned from investment of the reserve fund moneys shall be deposited in a fund hereby established in the state treasurer's office, to be known as the department of employment special administration fund, hereinafter "special administration fund." The moneys in the special administration fund shall be held separate and apart from all other public moneys or funds of this state and shall be mingled and undivided. The state treasurer shall be the ex officio treasurer and custodian of this fund and may invest said moneys in accordance with existing law and rules promulgated pursuant thereto. Any interest earned on said moneys shall be deposited in the special administration fund. In the absence of a specific appropriation, the moneys in the special administration fund are hereby perpetually appropriated to the director and may be expended with the approval of the advisory council appointed pursuant to section 72-1336, Idaho Code, for costs related to employment service programs and unemployment insurance programs administered under the employment security law. The director shall report annually to the legislature and the advisory council the expenditures and disbursements made from the fund during the preceding fiscal year, and the expenditures and disbursements and/or commitments made during the current fiscal year to date.

(d) Administrative costs for the collection of the reserve tax defined in subsection (b) of this section, and any penalties or interest thereon, shall be paid from federal administrative grants received under title III of the social security act, as amended, to the extent permitted by federal law, and then from the state employment security

administrative and reimbursement fund, section 72-1348, Idaho Code, until such time as the special administration fund established in subsection (c) of this section, has sufficient moneys to cover such administrative costs but in any event, no later than July 1, 1992. After July 1, 1992, such administrative costs shall be paid from federal administrative grants received under title III of the social security act, as amended, to the extent permitted by federal law, and then from the special administration fund.

SECTION 6. That Section 72-1350, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(c) A desired employment security fund size shall be determined for each calendar year by calculating from the penultimate year, the ten (10) year average of annual benefits paid to wages covered, multiplied by one and one-half (1.5). The resulting ratio, when applied to the covered wages of the penultimate year, represents the desired fund size. This calculation is hereafter referred to as the average cost multiple (ACM).

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

(e) The ~~contribution~~ taxable wage rate schedule for each calendar year shall be determined by comparing the ratio of the actual balance of the employment security fund, section 72-1346, Idaho Code, and the reserve fund, section 72-1347A, Idaho Code, on December 31, to the wages covered in the penultimate year against the ~~contribution~~ taxable wage schedule ratios as provided in subsection (d) of this section.

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

(g) Schedules of ~~Contribution~~ Taxable Wage Rates

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

(h) Employers ~~rates~~ will be assigned ~~with~~ contribution rates equal to the taxable wage rates provided in each schedule for eligible, standard-rated and deficit employers, based upon their experience as determined under the provisions of sections 72-1319, 72-1319A and 72-1351, Idaho Code. Provided, however, that for calendar year 1991 and each calendar year thereafter, if a reserve tax is imposed pursuant to section 72-1347A, Idaho Code, the contribution rates for all employers, with the exception of any deficit employer who has been assigned a taxable wage rate from rate class six pursuant to this section, shall be eighty percent (80%) of the taxable wage rates then in effect.

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

SECTION 7. That Section 72-1351, Idaho Code, be, and the same is hereby amended to read as follows:

72-1351. EXPERIENCE RATING. (a) Subject to the other provisions of this act, each eligible and deficit employer's (except cost reimbursement employers) ~~contribution~~ taxable wage rate shall be determined in the manner set forth below for each calendar year:

(1) (i) Each eligible employer shall be given an "experience factor" which shall be the ratio of excess of contributions over benefits paid on the employer's account since December 31, 1939, to his average annual taxable payroll rounded to the next lower dollar amount for the four (4) fiscal years immediately preceding the computation date, except that when an employer first becomes eligible, his "experience factor" will be computed on his average annual taxable payroll for the two (2) fiscal years or more, but not to exceed four (4) fiscal years, immediately preceding the computation date. The computation of such "experience factor" shall be to six (6) decimal places.

(ii) Each deficit employer shall be given a "deficit experience factor" which shall be the ratio of excess of benefits paid on the employer's account over contributions since December 31, 1939, to his average annual taxable payroll rounded to the next lower dollar amount for the one or more fiscal years, but not to exceed four (4) fiscal years, for which he had covered employment ending on the computation date; provided, however, that any employer who on any computation date has a "deficit experience factor" for the period

immediately preceding such computation date but who has filed all reports, paid all contributions and penalties due on or before the cut off date, and has during the last four (4) fiscal years occuring after June 30, 1958, paid contributions at a rate of not less than the standard rate applicable for each such year and in excess of benefits charged to his experience rating account during such years, shall have any balance of benefits charged to his account which on the computation date immediately preceding such four (4) fiscal years were in excess of contributions paid, deleted from his account, and the excess benefits so deleted shall not be considered in the computation of his ~~contribution~~ taxable wage rate for the rate years following such four (4) fiscal years. For the rate year following such computation date, he shall be given the standard rate for that year.

(iii) In the event an employer's coverage has been terminated because he has ceased to do business or because he has not had covered employment for a period of four (4) years, and if said employer thereafter becomes a covered employer, he will be considered as though he were a new employer, and he shall not be credited with his previous experience under the act for the purpose of computing any future "experience factor."

(2) Schedules shall be prepared listing all eligible employers in inverse numerical order of their experience factors, and all deficit employers in numerical order of their deficit experience factors. There shall be listed on such schedules for each such employer in addition to the experience factor (a) the amount of his taxable payroll for the fiscal year ending on the computation date, and (b) cumulative total consisting of the sum of such employer's taxable payroll for the fiscal year ending on the computation date and the corresponding taxable payrolls for all other employers preceding him on such schedules.

(3) The cumulative taxable payroll amounts listed on the schedules provided for in paragraph (2) of this subsection shall be segregated into groups whose limits shall be those set out in the table of schedules of ~~contribution~~ taxable wage rates, section 72-1350, Idaho Code, subsection (~~f~~g). Each of such groups shall be identified by the rate class number listed in the table which represents the percentage limits of each group. Each employer on the schedules shall be assigned that ~~contribution~~ taxable wage rate opposite his rate class for the tax schedule in effect for the taxable year.

(4) (i) If the grouping of rate classes requires the inclusion of exactly one-half (1/2) of an employer's taxable payroll, such employer shall be assigned the lower of the two (2) rates designated for the two (2) classes in which the halves of his taxable payroll are so required.

(ii) If the group of rate classes requires the inclusion of a portion other than exactly one-half (1/2) of an employer's taxable payroll, such employer shall be assigned the rate designated for the class in which the greater part of his taxable payroll is so required.

(iii) If one or more employers on the schedules have experience factors identical to that of the last employer included in a particular rate class, all such employers shall be included in and assigned the ~~contribution~~ taxable wage rate specified for such class, notwithstanding the provisions of paragraph (3) of this subsection.

(5) If the taxable payroll amount or the experience factor or both such taxable payroll amount and experience factor of any eligible or deficit employer listed on the schedules is changed, such employer shall be placed in that position on the schedules which he would have occupied had his taxable payroll amount and/or experience factor as changed been used in determining his position in the first instance, but such change shall not affect the position or rate classification of any other employer listed on the schedules and shall not affect the rate determination for previous years.

(b) For experience rating purposes, all previously accumulated benefit charges to covered employers' accounts, except cost reimbursement employers, pursuant to the applicable regulations prior to the effective date of this subsection shall not be changed except as provided by this act. Benefits paid prior to June 30 shall, as of June 30 of each year preceding the calendar year for which a covered employer's ~~contribution~~ taxable wage rate is effective, be charged to the account of the covered employer, except cost reimbursement employers, who paid the largest individual amount of base period wages as shown on the determination used as the basis for the payment of such benefits, except that no charge shall be made to the account of such covered employer with respect to benefits paid under the following situations:

(1) If paid to a worker who terminated his services voluntarily without good cause attributable to such covered employer, or who had been discharged for misconduct in connection with such services;

(2) If paid in accordance with the provisions of section 72-1368(j), Idaho Code, and such determination of decision to pay benefits is subsequently reversed; or

(3) For that portion of benefits paid to multistate claimants pursuant to section 72-1344, Idaho Code, which exceeds the amount of benefits that would have been charged had only Idaho wages been used in paying the claim.

(4) If paid in accordance with the extended benefit program triggered by either national or state indicators.

(5) If paid to a worker who continues to perform services for such covered employer without a reduction in his customary work schedule, and who is eligible to receive benefits due to layoff or a reduction in earnings from another employer.

(c) A covered employer whose experience rating account is chargeable, as prescribed by this section, is an interested party as defined in section 72-1323, Idaho Code. An experience rating record shall be maintained for each covered employer. The record shall be credited with all contributions which the covered employer has paid for covered employment prior to the cut off date, pursuant to the provisions of this and preceding acts, and which covered employment occurred prior

to the computation date. The record shall also be charged with the amount of benefits paid which are chargeable to the covered employer's account as provided by the appropriate provisions of the unemployment compensation law, and employment security law, and regulations thereunder in effect at the time such benefits were paid. Nothing in this section shall be construed to grant any covered employer or individual in his service a priority with respect to any claim or right because of amounts paid by such covered employer into the employment security fund.

(d) (1) Whenever any individual or type of organization (whether or not a covered employer within the meaning of section 72-1315, Idaho Code) in any manner succeeds to, or acquires all/or substantially all, of the business of an employer who at the time of acquisition was a covered employer, and in respect to whom the director finds that the business of the predecessor is continued solely by the successor, the separate account and the actual contribution, benefit and taxable payroll experience of the predecessor shall, upon the joint application of the predecessor and the successor within the ninety (90) days after such acquisition and approval by the director, be transferred to the successor employer for the purpose of determining such successor's liability and taxable wage rate ~~of contribution~~, and any successor who was not an employer on the date of acquisition shall as of such date become a covered employer as defined in this act; provided, however, that such ninety (90) day period may be extended at the discretion of the director, and provided further that whenever a predecessor covered employer has a deficit experience rating account as of the last computation date such transfer, as herein provided, shall be mandatory except where it is shown by substantial evidence, that the management or ownership or both management and ownership are not substantially the same for the successor as for the predecessor, in which case the successor shall begin with the rate of a new employer.

(2) Whenever any individual or type of organization, whether or not a covered employer within the meaning of section 72-1315, Idaho Code, in any manner succeeds to, or acquires, part of the business of an employer who at the time of acquisition was a covered employer, and such portion of the business is continued by the successor, so much of the separate account and the actual contribution, benefit and taxable payroll experience of the predecessor as is attributable to the portion of the business transferred, as determined on a pro rata basis in the same ratio that the wages of covered employees properly allocable to the transferred portion of the business bears to the payroll of the predecessor in the last four (4) completed calendar quarters immediately preceding the date of transfer, shall, upon the joint application of the predecessor and the successor within ninety (90) days after such acquisition and approval by the director, be transferred to the successor employer for the purpose of determining such successor's liability and taxable wage rate ~~of contribution~~ and any successor who was not an employer on the date of acquisition shall as of such date become a covered employer as defined in this act; provided, however, that such ninety (90) day period may be extended

at the discretion of the director, and provided further that whenever a predecessor covered employer has a deficit experience rating account as of the last computation date, such transfer, as herein provided, shall be mandatory except where it is shown by substantial evidence, that the management or ownership or both management and ownership are not substantially the same for the successor as for the predecessor, in which case the successor shall begin with the rate of a new employer. Whenever such mandatory transfer involves only a portion of the experience rating record, and the predecessor or successor employers fail within ten (10) days after notice to supply the required payroll information, the transfer shall be based on estimates of the allocable payrolls.

(3) (i) If the successor was a covered employer prior to the date of the acquisition of all or a part of the predecessor's business~~,~~ his taxable wage rate ~~of--contribution~~, effective the first day of the calendar quarter immediately following the date of acquisition, shall be a newly computed rate based on the combined experience of the predecessor and successor, the resulting rate remaining in effect the balance of the rate year.

(ii) If the successor was not a covered employer prior to the date of the acquisition of all or a part of the predecessor's business, his rate shall be the rate applicable to the predecessor with respect to the period immediately preceding the date of acquisition, but if there were more than one predecessor the successor's rate shall be a newly computed rate based on the combined experience of the predecessors, becoming effective immediately after the date of acquisition, and shall remain in effect the balance of the rate year.

SECTION 8. That Section 72-1359, Idaho Code, be, and the same is hereby amended to read as follows:

72-1359. JEOPARDY ASSESSMENTS. If the director determines that the collection of any contribution, payment in lieu of contribution, or penalty due from any covered employer under the provisions of this act will be jeopardized by delay, he may, whether or not the time prescribed by this act or any regulations issued pursuant thereto for making reports and paying such contributions or payments in lieu of contributions has expired, determine upon the best information obtainable the amount of wages paid by such employer for covered employment and in accordance with the ~~contribution~~ taxable wage rates or provisions for payments in lieu of contributions prescribed in this act, compute and declare the amount of contributions or payments in lieu of contributions due and immediately payable, and shall give written notice of such declaration to such employer. Within fourteen (14) days after the mailing of such declaration to the last known address of such employer or in the absence of such mailing, within fourteen (14) days after delivery thereof, the employer may appeal to the employment security agency setting forth grounds for such appeal. In such cases, however, the right of appeal shall be conditioned upon the payment of

contributions or payments in lieu of contributions and penalties declared to be due or upon giving any appropriate security to the director for the payment thereof. Proceedings on such appeals shall be had in accordance with the provisions of section 72-1361, Idaho Code.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1991.

Approved March 28, 1991.

CHAPTER 120
(H.B. No. 295, As Amended in the Senate)

AN ACT

RELATING TO THE MOTOR FUEL TAX AND DISTRIBUTION OF TAX REVENUES; AMENDING SECTION 63-2405, IDAHO CODE, TO INCREASE THE MOTOR FUEL TAX BY THREE CENTS PER GALLON ON APRIL 1, 1991; AMENDING SECTION 63-2412, IDAHO CODE, TO REVISE DISTRIBUTIONS OF TAX REVENUES TO THE WATERWAYS IMPROVEMENT ACCOUNT, TO THE PARK AND RECREATION CAPITAL IMPROVEMENT ACCOUNT, TO THE SEARCH AND RESCUE ACCOUNT, TO THE OFF-ROAD MOTOR VEHICLE ACCOUNT AND TO THE HIGHWAY DISTRIBUTION ACCOUNT; AMENDING SECTION 40-701, IDAHO CODE, TO REVISE DISTRIBUTIONS FROM THE HIGHWAY DISTRIBUTION ACCOUNT AND TO DELETE OUTDATED LANGUAGE; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 63-2405, Idaho Code, be, and the same is hereby amended to read as follows:

63-2405. IMPOSITION OF TAX. An excise tax is hereby imposed on all gasoline and/or aircraft engine fuel received. The tax is to be paid by the licensed distributor, and measured by the total number of gallons received by him, at the rate of eighteen cents (18¢) per gallon. Beginning April 1, 1991, the rate of excise tax shall be twenty-one cents (21¢) per gallon. From May 1, 1981, to April 30, 1992, the rate of the excise tax to be imposed on gasohol, shall be four cents (4¢) per gallon less than the amount of the excise tax that is imposed on gasoline and/or aircraft engine fuel by this section. On and after May 1, 1992, the same amount of excise tax shall be imposed on gasohol as is imposed on gasoline and/or aircraft engine fuels. That tax, together with any penalty and/or interest due, shall be remitted with the monthly distributor's report required in section 63-2406, Idaho Code.

SECTION 2. That Section 63-2412, Idaho Code, be, and the same is hereby amended to read as follows:

63-2412. DISTRIBUTION OF TAX REVENUES. (1) The revenues received

from the taxes imposed by sections 63-2402 and 63-2405, Idaho Code, and any penalties, interest, or deficiency additions, or from the fees imposed by the commission under the provisions of section 63-2409, Idaho Code, shall be distributed periodically as follows:

(a) An amount of money equal to the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission, as determined by it shall be retained by the 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 improve-

ment 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;

Beginning July 1, 1991, one and twenty-eight hundredths per cent (1.28%) shall be distributed as follows: sixty-six per cent (66%) of the one and twenty-eight hundredths per cent (1.28%) 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 twenty-eight hundredths per cent (1.28%) 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 twenty-eight hundredths per cent (1.28%) 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~~

Beginning July 1, 1991, one and twenty-eight hundredths per cent (1.28%) shall be distributed as follows: sixty-six per cent (66%) of the one and twenty-eight hundredths per cent (1.28%) 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 twenty-eight hundredths per cent (1.28%) shall be distributed into the park and recreation capital improvement account as cre-

ated in section 57-1801, Idaho Code. One per cent (1%) of the one and twenty-eight hundredths per cent (1.28%) 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~~.~~; and

Beginning July 1, 1991, ninety-seven and forty-four hundredths per cent (97.44%) shall be distributed to the highway distribution account created in section 40-701, Idaho Code.

(2) The revenues received from the taxes imposed by section 63-2408, Idaho Code, and any penalties, interest, and deficiency amounts, shall be distributed as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the state refund account, and those moneys are hereby continuously appropriated.

(b) The balance remaining of all the taxes collected shall be distributed to the state aeronautics account, as provided in section 21-211, Idaho Code.

SECTION 3. 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.~~

(2) Beginning July 1, 1991, moneys in the highway distribution account shall be apportioned thirty-five and seventy-seven hundredths per cent (35.77%) to local units of government and fifty-eight and eighty-three hundredths per cent (58.83%) to the state highway account established in section 40-702, Idaho Code, and five and forty hundredths per cent (5.40%) 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 to the highway distribution account.

(~~4~~3) Interest earned on the investment of idle moneys in the highway distribution account shall be paid to the highway distribution account.

(~~5~~4) 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 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after April 1, 1991. Sections 2 and 3 of this act shall be in full force and effect on and after July 1, 1991.

Approved March 28, 1991.

CHAPTER 121
(S.B. No. 1045)

AN ACT

RELATING TO THE IDAHO INSURANCE GUARANTY ASSOCIATION ACT; AMENDING SECTION 41-3603, IDAHO CODE, TO PROVIDE THAT THE ACT SHALL NOT APPLY TO WARRANTY INSURANCE; AMENDING SECTION 41-3605, IDAHO CODE, TO DEFINE WARRANTY INSURANCE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 41-3603, Idaho Code, be, and the same is hereby amended to read as follows:

41-3603. APPLICATION OF ACT. This act shall apply to all kinds of direct insurance, except life, title, surety, disability, credit, mortgage guaranty, ~~and~~ ocean marine and warranty insurance.

SECTION 2. That Section 41-3605, Idaho Code, be, and the same is hereby amended to read as follows:

41-3605. DEFINITIONS. As used in this act~~,~~:

(1) "Account" means any one (1) of the three (3) accounts created by section 41-3606, Idaho Code.

(2) "Association" means the Idaho insurance guaranty association created under section 41-3606, Idaho Code.

(3) "Director" means the director of the department of insurance of this state.

(4) "Covered claim" means an unpaid claim, including one for unearned premiums, which arises out of and is within the coverage of an insurance policy to which this act applies issued by an insurer, if such insurer becomes an insolvent insurer after the effective date of this act and (a) the claimant or insured is a resident of this state at the time of the insured event; or (b) the property from which the claim arises is permanently located in this state. "Covered claim" shall not include any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise.

(5) "Insolvent insurer" means (a) an insurer holding a certificate of authority issued by the director to transact insurance in this state either at the time the policy was issued or when the insured event occurred and (b) determined to be insolvent by a court of competent jurisdiction.

(6) "Member insurer" means any person who (a) writes any kind of insurance to which this act applies under section 41-3603, Idaho Code, including the exchange of reciprocal or interinsurance contracts, and (b) is licensed to transact insurance in this state, except assessable mutual companies.

(7) "Net direct written premiums" means direct gross premiums written in this state on insurance policies to which this act applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers.

(8) "Person" means any individual, corporation, partnership, association or voluntary organization.

(9) "Warranty insurance" includes a contract under which one (1) other than a manufacturer, builder, seller or lessor of the subject property undertakes to perform or provide, for a fixed term and consideration, repair or replacement service or indemnification therefor for the operational or structural failure of specified real or personal property or property components. Warranty insurance includes, but is not limited to, automobile guaranty insurance.

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

Approved March 28, 1991.

CHAPTER 122
(S.B. No. 1129)

AN ACT

RELATING TO THE DEAF AND HARD OF HEARING; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 73, TITLE 67, IDAHO CODE, TO PROVIDE A DECLARATION OF PURPOSE, TO DEFINE TERMS, TO CREATE THE COUNCIL FOR THE DEAF AND HARD OF HEARING, TO PROVIDE COMPOSITION OF THE COUNCIL, TO PROVIDE FOR APPOINTMENTS AND TERMS OF OFFICE, TO PROVIDE FOR ORGANIZATION OF THE COUNCIL AND EMPLOYMENT OF NECESSARY PERSONNEL, TO PROVIDE RESPONSIBILITIES AND DUTIES, AND TO PROVIDE A SHORT TITLE.

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 73, Title 67, Idaho Code, and to read as follows:

CHAPTER 73
IDAHO STATE COUNCIL FOR THE DEAF AND HARD OF HEARING

67-7301. DECLARATION OF PURPOSE. The legislature finds that Idaho's deaf and hard of hearing citizens make up ten per cent (10%) of the state's population with approximately one-half (1/2) of this constituency being elderly. Deaf and hard of hearing individuals are capable of doing everything well except hearing. The deaf and hard of hearing need help in bridging the communication gap into the hearing world. Deaf and hard of hearing individuals deserve equal access to jobs, housing, education and information. Unfortunately, the needs of the deaf and hard of hearing have long been overlooked and underserved. Services that are available are fragmented and incomplete. There is an urgent need for an entity to coordinate state level programs to assure accommodation and access services for the deaf and hard of hearing. The purpose of this chapter is to establish an advisory council for the deaf and hard of hearing whose mission will be to create an environment in which hearing impaired Idahoans of all ages have an equal opportunity to participate fully as active, responsible, productive and independent citizens of the state.

67-7302. DEFINITIONS. As used in this chapter:

(1) "Advocacy" means to act in the interests of the deaf and hard of hearing population.

(2) "Council" means the Idaho state council for the deaf and hard of hearing.

(3) "Deaf" means those in whom the sense of hearing is not functional for the ordinary purposes of life. "Deaf" includes several kinds of deafness: prelingually deaf, postlingually deaf and deafened as defined by the Gallaudet university study on hearing loss.

(4) "Hard of hearing" means those persons whose hearing is impaired to an extent that makes hearing difficult but does not preclude the understanding of spoken communication through the ear alone, with or without a hearing aid.

(5) "Hearing impaired" means those who are deaf or hard of hearing.

67-7303. IDAHO STATE COUNCIL FOR THE DEAF AND HARD OF HEARING CREATED. (1) The Idaho state council for the deaf and hard of hearing is hereby created. The council shall be the interdepartmental and interagency planning and advisory body for the departments and agencies of the state for programs and services affecting persons with a hearing impairment.

(2) For budgetary purposes and for administrative support purposes, the council shall be assigned, by the governor, to a department or office within the state government. However, this assignment shall not interfere with the interdepartmental and interagency planning, coordinating, influencing, evaluating and monitoring functions of the council.

67-7304. COMPOSITION. (1) The council shall consist of nine (9) members to be appointed by the governor.

(2) Membership shall be as follows: one (1) member shall be a deaf person representing an association of the deaf, one (1) member shall be a deaf person, one (1) member shall be the parent of a deaf child, one (1) member shall be a hard of hearing member of a national hard of hearing consumer organization, one (1) member shall be a hard of hearing person over the age of sixty (60) years, one (1) member shall be the parent of a hard of hearing child, one (1) member shall be an interpreter for the deaf, one (1) member shall be a licensed physician, and one (1) member shall be an ASHA certified audiologist.

(3) The following shall serve as ex officio nonvoting members of the council: a representative from each of the following: the Idaho school for the deaf and blind, the state department of education, the division of vocational rehabilitation, the office on aging, the department of health and welfare, the bureau of occupational licenses, the department of employment, the public utilities commission, the consumer protection division of the office of the attorney general, the Idaho hearing aid society, and the director of the council for the deaf and hard of hearing.

(4) Due regard shall be given to balanced representation from geographical and demographic areas of the state for voting members of the council.

(5) Voting members of the council shall be compensated as provided in section 59-509(b), Idaho Code.

67-7305. APPOINTMENT AND TERM OF OFFICE. (1) Council members terms shall be for three (3) years.

(2) For purposes of the initial appointments, the deaf person

representing an association of the deaf, the hard of hearing person representing a hard of hearing consumer organization, and the licensed physician shall be appointed for three (3) year terms; the deaf person, the hard of hearing person over the age of sixty (60) years and the audiologist shall be appointed for two (2) year terms; and the parent of a deaf child, the parent of a hard of hearing child and the interpreter for the deaf shall be appointed for a one (1) year term.

(3) A vacancy occurring in the membership of the council shall be filled by appointment of the governor for the unexpired portion of the vacated term.

(4) Members may be replaced because of poor attendance, lack of participation in the council's work, or malfeasance in office.

67-7306. ORGANIZATION OF COUNCIL -- EMPLOYMENT OF NECESSARY PERSONNEL. (1) The council members shall elect a chairman from among the council membership who shall serve for a one (1) year term.

(2) The council shall adopt and amend bylaws governing its proceedings, activities and organization including, but not limited to, provisions for election of officers other than the chairman; provision for a quorum, procedure, frequency and location of meetings; and establishment, functions and membership of council committees.

(3) The council shall employ and fix the compensation, subject to provisions of chapter 53, title 67, Idaho Code, of such personnel as may be necessary including, but not limited to, a full-time administrator, who shall be designated as the executive director of the council and who shall be exempt under the provisions of chapter 53, title 67, Idaho Code.

67-7307. RESPONSIBILITIES AND DUTIES. The council shall:

(1) Work to increase access to employment, educational and social-interaction opportunities for deaf and hard of hearing individuals.

(2) Increase awareness of the needs of the deaf and hard of hearing through educational and informational programs.

(3) Encourage consultation and cooperation among departments, agencies and institutions serving the deaf and hard of hearing.

(4) Provide a network through which all state and federal programs dealing with the deaf and hard of hearing individuals can be channeled.

(5) Determine the extent and availability of services to the deaf and hard of hearing, determine the need for further services and make appropriate recommendations to government officials to insure that the needs of deaf and hard of hearing citizens are best served.

(6) To coordinate, advocate for, and recommend the development of public policies and programs that provide full and equal opportunity and accessibility for deaf and hard of hearing persons in Idaho.

(7) To monitor consumer protection issues that involve the deaf and hard of hearing population of the state of Idaho.

(8) Submit periodic reports to the governor, the legislature and departments of state government on how current federal and state programs, rules, regulations, and legislation affect services to persons with hearing impairments.

67-7308. SHORT TITLE. This chapter shall be known and cited as the "Idaho State Council on the Deaf and Hard of Hearing Act."

Approved March 28, 1991.

CHAPTER 123
(H.B. No. 130)

AN ACT

RELATING TO INSURANCE; AMENDING CHAPTER 18, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1844, IDAHO CODE, TO RESTRICT THE CONDITIONS UNDER WHICH A THIRD-PARTY PAYOR OF MEDICAL AND HOSPITAL BENEFITS MAY LIMIT COVERAGE FOR PRESCRIPTION DRUGS; AMENDING SECTION 41-3434, IDAHO CODE, TO PROVIDE THAT SECTION 41-1844, IDAHO CODE, IS APPLICABLE TO HOSPITAL AND PROFESSIONAL SERVICE CORPORATIONS; AND AMENDING SECTION 41-3931, IDAHO CODE, TO PROVIDE THAT SECTION 41-1844, IDAHO CODE, IS APPLICABLE TO HEALTH MAINTENANCE ORGANIZATIONS.

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

SECTION 1. 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 41-1844, Idaho Code, and to read as follows:

41-1844. PRESCRIPTION DRUG BENEFIT RESTRICTIONS PROHIBITED. (1) A group policy or contract providing for third-party payment or prepayment for prescription drugs may designate an affiliated mail order pharmacy or other specific pharmacy but it shall not require a person covered under the policy or contract to obtain prescription drugs from the mail order pharmacy or any specifically designated pharmacy, nor shall it set forth provisions for the payment of additional fees or deductibles by the covered person as a condition of obtaining benefits for prescription drugs if a registered pharmacy selected by the covered person agrees to provide pharmaceutical services under the same terms and conditions as those provided by said mail order pharmacy or specifically designated pharmacy.

(2) Group policy or contracts providing for third-party payment or for prescription drugs delivered, issued for delivery, continued, or renewed in this state on or after July 1, 1991, are subject to the provisions of this section.

SECTION 2. 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);

(17) Section 41-1839 (attorney fees); ~~and~~

(18) Chapter 46 (long-term care insurance); and

(19) Section 41-1844 (prescription drug benefit restrictions prohibited).

SECTION 3. 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) section 41-1844 (prescription drug benefit restrictions prohibited);

(d) section 41-2141 (coordination with social security benefits); and

(~~d~~e) chapter 46 (long-term care insurance).

Approved March 29, 1991.

CHAPTER 124
(H.B. No. 199, As Amended)

AN ACT

RELATING TO COSMETOLOGISTS; AMENDING SECTION 54-802, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS AND REDEFINE TERMS; AMENDING SECTION 54-803, IDAHO CODE, TO CLARIFY THE PROVISIONS FOR REGULATION OF COSMETOLOGICAL ESTABLISHMENTS; AMENDING SECTION 54-804, IDAHO CODE, TO CLARIFY EXEMPTIONS; AMENDING SECTION 54-805, IDAHO CODE, TO PROVIDE CLARIFICATION, AND TO PROVIDE REQUIREMENTS FOR LICENSING OF ESTHETICIANS; AMENDING SECTION 54-806, IDAHO CODE, TO PROVIDE CONDITIONS NECESSARY FOR OPERATION OF A SCHOOL OR ESTABLISHMENT; AMENDING SECTION 54-808, IDAHO CODE, TO PROVIDE ADDITIONAL REGULATIONS FOR SCHOOLS; AMENDING SECTION 54-818, IDAHO CODE, TO CLARIFY THE FEE SCHEDULE, AND TO PROVIDE FEES FOR ESTHETICIANS; AMENDING SECTION 54-821, IDAHO CODE, TO CLARIFY THE AUTHORITY FOR ADMINISTRATIVE REGULATIONS; AMENDING SECTION 54-824, IDAHO CODE, TO STRIKE REFERENCE TO PHYSICAL EXAMINATIONS, TO STRIKE REFERENCE TO OBSOLETE REFERENCES, AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 54-828, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF BOARD MEMBERS AND TO PROVIDE PROPER NOMENCLATURE; AND REPEALING SECTION 54-830, IDAHO CODE.

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~~ other parts of the body.

3. Manicuring, pedicuring the nails, and the application of artificial nails.

(b) "Registered cosmetologist" shall mean any person licensed to practice cosmetology.

(c) "Nail technology" shall constitute any one (1) or more of the following practices when done upon the human body:

1. Manicuring, pedicuring the nails, and the application of all forms of artificial nails.

2. Massage of the hands and feet.

(d) "~~Manicurist~~ Nail technician" shall mean any person whose

practice of cosmetology is limited to ~~manicuring the nails~~ nail technology.

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) "Esthetics" shall constitute any one (1) or combination of the following practices when done on the human body:

1. Applying cosmetic preparations, antiseptics, tonics, lotions or creams, or massaging, cleansing, exercising, beautifying or similar applications of work to the human body.

2. Nonpermanent hair removal by tweezing or waxing.

(q) "Esthetician" means any person licensed to practice esthetics.

(~~o~~r) "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 54-803, Idaho Code, be, and the same is

hereby amended to read as follows:

54-803. REGULATION OF COSMETOLOGICAL ESTABLISHMENTS. Every ~~cosmetological~~ establishment licensed under the provisions of this chapter shall meet the following requirements:

1. It shall be unlawful to practice ~~cosmetology or electrology in any place not a cosmetological establishment, except in a school of cosmetology or in a barber shop by a registered cosmetologist or instructing in a barber school or college by a cosmetology instructor or manicuring and electrology in a licensed barber shop or to operate a cosmetological~~ any of the occupations licensed under this chapter except in a place or establishment ~~without a certificate of registration~~ licensed therefor, or licensed under the provisions of chapter 5, title 54, Idaho Code.

2. It shall be unlawful for any person to employ, or to allow to be employed, in or about an ~~cosmetological~~ establishment ~~in any of the fields of cosmetology~~ licensed under the provisions of this chapter, any person not duly licensed under the provisions of this chapter except a registered barber holding a valid, unrevoked license practicing barbering.

3. Where a licensed cosmetological establishment is located in or as a part of a home or other building containing living quarters, the portions thereof which are used for the licensed practice of cosmetology shall not be used as living, dining, or sleeping quarters.

SECTION 3. That Section 54-804, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

than the regular price of the merchandise.

SECTION 4. 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~~ direction of the board.

2. 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 or school 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

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.

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.

5. As a ~~manicurist~~ nail technician:

(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 board approved school ~~of cosmetology~~.

(d) Successful passage of the examination for ~~manicurist~~ nail technician given under the ~~supervision~~ direction of the board.

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~~/~~ and esthetician given under ~~supervision~~ the direction of the board.

7. As an 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 five hundred (500) hours of training for such in a school approved by the board to teach esthetics.

(d) Successfully passed the examination for esthetician given under the direction of the board.

SECTION 5. 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. (1) 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~~ nail technician, esthetician, or electrologist/esthetician 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~~.

(2) Any person, firm, association or corporation may own and operate a school of cosmetology, provided that such school has been duly registered with the board, and the school maintains the requirements specified in section 54-808, Idaho Code.

SECTION 6. That Section 54-808, Idaho Code, be, and the same is hereby amended to read as follows:

54-808. REGULATIONS FOR SCHOOLS. Every domestic school of cosmetology must be registered under the provisions of this chapter and shall meet the following standards and provisions:

1. Employ and maintain at least one (1) licensed instructor for every fifteen (15) students or fraction thereof;

2. Possess sufficient apparatus and equipment for the proper and full teaching of all subjects of its curriculum;

3. Keep a daily attendance record for each student;

4. Maintain regular class and instruction hours, establish grades, and hold monthly examinations;

5. Prescribe a school term for training in all phases of the practice of cosmetology;

6. Enforce minimum and maximum hour requirements;

7. Provide a curriculum embracing subjects covering the scientific fundamentals for cosmetology, hygiene, bacteriology, histology of the hair, skin, muscles, nails 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 body, permanent waving, haircutting and arranging, dressing, coloring, bleaching and tinting of the hair, removal of unwanted hair when approved by the board to teach electrology, and a study of electricity as applied to cosmetology, in addition to teaching the acts prescribed in section 54-802, Idaho Code;

8. Denote with clarity that the establishment is a school and that work is done by students. Such fact shall be made clear to the patron by signs conspicuously posted in the school and the adjoining shop, if any;

9. All instructors must be licensed ~~to--practice--cosmetology~~ instructors in this state;

10. ~~Each--student-instructor-receiving-instruction-in-such-school shall-be-the-equivalent-of-two-(2)-students-for-the-purposes--of--subsection-1-above;~~

~~11.~~ Such school shall not permit any student or apprentice to receive instruction unless licensed under the provisions of this chapter;

1~~2~~1. Every instructor shall devote his entire time during school or class hours to that of instructing the students and shall not apply his time to that of private or public practice;

1~~3~~2. School hours for the purpose of instruction shall be offered on not less than a five (5) day week;

1~~4~~3. Each student shall be required to receive at least six (6), and not more than eight (8), hours of instruction each day;

1~~5~~4. Training received in an establishment not meeting the requirements for schools as herein set forth shall receive credit for said training as an apprentice rather than as a student, provided said training meets the requirements for apprentice training;

1~~6~~5. All students, including those enrolled for instructor's training, shall be registered by the school with the board, listing the name, age, and qualifications of the student required for such training. Forms for such enrollment may be provided by the board and a register of such enrollments shall be maintained by the board. Hours of instruction shall be registered with the board as established by board regulations, and a student may be permitted to transfer the credits earned at one (1) school to another school with permission of the board;

1~~7~~6. Training received in electrology in a school shall not be recognized unless the school has been approved for such training by the board and the school meets and maintains the requirements to train electrologists as established by board regulations;

17. Training received in esthetics shall not be recognized unless the school has been approved for such training by the board, and the school meets and maintains the requirements to train estheticians as established by board rules.

18. Training received in nail technology shall not be recognized unless the school has been approved for such training by the board, and the school meets and maintains the requirements to train nail technicians as established by board rules.

1~~8~~9. Every school 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 five thousand dollars ($5,000) executed by a corporate surety company duly authorized to do business in this state, conditioned that such school 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 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 to comply with such conditions, shall have a right of action in his or her own name, on such bonds, for such damage.

SECTION 7. 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/annual renewals 20.00
~~registered cosmetologist, annual renewals ..... 20.00~~
~~manicurists~~ nail technician, original license/annual renewals . 20.00
~~manicurists, annual renewals ..... 20.00~~
apprentice, original license (no renewal fees required) 20.00
student certificate (no renewal fees required) 20.00
instructor, original license/annual renewals 25.00
~~instructor, annual renewals ..... 25.00~~
student instructor certificate 25.00
electrologist/esthetician, original license/annual renewals ... 22.00
~~electrologist/~~esthetician, original license/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~~ nail technician 35.00
as an instructor when required by board regulation 35.00
as an electrologist/esthetician 35.00
as an esthetician 35.00

Fees shall not be prorated or returnable.
All certificates expire December 31.

SECTION 8. That Section 54-821, Idaho Code, be, and the same is

hereby amended to read as follows:

54-821. ADMINISTRATIVE REGULATIONS. The board shall have authority to ~~prescribe~~ adopt, promulgate, and amend rules and regulations for the conduct of cosmetological establishments and schools of cosmetology to safeguard the public health, safety, and welfare, and for the performance of its duties and the regulation of proceedings before the board.

SECTION 9. That Section 54-824, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

SECTION 10. That Section 54-828, Idaho Code, be, and the same is hereby amended to read as follows:

54-828. IDAHO BOARD OF COSMETOLOGY -- APPOINTMENT -- TERM. There is hereby created in the department of self-governing agencies a board to be known as the "Idaho Board of Cosmetology." It shall consist of three (3) registered cosmetologists, one (1) from the northern section of the state, one (1) from the south central section of the state, and one (1) from the southeastern section of the state, one (1)

electrologist/esthetician and one (1) currently active cosmetology school representative, appointed by the governor from among nominees recommended by any organized and generally recognized group of cosmetologists in this state. The members of the ~~first~~ board shall be appointed ~~within--thirty--(30)--days--after--the-adoption-of-this-act becomes-effective-without-reference-to-recommendations;--and--one--(1) member--shall--be--appointed-to-serve-a-term-for-one-(1)-year;-one-(1) for-two-(2)-years;-one-(1)~~ for terms of three (3) years ~~and-the-cosmetology-school-representative--for--one--(1)--year--from--the--date--of appointment;--Members--of-the-board-shall-be-appointed-from-and-generally-be-representatives-of-the-northern;-south-central;-and-southeastern-sections-of-the-state.~~ On the expiration of the term of any member, his successor shall be appointed in like manner by the governor for a term of three (3) years. ~~The--original--appointment--of--an electrologist--shall-be-for-a-term-of-two-(2)-years-and-thereafter-the term-shall-be-three-(3)-years.~~ Vacancies shall be filled in like manner for the unexpired portion of the term. Members of the board shall hold office until their successors have been appointed and have qualified. The board may, by written agreement, authorize the bureau of occupational licenses as agent to act in its interest.

The governor shall appoint two (2) active, licensed ~~cosmeticians~~ registered cosmetologists in each district who shall have authority to assist in conducting cosmetology examinations and they shall be paid such amounts as the board determines, when performing board duties.

The action and report in writing of a majority of the board with reference to the violation of any of the provisions of this ~~act~~ chapter shall be basis for the board to proceed according to the provisions of sections 54-816, 54-817, and 54-821, Idaho Code.

SECTION 11. That Section 54-830, Idaho Code, be, and the same is hereby repealed.

Approved March 29, 1991.

CHAPTER 125
(S.B. No. 1176, As Amended in the House)

AN ACT

RELATING TO THE UNIFORM CONTROLLED SUBSTANCE ACT; AMENDING CHAPTER 27, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-2732A, IDAHO CODE, TO PERMIT THE SACRAMENTAL USE OF PEYOTE IN RELIGIOUS RITES OF CERTAIN BONA FIDE NATIVE AMERICAN RELIGIOUS CEREMONIES ON INDIAN RESERVATIONS AND TO REQUIRE CERTAIN IDENTIFICATION.

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 37-2732A, Idaho Code, and to read as follows:

37-2732A. SACRAMENTAL USE OF PEYOTE PERMITTED. The criminal sanctions provided in this chapter do not apply to that plant of the genus Lophophora Williamii commonly known as peyote when such controlled substance is transported, delivered or possessed to be used as the sacrament in religious rites of a bona fide native American religious ceremony conducted by a bona fide religious organization; provided, that this exemption shall apply only to persons of native American descent who are members or eligible for membership in a federally recognized Indian tribe. Use of peyote as a sacrament in religious rites shall be restricted to Indian reservations as defined in subsection (2) of section 63-3622Z, Idaho Code. A person transporting, possessing or distributing peyote in this state for religious rites shall have on their person a tribal enrollment card, a card identifying the person as a native American church member and a permit issued by a bona fide religious organization authorizing the transportation, possession and distribution of peyote for religious rites.

Approved March 29, 1991.

CHAPTER 126
(H.B. No. 6)

AN ACT

RELATING TO THE POWERS AND DUTIES OF THE STATE LIBRARY BOARD; AMENDING SECTION 33-2504, IDAHO CODE, TO STRIKE REFERENCE TO A GRANTS PROGRAM FOR SCIENCE EDUCATION; AND REPEALING SECTIONS 33-2511 AND 33-2512, IDAHO CODE.

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

SECTION 1. 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 state library 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 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 state of Idaho, to render library services to people of the state of Idaho. The state library 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 2. That Sections 33-2511 and 33-2512, Idaho Code, be, and the same are hereby repealed.

Approved March 29, 1991.

CHAPTER 127
(H.B. No. 17)

AN ACT

RELATING TO HUNTING, TRAPPING AND FISHING LICENSE REQUIREMENTS; AMENDING SECTION 36-401, IDAHO CODE, TO PROVIDE FOR A FREE FISHING PERMIT FOR PARTICIPANTS IN FISH AND GAME SPONSORED FUNCTIONS WHILE UNDER THE SUPERVISION OF A DEPARTMENT APPROVED INSTRUCTOR WHO HAS BEEN ISSUED AN EDUCATIONAL FISHING PERMIT BY THE DIRECTOR.

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 Services Center Students. For students of the state youth 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) Participants in Fish and Game Sponsored Functions. For persons who are official participants in attendance at official department sponsored functions including clinics, courses or other educational events, while under the supervision of a department approved instructor for the function, to fish during any open season, provided that the instructor has been issued an educational fishing permit by the director.

(k) Nothing contained herein shall be construed to prohibit citizens of the United States who are residents of the state of Idaho from carrying arms for the protection of life and property.

Approved March 29, 1991.

CHAPTER 128
(H.B. No. 21)

AN ACT

RELATING TO PENALTIES FOR VIOLATION OF FISH AND GAME LAWS AND REGULATIONS; AMENDING SECTION 36-1402, IDAHO CODE, TO PROVIDE THAT ANY PERSON WHO PLEADS GUILTY TO OR IS FOUND GUILTY OF AN INFRACTION OF THE FISH AND GAME CODE SHALL BE PUNISHED IN ACCORDANCE WITH THE PROVISIONS OF THE IDAHO INFRACTIONS RULES.

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 -- INFRACTION -- MISDEMEANOR -- FELONY -- REVOCATION OF LICENSE -- DISPOSITION OF MONEYS. (a) Infraction Penalty. Any person who pleads guilty to or is found guilty of an infraction of this code or regulations promulgated pursuant thereto, shall be punished in accordance with the provisions of the Idaho infractions rules.

(b) 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, swan and sturgeon	$200	$ 500
Chinook salmon	$100	$ 500

(~~b~~c) 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~~d) License Revocation. Any person entering a plea of guilty for being found guilty or 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 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 judgment or a final conviction.

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

Approved March 29, 1991.

CHAPTER 129
(H.B. No. 23)

AN ACT

RELATING TO SALE AND PURCHASE OF WILDLIFE; AMENDING SECTION 36-501, IDAHO CODE, TO PROVIDE THAT IT IS LAWFUL FOR HOLDERS OF A WHOLESALE STEELHEAD TROUT BUYER'S LICENSE TO PURCHASE STEELHEAD FROM INDIAN FISHERMEN LAWFULLY EXERCISING FISHING RIGHTS PROVIDED THAT THE FISHERMAN IS AN ENROLLED MEMBER OF THE TRIBE HOLDING SUCH

RIGHTS AND THE CODE OF SUCH TRIBE AUTHORIZES SUCH SALES, AND TO DELETE THE WORD "WHISTLING."

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

SECTION 1. That Section 36-501, Idaho Code, be, and the same is hereby amended to read as follows:

36-501. SALE AND PURCHASE OF WILDLIFE -- RESTRICTIONS -- EXCEPTIONS. It is a misdemeanor for any person to sell or buy any species of wildlife or parts thereof except as hereinafter provided.

(a) Sale of Unprotected Wildlife. The sale of legally taken species of wildlife classified as unprotected by law shall be lawful.

(b) Sale of Game Animals. The sale of legally taken hides, horns, or heads of game animals, when detached from the carcass, and mounted wildlife, where sale is not specifically prohibited by federal or state statutes or regulations, shall be lawful only when the wildlife to be sold is accompanied by a statement showing that the animals were lawfully taken.

(c) Sale of Furbearers. The sale of pelts and parts of furbearers when legally taken shall be lawful.

(d) Sale of Seized Wildlife. The sale and purchase of court confiscated, abandoned, or unclaimed wildlife shall be lawful when made in accordance with the provisions of section 36-1304, Idaho Code.

(e) Sale of Commercially Raised or Harvested Wildlife. The sale of wildlife legally raised or harvested commercially by properly licensed commercial operations shall be lawful.

(f) Sale of Steelhead Trout. 1. Any person holding a wholesale steelhead trout buyer's license may purchase or sell steelhead trout in the state of Idaho that have been taken by Indian fishermen lawfully exercising fishing rights reserved by federal statute, treaty or executive order, provided that the Indian fisherman is an enrolled member of the tribe holding such rights and the code of such tribe authorizes such sales. A wholesale license is necessary to purchase steelhead trout directly from Indian fishermen or from any other seller whose principal place of business is located outside of the state of Idaho.

2. Any person holding a retail steelhead trout buyer's license may purchase steelhead trout in the state of Idaho from an Idaho licensed wholesale steelhead trout buyer, or from any Indian fisherman lawfully exercising fishing rights authorized by federal statute, treaty, or executive order. A licensed retail steelhead trout buyer may sell steelhead trout directly to the consumer or to an establishment that prepares steelhead trout for consumption.

3. Establishments that prepare steelhead trout for consumption must possess a wholesale or retail steelhead trout buyer's license; however, these licensed establishments may purchase steelhead trout from either wholesale or retail licensed steelhead trout buyers.

4. The fee for a wholesale license shall be fifty dollars ($50.00) per year. The fee for a retail license shall be ten dollars ($10.00) per year. All fees collected pursuant to this subsection shall be deposited in the fish and game account created pursuant to section 36-107, Idaho Code. These licenses shall expire December 31 of

the year for which they are valid.

5. No license is required for any person purchasing steelhead trout for personal consumption from a licensed wholesale or retail steelhead trout buyer or from an Indian fisherman lawfully exercising fishing rights authorized by federal statute, treaty, executive order, or tribal code or regulation.

6. Purchases or sales under this section shall be made under conditions and reporting requirements prescribed by commission regulation, provided that said conditions and reporting requirements are limited to those necessary to identify the source of steelhead purchased.

Any person violating the provisions of this subsection shall be guilty of a misdemeanor and upon pleading guilty or being found guilty is punishable by a fine of not less than twenty-five dollars ($25.00) nor more than three hundred dollars ($300) or imprisonment for a period not in excess of six (6) months or by both such fine and imprisonment.

(g) Commission May Permit Sales. The commission may, by regulation, permit the sale of other parts of wildlife when such sale will not injuriously affect the species permitted.

(h) Any person who pleads guilty to or is found guilty of two (2) or more violations of the provisions of this section, occurring within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony if the violations consisted of sales not permitted by regulation, or any other violation of the provisions of this section, involving bighorn sheep, mountain goat, moose, elk, deer, pronghorn antelope, wild turkey, ~~whistling~~ swan, sturgeon or chinook salmon or parts of any of the aforementioned animals, birds or fish.

Approved March 29, 1991.

CHAPTER 130
(H.B. No. 34)

AN ACT

RELATING TO VIOLATIONS OF FISH AND GAME LAWS AND REGULATIONS; AMENDING SECTION 36-1401, IDAHO CODE, TO PROVIDE THAT CERTAIN VIOLATIONS OF THE FISH AND GAME CODE AND CERTAIN RULES AND REGULATIONS PROMULGATED THERETO ARE INFRACTIONS.

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

SECTION 1. That Section 36-1401, Idaho Code, be, and the same is hereby amended to read as follows:

36-1401. VIOLATIONS ~~A--MISDEMEANOR~~. (a) Infractions. Any person who pleads guilty to or is found guilty of a violation of the following provisions of the fish and game code or the following rules and regulations promulgated pursuant thereto is guilty of an infraction:

1. Statutes

(A) Take, transport, use or have in possession bait fish as set forth in section 36-902(d), Idaho Code.
(B) Chumming as set forth in section 36-902(e), Idaho Code.
(C) Nonresident child under the age of fourteen (14) years fishing without a valid license and not accompanied by a valid license holder as set forth in section 36-401(a)2., Idaho Code.
(D) Use or cut a hole larger than ten (10) inches in the ice for ice fishing as set forth in section 36-1509(a), Idaho Code.
(E) Store fish without required tags/permits/statements as set forth in section 36-503, Idaho Code.
(F) Own, possess or harbor any dog found running loose and which is tracking, pursuing, harassing or attacking a big game animal as set forth in section 36-1101(f)2., Idaho Code.
(G) Hunt migratory waterfowl without having in possession a signed federal migratory bird hunting stamp as set forth in section 36-1102(b)2., Idaho Code.
(H) Hunt migratory waterfowl without having in possession a signed Idaho migratory waterfowl stamp as set forth in section 36-414(2), Idaho Code.
(I) Hunt upland game birds without having in possession an upland game permit as set forth in section 36-409(h), Idaho Code.
(J) Trap in or on, destroy or damage any muskrat house as provided in section 36-1103(c), Idaho Code.

2. Rules and Regulations
(A) Fish from a raft or boat with motor attached in waters where motors are prohibited.
(B) Fish with hooks larger than allowed in that water.
(C) Fish with barbed hooks in waters where prohibited.
(D) Exceed any established bag limit for fish except anadromous fish bag limits, by two (2) fish.
(E) Fish with more than the approved number of lines or hooks.
(F) Fail to leave head and/or tail on fish while fish are in possession or being transported.
(G) Snag or hook fish other than in the head and fail to release, excluding anadromous fish.
(H) Fail to attend fishing line and keep it under surveillance at all times.
(I) Fail to comply with mandatory check and report requirements.
(J) Fail to leave evidence of sex or species attached as required on game birds.
(K) Hunt or take migratory game birds while in possession of shot other than steel shot in a steel shot zone.
(L) Fail to release, report or turn in nontarget trapped animals.
(M) Fail to complete required report on trapped furbearer.
(N) Fail to present required furbearer animal parts for inspection.
(O) Fail to attach identification tags to traps.

(P) Trap with illegal bait or bait set illegally.

(b) Misdemeanors and Felonies. Any person who shall violate any other of the provisions of this title or regulations promulgated pursuant thereto, except where an offense is expressly declared to be a felony, shall be guilty of a misdemeanor.

Approved March 29, 1991.

CHAPTER 131
(H.B. No. 43, As Amended)

AN ACT

RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2107, IDAHO CODE, TO PROVIDE AUTHORIZATION TO THE OUTFITTERS AND GUIDES LICENSING BOARD TO DELEGATE ADMINISTRATIVE DUTIES TO ITS EXECUTIVE DIRECTOR; AMENDING SECTION 36-2108, IDAHO CODE, TO CLARIFY LANGUAGE RELATING TO OPERATING AREA DESCRIPTION, TO PROVIDE FOR INCREASED LICENSE FEES FOR OUTFITTERS AND GUIDES, AND TO STRIKE OBSOLETE EFFECTIVE DATE LANGUAGE; AMENDING SECTION 36-2113, IDAHO CODE, TO PROVIDE ADDITIONAL CONDITIONS FOR REVOCATION OR SUSPENSION OF A LICENSE; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 36-2107, Idaho Code, be, and the same is hereby amended to read as follows:

36-2107. POWERS AND DUTIES OF BOARD. The board which may by written agreement authorize the bureau of occupational licenses as agent to act in its interest, shall have the following duties and powers:

(a) To conduct examinations to ascertain the qualifications of applicants for outfitter's or guide's licenses, and to issue such licenses to qualified applicants, with such restrictions and limitations thereon as the board may find reasonable.

(b) To prescribe and establish rules of procedure and regulations to carry into effect the provisions of this act, including, but not limited to, regulations prescribing all requisite qualifications of training, experience, knowledge of rules and regulations of governmental bodies, condition and type of gear and equipment, examinations to be given applicants, whether oral, written or demonstrative, or a combination thereof.

(c) To conduct hearings and proceedings to suspend, revoke or restrict the licenses of outfitters or guides, and to suspend, revoke or restrict said licenses for due cause in the manner hereinafter provided.

(d) The board is expressly vested with the power and the authority to enforce the provisions of this chapter and make and enforce any and all reasonable rules and regulations which shall by it be deemed necessary and which are not in conflict with the provisions of this chapter, for the express purpose of safeguarding the health, safety, welfare and freedom from injury or danger of those persons utilizing

the services of outfitters and guides, and for the conservation of wildlife and range resources.

(e) The board shall have the power to cooperate with the federal and state government through its appropriate agency or instrumentality in matters of mutual concern regarding the business of outfitting and guiding in Idaho.

(f) The board shall have the power throughout the state of Idaho to request the attendance of witnesses and the production of such books, records and papers as may be required at any hearing before it, and for that purpose the board may request a district court to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers. Subpoenas shall be directed to the sheriff of any county in the state of Idaho where such witness resides or may be found. Subpoenas shall be served and returned in the same manner as subpoenas in a criminal case. The fees and mileage of the sheriff and witnesses shall be the same as that allowed in district court criminal cases, which fees and mileage shall be paid from any funds in the state treasury available therefor in the same manner as other expenses of the board are paid. Disobedience of any subpoena issued by the district court or the refusal by any witness in failing to testify concerning any matter regarding which he may lawfully be interrogated, or the failure to produce any books, records or papers shall constitute a contempt of the district court of any county where such disobedience or refusal occurs, and said court, or any judge thereof, by proceedings for contempt in said court, may, if such contempt be found, punish said witness as in any other case of disobedience of a subpoena issued from such court or refusal to testify therein.

(g) The board shall have the power to appoint an executive director to serve at the pleasure of the board. The executive director shall carry out such administrative duties as delegated to the director by the board. The board may, in its discretion, refuse, sustain or reverse, by majority vote, any action or decision of the executive director. The executive director shall be exempt from the provisions of chapter 53, title 67, Idaho Code, and shall receive a salary that is fixed by the board.

(h) The board shall have the power to hire enforcement agents in order to conduct investigations and enforce the provisions of this chapter. All enforcement agents appointed by the board who are certified by the Idaho peace officer standards and training advisory council, shall have the power of peace officers limited to:

1. Enforcement of the provisions of this chapter.
2. Responding to express requests from other law enforcement agencies for aid and assistance in enforcing other laws. For purposes of this section, such a request from a law enforcement agency shall mean only a request as to a particular and singular violation or suspicion of violation of law, and shall not constitute a continuous request for assistance outside the purview of enforcement of the provisions of this chapter.

SECTION 2. That Section 36-2108, Idaho Code, be, and the same is hereby amended to read as follows:

36-2108. APPLICATION FOR LICENSE -- CONTENTS -- FEE -- QUALIFICATIONS -- TERM -- BOND. (a) Each applicant for an outfitter's or guide's license shall make application for such license upon a form to be prescribed and furnished by the board.

1. All applications for an outfitter's license shall be signed by the applicant, under oath or affirmation that all information supplied by him in the application form is true and correct as he verily believes and shall be duly notarized. Such applications shall include, but are not limited to, a worded description of the boundaries of the operating area in which such activity will be conducted.

2. All applications for a guide's license shall be signed by the applicant. Such application shall contain the written endorsement of the outfitter(s) by whom the applicant will be employed.

(b) Applications shall be made to and filed with the board and accompanied by a bond to the state of Idaho for the benefit of person or persons employing the licensee and in a form approved by the board in the sum of five thousand dollars ($5,000) for outfitters, executed by a qualified surety, duly authorized to do business in this state, conditioned that for the current license year said applicant, his agents and employees, if said license is issued to him, shall conduct his business as an outfitter without fraud or fraudulent representation, and will faithfully perform his contracts with and duties to his patrons; said bond shall be filed with the board before issuance of the license as provided herein.

(c) The board, in its discretion, may make such additional investigation and inquiry relative to the applicant and his qualifications as it shall deem advisable, provided that final decision by the board upon an application submitted by an applicant who has held during the preceding license year a license of the same kind for which application is made shall not be later than March 31 of the year in which the board receives all materials required to be submitted in order to complete a license application or thirty (30) days from the date the board receives all such materials, whichever is later; and upon an application submitted by an applicant not holding during the preceding license year a license of the same kind or embracing the same activity(ies) or area for which application is made, not later than March 31 of the year in which the board receives all materials required to be submitted in order to complete a license application or ninety (90) days from the date the board receives all such materials, whichever is later.

(d) After the board has acted favorably upon an application, the applicant shall pay a license fee, as hereinafter provided, to the board.

1. The license fee shall be paid prior to the issuance of a license.

2. The license fee shall be used for the investigation of applicants, for enforcement of this act, and for the administration costs of the board.

3. The license fee for resident and nonresident outfitters shall be two hundred ~~twenty-five~~ fifty dollars ($~~225~~0); the license fee for a designated agent as defined in section 36-2102(b), Idaho Code, shall be one hundred dollars ($100); and the license fee for

resident and nonresident guides shall be ~~seventy~~ eighty-five dollars (~~$75~~85.00). A penalty fee in the amount of fifty dollars ($50.00) may be charged in addition to the regular outfitter's license fee for any such renewal applicant whose application is not complete by March 31 of the year in which application for such license is made; this does not apply to a new applicant for an outfitter's license. A seventy-five dollar ($75.00) fee shall be charged for every amendment to an outfitter's license other than an incidental amendment, and a ten dollar ($10.00) fee shall be charged for every incidental amendment to an outfitter's license and every amendment to a guide's license. ~~All--such--license--fees shall-become-effective-April-1,-1989.~~

SECTION 3. That Section 36-2113, Idaho Code, be, and the same is hereby amended to read as follows:

36-2113. REVOCATION OR SUSPENSION OF LICENSE -- GROUNDS. (a) Every license shall, by virtue of this chapter, be subject to suspension, revocation or restriction by the board for the commission of any of the following acts:

1. For supplying false information or for failure to provide information required to be furnished by the license application form for a license currently valid or for other fraud or deception in procuring a license under the provisions of this chapter.
2. For fraudulent, untruthful or misleading advertising.
3. For conviction for a felony.
4. For conviction of or two (2) or more forfeitures of any deposits of money or collateral with a court or administrative agency for violation of regulations of the United States forest service or the bureau of land management.
5. For unethical or unprofessional conduct as defined by rules of the board.
6. For conviction of any violation of ~~the~~ any state or federal fish and game laws ~~of-the-state~~.
7. For a substantial breach of any contract with any person utilizing his services.
8. For willfully (i) operating in any area for which the licensee is not licensed, or (ii) engaging in any activity for which the licensee is not licensed.
9. For the employment of an unlicensed guide by an outfitter.
10. For inhumane treatment of any animal used by the licensed outfitter or guide in the conduct of his business which endangers the health or safety of any guest or patron or which interferes with the conduct of his business.
11. For failure by any firm, partnership, corporation or other organization or any combination thereof licensed as an outfitter to have at least one (1) licensed outfitter as designated agent conducting its outfitting business who meets all of the qualifications and requirements of a licensed outfitter.
12. For the failure to provide any animal used by the licensed outfitter or guide in the conduct of his business with proper food, drink and shelter, or for the subjection of any such animal to needless abuse or cruel and inhumane treatment.

13. For failure of an outfitter to serve the public in any of the following ways: (i) by nonuse of license privileges as defined by rules and regulations of the board, (ii) by limiting services to any individual, group, corporation or club that limits its services to a membership, or (iii) by not offering services to the general public.

14. For violation of or noncompliance with any applicable provision of this act, or for violation of any lawful rule, regulation, or order of the outfitter's and guide's board.

(b) For the purposes of this section, the term "conviction" shall mean a finding of guilt, an entry of a guilty plea by a defendant and its acceptance by the court, or a forfeiture of bail bond or collateral deposited to secure a defendant's appearance, suspended sentence, probation or withheld judgment.

(c) In lieu of the penalties imposed in this section, the board may impose an administrative fine not to exceed five thousand dollars ($5,000) for each violation of the provisions of this chapter.

SECTION 4. Sections 1 and 3 of this act shall be in full force and effect on and after July 1, 1991. Section 2 of this act shall be in full force and effect on and after April 1, 1992.

Approved March 29, 1991.

CHAPTER 132
(H.B. No. 51)

AN ACT

RELATING TO THE LIBRARY IMPROVEMENT ACCOUNT; AMENDING CHAPTER 25, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2513, IDAHO CODE, TO PROVIDE FOR THE ESTABLISHMENT OF THE LIBRARY IMPROVEMENT ACCOUNT, AND TO PROVIDE CRITERIA FOR PAYMENTS TO TAX-SUPPORTED CITY AND DISTRICT LIBRARIES.

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

SECTION 1. 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 33-2513, Idaho Code, and to read as follows:

33-2513. LIBRARY IMPROVEMENT ACCOUNT. 1. The state of Idaho, recognizing its responsibility to provide public library services to its people in both the urban and rural areas of the state, and realizing that some of Idaho's population does not receive any library service, and that many of Idaho's citizens receive only minimal library service, hereby creates and establishes the library improvement account in the agency asset fund of the state. The library improvement account shall have paid into it such appropriations or revenues as may be provided by law.

2. Moneys in the library improvement account are hereby appropri-

ated to and may be expended by the state library board at any time for the purposes provided in this section.

3. (a) The board of trustees of any tax-supported city or district library may apply to the state library board to receive a payment or payments from the library improvement account; provided, they demonstrate to the state library board that their community has a substantial and serious need to have improved library services or a need to expand services to adjacent rural areas.

(b) When an application for moneys from the account is approved by the state library board, the state librarian shall inform the applying library 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 applying library.

4. All payments from the library improvement account shall be paid out directly to the library in warrants drawn by the state auditor upon presentation of proper vouchers from the state library. Pending payments out of the library improvement 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 idle moneys in the state treasury. Interest earned on the investments shall be returned to the library improvement account.

5. No tax-supported city or district library is automatically entitled to any payments from the library improvement account, but must demonstrate to the state library board an actual need for such payment as set forth in subsection 3(a) of this section. The state library board shall establish the criteria upon which actual need is to be determined and shall give priority to projects which will improve library services in a community or expand library services into the rural areas of the state.

6. Payments from the library improvement account received by a library may be used by the library only for the purposes stated in the application as approved by the state library board.

Approved March 29, 1991.

CHAPTER 133
(H.B. No. 88)

AN ACT

RELATING TO PUBLIC WORKS; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5710B, IDAHO CODE, TO DEFINE PREVENTIVE MAINTENANCE AND PUBLIC WORKS; AND AMENDING SECTION 67-5711, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE.

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

SECTION 1. That Chapter 57, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5710B, Idaho Code, and to read as follows:

67-5710B. DEFINITIONS. As used in this chapter:
(1) "Preventive maintenance" means:
(a) Corrective repairs or replacements used for existing state-owned, or state operated facilities, which result from a systematic program in which wear, tear, and change are anticipated and continuous corrective actions are required to be taken to ensure peak efficiency and to minimize deterioration. It includes systematic inspection, adjustment, lubrication, replacement of components, as well as performance testing and analysis; and
(b) Repairs and replacements with an estimated useful life of less than five (5) years; and
(c) Repairs and replacements which are funded in the state agency's operating budget; and
(d) Repairs and replacements which can be accomplished by the agency's existing physical plant staff; and
(e) Repairs and replacements which do not require the services of architects, engineers, and other professionally licensed consultants to investigate conditions, prepare recommendations for corrective action, prepare plans and specifications, and supervise the execution of corrective projects.
(2) "Public works" mean:
(a) Any new building, alteration, repair, demolition or improvement of any land, building, structure including utilities, or remodeling or renovation of existing buildings, or other physical facilities, to make physical changes necessitated by changes in the program, to meet standards required by applicable codes, to correct other conditions hazardous to health and safety of persons which are not covered by codes, or to effect a permanent improvement to the facility for any reason including aesthetics or appearance;
(b) Site improvement or developments which constitute permanent improvements to real property;
(c) Purchase and installation of fixed equipment necessary for the operation of new, remodeled, or renovated buildings and other physical facilities for the conduct of programs initially housed therein to include any equipment that is made a permanent fixture of the building; and
(d) Purchase of the services of architects, engineers, and other consultants to prepare plans, program documents, life cycle cost studies, energy analysis, and other studies associated with any new building, alteration, repair, demolition or improvement and to supervise the construction or execution of such projects.

SECTION 2. That Section 67-5711, Idaho Code, be, and the same is hereby amended to read as follows:

67-5711. CONSTRUCTION, ALTERATION, EQUIPPING, FURNISHING AND REPAIR OF PUBLIC BUILDINGS AND WORKS. The director of the department of administration, or his designee, of the state of Idaho, is authorized and empowered, subject to the approval of the permanent building fund advisory council, to provide or secure all plans and specifications for, to let all contracts for, and to have charge of and supervision of the construction, alteration, equipping and furnishing, ~~and~~

repair, maintenance other than preventive maintenance of any and all buildings, improvements of public works of the state of Idaho, the cost of which construction, alteration, equipping and furnishing, ~~or~~ repair, maintenance other than preventive maintenance exceeds the sum of five thousand dollars ($5,000) provided, that the director or his designee, and permanent building fund advisory council shall, in the letting of contracts under this section, comply with the procedure for the calling of bids provided in section 67-5718, Idaho Code; provided, however, that this section shall not apply to the construction, alteration, equipping or furnishing or repair or maintenance other than preventive maintenance of public buildings under the jurisdiction and control of the board of regents of the University of Idaho; provided further, that public works for the Idaho transportation department, the department of fish and game, and the department of parks and recreation, except for administrative office buildings and all associated improvements, are exempt from the provisions of this section that relate to the administration and review of such projects by the director of the department of administration or his designee and by the permanent building fund advisory council. This exemption shall not relieve the Idaho transportation department, the department of fish and game, and the department of parks and recreation, in the letting of contracts for public works, from complying with the procedures of section 67-5718, Idaho Code, related to the advertising and bidding for contracts. The permanent building fund advisory council may adopt rules and regulations consistent with existing law including rules and regulations for a program of inspection and ~~preventive~~ maintenance, to carry out the provisions of this act.

Approved March 29, 1991.

CHAPTER 134
(H.B. No. 91, As Amended)

AN ACT

RELATING TO PUBLIC WORKS; AMENDING SECTION 67-5711, IDAHO CODE, TO INCREASE THE DOLLAR LIMIT FOR PUBLIC WORKS TO FIFTEEN THOUSAND DOLLARS THAT REQUIRE DEPARTMENT OF ADMINISTRATION OVERSIGHT AND TO EXEMPT THE DEPARTMENT OF LANDS FROM CERTAIN OVERSIGHT REQUIREMENTS.

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

SECTION 1. That Section 67-5711, Idaho Code, be, and the same is hereby amended to read as follows:

67-5711. CONSTRUCTION, ALTERATION, EQUIPPING, FURNISHING AND REPAIR OF PUBLIC BUILDINGS AND WORKS. The director of the department of administration, or his designee, of the state of Idaho, is authorized and empowered, subject to the approval of the permanent building fund advisory council, to provide or secure all plans and specifications for, to let all contracts for, and to have charge of and super-

vision of the construction, alteration, equipping and furnishing and repair of any and all buildings, improvements of public works of the state of Idaho, the cost of which construction, alteration, equipping and furnishing or repair exceeds the sum of ~~five~~ fifteen thousand dollars ($15,000) for labor, materials and equipment, which sum shall exclude design costs, bid advertising and related bidding expenses, provided, that the director or his designee, and permanent building fund advisory council shall, in the letting of contracts under this section, comply with the procedure for the calling of bids provided in section 67-5718, Idaho Code; provided, however, that this section shall not apply to the construction, alteration, equipping or furnishing or repair of public buildings under the jurisdiction and control of the board of regents of the University of Idaho; provided further, that public works for the Idaho transportation department, the department of fish and game, ~~and~~ the department of parks and recreation, and the department of lands, except for administrative office buildings and all associated improvements, are exempt from the provisions of this section that relate to the administration and review of such projects by the director of the department of administration or his designee and by the permanent building fund advisory council. This exemption shall not relieve the Idaho transportation department, the department of fish and game, ~~and~~ the department of parks and recreation, and the department of lands in the letting of contracts for public works, from complying with the procedures of section 67-5718, Idaho Code, related to the advertising and bidding for contracts. The permanent building fund council may adopt rules and regulations consistent with existing law including rules and regulations for a program of inspection and preventive maintenance, to carry out the provisions of this act.

Approved March 29, 1991.

CHAPTER 135
(H.B. No. 117)

AN ACT

RELATING TO A FUNDS TRANSFER PROVISION OF THE UNIFORM COMMERCIAL CODE; AMENDING CHAPTER 4, TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW PART 6, CHAPTER 4, TITLE 28, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE THE GENERAL SUBJECT MATTER, TO DEFINE TERMS, TO PROVIDE WHEN A TIME PAYMENT ORDER IS RECEIVED, TO PROVIDE FEDERAL RESERVE REGULATIONS AND OPERATING CIRCULARS, TO PROVIDE EXCLUSION OF CONSUMER TRANSACTIONS GOVERNED BY FEDERAL LAW, TO PROVIDE SECURITY PROCEDURES, TO PROVIDE AUTHORIZED AND VERIFIED PAYMENT ORDERS, TO PROVIDE UNENFORCEABILITY OF CERTAIN VERIFIED PAYMENT ORDERS, REFUND OF PAYMENT AND DUTY OF CUSTOMERS TO REPORT WITH RESPECT TO UNAUTHORIZED PAYMENT ORDERS, TO PROVIDE FOR ERRONEOUS PAYMENT ORDERS, TO PROVIDE TRANSMISSION OF PAYMENT ORDER THROUGH FUNDS, TO PROVIDE MISDESCRIPTION OF BENEFICIARIES, TO PROVIDE MISDESCRIPTION OF INTERMEDIARY BANK OR BENEFICIARY'S BANK, TO PROVIDE ACCEPTANCE OF A PAYMENT ORDER, TO PROVIDE REJECTION OF A PAYMENT ORDER, TO

PROVIDE CANCELLATION AND AMENDMENT OF A PAYMENT ORDER, TO PROVIDE LIABILITY AND DUTY OF A RECEIVING BANK REGARDING AN UNACCEPTED PAYMENT ORDER, TO PROVIDE EXECUTION AND EXECUTION DATE OF A PAYMENT ORDER, TO PROVIDE OBLIGATIONS OF A RECEIVING BANK IN EXECUTION OF A PAYMENT ORDER, TO PROVIDE FOR ERRONEOUS EXECUTION OF A PAYMENT ORDER, TO PROVIDE A DUTY OF A SENDER TO REPORT AN ERRONEOUSLY EXECUTED PAYMENT ORDER, TO PROVIDE LIABILITY FOR LATE OR IMPROPER EXECUTION OR FAILURE TO EXECUTE A PAYMENT ORDER, TO PROVIDE FOR PAYMENT DATE OF A PAYMENT ORDER, TO PROVIDE THE OBLIGATION OF THE SENDER TO PAY THE RECEIVING BANK, TO PROVIDE FOR PAYMENT BY SENDER TO A RECEIVING BANK, TO PROVIDE OBLIGATION OF BENEFICIARY'S BANK TO PAY AND GIVE NOTICE TO BENEFICIARY, TO PROVIDE FOR PAYMENT BY BENEFICIARY'S BANK TO BENEFICIARY, TO PROVIDE FOR PAYMENT BY ORIGINATOR TO BENEFICIARY AND DISCHARGE OF UNDERLYING OBLIGATION, TO PROVIDE FOR VARIATION BY AGREEMENT AND EFFECT OF A FUNDS-TRANSFER SYSTEM RULE, TO PROVIDE FOR CREDITOR PROCESS SERVED ON A RECEIVING BANK AND A SETOFF BY THE BENEFICIARY'S BANK, TO PROVIDE FOR AN INJUNCTION OR RESTRAINING ORDER WITH RESPECT TO FUNDS TRANSFER, TO PROVIDE FOR AN ORDER IN WHICH ITEMS AND PAYMENT ORDERS MAY BE CHARGED TO ACCOUNT, TO PROVIDE FOR ORDERS OF WITHDRAWALS FROM ACCOUNT, TO PROVIDE FOR PRECLUSION OF OBJECTION TO DEBIT OF CUSTOMER'S ACCOUNT, TO PROVIDE FOR A RATE OF INTEREST, AND TO PROVIDE FOR CHOICE OF LAW; AND AMENDING SECTION 28-1-105, IDAHO CODE, TO INCORPORATE THE FUNDS TRANSFER PROVISION.

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

SECTION 1. That Chapter 4, Title 28, Idaho Code, be, and the same is hereby amended by the addition of a NEW PART 6, Chapter 4, Title 28, Idaho Code, to read as follows:

PART 6. FUNDS TRANSFERS
SUBJECT MATTER AND DEFINITIONS

28-4-601. SHORT TITLE. This part may be cited as "Uniform Commercial Code--Funds Transfers."

28-4-602. SUBJECT MATTER. Except as otherwise provided in section 28-4-608, this part applies to funds transfers defined in section 28-4-604.

28-4-603. PAYMENT ORDER -- DEFINITIONS. (1) In this part:

(a) "Beneficiary" means the person to be paid by the beneficiary's bank.

(b) "Beneficiary's bank" means the bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or which otherwise is to make payment to the beneficiary if the order does not provide for payment to an account.

(c) "Payment order" means an instruction of a sender to a receiving bank, transmitted orally, electronically, or in writing, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary if:

(i) the instruction does not state a condition to payment to the beneficiary other than time of payment,

(ii) the receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender, and

(iii) the instruction is transmitted by the sender directly to the receiving bank or to an agent, funds-transfer system, or communication system for transmittal to the receiving bank.

(d) "Receiving bank" means the bank to which the sender's instruction is addressed.

(e) "Sender" means the person giving the instruction to the receiving bank.

(2) If an instruction complying with subsection (1)(a) is to make more than one (1) payment to a beneficiary, the instruction is a separate payment order with respect to each payment.

(3) A payment order is issued when it is sent to the receiving bank.

28-4-604. FUNDS TRANSFER -- DEFINITIONS. In this part:

(1) "Funds transfer" means the series of transactions, beginning with the originator's payment order, made for the purpose of making payment to the beneficiary of the order. The term includes any payment order issued by the originator's bank or an intermediary bank intended to carry out the originator's payment order. A funds transfer is completed by acceptance by the beneficiary's bank of a payment order for the benefit of the beneficiary of the originator's payment order.

(2) "Intermediary bank" means a receiving bank other than the originator's bank or the beneficiary's bank.

(3) "Originator" means the sender of the first payment order in a funds transfer.

(4) "Originator's bank" means:

(a) the receiving bank to which the payment order of the originator is issued if the originator is not a bank, or

(b) the originator if the originator is a bank.

28-4-605. OTHER DEFINITIONS. (1) In this part:

(a) "Authorized account" means a deposit account of a customer in a bank designated by the customer as a source of payment of payment orders issued by the customer to the bank. If a customer does not so designate an account, any account of the customer is an authorized account if payment of a payment order from that account is not inconsistent with a restriction on the use of that account.

(b) "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company. A branch or separate office of a bank is a separate bank for purposes of this part.

(c) "Customer" means a person, including a bank, having an account with a bank or from whom a bank has agreed to receive payment orders.

(d) "Funds-transfer business day" of a receiving bank means the part of a day during which the receiving bank is open for the receipt, processing, and transmittal of payment orders and cancel-

lations and amendments of payment orders.

(e) "Funds-transfer system" means a wire transfer network, automated clearing house, or other communication system of a clearing house or other association of banks through which a payment order by a bank may be transmitted to the bank to which the order is addressed.

(f) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(g) "Prove" with respect to a fact means to meet the burden of establishing the fact (section 28-1-201(8)).

(2) Other definitions applying to this part and the sections in which they appear are:

"Acceptance"	Section 28-4-617
"Beneficiary"	Section 28-4-603
"Beneficiary's bank"	Section 28-4-603
"Executed"	Section 28-4-621
"Execution date"	Section 28-4-621
"Funds transfer"	Section 28-4-604
"Funds-transfer system rule"	Section 28-4-632
"Intermediary bank"	Section 28-4-604
"Originator"	Section 28-4-604
"Originator's bank"	Section 28-4-604
"Payment by beneficiary's bank to beneficiary"	Section 28-4-630
"Payment by originator to beneficiary"	Section 28-4-631
"Payment by sender to receiving bank"	Section 28-4-628
"Payment date"	Section 28-4-626
"Payment order"	Section 28-4-603
"Receiving bank"	Section 28-4-603
"Security procedure"	Section 28-4-609
"Sender"	Section 28-4-603

(3) The following definitions in article 4 apply to this part:

"Clearing house"	Section 28-4-104
"Item"	Section 28-4-104
"Suspends payments"	Section 28-4-104

(4) In addition article 1 contains general definitions and principles of construction and interpretation applicable throughout this part.

28-4-606. TIME PAYMENT ORDER IS RECEIVED. (1) The time of receipt of a payment order or communication cancelling or amending a payment order is determined by the rules applicable to receipt of a notice stated in section 28-1-201(27). A receiving bank may fix a cut-off time or times on a funds-transfer business day for the receipt and processing of payment orders and communications cancelling or amending payment orders. Different cut-off times may apply to payment orders, cancellations, or amendments, or to different categories of payment orders, cancellations, or amendments. A cut-off time may apply to senders generally or different cut-off times may apply to different senders or categories of payment orders. If a payment order or communication cancelling or amending a payment order is received after the

close of a funds-transfer business day or after the appropriate cut-off time on a funds-transfer business day, the receiving bank may treat the payment order or communication as received at the opening of the next funds-transfer business day.

(2) If this part refers to an execution date or payment date or states a day on which a receiving bank is required to take action, and the date or day does not fall on a funds-transfer business day, the next day that is a funds-transfer business day is treated as the date or day stated, unless the contrary is stated in this part.

28-4-607. FEDERAL RESERVE REGULATIONS AND OPERATING CIRCULARS. Regulations of the board of governors of the Federal Reserve System and operating circulars of the Federal Reserve banks supersede any inconsistent provision of this part to the extent of the inconsistency.

28-4-608. EXCLUSION OF CONSUMER TRANSACTIONS GOVERNED BY FEDERAL LAW. This part does not apply to a funds transfer any part of which is governed by the electronic fund transfer act of 1978 (title XX, public law 95-630, 92 stat. 3728, 15 U.S.C. section 1693 et seq.) as amended from time to time.

ISSUE AND ACCEPTANCE OF PAYMENT ORDER

28-4-609. SECURITY PROCEDURE. "Security procedure" means a procedure established by agreement of a customer and a receiving bank for the purpose of (1) verifying that a payment order or communication amending or cancelling a payment order is that of the customer, or (2) detecting error in the transmission or the content of the payment order or communication. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures, or similar security devices. Comparison of a signature on a payment order or communication with an authorized specimen signature of the customer is not by itself a security procedure.

28-4-610. AUTHORIZED AND VERIFIED PAYMENT ORDERS. (1) A payment order received by the receiving bank is the authorized order of the person identified as sender if that person authorized the order or is otherwise bound by it under the law of agency.

(2) If a bank and its customer have agreed that the authenticity of payment orders issued to the bank in the name of the customer as sender will be verified pursuant to a security procedure, a payment order received by the receiving bank is effective as the order of the customer, whether or not authorized, if:

(a) the security procedure is a commercially reasonable method of providing security against unauthorized payment orders, and

(b) the bank proves that it accepted the payment order in good faith and in compliance with the security procedure and any written agreement or instruction of the customer restricting acceptance of payment orders issued in the name of the customer.

The bank is not required to follow an instruction that violates a written agreement with the customer or notice of which is not received at a time and in a manner affording the bank a reasonable opportunity

to act on it before the payment order is accepted.

(3) Commercial reasonableness of a security procedure is a question of law to be determined by considering the wishes of the customer expressed to the bank, the circumstances of the customer known to the bank, including the size, type, and frequency of payment orders normally issued by the customer to the bank, alternative security procedures offered to the customer, and security procedures in general use by customers and receiving banks similarly situated. A security procedure is deemed to be commercially reasonable if:

(a) the security procedure was chosen by the customer after the bank offered, and the customer refused, a security procedure that was commercially reasonable for that customer, and

(b) the customer expressly agreed in writing to be bound by any payment order, whether or not authorized, issued in its name and accepted by the bank in compliance with the security procedure chosen by the customer.

(4) The term "sender" in this part includes the customer in whose name a payment order is issued if the order is the authorized order of the customer under subsection (1) of this section, or it is effective as the order of the customer under subsection (2) of this section.

(5) This section applies to amendments and cancellations of payment orders to the same extent it applies to payment orders.

(6) Except as provided in this section and in section 28-4-611(1)(a), rights and obligations arising under this section or section 28-4-611 may not be varied by agreement.

28-4-611. UNENFORCEABILITY OF CERTAIN VERIFIED PAYMENT ORDERS. (1) If an accepted payment order is not, under section 28-4-610(1), an authorized order of a customer identified as sender, but is effective as an order of the customer pursuant to section 28-4-610(2), the following rules apply:

(a) By express written agreement, the receiving bank may limit the extent to which it is entitled to enforce or retain payment of the payment order.

(b) The receiving bank is not entitled to enforce or retain payment of the payment order if the customer proves that the order was not caused, directly or indirectly, by a person (i) entrusted at any time with duties to act for the customer with respect to payment orders or the security procedure, or (ii) who obtained access to transmitting facilities of the customer or who obtained, from a source controlled by the customer and without authority of the receiving bank, information facilitating breach of the security procedure, regardless of how the information was obtained or whether the customer was at fault. Information includes any access device, computer software, or the like.

(2) This section applies to amendments of payment orders to the same extent it applies to payment orders.

28-4-612. REFUND OF PAYMENT AND DUTY OF CUSTOMER TO REPORT WITH RESPECT TO UNAUTHORIZED PAYMENT ORDER. (1) If a receiving bank accepts a payment order issued in the name of its customer as sender which is:

(a) not authorized and not effective as the order of the customer under section 28-4-610, or

(b) not enforceable, in whole or in part, against the customer under section 28-4-611, the bank shall refund any payment of the payment order received from the customer to the extent the bank is not entitled to enforce payment and shall pay interest on the refundable amount calculated from the date the bank received payment to the date of the refund. However, the customer is not entitled to interest from the bank on the amount to be refunded if the customer fails to exercise ordinary care to determine that the order was not authorized by the customer and to notify the bank of the relevant facts within a reasonable time not exceeding ninety (90) days after the date the customer received notification from the bank that the order was accepted or that the customer's account was debited with respect to the order. The bank is not entitled to any recovery from the customer on account of a failure by the customer to give notification as stated in this section.

(2) Reasonable time under subsection (1) of this section may be fixed by agreement as stated in section 28-2-204, but the obligation of a receiving bank to refund payment as stated in subsection (1) of this section may not otherwise be varied by agreement.

28-4-613. ERRONEOUS PAYMENT ORDERS. (1) If an accepted payment order was transmitted pursuant to a security procedure for the detection of error and the payment order (i) erroneously instructed payment to a beneficiary not intended by the sender, (ii) erroneously instructed payment in an amount greater than the amount intended by the sender, or (iii) was an erroneously transmitted duplicate of a payment order previously sent by the sender, the following rules apply:

(a) If the sender proves that the sender or a person acting on behalf of the sender pursuant to section 28-4-614 complied with the security procedure and that the error would have been detected if the receiving bank had also complied, the sender is not obliged to pay the order to the extent stated in subsections (2) and (3) of this section.

(b) If the funds transfer is completed on the basis of an erroneous payment order described in clause (i) or (iii) of subsection (1) of this section, the sender is not obliged to pay the order and the receiving bank is entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

(c) If the funds transfer is completed on the basis of a payment order described in clause (ii) of subsection (1) of this section, the sender is not obliged to pay the order to the extent the amount received by the beneficiary is greater than the amount intended by the sender. In that case, the receiving bank is entitled to recover from the beneficiary the excess amount received to the extent allowed by the law governing mistake and restitution.

(2) If (i) the sender of an erroneous payment order described in subsection (1) of this section is not obliged to pay all or part of the order, and (ii) the sender receives notification from the receiving bank that the order was accepted by the bank or that the sender's account was debited with respect to the order, the sender has a duty to exercise ordinary care, on the basis of information available to

the sender, to discover the error with respect to the order and to advise the bank of the relevant facts within a reasonable time, not exceeding ninety (90) days, after the bank's notification was received by the sender. If the bank proves that the sender failed to perform that duty, the sender is liable to the bank for the loss the bank proves it incurred as a result of the failure, but the liability of the sender may not exceed the amount of the sender's order.

(3) This section applies to amendments to payment orders to the same extent it applies to payment orders.

28-4-614. TRANSMISSION OF PAYMENT ORDER THROUGH FUNDS -- TRANSFER OR OTHER COMMUNICATION SYSTEM. (1) If a payment order addressed to a receiving bank is transmitted to a funds-transfer system or other third-party communication system for transmittal to the bank, the system is deemed to be an agent of the sender for the purpose of transmitting the payment order to the bank. If there is a discrepancy between the terms of the payment order transmitted to the system and the terms of the payment order transmitted by the system to the bank, the terms of the payment order of the sender are those transmitted by the system. This section does not apply to a funds-transfer system of the Federal Reserve banks.

(2) This section applies to cancellations and amendments of payment orders to the same extent it applies to payment orders.

28-4-615. MISDESCRIPTION OF BENEFICIARY. (1) Subject to subsection (2) of this section, if, in a payment order received by the beneficiary's bank, the name, bank account number, or other identification of the beneficiary refers to a nonexistent or unidentifiable person or account, no person has rights as a beneficiary of the order and acceptance of the order cannot occur.

(2) If a payment order received by the beneficiary's bank identifies the beneficiary both by name and by an identifying or bank account number and the name and number identify different persons, the following rules apply:

(a) Except as otherwise provided in subsection (3) of this section, if the beneficiary's bank does not know that the name and number refer to different persons, it may rely on the number as the proper identification of the beneficiary of the order. The beneficiary's bank need not determine whether the name and number refer to the same person.

(b) If the beneficiary's bank pays the person identified by name or knows that the name and number identify different persons, no person has rights as beneficiary except the person paid by the beneficiary's bank if that person was entitled to receive payment from the originator of the funds transfer. If no person has rights as beneficiary, acceptance of the order cannot occur.

(3) If (i) a payment order described in subsection (2) of this section is accepted, (ii) the originator's payment order described the beneficiary inconsistently by name and number, and (iii) the beneficiary's bank pays the person identified by number as permitted in subsection (2)(a) of this section, the following rules apply:

(a) If the originator is a bank, the originator is obliged to pay its order.

(b) If the originator is not a bank and proves that the person identified by number was not entitled to receive payment from the originator, the originator is not obliged to pay its order unless the originator's bank proves that the originator, before acceptance of the originator's order, had notice that payment of a payment order issued by the originator might be made by the beneficiary's bank on the basis of an identifying or bank account number even if it identifies a person different from the named beneficiary. Proof of notice may be made by any admissible evidence. The originator's bank satisfies the burden of proof if it proves that the originator, before the payment order was accepted, signed a writing stating the information to which the notice relates.

(4) In a case governed by the provisions of subsection (2)(a) of this section, if the beneficiary's bank rightfully pays the person identified by number and that person was not entitled to receive payment from the originator, the amount paid may be recovered from that person to the extent allowed by the law governing mistake and restitution as follows:

(a) If the originator is obliged to pay its payment order as stated in subsection (3) of this section, the originator has the right to recover.

(b) If the originator is not a bank and is not obliged to pay its payment order, the originator's bank has the right to recover.

28-4-616. MISDESCRIPTION OF INTERMEDIARY BANK OR BENEFICIARY'S BANK. (1) This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank only by an identifying number.

(a) The receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank and need not determine whether the number identifies a bank.

(b) The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(2) This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank both by name and an identifying number if the name and number identify different persons.

(a) If the sender is a bank, the receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank if the receiving bank, when it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person or whether the number refers to a bank. The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(b) If the sender is not a bank and the receiving bank proves that the sender, before the payment order was accepted, had notice that the receiving bank might rely on the number as the proper identification of the intermediary or beneficiary's bank even if

it identifies a person different from the bank identified by name, the rights and obligations of the sender and the receiving bank are governed by subsection (2)(a) of this section, as though the sender were a bank. Proof of notice may be made by any admissible evidence. The receiving bank satisfies the burden of proof if it proves that the sender, before the payment order was accepted, signed a writing stating the information to which the notice relates.

(c) Regardless of whether the sender is a bank, the receiving bank may rely on the name as the proper identification of the intermediary or beneficiary's bank if the receiving bank, at the time it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person.

(d) If the receiving bank knows that the name and number identify different persons, reliance on either the name or the number in executing the sender's payment order is a breach of the obligation stated in section 28-4-622(1)(a).

28-4-617. ACCEPTANCE OF PAYMENT ORDER. (1) Subject to subsection (4) of this section, a receiving bank other than the beneficiary's bank accepts a payment order when it executes the order.

(2) Subject to subsections (3) and (4) of this section, a beneficiary's bank accepts a payment order at the earliest of the following times:

(a) when the bank (i) pays the beneficiary as stated in section 28-4-630(1) or 28-4-630(2), or (ii) notifies the beneficiary of receipt of the order or that the account of the beneficiary has been credited with respect to the order unless the notice indicates that the bank is rejecting the order or that funds with respect to the order may not be withdrawn or used until receipt of payment from the sender of the order;

(b) when the bank receives payment of the entire amount of the sender's order pursuant to section 28-4-628(1)(a) or 28-4-628(1)(b); or

(c) the opening of the next funds-transfer business day of the bank following the payment date of the order if, at that time, the amount of the sender's order is fully covered by a withdrawable credit balance in an authorized account of the sender or the bank has otherwise received full payment from the sender, unless the order was rejected before that time or is rejected within (i) one (1) hour after that time, or (ii) one (1) hour after the opening of the next business day of the sender following the payment date if that time is later. If notice of rejection is received by the sender after the payment date and the authorized account of the sender does not bear interest, the bank is obliged to pay interest to the sender on the amount of the order for the number of days elapsing after the payment date to the day the sender receives notice or learns that the order was not accepted, counting that day as an elapsed day. If the withdrawable credit balance during that period falls below the amount of the order, the amount of interest payable is reduced accordingly.

(3) Acceptance of a payment order cannot occur before the order

is received by the receiving bank. Acceptance does not occur under subsection (2)(b) or (2)(c) of this section if the beneficiary of the payment order does not have an account with the receiving bank, the account has been closed, or the receiving bank is not permitted by law to receive credits for the beneficiary's account.

(4) A payment order issued to the originator's bank cannot be accepted until the payment date if the bank is the beneficiary's bank, or the execution date if the bank is not the beneficiary's bank. If the originator's bank executes the originator's payment order before the execution date or pays the beneficiary of the originator's payment order before the payment date and the payment order is subsequently cancelled pursuant to section 28-4-619(2), the bank may recover from the beneficiary any payment received to the extent allowed by the law governing mistake and restitution.

28-4-618. REJECTION OF PAYMENT ORDER. (1) A payment order is rejected by the receiving bank by a notice of rejection transmitted to the sender orally, electronically, or in writing. A notice of rejection need not use any particular words and is sufficient if it indicates that the receiving bank is rejecting the order or will not execute or pay the order. Rejection is effective when the notice is given if transmission is by a means that is reasonable in the circumstances. If notice of rejection is given by a means that is not reasonable, rejection is effective when the notice is received. If an agreement of the sender and receiving bank establishes the means to be used to reject a payment order,

(a) any means complying with the agreement is reasonable, and

(b) any means not complying is not reasonable unless no significant delay in receipt of the notice resulted from the use of the noncomplying means.

(2) The provisions of this subsection apply if a receiving bank other than the beneficiary's bank fails to execute a payment order despite the existence on the execution date of a withdrawable credit balance in an authorized account of the sender sufficient to cover the order. If the sender does not receive notice of rejection of the order on the execution date and the authorized account of the sender does not bear interest, the bank is obliged to pay interest to the sender on the amount of the order for the number of days elapsing after the execution date to the earlier of the day the order is cancelled pursuant to section 28-4-619(4) or the day the sender receives notice or learns that the order was not executed, counting the final day of the period as an elapsed day. If the withdrawable credit balance during that period falls below the amount of the order, the amount of interest is reduced accordingly.

(3) If a receiving bank suspends payments, all unaccepted payment orders issued to it are deemed rejected at the time the bank suspends payments.

(4) Acceptance of a payment order precludes a later rejection of the order. Rejection of a payment order precludes a later acceptance of the order.

28-4-619. CANCELLATION AND AMENDMENT OF PAYMENT ORDER. (1) A communication of the sender of a payment order cancelling or amending the

order may be transmitted to the receiving bank orally, electronically, or in writing. If a security procedure is in effect between the sender and the receiving bank, the communication is not effective to cancel or amend the order unless the communication is verified pursuant to the security procedure or the bank agrees to the cancellation or amendment.

(2) Subject to subsection (1) of this section, a communication by the sender cancelling or amending a payment order is effective to cancel or amend the order if notice of the communication is received at a time and in a manner affording the receiving bank a reasonable opportunity to act on the communication before the bank accepts the payment order.

(3) After a payment order has been accepted, cancellation or amendment of the order is not effective unless the receiving bank agrees or a funds-transfer system rule allows cancellation or amendment without agreement of the bank.

(a) With respect to a payment order accepted by a receiving bank other than the beneficiary's bank, cancellation or amendment is not effective unless a conforming cancellation or amendment of the payment order issued by the receiving bank is also made.

(b) With respect to a payment order accepted by the beneficiary's bank, cancellation or amendment is not effective unless the order was issued in execution of an unauthorized payment order, or because of a mistake by a sender in the funds transfer which resulted in the issuance of a payment order (i) that is a duplicate of a payment order previously issued by the sender, (ii) that orders payment to a beneficiary not entitled to receive payment from the originator, or (iii) that orders payment in an amount greater than the amount the beneficiary was entitled to receive from the originator. If the payment order is cancelled or amended, the beneficiary's bank is entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

(4) An unaccepted payment order is cancelled by operation of law at the close of the fifth funds-transfer business day of the receiving bank after the execution date or payment date of the order.

(5) A cancelled payment order cannot be accepted. If an accepted payment order is cancelled, the acceptance is nullified and no person has any right or obligation based on the acceptance. Amendment of a payment order is deemed to be cancellation of the original order at the time of amendment and issue of a new payment order in the amended form at the same time.

(6) Unless otherwise provided in an agreement of the parties or in a funds-transfer system rule, if the receiving bank, after accepting a payment order, agrees to cancellation or amendment of the order by the sender or is bound by a funds-transfer system rule allowing cancellation or amendment without the bank's agreement, the sender, whether or not cancellation or amendment is effective, is liable to the bank for any loss and expenses, including reasonable attorney's fees, incurred by the bank as a result of the cancellation or amendment or attempted cancellation or amendment.

(7) A payment order is not revoked by the death or legal incapacity of the sender unless the receiving bank knows of the death or of

an adjudication of incapacity by a court of competent jurisdiction and has reasonable opportunity to act before acceptance of the order.

(8) A funds-transfer system rule is not effective to the extent it conflicts with the provisions of subsection (3)(b) of this section.

28-4-620. LIABILITY AND DUTY OF RECEIVING BANK REGARDING UNACCEPTED PAYMENT ORDER. If a receiving bank fails to accept a payment order that it is obliged by express agreement to accept, the bank is liable for breach of the agreement to the extent provided in the agreement or in this part, but does not otherwise have any duty to accept a payment order or, before acceptance, to take any action, or refrain from taking action, with respect to the order except as provided in this part or by express agreement. Liability based on acceptance arises only when acceptance occurs as stated in section 28-4-617, and liability is limited to that provided in this part. A receiving bank is not the agent of the sender or beneficiary of the payment order it accepts, or of any other party to the funds transfer, and the bank owes no duty to any party to the funds transfer except as provided in this part or by express agreement.

EXECUTION OF SENDER'S PAYMENT ORDER BY RECEIVING BANK

28-4-621. EXECUTION AND EXECUTION DATE. (1) A payment order is "executed" by the receiving bank when it issues a payment order intended to carry out the payment order received by the bank. A payment order received by the beneficiary's bank can be accepted but cannot be executed.

(2) "Execution date" of a payment order means the day on which the receiving bank may properly issue a payment order in execution of the sender's order. The execution date may be determined by instruction of the sender but cannot be earlier than the day the order is received and, unless otherwise determined, is the day the order is received. If the sender's instruction states a payment date, the execution date is the payment date or an earlier date on which execution is reasonably necessary to allow payment to the beneficiary on the payment date.

28-4-622. OBLIGATIONS OF RECEIVING BANK IN EXECUTION OF PAYMENT ORDER. (1) Except as provided in subsections (2) through (4) of this section, if the receiving bank accepts a payment order pursuant to section 28-4-617(1), the bank has the following obligations in executing the order:

(a) The receiving bank is obliged to issue, on the execution date, a payment order complying with the sender's order and to follow the sender's instructions concerning (i) any intermediary bank or funds-transfer system to be used in carrying out the funds transfer, or (ii) the means by which payment orders are to be transmitted in the funds transfer. If the originator's bank issues a payment order to an intermediary bank, the originator's bank is obliged to instruct the intermediary bank according to the instruction of the originator. An intermediary bank in the funds transfer is similarly bound by an instruction given to it by the sender of the payment order it accepts.

(b) If the sender's instruction states that the funds transfer is to be carried out telephonically or by wire transfer or otherwise indicates that the funds transfer is to be carried out by the most expeditious means, the receiving bank is obliged to transmit its payment order by the most expeditious available means, and to instruct any intermediary bank accordingly. If a sender's instruction states a payment date, the receiving bank is obliged to transmit its payment order at a time and by means reasonably necessary to allow payment to the beneficiary on the payment date or as soon thereafter as is feasible.

(2) Unless otherwise instructed, a receiving bank executing a payment order may:

(a) use any funds-transfer system if use of that system is reasonable in the circumstances, and

(b) issue a payment order to the beneficiary's bank or to an intermediary bank through which a payment order conforming to the sender's order can expeditiously be issued to the beneficiary's bank if the receiving bank exercises ordinary care in the selection of the intermediary bank.

A receiving bank is not required to follow an instruction of the sender designating a funds-transfer system to be used in carrying out the funds transfer if the receiving bank, in good faith, determines that it is not feasible to follow the instruction or that following the instruction would unduly delay completion of the funds transfer.

(3) Unless the provisions of subsection (1)(b) apply or the receiving bank is otherwise instructed, the bank may execute a payment order by transmitting its payment order by first class mail or by any means reasonable in the circumstances. If the receiving bank is instructed to execute the sender's order by transmitting its payment order by a particular means, the receiving bank may issue its payment order by the means stated or by any means as expeditious as the means stated.

(4) Unless instructed by the sender,

(a) the receiving bank may not obtain payment of its charges for services and expenses in connection with the execution of the sender's order by issuing a payment order in an amount equal to the amount of the sender's order less the amount of the charges, and

(b) may not instruct a subsequent receiving bank to obtain payment of its charges in the same manner.

28-4-623. ERRONEOUS EXECUTION OF PAYMENT ORDER. (1) A receiving bank that:

(a) executes the payment order of the sender by issuing a payment order in an amount greater than the amount of the sender's order, or

(b) issues a payment order in execution of the sender's order and then issues a duplicate order, is entitled to payment of the amount of the sender's order under section 28-4-627(3) if the provisions of that subsection are otherwise satisfied. The bank is entitled to recover from the beneficiary of the erroneous order the excess payment received to the extent allowed by the law governing mistake and restitution.

(2) A receiving bank that executes the payment order of the sender by issuing a payment order in an amount less than the amount of the sender's order is entitled to payment of the amount of the sender's order under section 28-4-627(3) if:

(a) that subsection is otherwise satisfied, and

(b) the bank corrects its mistake by issuing an additional payment order for the benefit of the beneficiary of the sender's order.

If the error is not corrected, the issuer of the erroneous order is entitled to receive or retain payment from the sender of the order it accepted only to the extent of the amount of the erroneous order. The provisions of this subsection do not apply if the receiving bank executes the sender's payment order by issuing a payment order in an amount less than the amount of the sender's order for the purpose of obtaining payment of its charges for services and expenses pursuant to instruction of the sender.

(3) If a receiving bank executes the payment order of the sender by issuing a payment order to a beneficiary different from the beneficiary of the sender's order and the funds transfer is completed on the basis of that error, the sender of the payment order that was erroneously executed and all previous senders in the funds transfer are not obliged to pay the payment orders they issued. The issuer of the erroneous order is entitled to recover from the beneficiary of the order the payment received to the extent allowed by the law governing mistake and restitution.

28-4-624. DUTY OF SENDER TO REPORT ERRONEOUSLY EXECUTED PAYMENT ORDER. If the sender of a payment order that is erroneously executed as stated in section 28-4-623 receives notification from the receiving bank that the order was executed or that the sender's account was debited with respect to the order, the sender has a duty to exercise ordinary care to determine, on the basis of information available to the sender, that the order was erroneously executed and to notify the bank of the relevant facts within a reasonable time not exceeding ninety (90) days after the notification from the bank was received by the sender. If the sender fails to perform that duty, the bank is not obliged to pay interest on any amount refundable to the sender under section 28-4-627(4) for the period before the bank learns of the execution error. The bank is not entitled to any recovery from the sender on account of a failure by the sender to perform the duty stated in this section.

28-4-625. LIABILITY FOR LATE OR IMPROPER EXECUTION OR FAILURE TO EXECUTE PAYMENT ORDER. (1) If a funds transfer is completed but execution of a payment order by the receiving bank in breach of the provisions of section 28-4-622 results in delay in payment to the beneficiary, the bank is obliged to pay interest to either the originator or the beneficiary of the funds transfer for the period of delay caused by the improper execution. Except as provided in subsection (3) of this section, additional damages are not recoverable.

(2) If execution of a payment order by a receiving bank in breach of section 28-4-622 results in:

(a) noncompletion of the funds transfer,

(b) failure to use an intermediary bank designated by the originator, or

(c) issuance of a payment order that does not comply with the terms of the payment order of the originator, the bank is liable to the originator for its expenses in the funds transfer and for incidental expenses and interest losses, to the extent not covered in subsection (1) of this section, resulting from the improper execution.

Except as provided in subsection (3) of this section, additional damages are not recoverable.

(3) In addition to the amounts payable under subsections (1) and (2) of this section, damages, including consequential damages, are recoverable to the extent provided in an express written agreement of the receiving bank.

(4) If a receiving bank fails to execute a payment order it was obliged by express agreement to execute, the receiving bank is liable to the sender for its expenses in the transaction and for incidental expenses and interest losses resulting from the failure to execute. Additional damages, including consequential damages, are recoverable to the extent provided in an express written agreement of the receiving bank, but are not otherwise recoverable.

(5) Reasonable attorney's fees are recoverable if demand for compensation under subsection (1) or (2) of this section is made and refused before an action is brought on the claim. If a claim is made for breach of an agreement under subsection (4) of this section, and the agreement does not provide for damages, reasonable attorney's fees are recoverable if demand for compensation under subsection (4) of this section, is made and refused before an action is brought on the claim.

(6) Except as stated in this section, the liability of a receiving bank under subsections (1) and (2) of this section, may not be varied by agreement.

PAYMENT

28-4-626. PAYMENT DATE. "Payment date" of a payment order means the day on which the amount of the order is payable to the beneficiary by the beneficiary's bank. The payment date may be determined by instruction of the sender but cannot be earlier than the day the order is received by the beneficiary's bank and, unless otherwise determined, is the day the order is received by the beneficiary's bank.

28-4-627. OBLIGATION OF SENDER TO PAY RECEIVING BANK. (1) The provisions of this section are subject to the provisions of sections 28-4-613 and 28-4-615.

(2) With respect to a payment order issued to the beneficiary's bank, acceptance of the order by the bank obliges the sender to pay the bank the amount of the order, but payment is not due until the payment date of the order.

(3) The provisions of this subsection are subject to the provisions of subsection (5) of this section and to section 28-4-623. With respect to a payment order issued to a receiving bank other than the beneficiary's bank, acceptance of the order by the receiving bank

obliges the sender to pay the bank the amount of the sender's order. Payment by the sender is not due until the execution date of the sender's order. The obligation of that sender to pay its payment order is excused if the funds transfer is not completed by acceptance by the beneficiary's bank of a payment order instructing payment to the beneficiary of that sender's payment order.

(4) If the sender of a payment order pays the order and was not obliged to pay all or part of the amount paid, the bank receiving payment is obliged to refund payment to the extent the sender was not obliged to pay. Except as provided in sections 28-4-612 and 28-4-624, interest is payable on the refundable amount from the date of payment.

(5) If a funds transfer is not completed as stated in subsection (3) of this section and an intermediary bank is obliged to refund payment as stated in subsection (4) of this section but is unable to do so because it is not permitted by applicable law or because the bank suspends payments, a sender in the funds transfer that executed a payment order in compliance with an instruction, as stated in section 28-4-622(1)(a), to route the funds transfer through that intermediary bank is entitled to receive or retain payment from the sender of the payment order that it accepted. The first sender in the funds transfer that issued an instruction requiring routing through that intermediary bank is subrogated to the right of the bank that paid the intermediary bank to refund as stated in subsection (4) of this section.

(6) The right of the sender of a payment order to be excused from the obligation to pay the order as stated in subsection (3) of this section or to receive refund under subsection (4) may not be varied by agreement.

28-4-628. PAYMENT BY SENDER TO RECEIVING BANK. (1) Payment of the sender's obligation under section 28-4-627 to pay the receiving bank occurs as follows:

(a) If the sender is a bank, payment occurs when the receiving bank receives final settlement of the obligation through a Federal Reserve bank or through a funds-transfer system.

(b) If the sender is a bank and the sender (i) credited an account of the receiving bank with the sender, or (ii) caused an account of the receiving bank in another bank to be credited, payment occurs when the credit is withdrawn or, if not withdrawn, at midnight of the day on which the credit is withdrawable and the receiving bank learns of that fact.

(c) If the receiving bank debits an account of the sender with the receiving bank, payment occurs when the debit is made to the extent the debit is covered by a withdrawable credit balance in the account.

(2) If the sender and receiving bank are members of a funds-transfer system that nets obligations multilaterally among participants, the receiving bank receives final settlement when settlement is complete in accordance with the rules of the system. The obligation of the sender to pay the amount of a payment order transmitted through the funds-transfer system may be satisfied, to the extent permitted by the rules of the system, by setting off and applying against the sender's obligation the right of the sender to receive payment from the receiving bank of the amount of any other payment order trans-

mitted to the sender by the receiving bank through the funds-transfer system. The aggregate balance of obligations owed by each sender to each receiving bank in the funds-transfer system may be satisfied, to the extent permitted by the rules of the system, by setting off and applying against that balance the aggregate balance of obligations owed to the sender by other members of the system. The aggregate balance is determined after the right of setoff stated in the second sentence of this subsection has been exercised.

(3) If two (2) banks transmit payment orders to each other under an agreement that settlement of the obligations of each bank to the other under section 28-4-627 will be made at the end of the day or other period, the total amount owed with respect to all orders transmitted by one (1) bank shall be set off against the total amount owed with respect to all orders transmitted by the other bank. To the extent of the setoff, each bank has made payment to the other.

(4) In a case not covered by subsection (1) of this section, the time when payment of the sender's obligation under section 28-4-627(2) or (3) occurs is governed by applicable principles of law that determine when an obligation is satisfied.

28-4-629. OBLIGATION OF BENEFICIARY'S BANK TO PAY AND GIVE NOTICE TO BENEFICIARY. (1) Subject to sections 28-4-619(5), 28-4-630(4) and (5), if a beneficiary's bank accepts a payment order, the bank is obliged to pay the amount of the order to the beneficiary of the order. Payment is due on the payment date of the order, but if acceptance occurs on the payment date after the close of the funds-transfer business day of the bank, payment is due on the next funds-transfer business day. If the bank refuses to pay after demand by the beneficiary and receipt of notice of particular circumstances that will give rise to consequential damages as a result of nonpayment, the beneficiary may recover damages resulting from the refusal to pay to the extent the bank had notice of the damages, unless the bank proves that it did not pay because of a reasonable doubt concerning the right of the beneficiary to payment.

(2) If a payment order accepted by the beneficiary's bank instructs payment to an account of the beneficiary, the bank is obliged to notify the beneficiary of receipt of the order before midnight of the next funds-transfer business day following the payment date. If the payment order does not instruct payment to an account of the beneficiary, the bank is required to notify the beneficiary only if notice is required by the order. Notice may be given by first class mail or any other means reasonable in the circumstances. If the bank fails to give the required notice, the bank is obliged to pay interest to the beneficiary on the amount of the payment order from the day notice should have been given until the day the beneficiary learned of receipt of the payment order by the bank. No other damages are recoverable. Reasonable attorney's fees are also recoverable if demand for interest is made and refused before an action is brought on the claim.

(3) The right of a beneficiary to receive payment and damages as stated in subsection (1) of this section may not be varied by agreement or a funds-transfer system rule. The right of a beneficiary to be notified as stated in subsection (2) of this section may be varied by agreement of the beneficiary or by a funds-transfer system rule if the

beneficiary is notified of the rule before initiation of the funds transfer.

28-4-630. PAYMENT BY BENEFICIARY'S BANK TO BENEFICIARY. (1) If the beneficiary's bank credits an account of the beneficiary of a payment order, payment of the bank's obligation under section 28-4-629(1) occurs when and to the extent:

(a) the beneficiary is notified of the right to withdraw the credit,

(b) the bank lawfully applies the credit to a debt of the beneficiary, or

(c) funds with respect to the order are otherwise made available to the beneficiary by the bank.

(2) If the beneficiary's bank does not credit an account of the beneficiary of a payment order, the time when payment of the bank's obligation under section 28-4-629(1) occurs is governed by principles of law that determine when an obligation is satisfied.

(3) Except as stated in subsections (4) and (5) of this section, if the beneficiary's bank pays the beneficiary of a payment order under a condition to payment or agreement of the beneficiary giving the bank the right to recover payment from the beneficiary if the bank does not receive payment of the order, the condition to payment or agreement is not enforceable.

(4) A funds-transfer system rule may provide that payments made to beneficiaries of funds transfers made through the system are provisional until receipt of payment by the beneficiary's bank of the payment order it accepted. A beneficiary's bank that makes a payment that is provisional under the rule is entitled to refund from the beneficiary if:

(a) the rule requires that both the beneficiary and the originator be given notice of the provisional nature of the payment before the funds transfer is initiated,

(b) the beneficiary, the beneficiary's bank and the originator's bank agreed to be bound by the rule, and

(c) the beneficiary's bank did not receive payment of the payment order that it accepted.

If the beneficiary is obliged to refund payment to the beneficiary's bank, acceptance of the payment order by the beneficiary's bank is nullified and no payment by the originator of the funds transfer to the beneficiary occurs under section 28-4-631.

(5) The provisions of this subsection apply to a funds transfer that includes a payment order transmitted over a funds-transfer system that:

(a) nets obligations multilaterally among participants, and

(b) has in effect a loss-sharing agreement among participants for the purpose of providing funds necessary to complete settlement of the obligations of one (1) or more participants that do not meet their settlement obligations. If the beneficiary's bank in the funds transfer accepts a payment order and the system fails to complete settlement pursuant to its rules with respect to any payment order in the funds transfer,

(i) the acceptance by the beneficiary's bank is nullified and no person has any right or obligation based on the accep-

tance,

(ii) the beneficiary's bank is entitled to recover payment from the beneficiary,

(iii) no payment by the originator to the beneficiary occurs under section 28-4-631, and

(iv) subject to section 28-4-627(5), each sender in the funds transfer is excused from its obligation to pay its payment order under section 28-4-627(3) because the funds transfer has not been completed.

28-4-631. PAYMENT BY ORIGINATOR TO BENEFICIARY -- DISCHARGE OF UNDERLYING OBLIGATION. (1) Subject to the provisions of sections 28-4-619(5), 28-4-630(4) and (5), the originator of a funds transfer pays the beneficiary of the originator's payment order:

(a) at the time a payment order for the benefit of the beneficiary is accepted by the beneficiary's bank in the funds transfer, and

(b) in an amount equal to the amount of the order accepted by the beneficiary's bank, but not more than the amount of the originator's order.

(2) If payment under subsection (1) of this section is made to satisfy an obligation, the obligation is discharged to the same extent discharge would result from payment to the beneficiary of the same amount in money, unless:

(a) the payment under subsection (1) of this section was made by a means prohibited by the contract of the beneficiary with respect to the obligation,

(b) the beneficiary, within a reasonable time after receiving notice of receipt of the order by the beneficiary's bank, notified the originator of the beneficiary's refusal of the payment,

(c) funds with respect to the order were not withdrawn by the beneficiary or applied to a debt of the beneficiary, and

(d) the beneficiary would suffer a loss that could reasonably have been avoided if payment had been made by a means complying with the contract.

If payment by the originator does not result in discharge under this section, the originator is subrogated to the rights of the beneficiary to receive payment from the beneficiary's bank under section 28-4-629(1).

(3) For the purpose of determining whether discharge of an obligation occurs under subsection (2) of this section, if the beneficiary's bank accepts a payment order in an amount equal to the amount of the originator's payment order less charges of one (1) or more receiving banks in the funds transfer, payment to the beneficiary is deemed to be in the amount of the originator's order unless upon demand by the beneficiary the originator does not pay the beneficiary the amount of the deducted charges.

(4) Rights of the originator or of the beneficiary of a funds transfer under this section may be varied only by agreement of the originator and the beneficiary.

MISCELLANEOUS PROVISIONS

28-4-632. VARIATION BY AGREEMENT AND EFFECT OF FUNDS-TRANSFER SYSTEM RULE. (1) Except as otherwise provided in this part, the rights and obligations of a party to a funds transfer may be varied by agreement of the affected party.

(2) "Funds-transfer system rule" means a rule of an association of banks:

(a) governing transmission of payment orders by means of a funds-transfer system of the association or rights and obligations with respect to those orders, or

(b) to the extent the rule governs rights and obligations between banks that are parties to a funds transfer in which a Federal Reserve bank, acting as an intermediary bank, sends a payment order to the beneficiary's bank.

Except as otherwise provided in this part, a funds-transfer system rule governing rights and obligations between participating banks using the system may be effective even if the rule conflicts with this part and indirectly affects another party to the funds transfer who does not consent to the rule. A funds-transfer system rule may also govern rights and obligations of parties other than participating banks using the system to the extent stated in sections 28-4-629(3), 28-4-630(4), and 28-4-638(3).

28-4-633. CREDITOR PROCESS SERVED ON RECEIVING BANK -- SETOFF BY BENEFICIARY'S BANK. (1) As used in this section, "creditor process" means levy, attachment, garnishment, notice of lien, sequestration, or similar process issued by or on behalf of a creditor or other claimant with respect to an account.

(2) The provisions of this subsection apply to creditor process with respect to an authorized account of the sender of a payment order if the creditor process is served on the receiving bank. For the purpose of determining rights with respect to the creditor process, if the receiving bank accepts the payment order the balance in the authorized account is deemed to be reduced by the amount of the payment order to the extent the bank did not otherwise receive payment of the order, unless the creditor process is served at a time and in a manner affording the bank a reasonable opportunity to act on it before the bank accepts the payment order.

(3) If a beneficiary's bank has received a payment order for payment to the beneficiary's account in the bank, the following rules apply:

(a) The bank may credit the beneficiary's account. The amount credited may be set off against an obligation owed by the beneficiary to the bank or may be applied to satisfy creditor process served on the bank with respect to the account.

(b) The bank may credit the beneficiary's account and allow withdrawal of the amount credited unless creditor process with respect to the account is served at a time and in a manner affording the bank a reasonable opportunity to act to prevent withdrawal.

(c) If creditor process with respect to the beneficiary's account has been served and the bank has had a reasonable opportunity to act on it, the bank may not reject the payment order except for a

reason unrelated to the service of process.

(4) Creditor process with respect to a payment by the originator to the beneficiary pursuant to a funds transfer may be served only on the beneficiary's bank with respect to the debt owed by that bank to the beneficiary. Any other bank served with the creditor process is not obliged to act with respect to the process.

28-4-634. INJUNCTION OR RESTRAINING ORDER WITH RESPECT TO FUNDS TRANSFER. For proper cause and in compliance with applicable law, a court may restrain:

(1) A person from issuing a payment order to initiate a funds transfer,

(2) An originator's bank from executing the payment order of the originator, or

(3) The beneficiary's bank from releasing funds to the beneficiary or the beneficiary from withdrawing the funds.

A court may not otherwise restrain a person from issuing a payment order, paying or receiving payment of a payment order, or otherwise acting with respect to a funds transfer.

28-4-635. ORDER IN WHICH ITEMS AND PAYMENT ORDERS MAY BE CHARGED TO ACCOUNT -- ORDER OF WITHDRAWALS FROM ACCOUNT. (1) If a receiving bank has received more than one (1) payment order of the sender or one (1) or more payment orders and other items that are payable from the sender's account, the bank may charge the sender's account with respect to the various orders and items in any sequence.

(2) In determining whether a credit to an account has been withdrawn by the holder of the account or applied to a debt of the holder of the account, credits first made to the account are first withdrawn or applied.

28-4-636. PRECLUSION OF OBJECTION TO DEBIT OF CUSTOMER'S ACCOUNT. If a receiving bank has received payment from its customer with respect to a payment order issued in the name of the customer as sender and accepted by the bank, and the customer received notification reasonably identifying the order, the customer is precluded from asserting that the bank is not entitled to retain the payment unless the customer notifies the bank of the customer's objection to the payment within one (1) year after the notification was received by the customer.

28-4-637. RATE OF INTEREST. (1) If, under this part, a receiving bank is obliged to pay interest with respect to a payment order issued to the bank, the amount payable may be determined:

(a) by agreement of the sender and receiving bank, or

(b) by a funds-transfer system rule if the payment order is transmitted through a funds-transfer system.

(2) If the amount of interest is not determined by an agreement or rule as stated in subsection (1) of this section, the amount is calculated by multiplying the applicable federal funds rate by the amount on which interest is payable, and then multiplying the product by the number of days for which interest is payable. The applicable federal funds rate is the average of the federal funds rates published

by the Federal Reserve bank of New York for each of the days for which interest is payable divided by three hundred and sixty (360). The federal funds rate for any day on which a published rate is not available is the same as the published rate for the next preceding day for which there is a published rate. If a receiving bank that accepted a payment order is required to refund payment to the sender of the order because the funds transfer was not completed, but the failure to complete was not due to any fault by the bank, the interest payable is reduced by a percentage equal to the reserve requirement on deposits of the receiving bank.

28-4-638. CHOICE OF LAW. (1) The following rules apply unless the affected parties otherwise agree or the provisions of subsection (3) of this section apply:

(a) The rights and obligations between the sender of a payment order and the receiving bank are governed by the law of the jurisdiction in which the receiving bank is located.

(b) The rights and obligations between the beneficiary's bank and the beneficiary are governed by the law of the jurisdiction in which the beneficiary's bank is located.

(c) The issue of when payment is made pursuant to a funds transfer by the originator to the beneficiary is governed by the law of the jurisdiction in which the beneficiary's bank is located.

(2) If the parties described in paragraphs (a), (b) and (c) of subsection (1) of this section have made an agreement selecting the law of a particular jurisdiction to govern rights and obligations between each other, the law of that jurisdiction governs those rights and obligations, whether or not the payment order or the funds transfer bears a reasonable relation to that jurisdiction.

(3) A funds-transfer system rule may select the law of a particular jurisdiction to govern:

(a) rights and obligations between participating banks with respect to payment orders transmitted or processed through the system, or

(b) the rights and obligations of some or all parties to a funds transfer any part of which is carried out by means of the system.

A choice of law made pursuant to paragraph (a) of this subsection is binding on participating banks. A choice of law made pursuant to paragraph (b) of this subsection is binding on the originator, other sender, or a receiving bank having notice that the funds-transfer system might be used in the funds transfer and of the choice of law by the system when the originator, other sender, or receiving bank issued or accepted a payment order. The beneficiary of a funds transfer is bound by the choice of law if, when the funds transfer is initiated, the beneficiary has notice that the funds-transfer system might be used in the funds transfer and of the choice of law by the system. The law of a jurisdiction selected pursuant to this subsection may govern, whether or not that law bears a reasonable relation to the matter in issue.

(4) In the event of inconsistency between an agreement under subsection (2) of this section and a choice-of-law rule under subsection (3) of this section, the agreement under subsection (2) of this section prevails.

(5) If a funds transfer is made by use of more than one (1) funds-transfer system and there is inconsistency between choice-of-law rules of the systems, the matter in issue is governed by the law of the selected jurisdiction that has the most significant relationship to the matter in issue.

SECTION 2. That Section 28-1-105, Idaho Code, be, and the same is hereby amended to read as follows:

28-1-105. TERRITORIAL APPLICATION OF THE ACT -- PARTIES' POWER TO CHOOSE APPLICABLE LAW. (1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement this act applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of this act specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 28-2-402.

Applicability of the chapter on Bank Deposits and Collections. Section 28-4-102.

Governing law in the article on Funds Transfers. Section 28-4-638.

Bulk transfers subject to the chapter on Bulk Transfers. Section 28-6-102.

Applicability of the chapter on Investment Securities. Section 28-8-106.

Policy and scope of the chapter on Secured Transactions. Sections 28-9-102 and 28-9-103.

Approved March 29, 1991.

CHAPTER 136
(H.B. No. 118)

AN ACT

RELATING TO PUBLIC WORKS; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5710A, IDAHO CODE, TO ALLOW THE ADMINISTRATOR OF THE DIVISION OF PUBLIC WORKS TO DELEGATE THE OVERSIGHT OF PROJECTS, THE COST OF WHICH IS LESS THAN ONE HUNDRED THOUSAND DOLLARS, TO STATE AGENCIES ACCORDING TO DIVISION AND PERMANENT BUILDING FUND ADVISORY COUNCIL GUIDELINES AND PROCEDURES.

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

SECTION 1. That Chapter 57, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5710A, Idaho Code, and to read as follows:

67-5710A. REQUIREMENT OF PLANS AND SPECIFICATION APPROVAL BY PER-

MANENT BUILDING FUND ADVISORY COUNCIL AND DELEGATION OF PROJECT OVERSIGHT BY THE ADMINISTRATOR FOR THE DIVISION OF PUBLIC WORKS. (1) (a) Unless an emergency exists as defined in section 67-5711B, Idaho Code, an existing public works may not be altered, repaired, constructed or improved on property owned or occupied by any state institution, department, commission, board or agency, if the estimated cost of work exceeds the limit established in section 67-5711, Idaho Code, and except for those institutions and agency exemptions listed in section 67-5711, Idaho Code, without regard to source of funding, until the location, design, plans and specifications are approved by the permanent building fund advisory council and the project supervised by the division of public works or its designee.

(b) Facilities to be built with funds under the control of a nonstate entity, and owned or occupied by state entities, must have plans and specifications prepared, and all plans and specifications must be reviewed and approved by the permanent building fund advisory council prior to the advertising, bidding, construction and/or negotiation for construction of the facilities.

(2) (a) The administrator for the division of public works may delegate control over design, construction and all other aspects of a public works or maintenance project which costs less than one hundred thousand dollars ($100,000), to agencies of state government on a project-by-project basis, if a responsible party of the state agency requests that delegation in writing and the permanent building fund advisory council approves the delegation.

(i) The state agency to whom control is delegated shall assume all responsibility for project budgets and shall receive funds appropriated for the project upon application and approval by the permanent building fund advisory council.

(ii) Delegation of project control does not exempt the state agency from complying with public works statutes, life safety and building codes or other applicable codes and regulations. The state agency also must comply with any guidelines or procedures for design and construction adopted by the division of public works and the permanent building fund advisory council.

(iii) State agencies that receive delegated projects may not have access to permanent building fund advisory council contingency funds unless approved by the permanent building fund advisory council or authorized by appropriation.

(iv) Prior, written approval from the administrator must be granted for any public works utilizing sole source or limited competition. No agency will be delegated the ability to declare an emergency as defined in section 67-5711B, Idaho Code.

(v) The permanent building fund advisory council may elect to audit any project for compliance with applicable codes and policies.

(vi) The delegated state agency will use standard documents for professional services contracts and for construction contracts as adopted by the division of public works.

(vii) Delegation is subject to cancellation by the administrator for the division of public works with the concurrence of the permanent building fund advisory council.

Approved March 29, 1991.

CHAPTER 137
(H.B. No. 121, As Amended in the Senate)

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 23-903b, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 23-904, IDAHO CODE, TO PROVIDE FOR THE USE OF A CENSUS OF POPULATION; AMENDING SECTION 23-905, IDAHO CODE, TO PROVIDE FOR A WRITTEN REPORT RATHER THAN A VERIFIED REPORT; AMENDING SECTION 23-1001, IDAHO CODE, TO REDEFINE CERTIFICATE OF APPROVAL; AMENDING SECTION 23-1009, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF RETAILERS' LOCAL LICENSES; AMENDING SECTION 23-1011, IDAHO CODE, TO PROVIDE THAT A CITY OR COUNTY LICENSE MAY BE ISSUED AFTER A STATE LICENSE IS ISSUED; AMENDING SECTION 23-1311, IDAHO CODE, TO PROVIDE FOR THE SALE OF WINE BY DISTRIBUTORS; AND AMENDING SECTION 23-946, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, AND TO STRIKE OBSOLETE LANGUAGE.

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

SECTION 1. That Section 23-903b, Idaho Code, be, and the same is hereby amended to read as follows:

23-903b. LICENSES ISSUED TO OWNERS, OPERATORS OR LESSEES OF GOLF COURSES, SKI RESORTS, CROSS-COUNTRY SKIING FACILITIES AND ~~LAKE~~ WATERFRONT RESORTS -- LIMITATIONS ON SALES OR TRANSFERS. No license issued to an owner, operator, or lessee of a golf course, ski resort, cross-country skiing facility or ~~lake~~ waterfront resort, as defined in sections 23-903, 23-948 and 23-952, Idaho Code, shall be transferable to another location or facility.

SECTION 2. That Section 23-904, Idaho Code, be, and the same is hereby amended to read as follows:

23-904. LICENSE FEES. Each licensee licensed under the provisions of this act shall pay an annual license fee to the director as follows:

a. For each license in a city of 1,000 population or less, $300 per annum.

b. For each license in a city of from 1,000 to 3,000 population, $500 per annum.

c. For each license in a city having a population of more than 3,000, $750 per annum.

d. For each railroad train for sale only in buffet, club or dining cars, $50.00 per annum of the scheduled run of such train within the state of Idaho; provided, that such license shall be in full, and in lieu of all other licenses herein provided for.

e. For each common carrier boat line for sale only in buffet, club dining rooms, $250 per annum. Such license shall be in full, and in lieu of all other licenses herein provided for.

f. For each license issued to the owner, operator, or lessee of a golf course as described in section 23-903, Idaho Code, or to the lessee of any premises situate on such golf course, situate in any county

having a population of:

1. Less than 20,000, $200 per annum;
2. 20,000 but less than 40,000, $300 per annum;
3. 40,000 or more, $400 per annum.

g. For each common carrier airline for sale only in common carrier aircraft, $250 per annum. Such license shall be in full, and in lieu of all other licenses herein provided for.

h. For each license issued to the owner, operator, or lessee of a restaurant operated on an airport, as described in section 23-903, Idaho Code, situate within the corporate limits of a city, the fee shall be the same as provided in paragraphs "a" through "c," inclusive, of this section.

i. For each license issued to the owner, operator, or lessee of a restaurant operated on an airport, as described in section 23-903, Idaho Code, situate without the corporate limits of a city, the fee shall be the same as provided in paragraph "f" of this section. Licenses issued under and pursuant to the provisions of this act shall expire at 1:00 o'clock A.M. on the first day of January of the following year.

Provided that any licensee who operates for only a portion of a year may have his license fee prorated from the date he commences operation to the end of the calendar year, but in no event for less than six (6) months.

In the event a licensee who was previously issued a license on a prorated basis under the provisions hereof desires to have such license renewed for the same period for the next succeeding year, he shall file his intention to so apply for such license with the director, accompanied by the fee required for the issuance of such license on or before December 31st of the year preceding.

The license fees herein provided for are exclusive of and in addition to other license fees chargeable in the state of Idaho.

~~The census taken under the direction of the congress of the United States in the year 1950 and every ten (10) years thereafter shall be the basis upon which respective populations of said municipalities shall be determined~~ The basis upon which respective populations of municipalities shall be determined is the last preceding census or any subsequent special census conducted by the United States bureau of the census, unless a direct enumeration of the inhabitants thereof be made by the state of Idaho, in which case such later direct enumeration shall constitute such basis.

SECTION 3. That Section 23-905, Idaho Code, be, and the same is hereby amended to read as follows:

23-905. APPLICATION FOR LICENSES -- PENALTY FOR FALSE STATEMENTS. Prior to the issuance of a license as herein provided, the applicant shall file with the director an application, in writing, signed by the applicant and containing such information and statements relative to the applicant and the premises where the liquor is to be sold as may be required by the director. The application shall be verified by the affidavit of the person making the same before a person authorized to administer oaths and shall be accompanied with the license fee herein required.

In addition to setting forth the qualifications required by other provisions of this act, the application must show~~,~~:

(a) A detailed description of the premises for which a license is sought and its location.

(b) A detailed statement of the assets and liabilities of the applicant.

(c) The names and addresses of all persons who will have any financial interest in any business to be carried on in and upon the licensed premises, whether such interest results from open loans, mortgages, conditional sales contracts, silent partnerships, trusts or any other basis than open trade accounts incurred in the ordinary course of business, and the amounts of such interests.

(d) If the premises to be licensed are not owned by the applicant, then a certified copy of the lease by which he will occupy the premises showing that the owner consents to the sale of liquor by the drink on such premises.

(e) The name and address of the applicant, which shall include all members of a partnership or association and the officers, members of the governing board and ten (10) principal stockholders of a corporation.

(f) A copy of the articles of incorporation and bylaws of any corporation, the articles of association and the bylaws of any association, or the articles of partnership of any partnership.

(g) If during the period of any license issued hereunder any change shall take place in any of the requirements of subparagraphs (c), (d), (e), or (f) of this section, the licensee shall forthwith make a ~~verified~~ written report of such change to the director.

(h) If during the period of any license issued hereunder the licensee seeks to move his business from one premise to another in the same city, he may do so subject to the director's approval that the new premise is suitable for the carrying on of the business.

If any false statement is made in any part of said application, or any subsequent report, the applicant, or applicants, shall be deemed guilty of a felony and upon conviction thereof shall be imprisoned in the state prison for not less than one (1) year nor more than five (5) years and fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or both such fine and imprisonment.

SECTION 4. That Section 23-1001, Idaho Code, be, and the same is hereby amended to read as follows:

23-1001. DEFINITIONS. As used in this chapter:

(a) The word "beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and/or other ingredients in drinkable water.

(b) The word "person" includes any individual, firm, copartnership, association, corporation or any group or combination acting as a unit, and the plural as well as the singular number unless the intent to give a more limited meaning is disclosed by the context.

(c) The term "dealer" shall include any person who imports beer into this state for sale or produces or manufactures beer in the state for sale.

(d) The word "retailer" means any person engaged in the sale or distribution of beer to the consumer.

(e) The word "director" means the director of the department of law enforcement.

(f) The word "brewer" means any person having a factory or an establishment adapted for the making of beer.

(g) The word "wholesaler" means any person having a store or establishment for the wholesale and distribution of beer in wholesale or jobbing quantities to retailers.

(h) The word "package" means any container of bottled beer of not less than two (2) gallons capacity or keg of not less than four (4) gallons capacity.

(i) The word "carrier" means any person as herein defined who by any means transports beer in or into the state of Idaho.

(j) The word "premises" means the building and contiguous property owned, or leased or used under government permit by a licensee as part of the business establishment in the business of sale of beer at retail, which property is improved to include decks, docks, boardwalks, lawns, gardens, golf courses, ski resorts, courtyards, patios, poolside areas or similar improved appurtenances in which the sale of beer at retail is authorized under the provisions of law.

(k) "Certificate of approval" means a license issued to a brewer whose factory or establishment adapted for the making of beer is situated outside the state of Idaho, or a license issued to a foreign wholesaler of beer.

SECTION 5. That Section 23-1009, Idaho Code, be, and the same is hereby amended to read as follows:

23-1009. RETAILERS' LOCAL LICENSES. No retailer shall sell beer within this state, until he or it shall be licensed therefor by a municipality, if the business is to be conducted therein, and by the county wherein said business is to be conducted, and by the director. Applications for retailer's licenses shall be made under oath first to the ~~municipality--or--county-or-both,-as-the-case-may-be,-and,-if-the license-be-issued-thereby,-to-the~~ director of the department of law enforcement, and if the license be issued, to the county and then to the municipality, upon forms to be supplied by each, which forms shall require that the applicant show that the applicant possesses all of the qualifications and none of the disqualifications of a retailer licensee under this act, and, as to the municipal license, under any ordinance thereof. Each application shall be accompanied with the required license fee~~,-and-that-made-to-the-director-also-with-certificates-of-the-respective-clerks-of-such-municipality-and-county-commissioners-to-the-effect--that--a--retailer's--license--has--been--issued thereby,--for--the--current--calendar--year,--to-the-applicant~~. If the applications conform hereto the ~~municipality,--county--and~~ director, county and municipality respectively, shall each issue a retailer's license to the applicant, subject to the restrictions and upon the conditions in this act specified, and, as to the municipal license, in the ordinance aforesaid. Said licenses shall at all times be prominently displayed in the place of business of the licensee, and shall be issued only for the particular premises described therein, but the

municipality, county and director may permit a transfer to other particularly described premises. No license transferred by process of law or otherwise shall authorize the transferee, including any executor, administrator or trustee in bankruptcy of the estate of the licensee, to retail beer thereunder until the transferee shall have filed under oath applications therefor containing substantially the same information required of an applicant for a license, and if the transferee possesses the qualifications and none of the disqualifications for a license as herein provided, the ~~municipality, county and~~ director, county and municipality shall approve such transfer and ~~amend--the~~ issue a licenses so to show. The transferee shall accompany the state application for transfer with, and shall pay, the fee as set out in section 23-1005A, Idaho Code. Such transferee shall accompany each such county and municipality application for transfer with, and shall pay, the sum of five dollars ($5.00).

SECTION 6. That Section 23-1011, Idaho Code, be, and the same is hereby amended to read as follows:

23-1011. ISSUANCE OF LICENSES. Notwithstanding any other provision of chapter 10, title 23, Idaho Code, all applications for retail sale of beer licenses, renewals, or transfers thereof, shall be first presented to the director of the department of law enforcement for approval and issuance of the state license required by state law. If the license, renewal or transfer thereof is approved by the director, then such license, renewal or transfer thereof~~, in order to be valid, must be approved~~ may be issued by the city or county, or both, as the case may be ~~by procedures provided in this chapter~~. Approval of such license, renewal or transfer thereof may be by endorsement upon the state license or by the issuance of an additional license, at the option of the city or county.

SECTION 7. That Section 23-1311, Idaho Code, be, and the same is hereby amended to read as follows:

23-1311. SALES BY DISTRIBUTORS -- RESTRICTIONS. No distributor may sell any wine produced, manufactured, imported, or bought by such distributor, for use within this state, except to the holder of a valid retail wine license or wine by the drink license, or valid wine distributor's license or to the state liquor dispensary. Provided however, any distributor may sell any wine produced, manufactured, imported, or bought by such distributor, for use within this state, to a bona fide employee of such distributor. No distributor shall permit, for a consideration, wine to be consumed upon the premises of the distributor.

SECTION 8. That Section 23-946, Idaho Code, be, and the same is hereby amended to read as follows:

23-946. ~~SWORN~~ STATEMENT ~~FILED~~ MADE BY LICENSEES OF PREMISES OPERATED AS RESTAURANTS -- INDORSEMENT UPON LICENSE. (a) Every applicant for a state license for the sale of liquor by the drink or for the sale of beer for consumption on the premises claiming that the prem-

ises for which such license is sought constitute and are operated as a restaurant, as herein defined, shall, ~~with~~ on each application for state license and ~~with~~ on each application for renewal of license, ~~file-with-the-director-a-statement-under-oath-setting-forth~~ state that such premises constitute and are operated as such restaurant. Upon issuance of state license for the sale of liquor by the drink or for the sale of beer for consumption on the premises, for premises constituting and operated as a restaurant, the licensee of which has ~~filed the-sworn-statement-herein-required~~ made the proper statement on the application, the director shall indorse on the face of the license the fact that it has been issued to a restaurant as herein defined. Unless such ~~sworn~~ statement shall have been filed with the director and his said indorsement shall appear on the face of the license, the restrictions contained in section 23-943, Idaho Code, shall apply, notwithstanding that such premises may in fact constitute and be operated as a restaurant, and the posting of signs as provided for in section 23-945, Idaho Code, shall be required. The filing of any false statement ~~sworn-to~~ on the application as herein required shall be grounds for suspension or revocation of license. If premises, licensed as a restaurant under this act, subsequently ceases to meet the qualifications of a restaurant, as defined in section 23-942, Idaho Code, the restrictions contained in section 23-943, Idaho Code, shall apply and the posting of signs as provided for in section 23-945, Idaho Code, shall be required. In such event the licensee shall advise the director, by mail, that his premises no longer constitute a restaurant, so that the ~~certificate-of-indorsement~~ license may be ~~recalled~~ modified accordingly.

~~(b) Every--licensee-who,-prior-to-the-effective-date-of-this-act, has-obtained-a-state-license-for-the-year-1955,-and--who--claims--that such-licensed-premises-constitute-and-are-operated-as-a-restaurant,-as herein--defined,-shall-on-or-before-July-1,-1955,-file-with-the-director-the-statement-required-under-(a)-of-this-section.-Upon-the--filing of--such-statement-the-director-shall-issue-a-certificate-showing-that the-particular-license-has-been--issued--to--a--restaurant--as--herein defined,-provided,-that-the-director-shall-give-notice-of-the-requirements--of-this-section-to-each-such-licensee-at-least-thirty-(30)-days prior-to-July-1,-1955.~~

~~(c)~~ The powers of the director to make, promulgate and publish rules and regulations as set forth in section 23-932, Idaho Code, shall apply to sections 23-941 to 23-946, Idaho Code.

Approved March 29, 1991.

CHAPTER 138
(H.B. No. 148)

AN ACT

RELATING TO THE VETERINARY PRACTICE ACT; AMENDING SECTION 54-2103, IDAHO CODE, TO PROVIDE PROPER REFERENCES AND TO EXPAND THE DEFINITION OF "VETERINARY TECHNICIAN"; AND AMENDING SECTION 54-2105, IDAHO CODE, TO CLARIFY WHO MAY ACT AS A HEARING OFFICER FOR THE

STATE BOARD OF VETERINARY MEDICINE.

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

SECTION 1. 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.

(3) "Animal" means any animal other than man and includes fowl, birds, fish and reptiles, wild or domestic, living or dead.

(4) "Assistant" means any individual who is not a veterinary technician or veterinarian.

(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.

(16) "Licensed veterinarian" means a person who is validly and currently licensed to practice veterinary medicine in this state.

(17) "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.

(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~~18)(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~~18)(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.

(21) "School of veterinary medicine" means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent and that conforms to the standards required for accreditation by the American veterinary medical 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.

(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 or a person who has received equivalent training as recognized by the Idaho board of veterinary medicine.

(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 2. 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 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 veterinary medical 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 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 terms, except in the case of a person appointed for less than a full term. Each of the four (4) veterinarians shall be qualified to serve as a member of the board if 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

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 appointment, a member of the faculty or trustees 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 54-2120, 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 <u>or a person appointed by the state board of veterinary medicine</u> 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 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.

Approved March 29, 1991.

CHAPTER 139
(H.B. No. 141)

AN ACT

RELATING TO THE POWERS AND DUTIES OF THE STATE DEPARTMENT OF EDUCATION; AMENDING SECTION 33-125, IDAHO CODE, TO PROVIDE THAT THE STATE DEPARTMENT OF EDUCATION SHALL ADMINISTER A PROGRAM OF GRANTS FOR THE PROMOTION OF SCIENCE EDUCATION; AMENDING CHAPTER 1, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-128, IDAHO CODE, TO PROVIDE A STATEMENT OF PURPOSE; AND AMENDING CHAPTER 1, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-129, IDAHO CODE, TO PROVIDE FOR A MATCHING GRANT PROGRAM TO ENCOURAGE SCIENCE EDUCATION PROGRAMS AND TO ESTABLISH GRANT CRITERIA.

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

SECTION 1. That Section 33-125, Idaho Code, be, and the same is hereby amended to read as follows:

33-125. STATE DEPARTMENT OF EDUCATION -- CREATION -- DUTIES. There is hereby established as an executive agency of the state board

of education a department known as the state department of education. The state superintendent shall serve as the executive officer of such department and shall have the responsibility for carrying out policies, procedures and duties authorized by law or established by the state board of education for all elementary and secondary school matters, and to administer grants for the promotion of science education as provided in sections 33-128 and 33-129, Idaho Code.

SECTION 2. 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 33-128, Idaho Code, and to read as follows:

33-128. 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 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 33-129, Idaho Code, and to read as follows:

33-129. MATCHING GRANTS FOR SCIENCE EDUCATION PROGRAMS -- GRANT CRITERIA. The state department of education shall administer a program of matching grants to encourage the 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 and which shall have conducted such a science education program for a minimum of one (1) year. 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 department of education 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 department's judgment as to the probable effectiveness of the various proposals in furthering the purposes of this act.

Approved March 29, 1991.

CHAPTER 140
(H.B. No. 137)

AN ACT

RELATING TO WILDLIFE TAKEN IN JURISDICTIONS OTHER THAN THE STATE OF IDAHO; AMENDING CHAPTER 5, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-504, IDAHO CODE, TO PROVIDE THAT IT IS UNLAWFUL FOR ANY PERSON TO IMPORT, EXPORT, TRANSPORT, SELL, RECEIVE, ACQUIRE, PURCHASE OR POSSESS ANY SPECIES OF WILDLIFE TAKEN, POSSESSED OR SOLD IN VIOLATION OF ANY LAW OR REGULATION OF THE UNITED STATES, ANY INDIAN LAW OR REGULATION, OR ANY LAW OR REGULATION OF ANY STATE OR FOREIGN COUNTRY, AND TO PROVIDE THE VIOLATIONS AND PUNISHMENTS THEREFOR.

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

SECTION 1. That Chapter 5, 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 36-504, Idaho Code, and to read as follows:

36-504. WILDLIFE TAKEN IN VIOLATION OF OTHER LAWS -- VIOLATIONS. (a) It shall be unlawful for any person to import, export, transport, sell, receive, acquire, purchase or possess any wildlife, as defined in section 36-202, Idaho Code, that is taken, possessed or sold on or after July 1, 1991, in violation of any law or regulation of the United States, any Indian law or regulation, or any law or regulation of any state other than Idaho, or laws or regulations of a foreign country.

(b) Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the location where the violation first occurred, but also in any location in which the defendant may have been in possession of such wildlife within the state of Idaho.

(c) All such wildlife shall be subject to the operation and effect of the laws of the state of Idaho to the same extent and in the same manner as though such wildlife had been produced in Idaho.

(d) Any person who violates the provisions of this section shall be punished in accordance with the provisions of chapter 14, title 36, Idaho Code.

Approved March 29, 1991.

CHAPTER 141
(H.B. No. 149)

AN ACT

RELATING TO THE CHIROPRACTIC PRACTICE ACT; AMENDING SECTION 54-707, IDAHO CODE, TO AUTHORIZE THE STATE BOARD OF CHIROPRACTIC PHYSICIANS TO ADOPT RULES ESTABLISHING A SYSTEM OF PEER REVIEW.

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

SECTION 1. That Section 54-707, Idaho Code, be, and the same is hereby amended to read as follows:

54-707. POWERS AND DUTIES. The board shall have the authority to:

(1) Hire or appoint employees, including an executive director, investigators, attorneys, consultants and independent hearing examiners;

(2) Establish, pursuant to the provisions of chapter 52, title 67, Idaho Code, rules and regulations for the administration of the provisions of this chapter;

(3) Conduct investigations and examinations and hold hearings;

(4) Revoke or suspend licenses to practice chiropractic;

(5) In any disciplinary proceeding pursuant to this chapter to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and shall have the power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records, and papers as it may desire at any hearing and, for that purpose, the board may issue a subpoena for any witnesses or subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county in the state of Idaho, where such witness resides or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases, which fees and mileage shall be paid from any funds in the state treasury in the same manner as other expenses of the board are paid. The licensee accused in such proceedings shall have the same right of subpoena upon making application to the board therefor. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum, served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court of any county in this state in which this disobedience, neglect or refusal occurs, on application by the board to compel compliance with the subpoena, to issue its order directing compliance with such subpoena, and in the event of a violation of such order, to compel compliance with such order by proceedings for contempt as in the case of disobedience of the requirement of a subpoena issued from such court or for refusal to testify therein;

(6) Seek injunctive relief prohibiting the unlawful practice of chiropractic;

(7) Make and enter into contracts in the necessary performance of its duties pursuant to this chapter;

(8) Develop and submit a proposed budget setting forth the amount necessary to perform its functions;

(9) Perform such other duties as set forth in the laws of this state;

(10) Provide such other services and perform such other functions as are necessary to fulfill its responsibilities;

(11) Provide for reasonable fees through rules and regulations for administrative costs and to assess costs reasonably and necessarily

incurred in the enforcement of this chapter when a licensee has been found to be in violation thereof; ~~and~~

(12) Adopt a rule requiring continuing education as a condition of continued licensure; and

(13) Adopt rules pursuant to chapter 52, title 67, Idaho Code, to establish and operate a system of peer review for chiropractic physicians which shall include, but not be limited to, the appropriateness, quality, utilization, and cost of chiropractic services and the ethical performance of chiropractic care.

Approved March 29, 1991.

CHAPTER 142
(H.B. No. 178)

AN ACT

RELATING TO THE REGULATION OF FOOD ESTABLISHMENTS; REPEALING CHAPTERS 16 AND 17, TITLE 39, CHAPTER 20, TITLE 37, AND SECTIONS 39-1814, 39-1829, 39-1830, 39-1831, 39-1832, 39-1833 AND 39-1834, IDAHO CODE; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 16, TITLE 39, IDAHO CODE, TO PROVIDE A STATEMENT OF PURPOSE, TO DEFINE TERMS, TO PROVIDE AUTHORITY TO THE BOARD OF HEALTH AND WELFARE TO PROMULGATE RULES AND REGULATIONS FOR FOOD ESTABLISHMENTS, TO PROVIDE LICENSING REQUIREMENTS, TO PROVIDE FOR INSPECTIONS, TO PROVIDE FOR CRIMINAL AND CIVIL PENALTIES; AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Chapters 16 and 17, Title 39, Chapter 20, Title 37, and Sections 39-1814, 39-1829, 39-1830, 39-1831, 39-1832, 39-1833 and 39-1834, Idaho Code, be, and the same are 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 16, Title 39, Idaho Code, and to read as follows:

CHAPTER 16
FOOD ESTABLISHMENT ACT

39-1601. STATEMENT OF PURPOSE. The legislative intent of this chapter is to protect the public health by establishing standards and provisions for the regulation of food establishments; by delegating authority to the board of health and welfare to adopt regulations covering the health and sanitation aspects of food establishments, and by delegating the authority to the director of the department of health and welfare to enforce the provisions of this chapter. This chapter is enacted to ensure that consumers are not exposed to adverse health conditions arising out of the operation of food establishments.

39-1602. DEFINITIONS. As used in this chapter:

(1) "Food establishment" means those operations in the food business such as, but not limited to, food processing establishments, canning factories, salvage processing facilities, food service establishments, cold storage plants, commissaries, warehouses, food vending machine operations and location, caterers, mobile food units and retail food stores. Such operations include all activities under the control of the license holder including preparation, processing, storage, service, transportation vehicles, satellite locations and remote feeding sites. The term includes operations which are conducted in permanent, temporary or mobile facilities or locations. It includes any food operation regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term "food establishment" does not include:

(a) Private homes where food is prepared or served for individual family consumption;

(b) Private clubs, fraternal and church organizations which do not prepare or serve more than one (1) meal a week;

(c) Bed and breakfast establishments with ten (10) or fewer beds;

(d) Establishments which offer only factory-sealed nonpotentially hazardous foods; and

(e) Agricultural markets.

(2) "Regulatory Authority" means the director of the Idaho department of health and welfare or the director's designee.

39-1603. POWERS AND DUTIES OF BOARD. The board of health and welfare shall promulgate rules and regulations governing:

(1) The establishment and control of sanitation standards for food establishments;

(2) The issuance, suspension and revocation of licenses;

(3) The review of plans and specifications prior to construction or alteration of food establishments;

(4) The procedure and scope of inspections to determine compliance with the standards and regulations adopted under this chapter;

(5) The criteria for the examination, embargo and destruction of food in compliance with section 37-118, Idaho Code; and

(6) The establishment of a grading system for food establishments to be used at local option.

39-1604. LICENSE REQUIREMENTS FOR FOOD ESTABLISHMENTS. No person, firm or corporation shall operate a food establishment without a license approved by the director of the department of health and welfare or his designee. Food establishment licenses shall not be transferable and the type of license and any restrictions will be specified on the license.

Terms and conditions of licensure are to be established by regulation in accordance with the intent of this chapter. Any applicant or license holder aggrieved by an action of the regulatory authority which results in denial, suspension, or revocation of a license has the right to a hearing conducted pursuant to chapter 52, title 67, Idaho Code, and appeal shall be provided therein.

39-1605. INSPECTIONS. (1) The regulatory authority shall conduct unannounced inspections of every food establishment to determine com-

pliance or lack of compliance with the provisions of this chapter and the rules and regulations established by the board of health and welfare at least once every twelve (12) months unless otherwise designated, or more often as deemed necessary by the authority.

(2) The application for, or the possession of a license is a consent to inspection. The regulatory authority representative upon presentation of proper credentials is to be permitted access to the premises of any food establishment during hours of operation in order to determine compliance with the rules and regulations adopted under this chapter. Failure to grant access shall be cause for nonissuance of a license or license revocation.

(3) The regulatory authority representative is to determine the degree of compliance by examining the food, including sampling as necessary, and by inspection in accordance with the regulations adopted under this chapter.

(4) An inspection report, the form and manner to be determined by the board, will be generated by each inspection and be given to the person in charge of the food establishment.

39-1606. CRIMINAL AND CIVIL PROCEEDINGS. The regulatory authority may seek to enforce the provisions of this chapter and any rule, regulation, or standard adopted by the board pursuant to this chapter through a court of competent jurisdiction.

(1) Misdemeanor proceedings may be brought in accordance with sections 39-109, 39-117, 37-117 and 37-119, Idaho Code.

(2) Civil proceedings may be brought in accordance with sections 39-108 and 39-109, Idaho Code.

(3) Injunctive relief may be sought in accordance with sections 39-108, 39-109 and 37-116, Idaho Code.

SECTION 2. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

Approved March 29, 1991.

CHAPTER 143
(H.B. No. 156)

AN ACT

RELATING TO TITLE FEES; AMENDING SECTION 49-202, IDAHO CODE, TO PROVIDE A TITLE FEE INCREASE AND A CHANGE IN THE DISTRIBUTION OF THOSE FEES; AMENDING SECTION 49-504A, IDAHO CODE, TO PROVIDE A SINGLE PENALTY FOR LATE FILING OF AN APPLICATION FOR TRANSFER OF TITLE, TO CHANGE THE DISTRIBUTION OF FINES COLLECTED AND TO PROVIDE EXEMPTIONS FROM THE PENALTY; AND AMENDING SECTION 49-510, IDAHO CODE, TO STRIKE REFERENCE TO A FILING FEE.

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

SECTION 1. That Section 49-202, Idaho Code, be, and the same is hereby amended to read as follows:

49-202. DUTIES OF DEPARTMENT. (1) All registration and driver's license records in the office of the department shall be public records and open to inspection by the public during normal business hours.

(2) In addition to other fees required by law to be collected by the department, the department shall collect the following:

(a) For certifying a copy of any record pertaining to any motor vehicle license, any certificate of title, or any driver's license ..... $~~3~~8.00

(b) For ~~recording--the--transfer--of-any-interest-upon-a~~ issuing every Idaho certificate of title ..... $~~3~~8.00

(c) For ~~issuance-of-every~~ furnishing a duplicate copy of any Idaho certificate of title ~~on-a-new-motor-vehicle-sold-by-a-registered-dealer-to-a-purchaser~~ ..... $~~3~~8.00

(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~~4.00

(~~h~~g) 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~~h) Placing "stop" cards in motor vehicle registration or title files, each ..... $~~1~~2.00

(~~j~~i) For issuance of an assigned or replacement vehicle identification number (VIN) $10.00

(~~k~~j) 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~~k) For all duplicate registration stickers, each .... $~~1~~.5~~0~~0

(~~m~~l) For issuing letters of temporary vehicle clearance to Idaho based motor carriers ..... $5~~1~~0.00

(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~~ three dollars ($~~1~~3.00) 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.

(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 2. That Section 49-504A, Idaho Code, be, and the same is hereby 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 of twenty dollars ($20.00) for presentation of a previously issued certificate of title shall be assessed against the ~~purchaser~~ new owner when the presentation for transfer of title occurs~~:~~

~~(a)~~ ~~M~~more than thirty (30) days ~~but less than sixty (60) days~~ after the vehicle was ~~purchased~~ transferred. ~~..... $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 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.~~

(2) When a licensed Idaho vehicle dealer, or entity exempted from licensing as defined in section 49-105(1), Idaho Code, either takes possession of a vehicle for the purpose of resale or transfers ownership of that vehicle, no penalty shall be assessed.

(3) When a person acquires ownership of a vehicle in another state, the thirty (30) day filing requirement shall begin upon initial entry of the vehicle into the state of Idaho.

(4) Vehicles acquired prior to July 1, 1989, and all-terrain vehicles, motorbikes and snowmobiles acquired prior to January 1, 1991, are specifically exempt from this penalty.

SECTION 3. That Section 49-510, Idaho Code, be, and the same is hereby amended to read as follows:

49-510. LIENS AND ENCUMBRANCES -- FILING -- FEE -- NOTATION ON CERTIFICATE -- CONSTRUCTIVE NOTICE. No lien or encumbrance on any vehicle registered under the laws of this state created subsequent to December 31, 1986, irrespective of whether such registration was effected prior or subsequent to the creation of the lien or encumbrance, shall be perfected as against creditors or subsequent purchasers or encumbrancers without notice until the holder of the lien or encumbrance, or his successor or assignee, has complied with the requirements of section 49-504, Idaho Code, and has filed the properly completed title application and all required supporting documents with the department or an agent of the department.

When the holder of a lien or encumbrance, his successor or assignee, has filed with the department or agent of the department a properly completed title application and supporting documents as required by section 49-504, Idaho Code, ~~together with a fee of one dollar ($1.00) to pay for the filing thereof,~~ it shall be the duty of the department or agent of the department to file the same, indorsing on the title application the date and hour received. If the title application is incomplete or if the supporting documents are incomplete or missing, the title application and supporting documents as submitted will be returned to the lien holder or his successor or assignee for correction and, if the application is not resubmitted in a complete form, including completed supporting documents, to the department or to the agent of the department within twenty (20) days of their having been returned to the lien holder or his successor or assignee, the original date and hour of receipt by the department or

agent of the department shall be void.

When the department is satisfied as to the genuineness and regularity of the documents submitted, it shall issue a new certificate of title which shall contain the name of the owner of the vehicle, the name and address of each holder of a lien or encumbrance, and a statement of all liens or encumbrances which have been filed with the department, together with the date of each lien or encumbrance and the date and hour received by the department or agent of the department. The filing of a lien or encumbrance and the notation of it upon the certificate of title shall be a condition of perfection and shall constitute constructive notice of the lien or encumbrance and its contents to creditors and subsequent purchasers and encumbrancers. All liens or encumbrances so filed with the department and noted upon the certificate of title shall be perfected and take priority according to the order of time in which the same are noted upon the certificate of title by the department.

Approved March 29, 1991.

CHAPTER 144
(H.B. No. 179)

AN ACT

RELATING TO GAME TAGS; AMENDING SECTION 36-408, IDAHO CODE, TO AUTHORIZE THE FISH AND GAME COMMISSION TO ISSUE AN ADDITIONAL SPECIAL BIGHORN SHEEP TAG, TO AUTHORIZE THE TAG TO BE DISPOSED OF BY LOTTERY AND TO PROVIDE WHAT FUNDS MAY BE UTILIZED FOR FROM THE DISPOSITION OF THE NEW TAG.

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

SECTION 1. That Section 36-408, Idaho Code, be, and the same is hereby amended to read as follows:

36-408. COMMISSION'S AUTHORITY -- TAGS -- PERMITS -- NONRESIDENTS LIMITED -- OUTFITTERS SET-ASIDE. (a) Tags and Permits -- Method of Use. The commission is hereby authorized to prescribe the number and kind of wildlife that may be taken under authority of the several types of tags and permits provided for in this title, and the manner in which said tags and permits shall be used and validated.

(b) Limit -- Licenses, Tags or Permits -- Controlled Hunts. The commission is hereby authorized to establish a limit annually as to the number of each kind and class of licenses, tags, or permits to be sold or issued and is further authorized to limit the number or prohibit entirely, the participation by nonresidents in controlled hunts.

(c) Outfitters Set-aside. When the commission establishes a limit as to the number of nonresident deer tags and nonresident elk tags, it shall set aside annually a maximum of twenty-five per cent (25%) of the nonresident deer tag and nonresident elk tag limit. The set-aside

tags shall be sold on a first-come, first-served basis, only to persons that have entered into an agreement for that year to utilize the services of an outfitter licensed pursuant to chapter 21, title 36, Idaho Code.

In order for a person to purchase any set-aside nonresident deer tag or nonresident elk tag, that person's outfitter must submit an application with the proper fees to the department of fish and game. If any nonresident deer tags or nonresident elk tags set aside pursuant to this subsection are unsold by July 1 of the year in which they were set aside, they may be sold by the department to the general public who are nonresidents. The commission may promulgate all necessary rules and regulations to implement the provisions of this subsection.

(d) Special Game Tags. The commission is hereby authorized to issue ~~one--(1)~~ two (2) special bighorn sheep tags per year. ~~This~~ One special bighorn sheep tag shall be auctioned off by an incorporated nonprofit organization dedicated to wildlife conservation, selected by the commission. ~~The minimum bid for the tag shall be thirty thousand dollars ($30,000).~~ The tag shall be issued by the department of fish and game to the highest eligible bidder. No more than five per cent (5%) of the successful bid for the tag may be retained by the organization. The commission is also authorized to issue one (1) special bighorn sheep tag which will be disposed of by lottery. The lottery permit can be marketed by the department of fish and game or a nonprofit organization dedicated to wildlife conservation selected by the commission. The tag will be issued by the department of fish and game to an eligible person drawn from the lottery provided in this subsection. No more than twenty-five per cent (25%) of gross revenue can be retained for administrative costs by the organization. All net proceeds for the tag disposed of by lottery pursuant to this subsection shall be remitted to the bighorn sheep account which is hereby created in the dedicated fund. Moneys in the account shall be utilized by the department in solving problems between bighorn sheep and domestic sheep, solving problems between wildlife and domestic animals or improving relationships between sportsmen and private landowners by being utilized in the veterinarian program established in subsection (e)9 of section 36-106, Idaho Code, and may be expended pursuant to appropriation. The tags to be issued pursuant to this subsection shall be taken from the nonresident bighorn sheep tag quota. The net proceeds shall be forwarded to the director for deposit in the fish and game trust account and shall be used for bighorn sheep research and management purposes only ~~but not~~ from the special bighorn sheep tag auctioned off by an incorporated nonprofit association. Moneys raised pursuant to this subsection may not be used to transplant additional bighorn sheep into that portion of southwest Idaho south of the Snake river and west of U.S. highway no. 93, nor for litigation or environmental impact statements involving bighorn sheep. No transplants of bighorn sheep accomplished with moneys raised pursuant to this subsection shall occur in any area until hearings are conducted in the area.

Approved March 29, 1991.

CHAPTER 145
(H.B. No. 191)

AN ACT
RELATING TO BANKS AND BANK HOLDING COMPANIES; AMENDING SECTION 26-213, IDAHO CODE, TO ALLOW THE DIRECTORS OF A BANK TO OWN QUALIFYING SHARES OF STOCK IN THE BANK HOLDING COMPANY WHICH CONTROLS THE BANK.

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

SECTION 1. That Section 26-213, Idaho Code, be, and the same is hereby amended to read as follows:

26-213. BOARD OF DIRECTORS -- ELECTION, MEETINGS, DUTIES, LIABILITIES, OATH, REMOVAL -- OFFICERS -- ELECTION AND BOND. (1) The affairs, business and property of a bank shall be managed and controlled by a board of not less than five (5) directors, who shall be elected by the stockholders at their regular stated annual meetings. A majority of said directors shall be residents of the state of Idaho.

(2) No person shall be eligible to serve as a director of any bank organized or existing under the laws of this state, unless he shall be the owner in his own right of unhypothecated common stock of the bank in the amount of at least five hundred dollars ($500) par value. One (1) or more of the directors of a bank, the majority of the common stock of which is owned by a bank holding company, may satisfy the requirement of this subsection by owning in his own right at least five hundred dollars ($500) of the unhypothecated common stock of the bank holding company, either the par value or the book value.

(3) Any vacancy in the board of directors shall be filled by the board, and any directors so appointed shall hold office until the next annual meeting of stockholders. The board of directors shall immediately following each annual meeting of stockholders organize and elect a president, vice-president and cashier, who may also be the secretary and treasurer of the bank, and such other officers as shall be provided for in the bylaws, and shall fix the salary of all officers and employees or delegate such authority to its managing officer or officers. Directors of every bank shall hold at least ten (10) meetings per year; provided, no more than sixty-five (65) days may elapse between board of directors meetings, and complete records of such meetings shall be entered in the minute book and signed by both the chairman and the secretary.

(4) Whenever a vote is taken upon any matter, a record shall be kept and entered in the minutes of those voting in the affirmative and those voting in the negative. At every meeting it shall be the duty of the directors to familiarize themselves with loans and investments made since the previous regular meeting and any director may request a listing of all loans made since the previous regular meeting. It shall be the duty of the president and cashier to furnish such information to the directors. The directors shall familiarize themselves with the existing liabilities to the bank of every officer and director of their bank at least once during each calendar year. The minutes of the

meeting shall record the approval or disapproval of loans, investments and liabilities of officers. Each officer and director who borrows money from the bank shall submit his personal financial statement to the chief executive officer of the bank at least once during each calendar year and such financial statements shall be made available to federal or state regulatory agencies upon request by the agency.

(5) Any director, officer or person who shall participate in any violation of the laws of this state relative to banks or banking, shall be liable for all damages which said bank, its stockholders, depositors, or creditors shall sustain in consequence of such violation. It shall be the duty of every director of a bank personally to attend all meetings of the board of directors unless unavoidably detained therefrom. Any director who shall habitually absent himself from such meeting shall be deemed to have participated in any violation of law that may have occurred in his absence, and he shall not be permitted to set up such absence as a defense thereto.

(6) Every director shall take and subscribe an oath that he will diligently and honestly perform his duty in such office and will not knowingly violate or permit a violation of any provisions of the bank act, and such oath of office shall be transmitted to and filed with the department of finance. A director may be removed from office at any time for violation of his oath of office by the affirmative vote of two-thirds (2/3) of the entire board, exclusive of the director to be removed.

(7) Every active officer and employee of any bank in this state shall furnish a surety bond in the penal sum of fifty thousand dollars ($50,000) to the bank by which he is employed for the faithful performance of his duties, executed by a surety company authorized to do business in the state of Idaho as a surety. In lieu of the individual surety bonds required by this section, a bank may provide a bankers blanket or financial institution bond in a minimum amount of two hundred fifty thousand dollars ($250,000). The conditions of such bond, whether the instrument so describes the conditions or not, shall be that the principal shall protect the obligee against any loss or liability that the obligee may suffer or incur by reason of the acts of dishonesty of the principal.

(8) In lieu of the bonds required in subsection (7) of this section, a bank may, with the approval of the director of the department of finance, provide to the director a certificate of deposit issued by any other bank in the state of Idaho. The principal amount of the certificate of deposit shall be payable to the director and shall be in an amount to be determined by the director, but not less than two hundred fifty thousand dollars ($250,000). The interest on the certificate of deposit shall be payable to the bank providing the certificate of deposit to the director. The certificate of deposit shall be maintained at all times the bank is authorized to do business under this chapter, and for a period of time thereafter to be determined by the director, but not to exceed three (3) years.

(9) Every bank shall provide adequate insurance protection or indemnity against robbery and burglary and other similar insurable losses.

(10) All surety bonds shall be approved by and filed with the directors. The directors or the director may require an increase of

the amount of any such bond whenever either the directors or the director deem necessary for the better protection of the bank.

Approved March 29, 1991.

CHAPTER 146
(H.B. No. 194)

AN ACT

RELATING TO PLANNING AND ZONING; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6511A, IDAHO CODE, TO PROVIDE THAT A LOCAL GOVERNING BOARD MAY ENTER INTO DEVELOPMENT AGREEMENTS WITH DEVELOPERS.

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

SECTION 1. That Chapter 65, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6511A, Idaho Code, and to read as follows:

67-6511A. DEVELOPMENT AGREEMENTS. Each governing board may, by ordinance adopted or amended in accordance with the notice and hearing provisions provided under section 67-6509, Idaho Code, require or permit as a condition of rezoning that an owner or developer make a written commitment concerning the use or development of the subject parcel. The governing board shall adopt rules governing the creation, form, recording, modification, enforcement and termination of commitments. Commitments shall be recorded in the office of the county recorder and shall take effect upon the adoption of the amendment to the zoning ordinance. Unless modified or terminated by the governing board, a commitment is binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel. A commitment is binding on the owner of the parcel even if it is unrecorded; however, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment. A commitment may be modified only by the permission of the governing board after complying with the notice and hearing provisions of section 67-6509, Idaho Code. A commitment may be terminated, and the zoning designation upon which the use is based reversed, upon the failure of the requirements in the commitment after a reasonable time as determined by the governing board or upon the failure of the owner; each subsequent owner or each other person acquiring an interest in the parcel to comply with the conditions in the commitment and after complying with the notice and hearing provisions of section 67-6509, Idaho Code. By permitting or requiring commitments by ordinance the governing board does not obligate itself to recommend or adopt the proposed zoning ordinance. A written commitment shall be deemed writ-

ten consent to rezone upon the failure of conditions imposed by the commitment in accordance with the provisions of this section.

Approved March 29, 1991.

CHAPTER 147
(H.B. No. 198)

AN ACT

RELATING TO THE STATE BOARD OF DENTISTRY; AMENDING CHAPTER 9, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-900, IDAHO CODE, TO PROVIDE A STATEMENT OF PURPOSE TO THE DENTAL PRACTICE ACT; AMENDING SECTION 54-907, IDAHO CODE, TO CHANGE WORDING OF LAY MEMBER TO CONSUMER MEMBER AND TO CHANGE LENGTH OF TERMS OF CONSUMER AND HYGIENE BOARD MEMBERS; AMENDING SECTION 54-908, IDAHO CODE, TO CHANGE WORDING OF LAY MEMBER TO CONSUMER MEMBER; AMENDING SECTION 54-909, IDAHO CODE, TO DELETE THE EXPERIENCE REQUIREMENT FOR BOARD MEMBER QUALIFICATION AND TO ALLOW EDUCATORS TO QUALIFY FOR BOARD MEMBER APPOINTMENT; AMENDING SECTION 54-911, IDAHO CODE, TO CHANGE A QUORUM FROM FOUR TO FIVE MEMBERS, THREE OF WHOM MUST BE DENTISTS, AND TO PROVIDE THAT THE CHAIRMAN OF THE BOARD WILL BE A DENTIST; AMENDING SECTION 54-912, IDAHO CODE, TO FURTHER DEFINE DUTIES OF THE BOARD, AND TO CHANGE THE WORDING OF EXECUTIVE SECRETARY TO ADMINISTRATOR; AMENDING SECTION 54-915, IDAHO CODE, TO DELETE THE REQUIREMENT THAT A DENTAL HYGIENIST MUST BE A HIGH SCHOOL GRADUATE; AMENDING SECTION 54-917, IDAHO CODE, TO CHANGE TWO EXAM FAILURES TO THREE; AND AMENDING SECTION 54-920, IDAHO CODE, TO ALLOW MILITARY AND PUBLIC HEALTH PRACTITIONERS TO QUALIFY FOR ACTIVE STATUS LICENSURE BEYOND FIVE YEARS, TO CHANGE ACTIVE PRACTICE REQUIREMENT FOR LICENSE CONVERSION TO TWO YEARS, AND TO PROVIDE ALLOWANCE FOR PRACTITIONERS NOT MEETING ACTIVE PRACTICE REQUIREMENT THE OPPORTUNITY TO REACTIVATE LICENSE UPON BOARD APPROVAL.

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

SECTION 1. That Chapter 9, 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 54-900, Idaho Code, and to read as follows:

54-900. PURPOSE. Recognizing that the practice of dentistry and dental hygiene is a privilege granted by the state of Idaho and is not a natural right of individuals, the purpose of this chapter is to assure the public health, safety and welfare in the state by the licensure and regulation of dentists and dental hygienists.

SECTION 2. 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 eight (8) members, five (5) of whom shall be dentists, two (2) of whom shall be dental hygienists, and one (1) of whom shall be a ~~lay~~ consumer 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~~ consumer member of the board shall be appointed by the governor in the manner provided in section 54-908, Idaho Code. Except as provided herein, t~~T~~he term of office of the dental hygienists and ~~lay~~ consumer member holding such position on July 1, 1991, and regularly appointed thereafter, shall be ~~three~~ five (~~3~~5) years commencing on the first Monday of February next following appointment. The dental hygienist member representing the component designated by the dental hygienists' association, pursuant to section 54-908, Idaho Code, to represent the southern portion of the state and holding office on July 1, 1991, shall serve until February 1994. The dental hygienist members shall have voting power in all board matters relating to the practice of dental hygiene. The ~~lay~~ consumer 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 3. 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 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~~ consumer 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~~ consumer member or upon the vacancy of office of the ~~lay~~ consumer member, as the case may be.

SECTION 4. That Section 54-909, Idaho Code, be, and the same is hereby amended to read as follows:

54-909. BOARD OF DENTISTRY -- QUALIFICATIONS OF MEMBERS. Each dentist member of the board shall ~~be a licensed dentist~~ hold a current, active status Idaho dental license, shall ~~have been~~ be a resident of~~,--and lawfully practicing dentistry within~~ the state of Idaho ~~for a period of at least five (5) years next from his appointment--and who--is~~ and be neither directly nor indirectly in any way connected with or interested in the dental supply business ~~nor in--any--institution--offering instruction in dentistry or dental hygiene, except that a board member may have incidental contact with an--accredited--school in the capacity of a guest lecturer or other similar activity.~~

The qualifications for the dental hygienist member of the board shall include:

(1) Current active Idaho licensure.

(2) ~~A minimum of three (3) years clinical experience~~ Be a resident of the state of Idaho.

(3) ~~Not--being-directly-or-indirectly-connected-with-any-institution-offering-instruction-in-dental-hygiene,-except-that-the-hygienist may-have-incidental-contact-with-an-accredited-school-in-the--capacity of-guest-lecturer-or-some-other-similar-activity.~~

~~(4)~~ The ~~lay~~ consumer member of the board must be a resident of the state of Idaho. The ~~lay~~ consumer member shall be representative of the public consumers of dental care services, as opposed to the professional members of the board whose scientific expertise and knowledge is required to protect the public interest. Therefore, the ~~lay~~ consumer member shall not have any direct pecuniary interest in providing health care services. No person shall qualify for appointment as a ~~lay~~ consumer member who is a member or employee of any other licensing board of health occupations, or a member or employee of any health occupation professional society or association, or a licensee of any health occupation board.

SECTION 5. That Section 54-911, Idaho Code, be, and the same is hereby amended to read as follows:

54-911. BOARD OF DENTISTRY -- ORGANIZATION -- MEETINGS -- EXPENSES -- PER DIEM. The board of dentistry shall select from its dentist members a chairman who shall serve at the pleasure of the board. The board may meet at stated times, and shall meet upon the call of its chairman or a majority of the members. It shall keep minutes of its meetings and actions thereat. ~~Four~~ Five (~~4~~5) members, three (3) of whom must be dentists, shall constitute a quorum, and the vote of the majority of the members present at a meeting at which a quorum is present shall determine the action of the board.

Out of any appropriation applicable to the administration of this act, each member of the board shall be compensated as provided by section 59-509(h), Idaho Code.

SECTION 6. That Section 54-912, Idaho Code, be, and the same is hereby amended to read as follows:

54-912. BOARD OF DENTISTRY -- POWERS AND DUTIES. The board shall have the following powers and duties:

(a) To ascertain the qualifications and fitness of applicants to practice dentistry, a dental specialty or dental hygiene; to prepare, conduct and grade qualifying examinations; to issue in the name of the board a certificate of qualification to applicants found to be fit and qualified to practice dentistry or dental hygiene.

(b) To prescribe rules and regulations for a fair and wholly impartial method of examination of applicants to practice dentistry, a dental specialty or dental hygiene.

(c) In event a dental school be established within the state of Idaho, or dental hygiene be taught at any school, college, institution, university or department thereof within the state of Idaho, to prescribe courses of study for and instruction in dentistry and dental hygiene, the period of study, the instructional facilities, faculty and instructor requirements, and to establish standards of preliminary education requisite to admission to the school, college, university or department thereof and to require satisfactory proof of the require-

ment of those standards.

(d) To define what shall constitute accepted and approved schools, colleges, institutions, universities or departments thereof for the teaching of dentistry or dental hygiene and to determine, accept and approve those that comply therewith.

(e) To promulgate other rules and regulations required by law or necessary or desirable for its enforcement and administration; to define by regulation the terms unprofessional or flagrant immoral conduct or practices injurious to the public as the terms are used in section 54-924, Idaho Code, and to establish by regulation minimum standards of cleanliness and sanitation; to prescribe and furnish applications, certificates, licenses and other necessary forms.

(f) To inspect or cause to be inspected the offices or operating rooms of all persons licensed under this chapter.

(g) Upon its own motion or upon any complaint, to initiate and conduct investigations on all matters relating to the practice of dentistry or dental hygiene and to conduct hearings or proceedings to revoke, ~~or~~ suspend or otherwise condition certificates of qualification or licenses of persons practicing dentistry or dental hygiene and to revoke or suspend such licenses, provided such hearings and proceedings shall be had in conformance with the provisions of chapter 52, title 67, Idaho Code, and in lieu of revocation or suspension of licenses, to enter into and establish and enforce consent orders as authorized by section 67-5209(d), Idaho Code, which orders may include probationary terms. Final decisions of the board shall be reviewable and appealable as provided in chapter 52, title 67, Idaho Code.

(h) The board shall have power to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and shall have power throughout the state of Idaho to require the attendance of witnesses and the production of books, records and papers as it may desire at any hearing before it of any matter which it has authority to investigate, and for that purpose the board may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county of the state of Idaho, where the witness resides, or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases and shall be paid from the state board of dentistry fund 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 the district court, or any judge thereof, of any county in this state in which the disobedience, neglect or refusal occurs, upon application by the board to compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or for refusal to testify. The licensed person accused in the proceedings shall have the same right of subpoena upon making application to the board.

(i) The board shall establish an office at Boise and may appoint an ~~executive--secretary~~ administrator who need not be a member of the

board or a person licensed to practice dentistry or dental hygiene, and may employ other personnel as may be necessary to assist the board. The board shall prescribe the duties of the ~~executive-secretary~~ administrator and these duties shall include the preparation of all papers and records under law for the board, and shall include enforcement activities as to the board may from time to time appear advisable, and the ~~executive-secretary~~ administrator shall act for and on behalf of the board in such manner as the board may authorize, keep records, property and equipment of the board and discharge other duties as the board may from time to time prescribe. The compensation of the ~~executive-secretary~~ administrator or other personnel shall be determined by the board and the ~~executive-secretary~~ administrator shall be bonded to the state in the time, form and manner prescribed in chapter 8, title 59, Idaho Code.

(j) To report annually to the associations on the status of the state board of dentistry account and furnish the associations a written report on all receipts and expenditures during the preceding year.

(k) The board may, by written agreement, authorize the bureau of occupational licenses as agent to act in its interest.

SECTION 7. That Section 54-915, Idaho Code, be, and the same is hereby amended to read as follows:

54-915. QUALIFICATIONS REQUIRED FOR DENTIST OR DENTAL HYGIENIST EXAMINATION. No person hereafter shall be eligible for examination to be allowed to practice dentistry or dental hygiene in this state unless he or she:

(a) Be of good moral character and reputation, and not have been convicted of any felony, or of any misdemeanor involving moral turpitude;

(b) Shall, for dentistry, have successfully completed the course of study in dentistry in, and graduated and received a degree of doctor of dental surgery, doctor of dental medicine, or equivalent degree from a dental school accepted and approved by the board;

(c) Shall, for dental hygiene, ~~be a high school graduate and~~ have successfully completed the course of study in dental hygiene in, and received a certificate thereof from a dental hygiene school accepted and approved by the board.

(d) The board may issue provisional licenses to persons licensed to practice dentistry or dental hygiene in other states if such other states have qualifications for licensure no less strict than those of the state of Idaho. The provisional license shall be valid only until the next regularly scheduled examination and the board shall collect a fee of $75.00 from the dentist applicant and $25.00 from the dental hygienist applicant prior to issuance of such provisional license. No such provisional license shall be issued to any person who has failed an examination given by the board or, prior to the effective date hereof, by the board of dental examiners.

SECTION 8. That Section 54-917, Idaho Code, be, and the same is hereby amended to read as follows:

54-917. ALLOWANCE OR REJECTION OF APPLICANT. In the event the

board finds upon investigation that the applicant does not possess all the qualifications required for examination, or that his application or supporting instruments contain false or misleading statements of material facts, the board shall refuse to permit the applicant to take the examinations, and shall in writing so notify the applicant giving the reasons therefor. The board shall record such refusal and reasons and the date and means of notification.

In the event the board finds that the applicant possesses all the qualifications for examination, it shall permit the applicant to take the examination in dentistry or dental hygiene, as the case may be, next given after the filing of the application.

A person who has been refused permission to take an examination, or who has failed to appear at the examination next following his application, may again apply as in the case of a first application, provided however, that a subsequent application shall fully disclose to the board the fact of the prior refusal, or the failure to appear.

An applicant who fails to pass his first examination may take the examination next following, provided he shall have notified the board of his intention to take such examination and have paid an additional examination fee within such period as prescribed by regulation. The fee shall not be refunded. An applicant who has ~~twice~~ failed the examination three (3) times shall not be allowed to retake the examination for a ~~third~~ fourth time until he has submitted proof of additional education of a character and quality satisfactory to the board as may be required by regulation.

SECTION 9. 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 ($55.00) for a hygienist with an active status;

(d) Twenty-eight dollars ($28.00) 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~~ two (2) years or employment as a dental or dental hygiene instructor. Practitioners unable to meet the active practice requirement may convert their license upon board approval.

(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 March 29, 1991.

CHAPTER 148
(H.B. No. 206)

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; AMENDING CHAPTER 47, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4721, IDAHO CODE, TO PROVIDE A STATEMENT OF PURPOSE; AMENDING CHAPTER 47, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4722, IDAHO CODE, TO CREATE THE ECONOMIC DEVELOPMENT FINANCING ACCOUNT; AND AMENDING CHAPTER 47, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4723, IDAHO CODE, TO ESTABLISH A GRANT PROGRAM WITHIN THE DEPARTMENT OF COMMERCE, TO PROVIDE FINANCING TO ASSURE CAPITAL AVAILABILITY OF NEW, EMERGING OR EXPANDING BUSINESSES, TO ESTABLISH STANDARDS FOR ADMINISTRATION, AND INCORPORATING PROVISIONS FOR LEGISLATIVE OVERSIGHT; AMENDING CHAPTER 47, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4724, IDAHO CODE, TO PROVIDE A RETURN TO THE STATE UPON SUITABLE PROFITABILITY OR IN THE EVENT OF DISSOLUTION.

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

SECTION 1. That Chapter 47, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4721, Idaho Code, and to read as follows:

67-4721. PURPOSE. (1) It is hereby declared that there exists in this state a need to promote sound economic development, to improve the economic health of the state, to promote employment, and to improve the tax base of the state by encouraging the formation of development finance sources that enhance the availability of capital for new, emerging, or expanding business enterprises. Public resources are not intended to replace existing capital markets, but they can be carefully targeted to fill gaps in capital availability. It is hereby declared that it is a valid public purpose to preserve and promote the safety, health and welfare of this state and its citizens by the exercise of the powers specified in this act to provide grant programs to development finance sources.

(2) It is hereby further declared that the foregoing are public purposes and uses for which public moneys may be expended or granted and that such activities are governmental functions and serve a public purpose when improving the economic well-being or otherwise benefiting the people of this state; that the necessity of enacting the provi-

sions hereinafter set forth is in the public interest and is hereby so declared as a matter of express legislative determination.

SECTION 2. That Chapter 47, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4722, Idaho Code, and to read as follows:

67-4722. ECONOMIC DEVELOPMENT FINANCING ACCOUNT. There is hereby established an economic development financing account in the state agency asset fund and all of the moneys in said account are hereby appropriated to the department of commerce to carry out the purposes of sections 67-4721 through 67-4724, Idaho Code. The account shall consist of such contributions, appropriations, and distributions as are made thereto and such interest as may be earned on the account less the investment administration fee provided in section 67-1210, Idaho Code.

SECTION 3. That Chapter 47, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4723, Idaho Code, and to read as follows:

67-4723. GRANTS -- STANDARDS AND ADMINISTRATION. The department of commerce shall administer a program of grants prorated to private capital raised to establish financing programs for new, emerging, and expanding business enterprises. Grants shall only be made to business and industrial development corporations (BIDCOs) licensed and regulated pursuant to the provisions of chapter 27, title 26, Idaho Code. It is recognized that BIDCOs, in compliance with section 26-2716, Idaho Code, administer a program of professional consulting and financing of new, emerging and expanding business enterprises. Such financings may take the form of loans or equity participation or a combination thereof. BIDCOs must report annually to the legislature, in compliance with section 27-2707, Idaho Code, information on the impact of grants in promoting economic development in the state.

Requests for grant proposals shall require the applicant to describe in detail its experience and expertise, the professional manner in which it will identify, finance, and monitor new, emerging and expanding business enterprises, the criteria it will use to determine which enterprises should be financed to best further the purposes of sections 67-4721 through 67-4724, Idaho Code, the administrative and overhead charges which will be made to administer the grant, and such other matters as required by the department of commerce.

The department of commerce shall administer this program in such a way as to avoid favoritism of any particular enterprise and to maximize the public purposes of sections 67-4721 through 67-4724, Idaho Code, without regard to any incidental benefits which may accrue to private parties. In administering the program, the department of commerce shall emphasize job creation, improvement of the state's tax base, geographic diversity of financing, and avoidance of financing enterprises which could reasonably be financed by other means.

SECTION 4. That Chapter 47, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4724, Idaho Code, and to read as follows:

67-4724. RETURN TO THE STATE. It is hereby recognized that the principal return to the state shall be in the form of increased tax revenues and increased job growth. A further return to the state is hereby provided as follows. Grants shall require the applicant to retain within its financing program all funds representing a return on principal until initial capitalization is doubled. Upon doubling capitalization and upon the approval of the department of finance, grantees shall distribute up to fifty per cent (50%) of profits on a pro rata basis to the state of Idaho. Any additional returns shall be governed by the terms of the grant.

In the event of dissolution of a grantee, distribution shall be made to the state and stockholders on a pro rata basis. The director of the department of commerce shall preside over liquidation proceedings in accordance with chapter 27, title 26, Idaho Code.

Approved March 29, 1991.

CHAPTER 149
(H.B. No. 214)

AN ACT

RELATING TO THE PRACTICE OF NURSING; AMENDING SECTION 54-1402, IDAHO CODE, TO CLARIFY THE AUTHORIZATION OF PROFESSIONAL NURSES AND LICENSED PRACTICAL NURSES TO ADMINISTER MEDICATION PRESCRIBED BY THOSE INDIVIDUALS LICENSED IN IDAHO TO PRESCRIBE SUCH MEDICATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-1402, Idaho Code, be, and the same is hereby amended to read as follows:

54-1402. DEFINITIONS. As used in this act:

(a) "Board" means the board of nursing.

(b) "Practice of nursing" means assisting individuals or groups of individuals to promote, maintain or restore optimal health throughout the life process by assessing and evaluating their health status, planning and implementing a strategy of care to accomplish defined goals, and evaluating responses to care and treatment.

(1) "Licensed professional nurse" means a person who practices nursing by:

a. Assessing the health status of individuals and groups of individuals;

b. Identifying health care problems that are amenable to nursing intervention;

c. Establishing goals to meet identified health care needs;

d. Planning a strategy of care;

e. Prescribing nursing interventions to implement the strategy of care;

f. Implementing the strategy of care, including administering medications and treatments as prescribed by ~~nurse-practitioners,-licensed--physicians--and--licensed--dentists~~ those health care providers authorized to prescribe medication;

g. Authorizing nursing interventions that may be performed by others and that do not conflict with this act;

h. Maintaining safe and effective nursing care rendered directly or indirectly;

i. Evaluating responses to interventions;

j. Teaching the theory and practice of nursing;

k. Managing the practice of nursing; and

l. Collaborating with other health professionals in the management of health care.

(2) "Licensed practical nurse" means a person who practices nursing by:

a. Functioning at the direction of a licensed professional nurse, licensed physician, or licensed dentist;

b. Contributing to the assessment of the health status of individuals and groups of individuals;

c. Participating in the development and modification of the strategy of care;

d. Implementing the appropriate aspects of the strategy of care as defined by the board, including administering medications and treatments as prescribed by ~~nurse--practitioners,-licensed-physicians,-and-licensed-dentists~~ those health care providers authorized to prescribe medication;

e. Maintaining safe and effective nursing care rendered directly or indirectly;

f. Participating in the evaluation of responses to interventions; and

g. Delegating nursing interventions that may be performed by others and that do not conflict with this act.

(c) "Nursing education program" means a course of instruction offered and conducted to prepare persons for the practice of nursing, or to increase the knowledge and skills of the practicing nurse.

(d) "Nurse practitioner" means a licensed professional nurse having specialized skill, knowledge and experience authorized, by rules and regulations jointly promulgated by the Idaho state board of medicine and the Idaho board of nursing and implemented by the Idaho board of nursing, to perform designated acts of medical diagnosis, prescription of medical therapeutic and corrective measures and delivery of medications.

SECTION 2. An emergency existing therefor, 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, 1991.

CHAPTER 150
(H.B. No. 222)

AN ACT

RELATING TO THE VETERANS AFFAIRS COMMISSION; AMENDING SECTION 65-206, IDAHO CODE, TO ADJUST THE COMPENSATION FOR MEMBERS OF THE COMMISSION.

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

SECTION 1. That Section 65-206, Idaho Code, be, and the same is hereby amended to read as follows:

65-206. COMPENSATION AND TRAVELING EXPENSES OF COMMISSIONERS. The members of said commission shall be compensated as provided by section 59-509(~~f~~h), Idaho Code.

Approved March 29, 1991.

CHAPTER 151
(H.B. No. 230)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1354, IDAHO CODE, TO INCREASE THE PENALTY FOR DELINQUENT CONTRIBUTIONS.

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

SECTION 1. That Section 72-1354, Idaho Code, be, and the same is hereby amended to read as follows:

72-1354. PENALTY ON UNPAID CONTRIBUTIONS -- EFFECT OF FAILURE TO PAY CONTRIBUTIONS. If contributions are not paid by any covered employer on or before the date on which they are due and payable, such contributions shall bear penalty at the rate of ~~one~~ two per centum (~~1~~2%) or ~~two~~ ten dollars ($~~2~~10.00), whichever is the larger, for each month or fraction thereof until paid; provided, that in no case shall the penalty exceed the actual amount of contributions due and payable. The date of payment of contributions shall be deemed the date of actual receipt by the director, or if mailed, the date of mailing. Penalties collected pursuant to this section shall be paid into the state employment security administrative and reimbursement fund as established by section 72-1348, Idaho Code. At the discretion of the director or his authorized representative, the department may compromise the amount of penalty collected pursuant to this section if the employer shows he had good cause for failing to timely pay contributions.

Furthermore, if any employer shall be in default under section 72-1349, Idaho Code, for a period of thirty (30) days, he may be enjoined, by the district court of any county in which such employer

carries on any part of his trade or occupation, from carrying on his business while such default continues. All proceedings in the courts are to be brought by the director in the name of the state of Idaho.

Approved March 29, 1991.

CHAPTER 152
(H.B. No. 228)

AN ACT

RELATING TO TRANSFER BY EXCHANGE OR GIFT OF CITY PROPERTY; AMENDING SECTION 50-1405, IDAHO CODE, TO CORRECT AN OBSOLETE TERM AND TO PROVIDE THAT A CITY MAY TRANSFER OR CONVEY PROPERTY TO ANY TAX SUPPORTED GOVERNMENTAL UNIT.

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

SECTION 1. That Section 50-1405, Idaho Code, be, and the same is hereby amended to read as follows:

50-1405. TRANSFER BY EXCHANGE OR GIFT. Real and personal property may be exchanged hereunder for other property if the consideration received by said city shall be deemed adequate by the council, provided, however, that aside from the provisions of section 50-1403, Idaho Code, any city of the state of Idaho may by a vote of one-half (1/2) plus one (1) of the members of the full council, by ordinance duly enacted, authorize the transfer or conveyance of any real or personal property owned by such city to the government of the United States, any county, the state of Idaho, the University of Idaho, any hospital district organized under chapter 13, title 39, Idaho Code, any school or library district, or to any ~~junior~~ community college district organized under the provisions of chapter 21, title 33, Idaho Code, any recreation district organized under the provisions of chapter 43, title 31, Idaho Code, in which said city is located, and authorize the transfer or conveyance of its cemetery and endowment, or any funds or indebtedness pertaining thereto, to a cemetery maintenance district organized under the laws of this state for public use or any tax supported governmental unit, with or without any consideration accruing to said city, when in the judgment of said councilmen it is for the best interest of such city that said transfer or conveyance be made.

Approved March 29, 1991.

CHAPTER 153
(H.B. No. 98)

AN ACT

RELATING TO VEHICLE TRANSPORTATION FROM THE PLACE OF PURCHASE TO THE LICENSING OFFICE AND CERTAIN CERTIFICATE OF TITLE DOCUMENT

REQUIREMENTS; AMENDING SECTION 49-504, IDAHO CODE, BY STRIKING REFERENCE TO ENGINE NUMBERS, BY ADDING THE REQUIREMENT FOR A VEHICLE NUMBER INSPECTION ON ALL VEHICLES NOT PREVIOUSLY TITLED IN IDAHO, BY STRIKING THE REQUIREMENT FOR THE DEPARTMENT TO CHECK APPLICATIONS FOR TITLE AGAINST THE VEHICLE STOLEN INDEX FILE, BY STRIKING REFERENCE TO THE SIGNATURE OF THE DIRECTOR, AND BY ADDING LANGUAGE TO ALLOW A VEHICLE PURCHASER SEVENTY-TWO HOURS TO TRANSPORT THE VEHICLE FROM THE PLACE OF PURCHASE TO THE LICENSING OFFICE TO OBTAIN REGISTRATION AND LICENSE PLATES; AMENDING SECTION 49-505, IDAHO CODE, BY STRIKING THE REQUIREMENT FOR THE DEPARTMENT TO ISSUE CERTIFICATES OF TITLE IN DUPLICATE, BY STRIKING REFERENCE TO TRANSMITTING THE SECOND COPY TO THE COUNTY ASSESSOR, AND BY STRIKING THE REQUIREMENT OF A SIGNATURE AND SEAL OF THE DEPARTMENT DIRECTOR TO BE AFFIXED TO THE ORIGINAL CERTIFICATE OF TITLE; AMENDING SECTION 49-506, IDAHO CODE, BY ADDING A DATE FROM WHICH OLD TITLE RECORDS MUST BE RETAINED; AMENDING SECTION 49-508, IDAHO CODE, BY CHANGING THE REGISTERED MAIL REQUIREMENT TO CERTIFIED MAIL; AMENDING SECTION 49-509, IDAHO CODE, BY STRIKING THE REFERENCE TO MOTOR NUMBER INDEX FILES AND BY STRIKING THE WORD MOTOR IN GENERAL REFERENCE TO VEHICLES; AMENDING SECTION 49-511, IDAHO CODE, BY STRIKING THE REFERENCE TO A COPY OF THE CERTIFICATE OF TITLE BEING FILED WITH THE COUNTY ASSESSOR; AMENDING SECTION 49-514, IDAHO CODE, BY STRIKING THE REFERENCE TO THE SURRENDER AND REISSUANCE OF THE CERTIFICATE OF TITLE WHEN AN ENGINE IS REPLACED BY ANOTHER ENGINE; AMENDING SECTION 49-515, IDAHO CODE, BY STRIKING REFERENCE TO NOT ISSUING A DUPLICATE CERTIFICATE OF TITLE UNTIL FIVE DAYS HAVE ELAPSED FROM THE DATE OF APPLICATION, CHANGING THE REFERENCE FROM "DUPLICATE CERTIFICATE" TO "DUPLICATE TITLE", AND STRIKING LANGUAGE THAT IS NO LONGER PERTINENT; AMENDING SECTION 49-520, IDAHO CODE, BY CHANGING THE REGISTERED MAIL REQUIREMENT TO CERTIFIED MAIL; AMENDING SECTION 49-521, IDAHO CODE, BY STRIKING THE REFERENCE FOR DEALERS TO RETAIN A RECORD OF THE ENGINE NUMBERS, BY STRIKING THE REFERENCE FROM MAKER TO MANUFACTURER, AND REQUIRING THE RETAINING OF ODOMETER READINGS; AMENDING SECTION 49-522, IDAHO CODE, BY STRIKING THE WORD MOTOR IN GENERAL REFERENCE TO VEHICLES; AND AMENDING SECTION 49-523, IDAHO CODE, BY ALLOWING IDAHO RESIDENTS POSSESSING AND CLAIMING OWNERSHIP OF A VEHICLE TEN YEARS OLD OR MORE TO ISSUE A STATEMENT OF FACTS TO ESTABLISH TEMPORARY OWNERSHIP AND REGISTRATION WHEN THE DEPARTMENT IS DISSATISFIED WITH THE OWNERSHIP DOCUMENTATION AND BY STRIKING THE REQUIREMENT FOR DEALERS TO RETURN THE DUPLICATE STUB OF TEMPORARY REGISTRATION PERMITS TO THE DEPARTMENT.

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

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

49-504. APPLICATIONS TO DEPARTMENT FOR CERTIFICATES -- PROCEDURE -- IDENTIFICATION NUMBERS. (1) Application for a certificate of title shall be made upon a form furnished by the department and shall contain a full description of the vehicle including the make, ~~the engine or~~ identification numbers, and the odometer reading at the time of

sale or transfer, and whether the vehicle is new or used, together with a statement of the applicant's title and of any liens or encumbrances upon the vehicle, and the name and address of the person to whom the certificate of title shall be delivered, and any other information as the department may require. The application shall be filed with the department, and if a certificate of title has previously been issued for that vehicle in this state, shall be accompanied by the certificate of title duly assigned, unless otherwise provided for in this chapter. The department may promulgate rules and regulations to provide for exceptions to the odometer requirement.

(2) If a certificate of title has not previously been issued for the vehicle in this state, the application, unless otherwise provided for in this chapter, shall be accompanied by a proper bill of sale or a duly certified copy thereof, or by a certificate of title, bill of sale or other evidence of ownership required by the law of any other state from which the vehicle was brought into this state, and a vehicle identification number inspection completed by any city, county or state peace officer or other special agent authorized by the department.

(3) In the case of a new vehicle being titled for the first time, no certificate of title or registration shall be issued unless the application is indorsed by a franchised new vehicle dealer licensed to sell a new vehicle. Each application shall be accompanied by a manufacturers' certificate of origin or manufacturers' statement of origin executed by the manufacturer and delivered to his agent or his franchised vehicle dealer. The certificate or statement of origin shall be in a form prescribed by the board and shall contain the year of manufacture or the model year of the vehicle, the manufacturer's vehicle identification number, the name of the manufacturer, the number of cylinders, a general description of the body, if any, and the type or model. Upon sale of a new vehicle, the manufacturer, his agent or franchised dealer shall execute and deliver to the purchaser an assignment of the certificate or statement, together with any lien or encumbrance to which the vehicle is subject.

(4) The department shall retain the evidence of title presented by the applicant and on which the certificate of title is issued. The department shall maintain an ~~engine or~~ identification numbers index of registered vehicles, and upon receiving an application for a certificate of title, shall first check the ~~engine or~~ identification number shown in the application against the index ~~and against the stolen and recovered vehicle index required to be maintained by section 49-509, Idaho Code~~. The department, when satisfied that the applicant is the owner of the vehicle and that the application is in proper form, shall issue in the name of the owner of the vehicle a certificate of title bearing a title number, ~~the signature of the director of the department, the seal of his office,~~ the date issued and a description of the vehicle as determined by the department, together with a statement of the owner's title and of all liens or encumbrances upon the vehicle, and whether possession is held by the owner under a lease, contract or conditional sale, or other like agreement.

(5) In all cases of transfer of vehicles the application for certificates of title shall be filed within thirty (30) calendar days after the delivery of the vehicles. Licensed dealers need not apply

for certificate of title for vehicles in stock or when they are acquired for stock purposes.

(6) In the case of the sale of a vehicle by a dealer to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the dealer upon application signed by the purchaser. If a lien is to be recorded, the title documentation as required in this section shall be submitted to the department by the dealer or the lienholder upon application signed by the purchaser. A copy of this application shall be given to the purchaser to be used as a seventy-two (72) hour temporary permit to transport the vehicle from the place of purchase to the licensing office to obtain title/registration and license plates. In all other cases the certificates shall be obtained by the purchaser and the seller's bill of sale shall serve as a seventy-two (72) hour permit to transport the vehicle from the place of purchase to the licensing office to obtain title/registration and license plates.

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

SECTION 2. That Section 49-505, Idaho Code, be, and the same is hereby amended to read as follows:

49-505. ISSUANCE OF CERTIFICATES OF TITLE BY DEPARTMENT -- DELIVERY. Certificates of title shall be printed ~~and~~ by the department ~~shall issue the certificate in duplicate~~. The original copy shall be delivered to the applicant if there are no liens or encumbrances on the certificate. If there are liens or encumbrances recorded, the certificate shall be delivered or mailed to the holder of the lien or encumbrance who is first in time, on the date of the application. ~~The second copy shall be transmitted to the county assessor of the county where the application for title was processed. The signature and seal of the director shall be affixed to the original certificate of title.~~

SECTION 3. That Section 49-506, Idaho Code, be, and the same is hereby amended to read as follows:

49-506. DESTRUCTION OF RECORDS. Records, created after January 1, 1981, pertaining to certificates of title shall be retained until all appropriate records used to record each title transaction have been placed on miniaturized permanent records, including title records, title files, alphabetical and vehicle identification number index files. The miniaturized files shall be maintained so as to permit the tracing of title of the vehicles designated.

SECTION 4. That Section 49-508, Idaho Code, be, and the same is hereby amended to read as follows:

49-508. CANCELLATION OF CERTIFICATES OF TITLE -- RETURN OF REGIS-

TRATION RECEIPTS AND LICENSE PLATES. (1) If it appears that a certificate of title has been improperly issued, the department shall, after notice and hearing, cancel the certificate. The notice shall be served in person or by ~~registered~~ certified mail, and shall be served upon the person to whom that certificate of title was issued, as well as any lien holders appearing thereon. The holder of the certificate of title shall return it to the department upon cancellation, but the cancellation of any certificate of title shall not affect the validity of any lien recorded on it.

(2) If a receipt of registration has been issued to the holder of a cancelled certificate of title, the department shall immediately cancel it and demand the return of the receipt of registration and license plates, and the holder of the receipt of registration and license plates shall immediately return them to the department.

SECTION 5. That Section 49-509, Idaho Code, be, and the same is hereby amended to read as follows:

49-509. STOLEN VEHICLES -- REPORTING BY OFFICERS -- PUBLICATION OF LISTS -- RECOVERED CARS -- NOTICE. (1) It shall be the duty of every sheriff, chief of police, constable, Idaho state police officer, or officer having knowledge of a stolen vehicle, to immediately furnish the department of law enforcement with full information in connection therewith, and it shall be the duty of the department of law enforcement whenever it shall receive a report of the theft or conversion of a vehicle, whether the same has been registered or not, and whether owned in this state or any other state, to make a distinctive record of it together with the make and manufacturer's serial number, and file the same in numerical order of the manufacturer's serial number ~~or motor number~~ with the index records of the motor vehicles of the same make.

(2) The department of law enforcement shall prepare a report listing motor vehicles stolen and recovered as disclosed by reports submitted to it, and the report shall be distributed as deemed advisable. At least once each month the department of law enforcement shall furnish reports of stolen and recovered vehicles to every county sheriff and the police department in every municipality of over three thousand (3,000) population within this state, and shall transmit copies of the reports to the motor vehicle departments of other states. In the event of the receipt by the department of law enforcement of a certificate of title to a stolen vehicle, the department of law enforcement shall immediately notify the owner, and if upon investigation it appears that the certificate of title was improperly issued, the transportation department shall immediately cancel it. In the event of the recovery of a stolen or converted vehicle the owner shall immediately notify the department of law enforcement, which shall cause the record of the theft or conversion to be removed from its file.

SECTION 6. That Section 49-511, Idaho Code, be, and the same is hereby amended to read as follows:

49-511. CANCELLATION OR DISCHARGE OF LIEN OR ENCUMBRANCE. When a

lien or encumbrance is cancelled or discharged, the holder shall note a cancellation or discharge on the certificate of title in the space provided, over his signature, or by some other legal document discharging the encumbrance, and shall deliver it to the owner. The owner shall present the certificate of title within thirty (30) days to the department or its agent, together with a fee as provided for in section 49-202(2)(b), Idaho Code, and have the department issue a new certificate of title with the lien discharged from the face of the certificate of title~~,~~ and upon the records of the department~~,-and-of the-county-assessor-where-the-copy-of--the--certificate--of--title--is filed~~.

SECTION 7. That Section 49-514, Idaho Code, be, and the same is hereby amended to read as follows:

49-514. TRANSFER OF OWNERSHIP BY OPERATION OF LAW -- LIENS -- VEHICLES REGISTERED IN FOREIGN STATE -- CERTIFICATES OF TITLE. In the event of the transfer of ownership of a vehicle by operation of law, as upon inheritance, devise or bequest, order in bankruptcy, insolvency, replevin, or execution sale, ~~or-whenever-the-engine-of-a--vehicle-is-replaced-by-another-engine,~~ or whenever a motor vehicle is sold to satisfy storage or repair charges, or if the interest of the owner is terminated or the vehicle is sold under a security agreement, the department may upon the surrender of the prior certificate of title, or when that is not possible, upon presentation of satisfactory proof to the department of ownership and right to possession of the vehicle and presentation of an application for a certificate of title, issue to the applicant a certificate of title. Only an affidavit by the person or agent of the person to whom possession of the vehicle so passed, setting forth facts entitling him to possession and ownership, together with a copy of the journal entry, court order or instrument upon which the claim of possession and ownership is founded, shall be considered satisfactory proof of ownership and right of possession. If the applicant cannot produce proof of ownership he may apply directly to the department and submit any evidence as he may have, and the department shall, if it finds the evidence sufficient, issue a certificate of title to the applicant.

If from the records in the office of the department there appears to be any prior lien or liens on the vehicle, the certificate of title shall contain a statement of those liens, unless the application is accompanied by proper evidence of their satisfaction or discharge.

In the case of a vehicle registered in a foreign state the applicant for a certificate of title under the provisions of this section must present to the department a certificate of title properly issued to the applicant under the laws of the foreign state before he shall be entitled to a certificate of title issued by the department.

Upon the death of the owner of one or more registered vehicles not exceeding a total value of one thousand dollars ($1,000), the following heirs of the owner, to wit: the surviving spouse, the children, lawful issue of the deceased children, the parents, the brothers or sisters, or the guardian of the estate of any minor or insane or incompetent person having such relationship to the owner, if such person has a right to succeed to the property of the owner, may secure a

transfer of the certificate or certificates of title of the owner to the vehicle or vehicles, upon presenting to the department the appropriate certificate or certificates of title, if available, and an affidavit of the person or persons setting forth the fact of survivorship or heirship, the names and addresses of any other heirs, that the decedent died intestate, that the decedent has no creditors, that the decedent did not leave other property necessitating probate, and if required by the department, a certificate of the death of the deceased. The department, when satisfied of the genuineness and regularity of the transfer, shall transfer the registrations and titles accordingly.

SECTION 8. That Section 49-515, Idaho Code, be, and the same is hereby amended to read as follows:

49-515. LOST, MUTILATED OR ILLEGIBLE CERTIFICATES -- DUPLICATE CERTIFICATES. In the event any certificate of title is lost, mutilated or becomes illegible, the owner or legal representative of the owner of the vehicle, or the holder of the lien which is prior in date and time as shown by the records of the department, shall immediately make application for and may obtain a duplicate certificate of title upon the applicant furnishing information satisfactory to the department. ~~The duplicate certificate shall not be issued until five (5) days have elapsed--from the date of application.~~ Any certificate of title issued pursuant to this section shall have printed or stamped in ink upon its face "duplicate ~~certificate~~ title" ~~and, in the event--that--more--than one duplicate certificate shall be issued, this fact shall likewise be made--to--appear--upon--the--face of the duplicate certificate~~. In the event of the recovery of the original certificate of title by the owner or the first lienholder, he shall immediately surrender it to the department for cancellation.

SECTION 9. That Section 49-520, Idaho Code, be, and the same is hereby amended to read as follows:

49-520. REFUSAL TO ISSUE CERTIFICATE OF TITLE OR REGISTER VEHICLE -- REVOCATION AFTER ISSUANCE OR REGISTRATION. If the department shall determine an applicant for a certificate of title to a vehicle is not entitled to it, it shall refuse to issue a certificate or to register the vehicle, and in that event unless the department reverses its decision or its decision is reversed by a court of competent jurisdiction, the applicant shall have no further right to apply for a certificate of title or registration on the statements in the application. The department may for a like reason after notice and hearing, revoke registration already acquired or any outstanding certificate of title. The notice shall be served in person or by ~~registered~~ certified mail. An appeal may be taken from any decision of the department.

SECTION 10. That Section 49-521, Idaho Code, be, and the same is hereby amended to read as follows:

49-521. DEALERS IN VEHICLES -- RECORDS OF PURCHASES AND SALES -- POSSESSION OF CERTIFICATES OF TITLE -- FOREIGN VEHICLES. (1) Every

dealer in motor vehicles, trailers or semitrailers shall maintain a record in a form as prescribed by the department of every used motor vehicle, trailer or semitrailer bought, sold, or exchanged by the licensee or received or accepted by the licensee for sale or exchange. The record shall contain a description of the vehicle, including the name of the maker manufacturer, type, engine and serial number, odometer reading and other distinguishing marks, and whether any numbers thereon have been defaced, destroyed, or changed and shall state with reference to each vehicle the name and address of the person from whom purchased or received, when sold or otherwise disposed of by the licensee, and the name and address of the person to whom sold or delivered.

(2) Every licensee shall have in his possession a separate certificate of title assigned to him or other documentary evidence of his right to the possession of and for every vehicle in his possession.

SECTION 11. That Section 49-522, Idaho Code, be, and the same is hereby amended to read as follows:

49-522. INDORSEMENT "FOR JUNK ONLY" ON CERTIFICATE WHEN VEHICLE SOLD OR TRANSFERRED -- OPERATION PROHIBITED. (1) The owner of any motor vehicle who sells or transfers it to another with the intention or understanding that the motor vehicle is not to be used as an operating unit shall, at the time of sale or transfer, indorse on the face of the certificate of title to that vehicle the words "for junk only", and the department shall place those words on the face of each subsequent certificate of title to that vehicle.

(2) No person shall operate upon a highway any motor vehicle, the certificate of title to which has been so indorsed, and no person shall sell or attempt to sell that vehicle for use as an operating unit.

SECTION 12. That Section 49-523, Idaho Code, be, and the same is hereby amended to read as follows:

49-523. PROCEDURE WHEN DEPARTMENT UNSATISFIED AS TO OWNERSHIP OR SECURITY INTERESTS -- TEMPORARY REGISTRATION PROCEDURE. (1) If the department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the department may register the vehicle, but shall either:

(a) Withhold issuance of a certificate of ownership until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it; or

(b) As a condition of issuing a certificate of ownership, require the applicant to file with the department all documents held as to the applicant's ownership of the vehicle, together with a bond in the form prescribed by the department and executed by the applicant, or a deposit of cash in a like amount. The bond shall be in an amount equal to one and one-half (1 1/2) times the value of the vehicle, as determined by the department, and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest

in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of ownership of the vehicle, or on account of any defect in or disclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, or any cash deposit, shall be returned at the end of three (3) years, or prior to that time if the vehicle is no longer registered in this state and the current valid certificate of ownership is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

(c) As to a motor vehicle ~~twenty-five~~ ten (~~25~~10) years old or more since manufacture, an applicant who is a resident of the state of Idaho may file with the department, before its authorized representative, a verified statement of facts setting out in detail the manner in which the applicant came into possession of the motor vehicle, the establishment of ownership, and a summary of the applicant's attempts to contact any prior owners of the motor vehicle. Upon receipt by the department of the verified statement and all documentation relating to the applicant's possession of the vehicle, and completion of an inspection of the vehicle identification number by an authorized representative of the department, the applicant shall execute a document in the form provided by the department releasing it of any and all damages that may be suffered by the applicant, along with warranties that the applicant will pay any and all damages suffered by any person or entity as to the issuance of a title for that motor vehicle by the department. The department shall then issue a certificate of title to the applicant in form set out by this section. The certificate of title shall include the statement, "~~TITLE~~ ISSUED ~~UPON~~ STATEMENT OF APPLICANT", in ~~bold,~~ permanent letters upon its face. The title issued pursuant to this subsection shall be presumed to indicate legal ownership of the motor vehicle at the end of the three (3) year period from the date of issue of that title, provided the motor vehicle is still registered in the state of Idaho, and there are no actions or claims pending against the applicant which places legal ownership in question. The department and the state of Idaho shall be immune as to any damages suffered by any person or entity as a result of the issuance of a certificate of title as provided by this subsection.

(2) Every dealer desiring the privilege of issuing temporary registration permits for the operation of motor vehicles shall make application to the department. If the privilege is granted, the dealer will receive a series of permits, consecutively numbered by the department, secured by the dealer at a fee of five dollars ($5.00) for each permit. A permit subsequently issued by a dealer to a purchaser shall be valid for a period not to exceed thirty (30) days.

The dealer shall issue temporary registration permits in numerical sequence, one (1) only for each motor vehicle sold to a bona fide purchaser. Each permit, and the attached stub, shall be completed in

duplicate, in ink or by typewriter at the time of issuance. The expiration date on the original permit shall be filled in by rubber stamp or broad-tipped marking pen, and the print shall be at least three-fourths (3/4) inch high and one-eighth (1/8) inch wide. The original permit shall be displayed in the rear window of the motor vehicle for which it is issued, except when issued for a convertible, station wagon, motorcycle, or other motor vehicle for which this would not be practical. In these exceptional cases, the permit should be conspicuously displayed in a place where the number of the permit and the expiration date may be easily read and where protected from exposure to weather conditions which would render it illegible. ~~The duplicate stub shall be returned to the department within thirty-one (31) days from the date of issue.~~

(3) The dealer shall keep a written record of every temporary registration permit issued. This record shall include the name and address of the person or firm to whom the permit is issued, a description of the motor vehicle for which it is issued, including year, make, model, identification number, and the date of issue. This record shall list all permits in numerical sequence and shall be open to inspection by any peace officer or designated employee of the department.

(4) The fees collected from dealers by the department under the provisions of this section shall be transmitted by the department to the state treasurer for deposit in the highway distribution account.

(5) Upon application for title and for registration of a vehicle for which temporary registration has been issued under this section, the county assessor shall collect and fees shall be deemed due from the date of issuance of the temporary registration permit rather than from date of application for title or registration.

(6) The department or a county assessor may issue temporary motor vehicle registration permits in an emergency situation. The fee for a temporary registration shall be five dollars ($5.00), and shall be valid for a period of thirty (30) days. The temporary fees collected by the department shall be transmitted to the state treasurer for deposit in the highway distribution account. Temporary fees collected by an assessor shall be distributed as follows: three dollars ($3.00) shall be deposited in the county current expense fund and two dollars ($2.00) shall be transmitted to the department for deposit through the state treasurer in the highway distribution account.

Approved March 29, 1991.

CHAPTER 154
(H.B. No. 100, As Amended)

AN ACT

RELATING TO MOTOR VEHICLE LICENSE PLATES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-443A, IDAHO CODE, TO PROVIDE FOR A LICENSE PLATE RESERVATION PROGRAM WITHIN EACH COUNTY AT THE DISCRETION OF THE COUNTY ASSESSOR.

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

SECTION 1. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-443A, Idaho Code, and to read as follows:

49-443A. LICENSE PLATE RESERVATION PROGRAM. (1) The county assessor of each county may devise and implement a program in his county whereby any person desiring to retain during the next general reissue of license plates the same plate number as is currently assigned to his registered vehicle may do so by submitting a reservation request to the county assessor.

(2) The request for reservation shall be submitted after September 15 and prior to December 1 of the year immediately preceding the year in which the general reissue of license plates occurs.

(3) The person reserving the specific numbered plates shall pay to the county assessor a reservation fee as determined by the county commissioners in accordance with the provisions of section 31-870, Idaho Code, which fee shall be deposited in the county current expense fund.

Approved March 29, 1991.

CHAPTER 155
(H.B. No. 108)

AN ACT
RELATING TO THE INDUSTRIAL SPECIAL INDEMNITY ACCOUNT; AMENDING SECTION 72-332, IDAHO CODE, TO CLARIFY REQUIREMENTS FOR PAYMENTS OUT OF THE INDUSTRIAL SPECIAL INDEMNITY ACCOUNT.

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

SECTION 1. That Section 72-332, Idaho Code, be, and the same is hereby amended to read as follows:

72-332. PAYMENT FOR SECOND INJURIES FROM INDUSTRIAL SPECIAL INDEMNITY ACCOUNT. (1) If an employee who has a permanent physical impairment from any cause or origin, incurs a subsequent disability by an injury or occupational disease arising out of and in the course of his employment, and by reason of the combined effects of both the pre-existing impairment and the subsequent injury or occupational disease or by reason of the aggravation and acceleration of the pre-existing impairment suffers total and permanent disability, the employer and surety shall be liable for payment of compensation benefits only for the disability caused by the injury or occupational disease, including scheduled and unscheduled permanent disabilities, and the injured employee shall be compensated for the remainder of his ~~compensation~~ income benefits out of the industrial special indemnity account.

(2) "Permanent physical impairment" is as defined in section

72-422, Idaho Code, provided, however, as used in this section such impairment must be a permanent condition, whether congenital or due to injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining re-employment if the claimant should become employed. This shall be interpreted subjectively as to the particular employee involved, however, the mere fact that a claimant is employed at the time of the subsequent injury shall not create a presumption that the pre-existing permanent physical impairment was not of such seriousness as to constitute such hindrance or obstacle to obtaining employment.

Approved March 29, 1991.

CHAPTER 156
(H.B. No. 109)

AN ACT

RELATING TO THE HONORARIUM FOR IDAHO PARKS AND RECREATION BOARD MEMBERS; AMENDING SECTION 67-4221, IDAHO CODE, TO INCREASE THE HONORARIUM FOR BOARD MEMBERS.

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

SECTION 1. That Section 67-4221, Idaho Code, be, and the same is hereby amended to read as follows:

67-4221. PARK AND RECREATION BOARD -- MEMBERS -- APPOINTMENT -- TERMS -- HONORARIUMS AND EXPENSES -- MEETINGS AND QUORUMS -- REMOVAL OF MEMBERS. (a) There is hereby created a governing authority of the department to consist of a board of six (6) persons to be known as the "park and recreation board." Each member of the board shall be appointed by the governor of the state of Idaho, with the advice and consent of the senate, to serve a term of six (6) years, except the terms of the initial appointees shall commence on the date of appointment and shall be of staggered lengths so that a term of one (1) member will expire annually. Each member of the board shall be a qualified elector of the state. One (1) member of the board shall be appointed from each of the six (6) districts hereinafter created. Not more than three (3) members of the board shall be from any one (1) political party.

(b) For the purposes of this act, the state of Idaho is divided into six (6) districts, numbered from one (1) to six (6) as follows:

District No. 1 shall consist of the counties of Boundary, Bonner, Kootenai, Benewah and Shoshone.

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, Blaine, Gooding, Lincoln, Jerome, Minidoka, Twin Falls and Cassia.

District No. 5 shall consist of the counties of Bingham, Power,

Bannock, Caribou, Oneida, Franklin, and Bear Lake.

District No. 6 shall consist of the counties of Lemhi, Custer, Clark, Fremont, Butte, Jefferson, Madison, Teton and Bonneville.

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

(d) Each board member shall be entitled to one (1) vote and a majority of the members of the board shall constitute a quorum. The board shall hold regular meetings at least once each three (3) months and shall hold special meetings at such times as it deems necessary. All meetings of the board shall be open to the public. The board shall keep a record of its proceedings.

(e) A member of the board may be removed for inefficiency, neglect of duty, misconduct in office or if he is no longer a resident of the district from which he was appointed.

(f) This section shall be exempt from the provisions of section 59-102, Idaho Code.

Approved March 29, 1991.

CHAPTER 157
(H.B. No. 116)

AN ACT

RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2103, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE DEFINITION OF OUTFITTER AND GUIDE TO CERTAIN YOUTH ORIENTED ORGANIZATIONS PROVIDING SERVICES TO THEIR MEMBERS AND LEADERS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 36-2103, Idaho Code, be, and the same is hereby amended to read as follows:

36-2103. EXCEPTIONS. The foregoing definitions of the terms "outfitter" and "guide" will not apply to a person who, for accommodation and not for compensation or gain or promise thereof, furnishes a pack or saddle horse, or other equipment, to a hunter or a fisherman when such furnishing is for a temporary use. Additionally, the foregoing definition of "outfitter" and "guide" shall not apply to members of a nonprofit organization if the organization meets the following criteria: (i) it is exempt from the payment of federal income taxes under section 501(c)(3) of the internal revenue code; (ii) its purpose is to provide outdoor experiences to young persons under the age of twenty-one (21) and to its leaders; and (iii) it provides outfitting and guiding services to its own bona fide members on a not for profit basis. If the members of the nonprofit organization provide outfitting or guiding services to persons who are not its members and leaders, the provisions of this chapter shall apply to that organization, its members and leaders.

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, 1991.

CHAPTER 158
(H.B. No. 231, As Amended)

AN ACT

RELATING TO THE DEPARTMENT OF ADMINISTRATION; AMENDING SECTION 67-5722, IDAHO CODE, TO PROVIDE THAT THE SALE, TRADE-IN OR EXCHANGE OF STATE PERSONAL PROPERTY SHALL BE IN ACCORDANCE WITH BOARD OF EXAMINERS POLICIES; AMENDING SECTION 67-5723, IDAHO CODE, TO STRIKE A REQUIREMENT THAT ELECTED OFFICIALS FILE A STATEMENT OF PURCHASES MADE; AMENDING SECTION 67-5724, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 67-5725, IDAHO CODE, TO PROVIDE FOR RETENTION OF RECORDS AND TO PROVIDE THAT RECORDS SHALL BE SUBJECT TO DISCLOSURE ACCORDING TO THE STATE'S PUBLIC RECORDS LAW; AMENDING SECTION 67-5726, IDAHO CODE, BY PROVIDING AN ADDITIONAL PROHIBITION TO PROTECT THE INTEGRITY OF THE BID PROCESS; AMENDING SECTION 67-5732, IDAHO CODE, TO STRIKE REFERENCE TO CERTAIN RULE-MAKING AUTHORITY OF THE DEPARTMENT; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5732A, IDAHO CODE, TO PROVIDE PROCEDURES FOR THE SALE OF SURPLUS STATE PERSONAL PROPERTY; AMENDING SECTION 67-5734, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES; AMENDING SECTION 67-5735, IDAHO CODE, TO EXEMPT CONTRACTS ISSUED BY THE DIVISION OF PURCHASING FROM THE PROMPT PAYMENT REQUIREMENTS OF SECTION 67-2302, IDAHO CODE, AND TO PROVIDE FOR THE PAYMENT OF INTEREST ON LATE CONTRACT PAYMENTS; REPEALING SECTIONS 67-5738 AND 67-5739, IDAHO CODE; AND AMENDING SECTION 67-5746, IDAHO CODE, TO PROVIDE FOR MAINTAINING AN INVENTORY OF PERSONAL PROPERTY.

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

SECTION 1. That Section 67-5722, Idaho Code, be, and the same is hereby amended to read as follows:

67-5722. SALE, TRADE-IN OR EXCHANGE OF STATE PERSONAL PROPERTY. Whenever any agency owns any property no longer economical to use, the administrator of the division of purchasing may dispose of such property by exchanging the same in part payment for new property. The administrator of the division of purchasing shall include in his request for bids a full description of the property to be exchanged as part payment and shall permit each registered vendor to examine the same, and the contract shall be awarded on the basis of net cost to the state after allowance for the property to be exchanged in part payment.

Exchange of property will be permitted only when it is determined by the administrator of the division of purchasing that all other methods of disposal of the property sought to be exchanged will yield

a lesser monetary return to the state.

In accordance with the internal management policies, guidelines or instructions of the board of examiners, t~~T~~he head of any agency may~~, with the consent of the board of examiners,~~ declare as surplus any item of personal property.

~~The administrator of the division of purchasing is authorized and empowered to hold, warehouse, distribute, and dispose of state surplus personal property on behalf of all agencies. The proceeds from the sale of such state surplus personal property shall be credited to the agency which made the original purchase, less expenses of the sale of such property.~~

SECTION 2. That Section 67-5723, Idaho Code, be, and the same is hereby amended to read as follows:

67-5723. DISCOUNTS -- NEGOTIATIONS FOR REQUIRED RULES, REGULATIONS AND PROCEDURES. Whenever any employee of an agency is charged with the responsibility of acquiring property for and in behalf of the state, he shall, whenever and wherever possible, negotiate discounts normally given in the ordinary course of business, including, but not limited to, discounts for prompt payment and discounts for bulk acquisitions.

It shall be the duty of the administrator to prescribe by rules and regulations the manner by which to obtain such discounts, and to do whatever is necessary to implement such rules and regulations.

~~Elected state officers excluded from the definition of "agency" in section 67-5716, Idaho Code, shall file a statement annually of the purchases made in behalf of those offices listing the purchases made during the fiscal year and the costs thereof.~~

SECTION 3. That Section 67-5724, Idaho Code, be, and the same is hereby amended to read as follows:

67-5724. CONTRACTS WITH FEDERAL GOVERNMENT OR ITS AGENCIES EXEMPT FROM CERTAIN PROVISIONS. The administrator of the division of purchasing, on behalf of any agency, and the comparable purchasing officers of the several political subdivisions, municipal corporations and ~~quasi-municipal corporations~~ public agencies of the state on behalf of such political subdivisions, municipal corporations and ~~quasi-municipal corporations~~ public agencies, within the limits of available appropriations and requisitions made for acquisition thereof, may enter into any contract with the United States of America, or with any agency thereof, or with any agency established for disposition or distribution of surplus federal properties within this state, for the acquisition of any property, real or personal, without regard to provisions of law which require either (1) the posting of notices, (2) public advertising, (3) inviting or receiving of competitive bids, or (4) delivery of property acquired before payment, in any case where delivery may be constructively accomplished without manual possession.

SECTION 4. That Section 67-5725, Idaho Code, be, and the same is hereby amended to read as follows:

67-5725. PRESERVATION OF RECORDS -- WRITTEN CONTRACTS -- VOID CONTRACTS. The administrator shall preserve all records of bids and acquisitions in his office, and information with respect thereto, in such form as he shall prescribe for a period of three (3) years after the date of final action, or for a period of time as may be proscribed by the record retention guideline schedule approved by the director of the department of administration. The records shall be ~~open during normal business hours for the inspection of those who may be interested~~ subject to disclosure according to chapter 3, title 9, Idaho Code.

Every contract made by the administrator in behalf of the state shall be reduced to writing and signed by the contracting parties with their names at the end thereof and filed in the office of the administrator, together with all bids, specifications, and all other documents and records associated with the acquisition or intended acquisition.

All contracts or agreements made in violation of the provisions of this chapter shall be void and any sum of money advanced by the state of Idaho in consideration of any such contract or agreement shall be repaid forthwith. In the event of refusal or delay when repayment is demanded by the proper officer of the state of Idaho, under whose authority such contract or agreement shall have been made or entered into, every person so refusing or delaying, together with his surety or sureties, shall be forthwith prosecuted at law for the recovery of such sum of money so advanced.

SECTION 5. That Section 67-5726, Idaho Code, be, and the same is hereby amended to read as follows:

67-5726. PROHIBITIONS. (1) No contract or order or any interest therein shall be transferred by the contractor or vendor to whom such contract or order is given to any other party, without the approval in writing of the administrator. Transfer of a contract without approval shall cause the annulment of the contract so transferred, at the option of the state. All rights of action, however, for any breach of such contract by the contracting parties are reserved to the state. No member of the legislature or any officer or employee of any branch of the state government shall directly, himself, or by any other person in trust for him or for his use or benefit or on his account, undertake, execute, hold or enjoy, in whole or in part, any contract or agreement made or entered into by or on behalf of the state of Idaho, if made by, through, or on behalf of the department in which he is an officer or employee; or if made by, through or on behalf of any other department unless the same are made after competitive bids.

(2) Except as provided by section 67-5718, Idaho Code, no officer or employee shall influence or attempt to influence the award of a contract to a particular registered vendor, or to deprive or attempt to deprive any registered vendor of an acquisition contract.

(3) No officer or employee shall conspire with a vendor or its agent, and no vendor or its agent shall conspire with an officer or employee, to influence or attempt to influence the award of a contract, or to deprive or attempt to deprive a registered vendor of an acquisition award.

(4) No officer or employee shall fail to utilize an open contract without justifiable cause for such action. No officer or employee shall accept property which he knows does not meet specifications or substantially meet the original performance test results.

(5) Deprivation, influence or attempts thereat shall not include written reports, based upon substantial evidence, sent to the administrator of the division of purchasing concerning matters relating to the responsibility of registered vendors.

(6) No vendor or related party, or subsidiary, or affiliate of a vendor may submit a bid to obtain a contract to provide goods to the state, if the vendor or related party, or affiliate or subsidiary was paid for services utilized in preparing the bid specifications or if the services influenced the procurement process.

SECTION 6. That Section 67-5732, Idaho Code, be, and the same is hereby amended to read as follows:

67-5732. RULES AND REGULATIONS. In addition to any other rules and regulations promulgated by the administrator, he shall draw regulations which shall serve to enhance the intent of this chapter. Among the subjects addressed shall be:

(1) Regulations requiring specifications to be in writing, to contain all requirements including alternatives, to set forth all methods and procedures to be used in the submission and evaluation of bids, and such other matters as are necessary to facilitate the bidding process;

(2) A regulation providing a means for interested vendors to cause alteration of any specification issued if such alteration will improve the competitiveness of bidding;

(3) Regulations establishing the procedures for performance tests, where practical and advisable, and requiring equipment tested during the bidding procedure to substantially meet or exceed those test results prior to acceptance by the state;

(4) Regulations controlling acquisition of components which shall prevent substantial changes in the performance of equipment through multiple successive acquisitions;

(5) Regulations requiring, when practical, specifications to describe the function sought, the end results desired and the effect to be achieved by the property to be acquired;

(6) Special regulations for specific categories of property, that because of the nature of the property and its distinguishability from other types of property, require specialized treatment to insure a more effective bidding process~~;~~

~~(7) A regulation providing for notice and sale of personal property declared as surplus by an agency.~~

SECTION 7. That Chapter 57, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5732A, Idaho Code, and to read as follows:

67-5732A. SALE OF SURPLUS PROPERTY AUTHORIZED. Whenever the head of any commission or department of state government, or any institu-

tion of the state, or any elected state official, has under their jurisdiction or control, any personal property belonging to the state which, in their judgment, is of no further use to the state or to such department, commission, institution or state office, they may, sell, in the name of the state, such personal property at public sale. Provided, that where the reasonable value of such property exceeds the sum established by the internal management policies, guidelines or instructions of the state board of examiners, the same will be sold at public auction or sold after receipt of sealed bids, to the highest responsible bidder, after thirty (30) days of notice of such sale, giving the time and place and any sale conditions thereof, published in a newspaper in the county where such property is to be sold, or if no newspaper is published in the county where such sale is to be held, one (1) such notice shall be posted at the place of sale. All funds received from sales of surplus personal property must be deposited into the state treasury and credited to the account of the disposing agency less the cost of the sale. The board of examiners may authorize the sale or transfer of surplus state personal property to city, county, school district, or any other public agency without public notice and without public sale, provided the board has determined that it is in the best public interest.

SECTION 8. That Section 67-5734, Idaho Code, be, and the same is hereby amended to read as follows:

67-5734. PENALTIES. (1) Any person convicted of a violation of subsection (1), ~~or~~ (2), or (6) of section 67-5726, Idaho Code, shall be guilty of a misdemeanor.

(2) Any person convicted of a violation of subsection (3) of section 67-5726, Idaho Code, shall be guilty of a felony.

(3) Any officer or employee found to have violated the provisions of subsection (4) of section 67-5726, Idaho Code, may, by order of the determinations officer, be suspended without pay for not more than ninety (90) working days, have a reprimand entered in his personnel file, or both.

SECTION 9. That Section 67-5735, Idaho Code, be, and the same is hereby amended to read as follows:

67-5735. PROCESSING -- REIMBURSEMENT OF CONTRACTOR. Within ten (10) days after the property acquired is delivered as called for by the bid specifications, the acquiring agency shall complete all processing required of that agency to permit the contractor to be reimbursed according to the terms of the bid. Within ten (10) days of receipt of the documents necessary to permit reimbursement of the contractor according to the terms of the contract, the state auditor shall cause a warrant to be issued in favor of the contractor and delivered. Contracts let or entered into by or through the division of purchasing are exempt from the provisions of section 67-2302, Idaho Code; provided, however, that late contract payments may be assessed interest by the vendor at the rate set forth in section 63-3045, Idaho Code, unless another rate is established by contract.

SECTION 10. That Sections 67-5738 and 67-5739, Idaho Code, be, and the same are hereby repealed.

SECTION 11. That Section 67-5746, Idaho Code, be, and the same is hereby amended to read as follows:

67-5746. INVENTORY OF CHATTELS -- CONTENTS -- DUTIES OF OFFICERS AND EMPLOYEES -- RECORDING -- ANNUAL REVISION -- OPEN TO INSPECTION. ~~Every-office,-department,-division,--bureau,--board,--commission,--and institution-of-the-state-shall-keep-an-exact-and-true-inventory-of-all chattel-property-it-owns-or-leases.-The-inventory-shall-be-recorded-in a-permanent-record-to-be-kept-for-that-purpose,-showing-as-a-minimum-a description--of-the-property,-where-located,-acquisition-cost-or-estimated-fair-market-value,-and-date-of-acquisition,-its--estimated--current--replacement--cost,--and--the--account--or-unit-within-the-agency responsible.-The-inventory-shall-annually-be-revised-by-the-first--day of-March.-Each-agency-head-shall-make-a-written-report-to-the-director of--the--department--of-administration-by-the-end-of-the-first-week-in March,-on-forms-provided-for-that-purpose-by-the-department-of--administration,--stating--that-the-inventory-has-been-completed.-The-record of-inventory-shall-be-available-for-inspection-at-all-times,-and--copies--of-the-inventory-record-shall-be-provided-to-the-governor-and-the legislature,-or-committees-thereof,-when-requested~~ All agency directors shall develop and maintain an inventory system, meeting minimum requirements as set forth by the department of administration, for all personal property which the agency owns or is responsible for whether under terms of any contract, grant, or otherwise.

To maintain uniformity among the various agency property inventory systems, the department of administration shall develop and distribute to each agency minimum requirements for each inventory system. Each agency shall feel free to add additional functions beyond those minimums to meet their requirements. The inventory shall be recorded in a permanent record to be kept for that purpose, showing as a minimum a description of the property, where located, acquisition cost or estimated fair market value, and date of acquisition, its estimated current replacement cost, and the account or unit within the responsible agency. Each agency may add additional functions beyond these minimums to meet their agency requirements.

Each state agency director shall be accountable for the maintenance, security, and efficient economic use, as well as the verification of physical location and condition of all personal property belonging to that agency.

The agency director shall be responsible for conducting an annual inventory of all personal property by no later than the first day of March of each fiscal year. Further, each agency director shall make a written report to the director of the department of administration that the inventory has been completed by the end of the first week of March of each year on a form developed by and under such guidelines as are issued by the department of administration.

The department of administration shall provide all agencies with an inflation factor for property in early January of each year to assist agency directors in discharging the responsibility set forth herein.

Each agency director may appoint a property control officer who shall be responsible for conducting the annual inventory of agency property. The property control officer shall also be responsible for ensuring the prompt recording of newly acquired property and the economical disposition of surplus property in a timely manner. The property control officer shall periodically review the values of property for reasonableness.

The agency director shall have the authority to dispose of surplus property in accordance with the provisions of section 67-5732A, Idaho Code.

Approved March 29, 1991.

CHAPTER 159
(H.B. No. 237)

AN ACT

RELATING TO BEER AND WINE RETAILERS; AMENDING SECTIONS 23-1033 AND 23-1325, IDAHO CODE, TO PROHIBIT A FINANCIAL INTEREST IN OR AID TO RETAILERS BY INDUSTRY MEMBERS, TO PROVIDE EXCEPTIONS AND TO UPDATE LANGUAGE.

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

SECTION 1. That Section 23-1033, Idaho Code, be, and the same is hereby amended to read as follows:

23-1033. FINANCIAL INTEREST IN OR AID TO RETAILERS PROHIBITED -- CERTAIN AID PERMITTED. (1) Except as provided in sections 23-1003(d), and 23-1003(e), Idaho Code, it shall be unlawful for any brewer, dealer, wholesaler, or the holder of any certificate of approval, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee~~,~~:

(a) T~~t~~o have any financial interest in any licensed retailer's business, or to own or control any real property upon which a licensed retailer conducts his business, except such property as shall have been so owned or controlled continuously for more than one (1) year prior to ~~the effective date of this act~~ July 1, 1975; or~~,~~

(b) ~~directly or indirectly, t~~To aid or assist any licensed retailer by giving such retailer, or any employee thereof, any discounts, premiums or rebates in connection with any sale of beer~~,~~; or

(c) To aid or assist any licensed retailer by furnishing, giving, renting, lending or selling any equipment, signs, supplies, services, or other thing of value to the retailer which may be used in conducting the retailer's retail beer business, except as expressly permitted by this ~~act~~ chapter; or~~,~~

(d) T~~t~~o enter into any lease or other agreement with any retail licensee to control the product or products sold by such retailer~~,~~; or

(e) T~~t~~o provide for any rental or other charge to be paid to or by the retailer for product display or advertising display space; or ~~provided;--however;-that-at-the-request-of-or-with-the-consent of-a-licensed-retailer;~~

(f) To furnish or sell to a retailer consumer advertising specialties which bear advertising matter, such as ashtrays, bottle or can openers, corkscrews, paper bags, matches, leaflets, blotters, postcards, pencils, napkins, coasters, clothing, glassware or other containers.

(2) A~~a~~ brewer, dealer, or wholesaler as an incident to merchandising in the ordinary course of business, and if available to all licensed retailers without discrimination, may~~:~~

~~(a)--F~~furnish or sell to a retailer, under the conditions and within the limitations prescribed herein, ~~certain--equipment; signs;-supplies-and-services;-such-as-furnishing-to-retailers-with or-without-charge~~ the following items:

(~~1~~a) tapping device,

~~(2)~~ valves,

~~(3)~~ beer hoses,

~~(4)~~ washers,

~~(5)~~ couplings,

~~(6)~~ clamps,

~~(7)~~ air hoses,

~~(8)~~ vents,

~~(9)~~ faucets,

~~(10)~~ CO_2 gas regulators,

~~(11)~~ picnic or party pumps, together with necessary nonmechanical or nonenergized equipment to enable cooling of beer, and CO_2 gas or ice when the same is furnished at the current retail price and as a bona fide sale in the regular course of business;

(b) ~~In-addition;-s~~Signs, posters, placards, designs, devices, decorations or graphic displays bearing advertising matter and for use in windows or elsewhere in the interior of a retail establishment ~~may--be--given;--granted;-loaned-or-sold-to-a-retailer-by-an industry-member-engaged-in-business-or-as--a--brewer--importer--or wholesaler--of--malt--beverages~~. The industry member shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation;

~~(c)--Furnish--to--a--licensed--retailer-CO---gas;-when-the-same-is furnished-at-the-going-retail-price-and-as-a-bona-fide-sale-in-the regular-course-of-business;~~

~~(d)--However;-consumer-advertising-specialties-such-as-ash--trays; bottle--or--can--openers;-corkscrews;-paper-bags;-matches;-printed recipes;--wine--lists;--leaflets;--blotters;--postcards;--pencils; napkins;-coasters;-clothing;-glassware-and-other-containers--which bear--advertising--matter--may--not--be--furnished--or--sold--to-a retailer;~~

(~~e~~c) Newspaper cuts, mats or engraved blocks for use in retailer's advertisements ~~may-be-furnished;-given;-rented;-loaned or-sold-by-an-industry-member-to-a-retailer-selling-his-product~~;

(~~f~~d) Perform services incident to the stocking, rotation and restocking of beer sold and delivered to such licensed retailer on or in such licensed retailer's storeroom, salesroom shelves or

refrigerating units to the marking of containers of such beer to indicate the selling price as established by the retailer and to the arranging, rearranging, or relocating of advertising displays referred to in this section. For the purposes of this paragraph, a wholesaler may, with the permission of the retailer, and in accordance with space allocations directed by the retailer, set, remove, replace, reset or relocate all beer upon the shelves of the retailer. Labor performed or schematics prepared by the wholesaler relating to conduct authorized pursuant to this paragraph shall not constitute prohibited conduct or unlawful aid to a retailer;

(~~g~~e) Perform services in connection with:

1. The inspection of a licensed retailer's draught equipment to insure sanitation and quality control;

2. The instruction of licensed retailers in the proper use, maintenance and care of draught equipment, glasses and products used in the sale and dispensing of beer and the preparation and distribution of written information or instructions to licensed retailers with respect thereto;

3. The tapping of kegs.

(~~2~~3) When ~~any advertising materials~~ services, equipment, or supplies~~, tap markers, illuminated signs or other property shall be furnished~~ are provided by a brewer, dealer or wholesaler to a retailer as permitted ~~herein~~ in subsection (2) of this section, a charge ~~therefor or~~ for services ~~incident to installation~~, equipment or supplies may, upon request of a brewer, dealer or wholesaler, be paid by such retailer, at a price which shall not be less than the cost thereof to the industry member providing such ~~property or~~ services, equipment or supplies.

(~~3~~4) The word "ale" or "malt liquor" may be substituted for "beer" on any sign used in connection with any advertising herein permitted, provided reference shall be to ale or malt liquor which has an alcoholic content not greater than the limitation prescribed in section 23-1002, Idaho Code.

(~~4~~5) Every violation of the provisions of this section by a dealer, brewer or wholesaler, in which a licensed retailer shall have actively participated shall constitute a violation on the part of such licensed retailer.

SECTION 2. That Section 23-1325, Idaho Code, be, and the same is hereby amended to read as follows:

23-1325. FINANCIAL INTEREST IN OR AID TO RETAILERS PROHIBITED -- CERTAIN AID PERMITTED. (1) It shall be unlawful for any importer, distributor, vintner~~,~~ or winery ~~or wholesaler~~, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee~~,~~:

(a) ~~To~~ have any financial interest in any licensed retailer's business, or to own or control any real property upon which a licensed retailer conducts his business, except such property as shall have been so owned or controlled continuously for more than one (1) year prior to ~~the effective date of this act~~ July 1, 1975; or~~,~~

(b) ~~directly or indirectly, t~~To aid or assist any licensed retailer by giving such retailer, or any employee thereof, any discounts, premiums or rebates in connection with any sale of wine~~,~~; or

(c) To aid or assist any retailer by furnishing, giving, renting, lending or selling any equipment, signs, supplies, services, or other thing of value which may be used in conducting the retailer's retail wine business, except as expressly permitted by this ~~act~~ chapter; or~~,~~

(d) ~~T~~to enter into any lease or other agreement with any retail licensee to control the product or products sold by such retailer~~,~~; or

(e) ~~T~~to provide for any rental or other charge to be paid to or by the retailer for product display or advertising display space; ~~provided, however, that at the request of or with the consent of a licensed retailer,~~ or

(f) To furnish or sell to a retailer consumer advertising specialties which bear advertising matter, such as ashtrays, bottle or can openers, corkscrews, paper bags, matches, wine lists, leaflets, blotters, postcards, pencils, napkins, coasters, clothing, glassware or other containers.

(2) ~~A~~an importer, distributor, vintner~~,~~ or winery ~~or wholesaler~~ as an incident to merchandising in the ordinary course of business, and if available to all licensed retailers without discrimination, may~~:~~

~~(a)~~ ~~F~~furnish or sell to a retailer, under the conditions and within the limitations prescribed herein, ~~certain equipment, signs, supplies and services;~~ the following:

(a) Those services, equipment, brochures and recipes authorized under the provisions of sections 23-1325A and 23-1325B, Idaho Code;

(b) Signs, posters, placards, designs, devices, decorations or graphic displays bearing advertising matter and for use in windows or elsewhere in the interior of a retail establishment ~~may be given, granted, loaned or sold to a retailer by an industry member engaged in business as an importer, distributor, vintner, winery or wholesaler of wine~~. The importer, distributor, vintner~~,~~ or winery ~~or wholesaler~~ shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation;

(c) ~~However, consumer advertising specialties such as ash trays, bottle or can openers, corkscrews, paper bags, matches, printed recipes, wine lists, leaflets, blotters, postcards, pencils, napkins, coasters, clothing, glassware and other containers which bear advertising matter may not be furnished or sold to a retailer;~~

~~(d)~~ Newspaper cuts, mats or engraved blocks for use in retailer's advertisements ~~may be furnished, given, rented, loaned or sold by an importer, distributor, vintner, winery or wholesaler to a retailer selling his product;~~

(e) Perform services incident to the stocking, rotation and restocking of wine sold and delivered to such licensed retailer on or in such licensed retailer's storeroom, salesroom shelves or

refrigerating units to the marking of containers of such wine to indicate the selling price as established by the retailer and to the arranging, rearranging, or relocating of advertising displays referred to in this section. A distributor may, with the permission of the retailer and in accordance with space allocations directed by the retailer, set, remove, replace, reset or relocate all wine upon shelves of the retailer. Labor performed or schematics prepared by the distributor relating to conduct authorized pursuant to the provisions of this paragraph shall not constitute prohibited conduct.

(~~2~~3) When ~~any advertising materials~~ services, equipment, or supplies~~, illuminated signs or other property shall be furnished~~ are provided by an importer, distributor, vintner~~,~~ or winery ~~or wholesaler~~ to a retailer as permitted ~~herein~~ in subsection (2) of this section, a charge ~~therefor--or~~ for services, equipment or supplies incident to installation may, upon request of an importer, distributor, vintner~~,~~ or winery ~~or wholesaler~~, be paid by such retailer, at a price not less than the cost thereof to the industry member providing such ~~property or~~ services, equipment or supplies.

(~~3~~4) ~~Provided, however, that a~~A licensed winery may aid or assist a licensed retail wine outlet which retails exclusively the wine product of that winery and which outlet is wholly owned and operated ~~thereby~~ by that winery.

(~~4~~5) Every violation of the provisions of this section by an importer, distributor, vintner~~,~~ or winery ~~or--wholesaler~~ in which a licensed retailer shall have actively participated shall constitute a violation on the part of such licensed retailer.

Approved March 29, 1991.

CHAPTER 160
(H.B. No. 242)

AN ACT

RELATING TO PROPERTY REIMBURSEMENT RATES PAID TO FREE-STANDING SKILLED CARE FACILITIES RENDERING CARE TO PATIENTS DETERMINED ELIGIBLE FOR MEDICAID SERVICES; AMENDING SECTION 56-108, IDAHO CODE, TO CHANGE THE FORMULA FOR DETERMINING THE PROPERTY RENTAL RATE AND TO PRESERVE EXISTING GRANDFATHERED RATES FOLLOWING CERTAIN SALES.

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

SECTION 1. That Section 56-108, Idaho Code, be, and the same is hereby amended to read as follows:

56-108. PROPERTY REIMBURSEMENT -- FACILITIES WILL BE PAID A PROPERTY RENTAL RATE, PROPERTY TAXES AND REASONABLE PROPERTY INSURANCE. The provisions of this section shall not apply to hospital-based facilities which are subject to the provisions of section 56-120, Idaho Code. The provisions of this section are applicable to all other facilities. The property rental rate includes compensation for major

movable equipment but not for minor movable equipment. However, the property rental rate for intermediate care facilities for the mentally retarded shall not include compensation for major movable equipment. The property rental rate is paid in lieu of payment for amortization, depreciation, and interest for financing the cost of land and depreciable assets. However, reimbursement for the cost of major movable equipment for intermediate care facilities for the mentally retarded shall be excluded from the property rental rate and shall be reimbursed according to other provisions of this chapter and to provisions of health insurance manual 15 as promulgated by the U.S. department of health and human services. Prior to final audit, the director shall determine an interim rate that approximates the property rental rate. The property rental rate shall be determined as follows:

(1) Except as determined pursuant to this section and as modified by section 56-109, Idaho Code:

Property rental rate = ("Property base") x ("Change in building costs") x $\frac{(40 - \text{"Age of facility"})}{40}$

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. However, for free-standing skilled care facilities "change in building costs" = 1.145 from July 1, 1991, through December 31, 1991. Thereafter, change in building costs for free-standing skilled care facilities will be adjusted 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 as published by the Marshall Swift Valuation Service or the consumer price index for renter's costs available in September of the prior year, whichever is greater.

(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. However, beginning July 1, 1991, for free-standing skilled care facilities, "age of facility" will be a revised age which is the lesser of the age established under other provisions of this section or the age which most closely yields the rate allowable to existing facilities as of June 30, 1991, under subsection (1) of

this section. This revised age shall not increase over time.

(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 sub-

section (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~~ as provided in subsection (1) of this section, except under the conditions of paragraph (b) of this subsection or except in the event of the first sale for a free-standing skilled care facility receiving a grandfathered rate after June 30, 1991, whereupon the new owner shall receive the same rate that the seller would have received at any given point in time.

(b) In the event of a forced sale of a facility where the seller has been receiving a grandfathered rate, the buyer will receive a rate based upon his incurred property costs, exclusive of taxes and insurance, for the twelve (12) months following the sale, divided by the facility's total patient days for that period, or the property rental rate, not modified by section 56-109, Idaho Code, whichever is higher, but not exceeding the rate that would be due the seller.

Approved March 29, 1991.

CHAPTER 161
(H.B. No. 243)

AN ACT

RELATING TO MOTOR VEHICLE REGISTRATION FEES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-402B, IDAHO CODE, TO PROVIDE FOR AN EXEMPTION FROM REGISTRATION FEES FOR MILITARY MEMBERS SERVING IN THE PERSIAN GULF; DECLARING AN EMERGENCY; AND PROVIDING AN EXPIRATION DATE.

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

SECTION 1. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-402B, Idaho Code, and to read as follows:

49-402B. REGISTRATION FEES -- DESERT SHIELD AND DESERT STORM MILITARY PERSONNEL. (1) Any person who is or was on active duty in the military services and who is or was deployed to the Persian Gulf in support of operation desert shield or desert storm shall be entitled to an exemption from the registration fee, plate fee, emergency medical services fee and county administrative fee imposed in sections 49-402(1), 49-450, 49-452 and 31-870, Idaho Code, respectively. This exemption shall be applicable to one (1) motor vehicle for a period of one (1) year, subject to the following conditions:

(a) The military member is an Idaho resident deployed to the Persian Gulf from any Idaho national guard unit, armed forces reserve unit, military installation or military assignment worldwide.

(b) The military member is not an Idaho resident but was assigned to and deployed from a military installation in Idaho for service in the Persian Gulf and is entitled to an exemption from registration fees upon application for renewal of registration for a vehicle which is currently registered in Idaho.

(2) The exemption may be used by the military member upon his return from the Persian Gulf or it may be used by the spouse of the military member while the military member is on duty.

(3) The person applying for the exemption shall present a copy of a military order or other document acceptable to the department verifying such military service.

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.

SECTION 3. The provisions of this section shall expire on December 31 of the second year following declaration of the end of hostilities in the Persian Gulf.

Approved March 29, 1991.

CHAPTER 162
(H.B. No. 250)

AN ACT

RELATING TO THE COUNTY OPTION KITCHEN AND TABLE WINE ACT; REPEALING SECTION 23-1336, IDAHO CODE; AND AMENDING CHAPTER 13, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1336, IDAHO CODE, TO ALLOW WINE TO BE DONATED FOR BENEVOLENT, CHARITABLE OR PUBLIC PURPOSES.

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

SECTION 1. That Section 23-1336, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 13, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-1336, Idaho Code, and to read as follows:

23-1336. WINE DONATED TO PERSONS OR ASSOCIATIONS FOR BENEVOLENT, CHARITABLE OR PUBLIC PURPOSES. In the event that wine has been provided to a person or association which desires to dispense or sell such wine and to donate the proceeds from the sale or dispensing thereof for benevolent, charitable or public purposes, the director may issue a permit authorizing such sale or dispensing of wine by such person or association if the director is satisfied that said proceeds, after deducting reasonable expenses incurred in conjunction with the sale or dispensing thereof, will be donated for such benevolent, charitable or public purpose. The director shall prescribe the form of the application for such permit, which application may require disclosure of names of sponsors; donors, quantities and types of wine products donated; the retailer, if any, designated by such person or association to receive, store or dispense donated wine; the dates and hours during which the permit is to be effective, not to exceed three (3) consecutive days; and such other information as the director may require. The director shall collect a twenty dollar ($20.00) fee for the event for which the permit is to be effective. The director may require that the applicant submit a report to the director after the benevolent, charitable or public purpose event showing the disposition of funds from the event. Should the director determine that the applicant or its representatives is violating, or has in the past violated, any law pertaining to the dispensing or sale of wine by a licensed retailer relating to hours of sale, or relating to dispensing wine to underaged persons, or has failed in the past to submit such information as may have been requested by the director, such permit may be summarily suspended by the director, prior to hearing, or may be denied pending a hearing. A licensed retailer may, on behalf of the permittee, receive or store wine to be used at the event, and may dispense such wine to attendees of the benevolent, charitable or public purpose event for which the permit has been issued.

Approved March 29, 1991.

CHAPTER 163
(H.B. No. 251)

AN ACT

RELATING TO COOPERATIVE MARKETING ASSOCIATIONS; AMENDING SECTION 22-2610, IDAHO CODE, TO PERMIT DISTRIBUTION OF PATRON CHECKS,

DRAFTS, CAPITAL RESERVES OR EQUITIES CALLED FOR REVOLVING AND UNCLAIMED FOR FIVE YEARS AND ONE MONTH, TO SURPLUS OR AN EDUCATIONAL FUND, AND TO CORRECT A TYPOGRAPHICAL ERROR.

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

SECTION 1. That Section 22-2610, Idaho Code, be, and the same is hereby amended to read as follows:

22-2610. BYLAWS -- ADOPTION -- CONTENTS -- AMENDMENT. Each association incorporated under this chapter must, within thirty (30) days after its incorporation, adopt for its government and management, a code of bylaws, not inconsistent with the powers granted by this chapter. A majority vote of the members or stockholders, or their written assent, is necessary to adopt such bylaws. Each association under its bylaws may, also, provide for any or all of the following matters:

a. The time, place and manner of calling and conducting its meetings.

b. The number of stockholders or members constituting a quorum.

c. The right of members or stockholders to vote by proxy or by mail or by both, and the conditions, manner, form, and effects of such votes.

d. The number of directors thereof, which must not be less than five (5) and may be any number in excess thereof, the term of office of such directors and the number of directors constituting a quorum.

e. The qualifications, compensation and duties and term of office of directors and officers; time of their election and the mode and manner of giving notice thereof.

f. Penalties for violations of the bylaws.

g. The amount of entrance, organization and membership fees, if any; the manner and method of collection of the same, and the purposes for which they may be used.

h. The amount which each member or stockholder shall be required to pay annually or from time to time, if at all, to carry on the business of the association; the charge, if any, to be paid by each member or stockholder for services rendered by the association to him and the time of payment and the manner of collection; and the marketing contract between the association and its members or stockholders which every member or stockholder may be required to sign.

i. The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock; the method, time and manner of permitting members to withdraw or the holders of common stock to transfer their stock; the manner of assignment and transfer of the interest of members, and of the shares of common stock; the conditions upon which, and time when membership of any member shall cease. The automatic suspension of the rights of a member when he ceases to be eligible to membership in the association, and mode, manner and effect of the expulsion of the member; manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or stockholder, or upon the expulsion of a member of forfeiture of his membership, or, at the option of the association, by conclusive appraisal by the board of directors. In case of the with-

drawal or expulsion of a member the board of directors shall make certain that the capital furnished by such terminated member is correctly recorded on the books of the corporation in direct relationship to his patronage and such terminated member shall be notified of such interest by payment in money or issuance of stock in the association or issuance of such other evidence of the capital interest as the bylaws of the association may permit or any combination of the foregoing; within one (1) year after such expulsion or withdrawal.

This act is intended to permit the association to establish and accumulate reasonable reserves and surplus funds and to abolish the same; also to create, maintain, and terminate revolving funds or other similar funds; to utilize a revolving fund method of financing, or such other methods as may be prudent and compatible with agricultural cooperative organizations; in the manner as provided for in the bylaws of the association.

The interest of an existing or former member in the association's capital reserve or equity accounts is an equity interest and not a debt, and is revolvable in the manner defined in the bylaws and subject to the restrictions defined therein. The issuance of ~~noticers~~ notices of allocation and/or of equity reserve balances, or any other form sufficient to place the existing or former member on notice of his equity interest in the association shall satisfy the recording, appraisal, notification and/or payment requirement hereinabove set forth or as set forth in the bylaws. Revolving of capital reserve or equity accounts shall be at the discretion of the board of directors and the bylaws may specifically so provide.

Non-equity obligations will be paid according to their terms.

Obligations such as checks or drafts issued by the association to the patron, credits in a capital reserve or equity account called for revolving by the board of directors of the association, remaining uncashed or unclaimed at the expiration of the period of five (5) years after the issuance, call for payment, or stated maturity date thereof, shall be deemed, if authorized by the bylaws and at the direction of the board of directors, transferred, as a contribution, to the capital fund of the association, this being an exception to chapter 5, title 14, Idaho Code.

The bylaws of any association incorporated under this chapter may be altered or amended at any regular meeting or at any special meeting of the members or stockholders thereof called for that purpose by the affirmative vote of two-thirds (2/3) of the members or stockholders present at such meeting: provided, that a quorum as specified in the bylaws of the association be present: and, provided further, that where the bylaws of said association authorize voting by mail and a mail vote pursuant to such bylaws is taken on the question of altering or amending such bylaws, the affirmative vote of a majority of all members or stockholders voting on such question shall be required.

Approved March 29, 1991.

CHAPTER 164
(H.B. No. 253)

AN ACT

RELATING TO PUBLIC WORKS; AMENDING SECTION 67-5711, IDAHO CODE, TO PROVIDE PROPER REFERENCES AND NOMENCLATURE; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5711C, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR ADVERTISING AND BIDDING PUBLIC WORKS, AND TO PROVIDE A METHOD OF PERFORMING PUBLIC WORKS COSTING LESS THAN THE LIMIT ESTABLISHED IN SECTION 67-5711, IDAHO CODE.

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

SECTION 1. That Section 67-5711, Idaho Code, be, and the same is hereby amended to read as follows:

67-5711. CONSTRUCTION, ALTERATION, EQUIPPING, FURNISHING AND REPAIR OF PUBLIC BUILDINGS AND WORKS. The director of the department of administration, or his designee, of the state of Idaho, is authorized and empowered, subject to the approval of the permanent building fund advisory council, to provide or secure all plans and specifications for, to let all contracts for, and to have charge of and supervision of the construction, alteration, equipping and furnishing and repair of any and all buildings, improvements of public works of the state of Idaho, the cost of which construction, alteration, equipping and furnishing or repair exceeds the sum of five thousand dollars ($5,000) provided, that the director or his designee, and permanent building fund advisory council shall, in the letting of contracts under this section, comply with the procedure for the calling of bids provided in section 67-5718~~1~~C, Idaho Code; provided, however, that this section shall not apply to the construction, alteration, equipping or furnishing or repair of public buildings under the jurisdiction and control of the board of regents of the University of Idaho; provided further, that public works for the Idaho transportation department, the department of fish and game, and the department of parks and recreation, except for administrative office buildings and all associated improvements, are exempt from the provisions of this section that relate to the administration and review of such projects by the director of the department of administration or his designee and by the permanent building fund advisory council. This exemption shall not relieve the Idaho transportation department, the department of fish and game, and the department of parks and recreation, in the letting of contracts for public works, from complying with the procedures of section 67-5718~~1~~C, Idaho Code, related to the advertising and bidding for contracts. The permanent building fund council may adopt rules and regulations consistent with existing law including rules and regulations for a program of inspection and preventive maintenance, to carry out the provisions of this act.

SECTION 2. That Chapter 57, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 67-5711C, Idaho Code, and to read as follows:

67-5711C. CONSTRUCTION OF PUBLIC PROJECTS -- COMPETITIVE SEALED BIDDING. (1) All construction contracts for public works shall be awarded by competitive sealed bidding except as otherwise provided in sections 67-5713 and 67-5711B, Idaho Code.

(2) An invitation for bids shall be issued and shall include a project description and all contractual terms and conditions applicable to the public works.

(3) Adequate public notice of the invitation for bids shall be given at least fourteen (14) days prior to the date set forth therein for the opening of bids. Such notice may include publication at least fourteen (14) days prior to bid opening in a newspaper of general circulation in the area where the work is located.

(4) Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as may be specified by rules, together with the name of each bidder, shall be entered on a record and the record shall be open to public inspection. After the time of the award all bids and bid documents shall be open to public inspection in accordance with the provisions of sections 9-337 through 9-347 and 67-5725, Idaho Code.

(5) With respect to a project having a written cost estimate of greater than two thousand five hundred dollars ($2,500) but less than the public works limit established in section 67-5711, Idaho Code, the agency, if it does not perform the work with existing physical plant staff, must award a written contract to the low responsible bidder after soliciting at least three (3) documented informal bids from contractors licensed in Idaho to perform public works contracts, if reasonably available. Adequate public notice of the invitation for informal bids shall be given at least seven (7) days prior to the date set forth therein for the receipt of the informal bids. Such notice may include publication at least seven (7) days prior to bid opening in a newspaper of general circulation in the area where the work is located; or the agency may advertise the invitation for bids in appropriate trade journals, and otherwise notify persons believed to be interested in the award of a contract. Informal bids must be submitted by the contractor in writing in response to a prepared written document describing the project's scope of work in sufficient detail so as to enable a contractor familiar with such work to prepare a responsible bid. Nothing herein exempts an agency from the responsibility of utilizing formal plans and specifications if the work involves the public health or safety as described in chapters 3 and 12, title 54, Idaho Code. The agency must document receipt of the informal bids in the project file.

Approved March 29, 1991.

CHAPTER 165
(H.B. No. 264)

AN ACT

RELATING TO EXECUTION AND GARNISHMENT; AMENDING SECTION 8-507, IDAHO CODE, TO PROVIDE FOR SERVICE BY THE SHERIFF OF DOCUMENTS PERTAINING TO CLAIMS OF EXEMPTION UPON EXECUTION, ATTACHMENT OR GARNISHMENT; AMENDING CHAPTER 5, TITLE 8, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 8-507A, IDAHO CODE, TO PROVIDE FOR SERVICE BY THE SHERIFF OF THE WRIT AND CLAIM OF EXEMPTION DOCUMENTS UPON THE DEFENDANT AND THIRD PARTIES; AMENDING CHAPTER 5, TITLE 8, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 8-507B, IDAHO CODE, TO PROVIDE FOR SERVICE BY A GARNISHEE BANK OR DEPOSITORY INSTITUTION OF THE WRIT AND CLAIM OF EXEMPTION DOCUMENTS UPON THE DEFENDANT AND THIRD PARTIES; AMENDING CHAPTER 5, TITLE 8, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 8-507C, IDAHO CODE, TO SET OUT THE FORMS TO BE USED FOR THE NOTICE OF EXEMPTIONS, INSTRUCTIONS TO DEBTORS AND THIRD PARTIES, AND THE CLAIM OF EXEMPTION, AND TO REQUIRE THEIR AVAILABILITY IN SPANISH TRANSLATION IN SHERIFFS' OFFICES; AMENDING CHAPTER 5, TITLE 8, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 8-507D, IDAHO CODE, TO REQUIRE DOCUMENTS TO BE PROVIDED TO THE SHERIFF BY THE PLAINTIFF, TO SPECIFY DUTIES OF THE SHERIFF AND TO SPECIFY PERSONAL SERVICE AND MAILING CRITERIA AND THE COMPUTATION OF TIME PERIODS; AMENDING SECTION 8-509, IDAHO CODE, TO PROVIDE CLARIFYING LANGUAGE; AMENDING SECTION 8-527, IDAHO CODE, TO REQUIRE THAT THE RULES FOR MAKING EXEMPTION AND THIRD PARTY CLAIMS BE APPLIED TO ANY ATTACHMENT, GARNISHMENT OR EXECUTION; AMENDING SECTION 8-540, IDAHO CODE, TO PROVIDE THE TIME FOR HEARING ON A MOTION TO CONTEST A CLAIM OF EXEMPTION OR THIRD PARTY CLAIM; REPEALING SECTION 11-203, IDAHO CODE; AMENDING CHAPTER 2, TITLE 11, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 11-203, IDAHO CODE, TO PROVIDE PROCEDURES FOR MAKING A CLAIM OF EXEMPTION OR THIRD PARTY CLAIM, TO PROVIDE FOR GIVING NOTICE OF THE CLAIM TO THE PLAINTIFF, TO PROVIDE PROCEDURES FOR CONTESTING THE CLAIM, TO PROVIDE FOR HEARING ON THE MOTION TO CONTEST, TO REQUIRE THAT THE SHERIFF HOLD PROPERTY LEVIED UPON UNTIL THE TIME FOR FILING A CLAIM HAS LAPSED AND TO PROVIDE FOR RELEASE OF THE PROPERTY, TO PROHIBIT PLAINTIFF'S RECOVERY OF SUBSEQUENT COLLECTION COSTS IF THE PLAINTIFF LEVIES UPON PROPERTY AFTER FAILING TO OPPOSE A CLAIM OF EXEMPTION OR AFTER THE PROPERTY IS DECLARED TO BE EXEMPT, TO PROVIDE FOR THE RELEASE OF PROPERTY IF A SECURITY AGREEMENT EXECUTED BY THE DEFENDANT-DEBTOR TO A THIRD PARTY CLAIMANT IS IN DEFAULT, AND TO SPECIFY SERVICE AND MAILING CRITERIA AND RULES FOR COMPUTING TIME PERIODS; AMENDING SECTION 11-608, IDAHO CODE, TO PROVIDE A STATUTORY REFERENCE; AND AMENDING SECTION 11-301, IDAHO CODE, TO PROVIDE THAT SECTIONS 8-507 THROUGH 8-507D, IDAHO CODE, SHALL APPLY TO A LEVY UPON PERSONAL PROPERTY.

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

SECTION 1. That Section 8-507, Idaho Code, be, and the same is hereby amended to read as follows:

8-507. GARNISHMENT -- SERVICE OF WRIT OF ATTACHMENT, EXECUTION, OR GARNISHMENT -- BANKS. (a) Upon receiving ~~information in writing~~ written directions from the plaintiff or his attorney, that any person or corporation, public or private, has in his or its possession or control, any credits or other personal property belonging to the defendant, or is owing any debt to the defendant, the sheriff ~~must~~ shall serve upon any such person, or corporation~~,~~ identified in the plaintiff's written directions all of the following documents:

(1) a copy of the writ~~, and~~;

(2) a notice that such credits, or other property, or debts, as the case may be, are attached in pursuance of such writ;

(3) a notice of exemptions available under federal and state law;

(4) instructions to debtors and third parties for asserting a claim of exemption; and

(5) a form for making a claim of exemption.

The documents specified in paragraphs (3) through (5) of this subsection shall be in a form substantially similar to the form provided in section 8-507C, Idaho Code.

(b) ~~Provided, that i~~In case of service upon a corporation the same may be had by delivering a copy of the papers to be served, if upon a private corporation, to any officer or agent thereof, and if upon a public or municipal corporation, to the mayor, president of the council or board of trustees, or any presiding officer, or to the secretary or clerk thereof. Provided, further, that no service of any writ of attachment, nor of execution, nor any garnishment, shall be made under this ~~or the preceding~~ section, or otherwise, on any banking or trust corporation operating branch banks or more than one office where deposits are received, except by delivery of copies of the writs, notices and/or other papers required ~~in other cases~~, to one of the officers or managing agents of such corporation employed in and at, and in charge of some particular office or branch of said corporation, and being so made, such writ or garnishment shall be valid and effective only as to moneys to the defendant's credit in that particular office or branch and as to other personal property belonging to the defendant held in the possession or control of the officers or managing agents of said corporation employed in and at, and in charge of such office or branch.

(c) The provisions of this section and sections 8-507A through 8-507D, Idaho Code, shall apply to any levy by execution pursuant to chapters 2 and 3, title 11, Idaho Code.

SECTION 2. That Chapter 5, Title 8, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 8-507A, Idaho Code, and to read as follows:

8-507A. SERVICE ON DEFENDANT AND THIRD PARTIES BY SHERIFF. Within two (2) business days after service of the writ and other documents as provided in section 8-507, Idaho Code, or if service is upon a bank or other depository institution, within one (1) business day, the sheriff shall hand deliver or mail to the defendant and any third party named in plaintiff's written directions as a co-owner or having an interest in the property or money to be levied upon, one (1) copy of all the

documents specified in subsection (a) of section 8-507, Idaho Code. The plaintiff shall identify in the plaintiff's written directions the last known mailing address of the defendant and any third party to be served. The sheriff shall indicate on the return of the writ filed with the court the date and manner of service upon the defendant and any third party and shall indicate the documents served.

If at the time of service of the writ the sheriff receives written answer from the garnishee stating that it has no money or other personal property belonging or owing to the defendant, compliance with the provisions of this section shall not be required.

SECTION 3. That Chapter 5, Title 8, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 8-507B, Idaho Code, and to read as follows:

8-507B. SERVICE ON DEFENDANT AND THIRD PARTIES BY BANK OR DEPOSITORY INSTITUTION. If the writ and notice of garnishment are served upon a bank or other depository institution holding money or accounts belonging to the defendant, the garnishee shall within one (1) business day after such service, mail or hand deliver a copy of all documents served upon it by the sheriff:

(a) To the defendant at the address to which account statements or other pertinent account documentation are normally sent, or if the money is not in an account, to the last known address of the defendant shown upon the records of the garnishee at the time of service upon it of the writ; and

(b) To any other person shown upon the records of the garnishee as a co-owner or having an interest in the money or accounts garnished at the last known address of the third party shown upon the records of the garnishee at the time of service upon it of the writ.

The bank or depository institution shall be entitled to deduct a single fee of not to exceed ten dollars ($10.00) from the money transferred to the sheriff pursuant to the garnishment to cover the costs associated with the processing and service of the documents. The fee herein provided shall be the only fee to which the bank or depository institution is entitled regardless of the number of parties to which documents are sent. Upon being notified by the sheriff that money transferred pursuant to the garnishment has been released as a result of a court determination that the money is exempt or a failure by the plaintiff to contest the claim of exemption, the garnishee shall recredit the fee to the defendant's account or reimburse the defendant therefor and the plaintiff shall reimburse the garnishee for the fee.

The garnishee shall indicate in the answer to interrogatories as provided in section 8-511, Idaho Code, the date and manner of service of the documents upon the defendant and any third party as herein required but shall not be required to disclose the names or addresses of any third party served.

The garnishee shall only be required to serve on the defendant and any third party copies of those documents served upon it by the sheriff.

SECTION 4. That Chapter 5, Title 8, Idaho Code, be, and the same

is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 8-507C, Idaho Code, and to read as follows:

8-507C. FORMS. The notice of exemptions, instructions to debtors and third parties, and the claim of exemption shall be in a form substantially similar to the form hereinafter provided. The forms shall be made available in English and Spanish language translations in the offices of each county sheriff. Notice, written in Spanish, of the availability of these documents in spanish translation shall be set forth on the notice of exemptions.

IMPORTANT LEGAL NOTICE/NOTICIA LEGAL IMPORTANTE

MONEY/PERSONAL PROPERTY BELONGING TO YOU MAY HAVE BEEN TAKEN OR HELD IN ORDER TO SATISFY A COURT JUDGMENT. YOU MAY BE ABLE TO GET YOUR MONEY/PROPERTY BACK SO READ THIS NOTICE CAREFULLY.

SI SOLAMENTE HABLA ESPANOL PUEDE OBTENER UNA FORMA EN ESPANOL EN EL DEPARTAMENTO DEL SHERIFE.

The enclosed writ of execution and/or notice of garnishment has directed the sheriff to take custody by levying on your money and/or personal property in order to satisfy a court judgment.

The sheriff has levied on your money and/or personal property. You have FOURTEEN (14) DAYS after the date of mailing or personal service of these documents to file a claim of exemption with the sheriff. An exemption from levy entitles you to obtain the release of your money and personal property.

The following is a partial list of money and personal property that may be exempt from levy. EXEMPTIONS ARE PROVIDED BY IDAHO AND FEDERAL LAW AND CAN BE FOUND IN THE IDAHO CODE AND IN THE UNITED STATES CODE. MOST OF THE EXEMPTIONS PROVIDED BY THE STATE ARE CONTAINED IN CHAPTER 6, TITLE 11, IDAHO CODE. GOVERNMENTAL BENEFITS SUCH AS SOCIAL SECURITY, SSI, VETERANS, RAILROAD RETIREMENT, MILITARY, AND WELFARE ARE EXEMPT FROM LEVY IN MOST CASES UNDER FEDERAL LAW.

This list may not be complete and may not include all exemptions that apply in your case because of periodic changes in the law. Additionally, some of the exemptions may not apply in full or under all circumstances. There may be special requirements for child support. You or your attorney should read the exemption statutes which apply to you.

If you believe the money or personal property that are being levied upon are exempt, you should immediately file a claim of exemption. If you fail to make a timely claim of exemp-

tion, the sheriff will release money to the plaintiff, or the property may be sold at an execution sale, perhaps at a price substantially below its value, and you may have to bring further court action to recover the money and property.

The sheriff cannot give you legal advice. Therefore, if you have any questions concerning your rights in this action, you should consult an attorney as soon as possible. You may contact the nearest office of Idaho legal aid services, inc. to inquire if you are eligible for their assistance.

SOME EXEMPTIONS TO WHICH YOU MAY BE ENTITLED

Type of Money and Property

1. Alimony, support, maintenance (money or property)
2. Appliances (household) ($500 per item, up to $4,000 gross)
3. Annuity contract payments
4. Bodily injury and wrongful death awards*
5. Books (professional) up to $1,000
6. Burial plots
7. Child support payments*
8. Disability or illness benefits*
9. Furnishings (household) ($500 per item, up to $4,000 gross)
10. Health aids
11. Homestead, house, mobile home, and related structures
12. Jewelry (up to $250)
13. Life insurance benefits payable to spouse or dependent*
14. Medical and/or hospital benefits
15. Military retirement and survivors benefits
16. Motor vehicle: car, truck, motorcycle with a value of up to $1500 per person
17. Pension: stock bonus, profit sharing annuity, or similar plans
18. Personal property: ($500 per item, up to $4,000 gross) (furnishings, appliances, one firearm, pets, musical instruments, books, clothes, family portraits and heirlooms)
19. Public assistance: federal, state, or local including: Aid to Aged, Blind and Disabled (AABD); Aid to Dependent Children (AFDC); Aid to Permanently and Totally Disabled (APTD)
20. Public Employees Benefits including Federal Civil Service Retirement, Idaho Retirement and Disability
21. Railroad Retirement Benefits
22. Retirement, pension or profit sharing plan qualified by IRS
23. Social Security Disability and Retirement Benefits
24. SSI (Supplemental Security Insurance Benefits)
25. Tools of trade and implements up to $1,000
26. Unemployment benefits
27. Veterans benefits and insurance
28. Wages or salary:
    Consumer debts primarily for personal or household purposes: exemption is 40 times the federal minimum wage or 25% of disposable income, whichever is greater

Nonconsumer debts: exemption is 30 times the federal minimum wage or 25% of disposable income, whichever is greater

29. Worker's compensation

* To the extent reasonably necessary for support of family and if not commingled with other funds.

INSTRUCTIONS TO DEFENDANTS AND THIRD PARTIES

In order to claim an exemption from execution and garnishment under Idaho and federal law, you, the defendant, judgment debtor, or a third party, holding or known to have an interest in the money and/or personal property, must:

1. DELIVER OR MAIL A CLAIM OF EXEMPTION TO THE SHERIFF WHO LEVIED UPON YOUR MONEY AND/OR PERSONAL PROPERTY AT (SHERIFF'S STREET ADDRESS) , WITHIN FOURTEEN (14) DAYS AFTER MAILING OR PERSONAL SERVICE OF THESE INSTRUCTIONS, NOTICE OF EXEMPTIONS AND FORM FOR FILING A CLAIM OF EXEMPTION. IF YOU MAIL A CLAIM OF EXEMPTION, IT MUST BE RECEIVED BY THE SHERIFF WITHIN THE FOURTEEN (14) DAY PERIOD.

2. The sheriff has to notify the plaintiff or judgment creditor within one (1) business day, excluding weekends and holidays, that you filed a claim of exemption. The judgment creditor has five (5) business days, excluding weekends and holidays, after the date notice was provided that a claim of exemption was filed with the sheriff, to file a motion with the court contesting the claim of exemption.

3. If the judgment creditor notifies the sheriff that he will not object to the claim of exemption or does not file a motion with the court contesting the claim of exemption the sheriff will immediately return the money and/or personal property or notify the bank or depository institution to release the money and/or personal property which has been levied upon.

4. IF THE JUDGMENT CREDITOR DOES FILE A MOTION WITH THE COURT CONTESTING THE CLAIM OF EXEMPTION, YOU, THE JUDGMENT DEBTOR OR ANY INTERESTED THIRD PARTY, WILL RECEIVE A COPY OF THE MOTION AND NOTICE OF HEARING. A HEARING WILL BE HELD WITHIN NOT LESS THAN FIVE (5) NOR MORE THAN TWELVE (12) DAYS AFTER THE FILING DATE OF THE MOTION. YOU SHOULD BE PREPARED TO EXPLAIN THE GROUNDS FOR CLAIMING THE EXEMPTION IN COURT ON THE DATE AND TIME SET FOR THE HEARING. YOU SHOULD BRING WHATEVER DOCUMENTS YOU HAVE TO SUPPORT YOUR CLAIM.

5. This is a notice, not legal advice. If you have any questions concerning your rights in this action, you

should contact an attorney as soon as possible. If you are low income and cannot afford an attorney you may contact the nearest office of Idaho Legal Aid Services, Inc. to inquire if they can assist you.

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

_____,	)	
Plaintiff(s),	)	CASE NO.
vs.	)	CLAIM OF EXEMPTION
_____,	)	
Defendant(s).	)	
_____	)	

I, _____, state the following is true and correct:

1. I claim an exemption from levy for the following described money and/or property:

a. If bank or depository institution is garnished, the account contains funds which are:

___ federal or state benefits from _____
___ proceeds from _____
___ reasonably necessary for the support of myself and dependents because _____
_____

b. If other money and/or property, describe: _____
_____
_____
_____
_____
_____

_____
Defendant or
Representative

SECTION 5. That Chapter 5, Title 8, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 8-507D, Idaho Code, and to read as follows:

8-507D. DOCUMENTS TO BE PROVIDED BY PLAINTIFF -- DUTIES OF SHERIFF -- SERVICE AND MAILING CRITERIA -- TIME COMPUTATION. With respect to any attachment, garnishment or execution, the plaintiff shall provide the sheriff with sufficient copies of the writ and other documents required to be served for service on the defendant and each additional party identified in the plaintiff's written directions and shall provide an envelope addressed to each person required to be served. If the documents are to be mailed, proper postage shall be

affixed. The sheriff shall not delay service for lack of sufficient copies or postage and shall make any additional copies and affix any additional postage necessary. The sheriff may charge the plaintiff for the actual costs of any additional copies and postage required, which costs shall be in addition to the fees permitted under section 31-3203, Idaho Code.

Personal service shall be accomplished in the same manner provided for service of summons under the Idaho rules of civil procedure. Mailing shall be by first class mail. Unless otherwise provided to the contrary, the date when an item is deposited in the United States mails shall constitute the date of mailing and service where service by mail is permitted. In computing any period of time within which an act is to be accomplished, the day of the act after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it falls on a weekend or legal holiday, in which event the period runs until the close of business of the first business day after the weekend or holiday, except that this provision shall not extend the time within which hearing on a motion to contest a claim of exemption or third party claim must be set as provided in section 8-540, Idaho Code, and section 11-203, Idaho Code.

The sheriff shall not be required to investigate or assure the accuracy and completeness of the addresses of the parties to be served or any other information provided by the plaintiff.

SECTION 6. That Section 8-509, Idaho Code, be, and the same is hereby amended to read as follows:

8-509. EXAMINATION OF GARNISHEE. (a) Any person owing debts to the defendant, or having in his possession or under his control, any credits or other personal property belonging to the defendant, may be required to attend before the court or judge, or a referee appointed by the court or judge, and be examined on oath respecting the same. If the garnishee be a corporation the officer or agent thereof having knowledge of the fact sought to be established may be required to attend and give evidence thereof. The defendant may also be required to attend for the purpose of giving information respecting his property and may be examined on oath. The court or judge may, after such examination, order personal property capable of manual delivery to be delivered to the sheriff on such terms as may be just, having reference to any liens or claims against the same, and a memorandum to be given of all other personal property, containing the amount and description thereof.

(b) When the garnishee is the employer of the judgment debtor, the judgment creditor, upon application to the court, shall have issued by the clerk of court, a continuing garnishment directing the employer-garnishee to pay to the sheriff such future moneys coming due to the judgment debtor as may come due to said judgment debtor as a result of the judgment debtor's employment. This continuing garnishment shall continue in force and effect until the judgment is satisfied. The creditor shall be solely responsible for insuring that the amounts garnished do not exceed the amount due on the judgment. If additional garnishments are issued during the term of a continuing

garnishment and the continuing garnishment is the maximum allowed under the provisions of section 11-207, Idaho Code, the additional garnishments cannot be ~~effected~~ served until the continuing garnishment is satisfied, or until the amount taken by the continuing garnishment is less than the maximum allowed; additional garnishments issued during the term of a continuing garnishment must be ~~executed~~ served in the order in which presented.

SECTION 7. That Section 8-527, Idaho Code, be, and the same is hereby amended to read as follows:

8-527. CLAIM OF PROPERTY BY THIRD PERSON OR AS EXEMPT. If any personal property attached, garnished or executed upon be claimed by a third person as his property, or by the defendant as exempt property, the same rules shall prevail as to the contents and making of said claim, and as to the holding of said property, as in the case of a claim after levy upon execution, as provided in section 11-203, Idaho Code.

SECTION 8. That Section 8-540, Idaho Code, be, and the same is hereby amended to read as follows:

8-540. EARLY SETTING. In all proceedings brought under this chapter, all courts in which such actions are pending, shall, upon request of any party thereto, give such actions precedence over all other civil actions, except action to which special precedence is otherwise given by law, in the matter of setting the same for hearing or trial, or in hearing or trial thereof, to the end that all such actions shall be quickly heard and determined; provided, however, that hearing upon a motion to contest a claim of exemption or third party claim as provided in section 11-203, Idaho Code, shall be set for a date within not less than five (5) nor more than twelve (12) days after the filing of the motion and such hearing may be continued only at the request of the defendant.

SECTION 9. That Section 11-203, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Chapter 2, Title 11, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 11-203, Idaho Code, and to read as follows:

11-203. CLAIM OF EXEMPTION BY DEFENDANT OR THIRD PARTY CLAIM -- MOTION TO CONTEST CLAIM AND HEARING -- HOLDING AND RELEASE OF PROPERTY BY SHERIFF. The following procedures shall apply to a claim by the defendant or the defendant's representative that property levied upon is exempt and to any claim by a third party that property levied upon is his property or that he has a security interest therein. The defendant or the defendant's representative shall complete the claim of exemption form as provided in section 8-507C, Idaho Code. A third party claimant shall prepare a written claim setting forth the grounds upon which he claims the property, and in the case of a secured party,

also stating the dollar amount of the claim. A claim of exemption or third party claim may be filed only if property has been levied upon.

(a) The claim of exemption or third party claim shall be delivered or mailed to the sheriff within fourteen (14) days after the date the sheriff hand delivers or mails the documents required to be served upon the defendant and third parties under section 8-507A, Idaho Code. If the claim is mailed, it must be received by the sheriff within the fourteen (14) day period. In computing the fourteen (14) day period, intervening weekends and legal holidays shall be counted, but if the last day of the period falls on a weekend or legal holiday, the period shall be deemed to run until the close of business of the first business day following the weekend or holiday.

Within one (1) business day after receiving a claim, the sheriff shall deliver or mail a copy thereof to the plaintiff or other person in whose favor the writ of execution runs. The sheriff may provide notification of the claim by telephone but must also mail a copy of the claim within one (1) business day as herein provided.

(b) The plaintiff or other person in whose favor the writ of execution runs shall have five (5) business days after the date a copy of the claim is delivered or mailed to him by the sheriff within which to file a motion with the court stating the grounds upon which he contests the claim of exemption or third party claim. When the motion is filed, the plaintiff shall lodge with the court a copy of the claim to which the motion pertains. Hearing on the motion shall be set for a date within not less than five (5) nor more than twelve (12) days after the filing date of the motion and may be continued only at the request of the defendant. A copy of the motion and notice of hearing shall be delivered or mailed to the defendant or third party claimant on the date the motion is filed. The prevailing party at the hearing may be awarded costs pursuant to the Idaho rules of civil procedure.

Within the period for filing a motion to contest, the moving party shall notify the sheriff that the motion has been filed. Such notification may be by telephone but a copy of the motion and notice of hearing shall also be mailed or hand delivered to the sheriff within the filing period herein prescribed.

(c) The sheriff shall not deliver to the plaintiff or sell the property levied upon, except if perishable as provided by law, until the period for filing a claim has elapsed. The sheriff shall refuse to accept or honor a claim not filed with him within that period and unless otherwise ordered by the court, shall, after such period has elapsed, proceed to sell or deliver the property levied upon to the plaintiff or other person in whose favor the execution runs. If, after notice from the sheriff of the filing of a claim, the plaintiff or other person in whose favor the execution runs, notifies the sheriff that the claim will be uncontested or fails to notify the sheriff within the time provided in subsection (b) of this section that the claim is being contested, the sheriff shall release the claimed property to the defendant or his agent.

(d) If a plaintiff or other person in whose favor the execution runs has failed to contest a claim of exemption within the time allowed by this section or if property has been determined by a court to be exempt, and the plaintiff or other person in whose favor the execution runs thereafter levies upon or otherwise seeks to apply the

property toward the satisfaction of the same money judgment, the plaintiff or other person in whose favor the execution runs is not entitled to recover the subsequent costs of collection unless the property is applied to satisfaction of the judgment.

(e) If a security agreement to the third party claimant is in default, rendering said claimant the legal right to possession, the claimant may file with the sheriff an affidavit of release to the claimant executed by the defendant-debtor, or his agent; or, in lieu of said affidavit of release, the third party claimant may file an affidavit setting forth the defendant-debtor's default and claiming possession under default and a hold harmless agreement in favor of the sheriff, supported by an undertaking qualifying in the state of Idaho, indemnifying the sheriff and said defendant-debtor in double the actual value of the property as stated in said third party claim. Upon receipt of either of the foregoing, the sheriff shall release said property to the third party claimant, taking receipt therefor; these proceedings to be reported to the court by sheriff's return in the action.

(f) Nothing in this section shall be construed to prevent the defendant from pursuing his common law remedies.

(g) Personal service shall be accomplished in the same manner provided for service of summons under the Idaho rules of civil procedure. Mailing shall be by first class mail. The date when an item is deposited in the United States mails shall constitute the date of mailing. In computing any period of time prescribed in this section, the day of the act or event after which the designated period of time begins to run is not to be included.

SECTION 11. That Section 11-608, Idaho Code, be, and the same is hereby amended to read as follows:

11-608. CLAIM OF EXEMPTION. Any person entitled to an exemption under this chapter may claim such exemption ~~within seven (7) days after attachment or levy upon the property sought to be claimed as exempt~~ <u>in the manner provided in section 11-203, Idaho Code.</u>

SECTION 12. That Section 11-301, Idaho Code, be, and the same is hereby amended to read as follows:

11-301. EXECUTION OF WRIT. The sheriff must execute the writ against the property of the judgment debtor by levying on a sufficient amount of property if there be sufficient; collecting or selling the things in action, and selling the other property, and paying to the plaintiff or his attorney so much of the proceeds as will satisfy the judgment. Any excess in the proceeds over the judgment and accruing costs must be returned to the judgment debtor unless otherwise directed by the judgment or order of the court. When there is more property of the judgment debtor than is sufficient to satisfy the judgment and accruing costs within the view of the sheriff, he must levy only on such part of the property as the judgment debtor may indicate, if the property indicated be amply sufficient to satisfy the judgment and costs.

<u>The provisions of sections 8-507 through 8-507D, Idaho Code, shall</u>

apply to a levy upon personal property.

Approved March 29, 1991.

CHAPTER 166
(H.B. No. 267)

AN ACT
RELATING TO THE COMMISSION OF PARDONS AND PAROLE; AMENDING SECTION 20-210, IDAHO CODE, TO INCREASE THE COMPENSATION FOR COMMISSIONERS OF THE COMMISSION OF PARDONS AND PAROLE.

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

SECTION 1. That Section 20-210, Idaho Code, be, and the same is hereby amended to read as follows:

20-210. COMMISSION OF PARDONS AND PAROLE -- APPOINTMENT -- QUALIFICATIONS -- TERMS -- SALARY -- STAFF. The board shall appoint a state commission of pardons and parole, each member of which shall be subject to the advice and consent of the senate, in this chapter referred to as the commission, which shall succeed to and have all rights, powers and authority of said board of pardons as are granted and provided by the provisions of the constitution of the state of Idaho.

The commission shall be composed of five (5) members, with due regard for their experience, knowledge and interest in sociology, psychology, rehabilitative services and similar pertinent disciplines. The members shall serve at the pleasure of the board and not more than three (3) members shall be from any one (1) political party.

The members of the commission, each year, shall select a chairman and vice-chairman.

The members of the commission shall be appointed for the purposes of organization as follows: One (1) member is to be appointed for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years and one (1) for five (5) years, with each succeeding vacancy to be filled by the board for terms of five (5) years; vacancies in the commission for unexpired terms shall be by appointment by the board for the remainder of the term and all appointees may be reappointed.

The commission shall also act as the advisory commission to the board on matters of adult probation and parole and may exercise such powers and duties in this respect as are delegated to it by the board.

The commission shall meet at such times and places as a majority of the members request, or at the call of the chairman and in any event no less than quarterly.

The members shall be compensated as provided by section 59-509(~~h~~i), Idaho Code.

They may hire such staff and employees as are approved by the board and in addition the board will liberally allow the reasonable

payment for services of such technical and professional advice and consultation as the commission may require.

Approved March 29, 1991.

CHAPTER 167
(H.B. No. 273, As Amended in the Senate)

AN ACT

RELATING TO REPORTING OF INJURIES CAUSED BY DEADLY WEAPONS AND INJURIES SUSTAINED IN THE COMMISSION OF A CRIME OR BY A VICTIM OF A CRIME; AMENDING CHAPTER 13, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1390, IDAHO CODE, TO PROVIDE FOR REPORTING BY HOSPITALS, DOCTORS AND NURSES, OF CERTAIN INJURIES, AND TO PROVIDE FOR CIVIL IMMUNITY FOR REASONABLE COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

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

SECTION 1. That Chapter 13, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-1390, Idaho Code, and to read as follows:

39-1390. REPORTS TO LAW ENFORCEMENT AGENCIES OF CERTAIN TYPES OF INJURIES. (1) As soon as treatment permits, any person operating a hospital or other medical treatment facility, or any physician, resident on a hospital staff, intern, physician assistant, nurse or emergency medical technician shall notify the local law enforcement agency of that jurisdiction upon the treatment of or request for treatment of a person when the reporting person has reason to believe that the person treated or requesting treatment has received:

(a) Any injury intentionally inflicted by means of a knife, firearm, or other deadly weapon; or

(b) Any injury indicating that the person may be a victim of a criminal offense for which a felony penalty is provided by law.

(2) The report provided to the law enforcement agency pursuant to subsection (1) of this section shall include the name and address of the injured person, the character and extent of the person's injuries, and the medical basis for making the report.

(3) Any person operating a medical facility, or any physician, resident on a hospital staff, intern, physician assistant, nurse or emergency medical technician shall be held harmless from any civil liability for his reasonable compliance with the provisions of this section.

Approved March 29, 1991.

CHAPTER 168
(H.B. No. 274)

AN ACT

RELATING TO ECONOMIC LOSS CAUSED BY A MINOR IN FOSTER CARE; AMENDING SECTION 6-210, IDAHO CODE, TO DEFINE "PERSON", TO LIMIT THE LIABILITY OF A FOSTER PARENT FOR A MINOR CAUSING ECONOMIC LOSS, AND TO PROVIDE LIABILITY FOR THE STATE OF IDAHO IN SUCH A CIRCUMSTANCE.

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,~~ person 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 49-310, Idaho Code. "Person" means any municipal corporation, county, city school district, or any individual, partnership, corporation or association, or any religious organization, whether incorporated or unincorporated.

(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.

(4) In the event the parents are providing foster care for the minor at the time of the minor's wilful act, and the parents are licensed pursuant to section 39-1211, Idaho Code, and the minor is in the legal custody of the department of health and welfare, any person is entitled to recover damages in a court of competent jurisdiction within the above stated limits. Such recovery shall be insured by the state of Idaho.

Approved March 29, 1991.

CHAPTER 169
(H.B. No. 285)

AN ACT
RELATING TO PROTECTION ORDERS; AMENDING SECTION 39-6312, IDAHO CODE, TO PROVIDE PENALTIES FOR VIOLATION OF PROTECTION ORDERS.

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

SECTION 1. 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 of the order or of a provision excluding the person from a residence shall be a 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.

Approved March 29, 1991.

CHAPTER 170
(H.B. No. 288)

AN ACT
RELATING TO THE PREVENTION OF DAMAGE TO UNDERGROUND FACILITIES; AMENDING SECTION 55-2202, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS, AND TO ELIMINATE CERTAIN EXCEPTIONS FROM THE DEFINITIONS; AMENDING SECTION 55-2203, IDAHO CODE, TO REQUIRE COMPLIANCE WITH PERMIT REQUIREMENTS, AND TO PROVIDE CONDITIONS FOR A RIGHT TO RECEIVE COMPENSATION; AMENDING SECTION 55-2207, IDAHO CODE, TO PROVIDE THAT PERMITS FOR EXCAVATION ARE NOT VALID UNTIL NOTICE REQUIREMENTS HAVE BEEN COMPLIED WITH; AND AMENDING SECTION 55-2208, IDAHO CODE, TO PROVIDE THAT CERTAIN EXCAVATIONS ARE EXEMPT FROM NOTICE REQUIREMENTS.

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

SECTION 1. That Section 55-2202, Idaho Code, be, and the same is hereby amended to read as follows:

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" or "reasonably accurate" means location within twenty-four (24) inches horizontally of the outside dimensions of ~~both~~ each 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.

(14) "Underground facility owner" means any person who owns or operates an underground facility.

SECTION 2. That Section 55-2203, Idaho Code, be, and the same is hereby amended to read as follows:

55-2203. PERMIT COMPLIANCE -- NOTICE OF EXCAVATION -- RESPONSE TO NOTICE -- COMPENSATION FOR FAILURE TO COMPLY -- EXEMPTIONS. (1) Before commencing any excavation, the excavator shall:

(a) Comply with other applicable law or permit requirements of any public agency issuing permits;

(b) Pprovide 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 except for notices given for discovered facilities after the owner has identified facilities.

(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. The state, county, city or highway district public road agency shall have the right to receive compensation from the underground facility owner for standby cost (based on standby rates made publicly available) incurred as a result of waiting for the owner to arrive at the work site to identify facilities discovered after the owner has identified all known facilities and provided that if the underground facility owner supplies reasonably accurate locate information within eight (8) hours of the time that the excavator encounters the facility not previously located, the excavator's compensation for delay of the excavation project shall be limited to actual costs or eight hundred dollars ($800), whichever is less.

SECTION 3. That Section 55-2207, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ A permit shall not be valid for excavation until or unless the notice provisions of this section have been complied with.

SECTION 4. That Section 55-2208, Idaho Code, be, and the same is hereby amended to read as follows:

55-2208. EXCAVATIONS EXEMPT FROM NOTICE REQUIREMENT. Unless facts exist which would reasonably cause an excavator to believe that an underground facility exists within the depth of the intended excavation, the following excavations shall not require notice of the excavation pursuant to section 55-2203(1)(b), Idaho Code:

(1) An excavation of less than fifteen (15) inches in vertical depth ~~within~~ outside 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,~~ and 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.

(2) The tilling of soil to a depth of less than fifteen (15) inches for agricultural practices.

(3) The extraction of minerals within recorded mining claims or excavation within material sites legally located and of record, unless such excavation occurs within the boundaries of an underground facility easement.

(4) Normal maintenance of roads, streets and highways, including cleaning of roadside drainage ditches and clear zones, to a depth of fifteen (15) inches below the grade established during the design of the last construction of which underground facility owners were notified and which excavation will not reduce the authorized depth of cover of an underground facility.

(5) Replacement of highway guardrail posts, sign posts, delineator posts, culverts, and traffic control device supports in the same approximate location and depth of the replaced item within public highway rights-of-way.

(6) Normal maintenance of railroad rights-of-way, except where such rights-of-way intersect or cross public roads, streets, highways, or rights-of-way adjacent thereto, or recorded underground facility easements.

Approved March 29, 1991.

CHAPTER 171
(H.B. No. 289)

AN ACT

RELATING TO LABELING REQUIREMENTS FOR SEED; AMENDING SECTION 22-415, IDAHO CODE, TO PROVIDE FOR ADDITIONAL LABELING REQUIREMENTS FOR AGRICULTURAL SEEDS AND MIXTURES; AMENDING SECTION 22-416, IDAHO CODE, TO CLARIFY THE MEANING OF PROHIBITED LABELING; AND AMENDING SECTION 22-418, IDAHO CODE, TO PROVIDE FOR NOTIFICATION OF THE PROPRIETOR OF A UNITED STATES PROTECTED VARIETY WHEN ANY VIOLATION IS DISCOVERED.

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. The name of the kind and variety shall be on the label of seeds of wheat, barley and dry-edible beans, or if any mixture containing any kinds herein listed, the names of the varieties shall be listed. 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) 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~~ has been issued or is pending, specifying seed sale only as a class of certified seed, when the seed is in fact not certified by an official seed certifying agency.

(g) If the crop seed rye (Secale cereal) 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 on the analysis tag or label, or on a separate tag or container, the word "treated", 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.

(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.

SECTION 3. That Section 22-418, Idaho Code, be, and the same is hereby amended to read as follows:

22-418. DUTIES AND AUTHORITY OF DIRECTOR. The duty of enforcing the provisions of this chapter and carrying out its provisions and requirements shall be vested in the director pursuant to section 22-103, Idaho Code. Additional duties of the director or his authorized agents shall include, but are not limited to, the following:

(1) To establish and maintain or make provision for seed testing facilities.

(2) To have analyses and tests of samples of seed made as necessary.

(3) To make or provide for making purity and germination tests of seeds for farmers and dealers on request.

(4) The director of agriculture may by regulation set the fees to be collected. Fees so collected shall be paid into the state treasury and credited to the agriculture department inspection account, created in section 22-104, Idaho Code, and such fees shall be used only to pay the costs of operating the state seed laboratory.

(5) To enter upon any public or private premises during regular business hours in order to have access to seeds subject to this chapter.

(6) To sample and inspect agricultural, vegetable, flower, tree and shrub seeds transported, sold, offered or exposed for sale, or delivered under a contract within this state for sowing purposes, at such time and place and to such extent as he may deem necessary to determine whether the seeds are in compliance with the provisions of this chapter, and to notify promptly the person who transported, sold, offered or exposed the seed for sale of any violation.

(7) To issue and enforce a "stop-sale" order to the owner or custodian of any lot of seed which is in violation of any of the provisions of this chapter, which order shall prohibit further sale or delivery under a contract of the seed until such officer has evidence that the law has been complied with; provided, that in respect to seeds which have been denied sale as provided in this paragraph, the owner or custodian of such seeds shall have the right to appeal from such order to the district court of the county in which the seeds are found, praying for a judgment as to the justification of the order and for the discharge of such seed from the order prohibiting the sale in accordance with the findings of this court; and provided further, that the provisions of this paragraph shall not be construed as limiting the right of the enforcement officer to proceed as authorized under other sections of this chapter.

(8) To cooperate with the United States department of agriculture and other agencies in seed law enforcement.

(9) To notify immediately, in writing, the proprietor of any

plant variety protected under the United States plant variety protection act when any violation of the proprietor's rights granted under the United States plant variety protection act or the federal seed act, or both, shall come to the knowledge of the director or of any authorized agent of the Idaho department of agriculture.

(10) To cooperate fully with the proprietor of any plant variety which is protected under the United States plant variety protection act to secure for the proprietor the full protection afforded under the United States plant variety protection act or the federal seed act, or both, by releasing to the proprietor any and all knowledge as may come to the attention of the director or his authorized agents in regard to the illegal use of any United States protected variety.

(11) To prescribe and adopt rules and regulations governing:

(a) The methods of sampling, inspecting, analysis tests and examination of seed, and the tolerances to be followed in the administration of this chapter, which shall be in general accord with officially prescribed practice in interstate commerce;

(b) Reasonable standards of germination for vegetable seeds and flower seeds;

(c) Labeling of flower seeds;

(d) A list of the kinds of flower seeds subject to the flower seed germinations labeling requirements;

(e) A list of the tree and shrub species subject to germination labeling requirements;

(f) A list of species that may be tetrazolium tested in lieu of germination testing.

Approved March 29, 1991.

CHAPTER 172
(H.B. No. 291)

AN ACT

RELATING TO RADIATION MACHINES USED FOR MAMMOGRAPHY; AMENDING CHAPTER 30, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3030, IDAHO CODE, TO PROVIDE FOR AUTHORIZATION OF RADIATION MACHINES USED TO PERFORM MAMMOGRAPHY.

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

SECTION 1. That Chapter 30, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3030, Idaho Code, and to read as follows:

39-3030. RADIATION MACHINES USED TO PERFORM MAMMOGRAPHY. (1) Beginning January 1, 1993, a person shall not use a radiation machine to perform mammography unless the radiation machine is registered with the department of health and welfare under department rules for registration of radiation machines and is specifically authorized under this section for use for mammography.

(2) The department shall authorize a radiation machine for use for mammography if the radiation machine meets the current criteria of the American college of radiology mammography accreditation program, published by the American college of radiology, or meets an equivalent standard adopted by the department. The department shall make copies of those criteria available to the public.

(3) The department may withdraw the mammography authorization for a radiation machine if it does not meet the standards set forth in subsection (2) of this section.

(4) The department shall provide an opportunity for a hearing in connection with a denial or withdrawal of mammography authorization.

(5) Upon a finding that a deficiency in a radiation machine used for mammography or a violation of the rules promulgated under this section seriously affects the health, safety, and welfare of individuals upon whom the radiation machine is used for mammography, the department may issue an emergency order summarily withdrawing the mammography authorization of the radiation machine. The department shall incorporate its findings in the order and shall provide an opportunity for a hearing within five (5) working days after issuance of the order. The order shall be effective during the proceedings.

(6) If the department withdraws the mammography authorization of a radiation machine, the radiation machine shall not be used for mammography until reauthorized by the department.

(7) If a person violates the provisions of subsection (1) of this section, the department shall post a conspicuous notice on the unauthorized radiation machine and at the entry to the facility where the radiation machine is located warning the public that the facility is performing mammography using a radiation machine that is a substantial hazard to the public health.

(8) As used in this section:

(a) "Radiation machine" means a machine, other than those exempted by department rule, that emits ionizing radiation.

(b) "Mammography system" means the radiation machine used for mammography, automatic exposure control devices, films, screens and cassettes, image processor, darkrooms and viewboxes.

Approved March 29, 1991.

CHAPTER 173
(H.B. No. 311)

AN ACT

RELATING TO THE GOVERNANCE OF SCHOOLS; AMENDING SECTION 33-512, IDAHO CODE, TO ESTABLISH THE DAYS OF THE YEAR AND THE HOURS OF THE DAY WHEN SCHOOL SHALL BE IN SESSION; AND AMENDING SECTION 33-513, IDAHO CODE, TO REMOVE THE PROHIBITION THAT A SCHOOL BOARD OF TRUSTEES CANNOT CONTRACT TO REQUIRE A TEACHER TO MAKE UP THE TIME LOST DUE TO EMERGENCY SCHOOL CLOSURE.

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;~~ fix the days of the year and the hours of the day when schools shall be in session. However:

(a) Each school district shall annually adopt and implement a school calendar which provides its students at each grade level with the following minimum number of instructional hours:

Grades	Hours
9-12	990
4-8	900
1-3	810
K	450

(b) School assemblies, testing and other instructionally related activities involving students directly may be included in the required instructional hours.

(c) When approved by a local school board, annual instructional hour requirements stated in paragraph (a) may be reduced as follows:

(i) Up to a total of twenty-two (22) hours to accommodate staff development activities.

(ii) Up to a total of eleven (11) hours of emergency school closures due to adverse weather conditions and facility failures.

However, transportation to and from school, passing times between classes, noninstructional recess and lunch periods shall not be included.

(d) Student and staff activities related to the opening and closing of the school year, grade reporting, program planning, staff meetings, and other classroom and building management activities shall not be counted as instructional time or in the reductions provided in paragraph (c)(1).

(e) For multiple shift programs, this rule applies to each shift (i.e., each student must have access to the minimum annual required hours of instructions).

(f) The instructional time requirement for grade 12 students may be reduced by action of a local school board for an amount of time not to exceed eleven (11) hours of instructional time.

(g) The state superintendent of public instruction may grant an exemption from the provisions of this section for an individual building within a district, when the closure of that building, for unforeseen circumstances, does not affect the attendance of other buildings within the district.

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 a summarized version thereof to be provided in writing at the beginning of each school year to the teachers and students in the district in a manner consistent with the student's age, grade and level of academic achievement;

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.

SECTION 2. That Section 33-513, Idaho Code, be, and the same is hereby amended to read as follows:

33-513. PROFESSIONAL PERSONNEL. The board of trustees of each

school district including any specially chartered district, shall have the following powers and duties:

1. To employ professional personnel, on written contract in form approved by the state superintendent of public instruction, conditioned upon a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder. Should the board of trustees fail to enter into written contract for the employment of any such person, the state superintendent of public instruction shall withhold ensuing apportionments until such written contract be entered into. When the board of trustees has delivered a proposed contract for the next ensuing year to any such person, such person shall have a period of time to be determined by the board of trustees in its discretion, but in no event less than ten (10) days from the date the contract is delivered, in which to sign the contract and return it to the board. Delivery of a contract may be made only in person or by certified mail, return receipt requested. When delivery is made in person, delivery of the contract must be acknowledged by a signed receipt. When delivery is made by certified mail, delivery must be acknowledged by the return of the certified mail receipt from the person to whom the contract was sent. Should the person willfully refuse to acknowledge receipt of the contract or the contract is not signed and returned to the board in the designated period of time, the board may declare the position vacant.

The board of trustees shall withhold the salary of any teacher who does not hold a teaching certificate valid in this state. It shall not contract to require any teacher to make up time spent in attending any meeting called by the state board of education or by the state superintendent of public instruction; nor while attending regularly scheduled official meetings of the state teachers' association~~;-nor-while school-is-closed-as-provided-in-section-33-1002(4),-Idaho-Code~~.

2. In the case of school districts other than elementary school districts, to employ a superintendent of schools for a term not to exceed three (3) years, who shall be the executive officer of the board of trustees with such powers and duties as the board may prescribe. The superintendent shall also act as the authorized representative of the district whenever such is required, unless some other person shall be named by the board of trustees to act as its authorized representative. The board of trustees shall conduct an annual, written formal evaluation of the work of the superintendent of the district. The evaluation shall indicate the strengths and weaknesses of the superintendent's job performance in the year immediately preceding the evaluation and areas where improvement in the superintendent's job performance, in the view of the board of trustees, is called for.

3. To employ through written contract principals who shall hold a valid certificate appropriate to the position for which they are employed, who shall supervise the operation and management of the school in accordance with the policies established by the board of trustees and who shall be under the supervision of the superintendent.

4. To employ assistant superintendents and principals for a term not to exceed two (2) years. Service performed under such contract shall be included in meeting the provisions of section 33-515, Idaho Code, as a teacher and persons eligible for a renewable contract as a

teacher shall retain such eligibility.

5. To suspend, grant leave of absence, place on probation or discharge certificated professional personnel for a material violation of any lawful rules or regulations of the board of trustees or of the state board of education, or for any conduct which could constitute grounds for revocation of a teaching certificate. Any certificated professional employee, except the superintendent, may be discharged during a contract term under the following procedures:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the discharge of any certificated employee by filing with the board of trustees written notice specifying the alleged reasons for discharge.

(b) Upon receipt of such notice the board acting through their duly authorized administrative official, shall give the affected employee written notice of the allegations and the recommendation of discharge, along with written notice of a hearing before the board prior to any determination by the board of the truth of the allegations.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than twenty-one (21) days after receipt of the notice by the employee. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be public unless the employee requests in writing that it be in executive session.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board, may administer oaths to witnesses or affirmations by witnesses.

(f) The employee may be represented by legal counsel and/or by a representative of a local or state teachers association.

(g) The chairman of the board or the designee of the chairman shall conduct the hearing.

(h) The board shall cause an electronic record of the hearing to be made or shall employ a competent reporter to take stenographic or stenotype notes of all the testimony at the hearing. A transcript of the hearing shall be provided at cost by the board upon request of the employee.

(i) At the hearing the superintendent or other duly authorized administrative officer shall present evidence to substantiate the allegations contained in such notice.

(j) The employee may produce evidence to refute the allegations. Any witness presented by the superintendent or by the employee shall be subject to cross-examination. The board may also examine witnesses and be represented by counsel.

(k) The affected employee may file written briefs and arguments with the board within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employee and the board.

(l) Within fifteen (15) days following the close of the hearing, the board shall determine and, acting through their duly authorized administrative official, shall notify the employee in writing whether the evidence presented at the hearing established the truth of the allegations and whether the employee is to be retained, immediately discharged, or discharged upon termination

of the current contract.

Approved March 29, 1991.

CHAPTER 174
(H.B. No. 314)

AN ACT
RELATING TO UNCLAIMED PROPERTY; AMENDING SECTION 14-542, IDAHO CODE, TO PROVIDE THAT CAPITAL CREDITS DISTRIBUTED TO MEMBERS OF NONPROFIT CORPORATIONS ENGAGED IN PROVIDING TELECOMMUNICATIONS SERVICE SHALL BE EXEMPT FROM THE UNIFORM UNCLAIMED PROPERTY ACT.

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

SECTION 1. That Section 14-542, Idaho Code, be, and the same is hereby amended to read as follows:

14-542. EXEMPTION. (1) Counties holding a certificate of exemption from the administrator shall not be subject to the provisions of this chapter.

A certificate of exemption shall be provided to a county on the following basis:

(a) The commissioners of such county file an election in writing with the administrator; and

(b) The county assumes the responsibilities of the administrator under this chapter to locate unclaimed property in county hands, and refund the same to its rightful owner, according to the provisions of this chapter; and

(c) The county establishes a revolving fund to pay claimants, and retains in said fund, an amount equal to twenty-five ~~per-cent~~ <u>percent</u> (25%) of the accumulated unclaimed property or twenty thousand dollars ($20,000), whichever is less. Excess money in the revolving fund may be transferred to the county current expense fund; and

(d) The county provides the administrator with the information required in the reports of abandoned property, to enable the administrator to maintain a complete central registry of all unclaimed property in the state.

In the event of revocation of the election or the administrator determines that the county has not complied with the requirements or exemption, the county's exemption shall terminate and the county shall transfer all unclaimed property and unclaimed property records to the administrator.

(2) A nonprofit corporation engaged in <u>providing telecommunications service or</u> the transmission, distribution <u>or delivery of electric power shall</u> not be subject to the provisions of this chapter relative to the distribution (retirement) of capital credits to members of such nonprofit corporation after July 1, 1982. For the purposes of this section, a capital credit is defined as an amount paid by a member for <u>telecommunication or</u> electric service in excess of the costs

and expenses incurred by a nonprofit corporation in furnishing the service which is credited to the member's capital account by the nonprofit corporation. For capital credits distributed by the board of directors of such a nonprofit corporation that are not claimed by their member-owners, the nonprofit corporation distributing capital credits shall assume the responsibilities of the administrator under this chapter relative to notice, publication of unclaimed property lists, and refunds to rightful member-owners. Such nonprofit corporations who distribute capital credits shall establish a revolving fund to pay member-owners such capital credits and shall at all times maintain in said fund an amount equal to twenty-five percent (25%) of the accumulated capital credits presumed abandoned by the board of directors of said nonprofit corporations or twenty thousand dollars ($20,000), whichever is less. Moneys in said fund in excess of the amount required to be maintained shall be transferred to the general account of said nonprofit corporations to be used for any purpose for which said corporation is incorporated.

Approved March 29, 1991.

CHAPTER 175
(H.B. No. 316)

AN ACT

RELATING TO LOG SCALING; AMENDING SECTION 38-1202, IDAHO CODE, TO PROVIDE FOR THE USE OF GROSS CUBIC SCALE FOR THE PURPOSE OF PAYMENT FOR LOGGING AND HAULING; AND AMENDING SECTION 38-1209, IDAHO CODE, TO PROVIDE FOR AN ASSESSMENT ON THE SCALE OF ALL FOREST PRODUCTS HARVESTED IN IDAHO IN THE AMOUNT OF SEVEN AND EIGHT-TENTHS CENTS PER CUNIT WHEN CUBIC SCALE IS UTILIZED.

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

SECTION 1. That Section 38-1202, Idaho Code, be, and the same is hereby amended to read as follows:

38-1202. DEFINITIONS. As used in this act, unless the context or subject matter requires otherwise:

(a) Scaler and Professional Scaler. The terms "scaler" and "professional scaler" means a person who is qualified by reason of his knowledge of the principles of scaling acquired by professional education and/or practical experience, to engage in the practice of scaling forest products.

(b) Scaling. The term "scaling" means the quantitative measurement of logs or other forest products by means of a log rule. The term "scaling" shall include any professional scaling service rendered in connection with the measurement of forest products, or supervision of scaling when such service is rendered requiring the application of scaling principles and data.

(c) Forest Products Measurement. For the purpose of payment for logging or hauling logged forest products only, forest products shall

be measured by gross weight, or by gross volume converted to gross decimal "C" or gross cubic volume. Measurement may be determined by a sampling process.

(d) Board. The term "board" means the state board of scaling practices.

SECTION 2. That Section 38-1209, Idaho Code, be, and the same is hereby amended to read as follows:

38-1209. LEVY OF ASSESSMENT -- BUDGET -- HEARING -- FUNDS -- BOND OF SECRETARY -- SALARY. (a) The board is hereby authorized and directed to levy an assessment on the scale of all forest products harvested within the state of Idaho in an amount not to exceed thirteen cents (13¢) per thousand (1,000) board feet or seven and eight-tenths cents (7.8¢) per cunit, provided that no such assessment shall be levied more than once on any forest product. The board shall set times and places for its meetings and shall hold not less than four (4) meetings in each calendar year. The board shall designate a meeting date on which a budget shall be adopted and assessment shall be levied. Notice of such meeting shall be given thirty (30) days prior thereto in a newspaper of general circulation throughout the state. The board shall designate and levy an assessment as herein provided to raise moneys necessary to fund operations of the board and the state scaling program established by this chapter based upon the budget adopted and notice of such levy shall be given in the notice of the budget. The budget and assessment shall become effective upon adoption by the board. In the event a written request is made therefor by any interested person within thirty (30) days after notice of the budget and assessment has been published, the board shall set a time and place for a hearing at which any person may submit recommendations for changes in the budget and the assessment. Thereafter the board shall either confirm or modify the budget and assessment and cause notice of such action to be published in a newspaper of general circulation throughout the state within ten (10) days after such action. If the budget or the assessment is modified, the modification shall become effective upon publication. Such hearing shall be held not later than thirty (30) days after receipt of a written request therefor.

(b) The assessment herein provided shall be levied against and paid by the purchaser. The term "purchaser" as used herein shall also include the owner of the timber where the owner processes or utilizes the forest products in its operations or where the owner sells forest products outside the state of Idaho and the forest products are scaled within the state of Idaho, provided that the assessment provided in this chapter shall not be levied against the United States of America, nor any unit nor agency thereof. The assessment shall be transmitted to the board on or before the twentieth day of each month for all timber harvested during the previous month.

(c) The secretary of the board shall receive and account for all moneys derived under the provisions of this act, and shall pay the same monthly to the state treasurer, who shall keep such moneys in a separate account to be known as the "state scaling account," which is hereby created in the state treasury. Such account shall be kept separate and apart from all other moneys in the treasury, and shall be

paid out only on approval of the board. All moneys in the "state scaling account" are hereby continually appropriated for the use of the board. The board may establish, maintain and use a rotary fund as provided by state law. The secretary of the board shall give a surety bond to the state in such sum as the board may determine. The premium on said bond shall be regarded as a proper and necessary expense of the board, and shall be paid out of the "state scaling account." The secretary of the board shall receive such salary as the board shall determine in addition to the compensation and expenses provided in section 38-1205, Idaho Code. The board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures of this account for any purpose which in the opinion of the board is reasonably necessary for the proper performance of its duties under this act. All warrants on said "state scaling account" shall be drawn by the state auditor on vouchers by the board and the state board of examiners.

Approved March 29, 1991.

CHAPTER 176
(H.B. No. 324)

AN ACT

RELATING TO THE SALES TAX; AMENDING SECTION 63-3614, IDAHO CODE, TO REDEFINE THE TERM SELLER; AMENDING SECTION 63-6320, IDAHO CODE, AS AMENDED BY SECTION 4, HOUSE BILL NO. 40, FIRST REGULAR SESSION, FIFTY-FIRST IDAHO LEGISLATURE, TO PROVIDE FOR SELLERS' PERMITS, TO PROVIDE FOR REQUIRED DOCUMENTATION OF EXEMPT SALES, AND TO STRIKE OBSOLETE PROVISIONS; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3620B, IDAHO CODE, TO PROVIDE FOR TAX EXEMPTION CERTIFICATES FOR PERSONS PURCHASING FOR RESALE, TO PROVIDE FOR PENALTIES, AND TO PROVIDE FOR REVOCATION OF CERTIFICATES; AMENDING SECTION 63-6321, IDAHO CODE, AS AMENDED BY SECTION 5, HOUSE BILL NO. 40, FIRST REGULAR SESSION, FIFTY-FIRST IDAHO LEGISLATURE, TO PROVIDE PROPER NOMENCLATURE AND CODE REFERENCES, AND TO STRIKE OBSOLETE PROVISIONS; REPEALING SECTION 63-3622, IDAHO CODE; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622, IDAHO CODE, TO PROVIDE FOR TAX EXEMPTION CERTIFICATES FOR PERSONS MAKING EXEMPT PURCHASES AT RETAIL, TO PROVIDE FOR PENALTIES, AND TO PROVIDE FOR REVOCATION OF CERTIFICATES; AMENDING SECTION 63-3624, IDAHO CODE, TO PROVIDE SPECIAL PROVISIONS FOR RETAIL FOOD STORES; AMENDING SECTION 63-3626, IDAHO CODE, TO PROVIDE PROCEDURES FOR REFUNDS; AMENDING SECTION 63-3634, IDAHO CODE, TO PROVIDE FOR RELEASE OF INFORMATION UNDER CERTAIN CONDITIONS; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3636, IDAHO CODE, TO PROVIDE CRIMINAL PENALTIES; AND PROVIDING AN EFFECTIVE DATE WITH SPECIFIED CONDITIONS.

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

SECTION 1. That Section 63-3614, Idaho Code, be, and the same is

hereby amended to read as follows:

63-3614. SELLER. The term "seller" means every person making sales ~~at--retail--or--retail-sales~~ to a buyer or consumer, whether as agent, broker or principal.

SECTION 2. That Section 63-3620, Idaho Code, as amended by Section 4, House Bill No. 40, First Regular Session, Fifty-first Idaho Legislature, be, and the same is hereby amended to read as follows:

63-3620. SELLERS' 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 seller's permit for each place of business. Every application for a seller's 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 sellers' 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 seller's permit for each place of business within the state. A seller's 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 seller's 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 seller's 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 seller's permit or permits should not be revoked, may revoke or suspend any one or more of the seller's 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 seller's 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 seller's 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 seller's permit or permits, or after a seller's 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 sales at retail subject to the tax ~~until~~ unless the person who makes the sale ~~takes~~ obtains from the purchaser the documentation required by section 63-3620B(d), Idaho Code. ~~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--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.-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 3. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3620B, Idaho Code, and to read as follows:

63-3620B. TAX EXEMPTION CERTIFICATES -- ISSUANCE -- REVOCATION -- PENALTIES. (a) A purchaser who is a seller desiring to purchase goods for resale without payment of the tax may apply to the state tax commission for a tax exemption certificate upon a form furnished by it, accompanied by a fee of not more than ten dollars ($10.00) for the original tax exemption certificate and not more than five dollars ($5.00) for each additional copy requested by the applicant.

(b) The tax commission shall review each application for a tax exemption certificate. If, after reasonable review, the tax commission determines that the applicant:

(1) Is a purchaser for resale; and

(2) Has not, after January 1, 1992, used a tax exemption certificate to knowingly avoid paying tax to a seller on a purchase which is not for resale or to knowingly escape or evade taxes due under this chapter, the tax commission shall issue the applicant a tax exemption certificate.

All tax exemption certificates shall bear the holder's name and address, an identifying number and an expiration date not less than one (1) year nor more than two (2) years from the date the certificate is issued.

(c) Any purchaser who has applied for and has been issued a tax exemption certificate must keep records as required in section 63-3624, Idaho Code. The tax commission, or any person authorized in writing by it, may examine the books, papers, records, receipts, invoices and other pertinent papers related to purchases made under such exemption certificate. A tax exemption certificate issued under this section is valid only as to sales transactions in which the purchaser is the same person to whom the certificate is issued. Exemption certificates are not transferable.

(d) Sellers need not collect sales or use taxes in regard to sales for which the purchaser claims exemption from taxes by reason of resale by supplying to the seller the following documentation:

(1) Presenting for the seller's examination an unexpired tax exemption certificate issued under this section to the person making the purchase from which the seller shall document the name of the permittee, the expiration date and the identifying number displayed on the card; and

(2) The name, address, social security number and signature of the individual claiming the exemption either as a holder of the tax exemption certificate or on behalf of the holder of the tax exemption certificate.

(e) After receipt of the required documentation, a seller has no duty or obligation to collect tax regardless of whether the purchaser properly or improperly claimed an exemption provided that the seller retains the documentation for each such exempted sale for the period of time required under section 63-3624, Idaho Code. A seller who is relieved of the obligation to collect tax under this section is also relieved of any liability to the purchaser for failure to collect tax

or for making any report or disclosure of information required or permitted under this chapter.

(f) If a purchaser who gives a tax exemption 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.

(g) If a purchaser gives a tax exemption 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.

(h) When the tax commission determines that a retail sale claimed as an exempt sale in the manner provided in this section is not exempt and the purchaser has failed to voluntarily report and pay use tax in regard to the property purchased on a return as provided in section 63-3621, Idaho Code, the tax commission shall issue to the purchaser a notice of deficiency determination in the manner provided in section 63-3629, Idaho Code, asserting tax together with interest, at the rate provided in section 63-3045, Idaho Code, and may assert penalty equal to five percent (5%) of the sales price of the property or two hundred dollars ($200), whichever is greater. The tax commission may abate the penalty when the purchaser establishes during a proceeding for redetermination under section 63-3631, Idaho Code, that there was reasonable grounds for believing that the purchase was properly exempt from tax.

(i) An individual who claims an exemption on behalf of another person knowing that the sale is not exempt shall be personally liable for a civil penalty equal to five percent (5%) of the sales price of the property or two hundred dollars ($200), whichever is greater. The penalty may be in addition to the penalty provisions found elsewhere in this chapter. The penalty provided herein shall be asserted by a notice of deficiency determination issued in the manner provided in section 63-3629, Idaho Code. The tax commission may abate the penalty when the individual establishes during a proceeding for redetermination under section 63-3631, Idaho Code, that there was reasonable grounds for believing that the purchase was properly exempt from tax.

(j) In addition to the aforesaid authority, the tax commission whenever it shall discover a violation of the provisions of this chapter or of any rules or regulations shall have the authority to require any person to appear before it at a designated time and place to show cause why the tax exemption certificate or certificates issued to that person shall not be revoked. Notice of the hearing shall not be less than fifteen (15) days by certified mail addressed to the person's last known address, or in lieu thereof, by personal service.

(k) A purchaser for resale who does not apply to the state tax commission for a tax exemption certificate shall pay tax to all sellers within this state and all sellers engaged in business in this state. A purchaser who has paid the tax imposed in this chapter to a

seller in regard to any purchase which is for resale may file a claim for refund of such taxes as provided in section 63-3626, Idaho Code.

SECTION 4. That Section 63-3621, Idaho Code, as amended by Section 5, House Bill No. 40, First Regular Session, Fifty-first Idaho Legislature, 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~~ seller 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~~ seller 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 63-3620B or 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, and every seller required to collect tax under this chapter shall ~~register~~ file with the state tax commission ~~and~~ an application for a seller's permit as provided in section 63-3620, Idaho Code, and in addition to the requirements of that section, 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~~ unless the person who makes the sale ~~takes~~ obtains from the purchaser the documentation required by section 63-3620B(d), Idaho Code. ~~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--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~~f) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a ~~retailer~~ seller, for storage, use or other consumption in this state.

(~~j~~g) It shall be presumed that tangible personal property delivered outside this state to a purchaser known by the ~~retailer~~ seller to be a resident of this state was purchased from a ~~retailer~~ seller 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~~h) 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~~i) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than three (3) months, and which is not required to be registered or licensed under the laws of this state, or to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired by such

person in another state while a bona fide resident thereof and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial.

SECTION 5. That Section 63-3622, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622, Idaho Code, and to read as follows:

63-3622. EXEMPTIONS -- REGISTRATION -- TAX EXEMPTION CERTIFICATE -- PENALTIES. (a) A person who regularly makes retail purchases exempt from or not subject to the taxes imposed in this chapter may apply to the state tax commission for a tax exemption certificate upon a form furnished by it, accompanied by a fee of not more than ten dollars ($10.00) for the original tax exemption certificate and not more than five dollars ($5.00) for each additional copy requested by the applicant.

(b) The tax commission shall review each application for a tax exemption certificate. If, after reasonable review the tax commission determines that the applicant:

(1) Is a purchaser who regularly makes retail purchases exempt from or not subject to the taxes imposed in this chapter; and

(2) Has not, after January 1, 1992, used a tax exemption certificate to knowingly avoid paying tax to a seller on a purchase which is not exempt from the tax, or to knowingly escape or evade taxes due under this chapter, the tax commission shall issue the applicant a tax exemption certificate.

All tax exemption certificates shall bear the holder's name and address, an identifying number and an expiration date not less than one (1) year nor more than two (2) years from the date the certificate is issued.

(c) Any purchaser who has applied for and has been issued a tax exemption certificate shall keep records as required in section 63-3624, Idaho Code. The tax commission, or any person authorized in writing by it, may examine the books, records, receipts, invoices and other pertinent papers related to purchases made under such tax exemption certificate. A tax exemption certificate issued under this section is valid only as to sales transactions in which the purchaser is the same person to whom the certificate is issued. Exemption certificates are not transferable.

(d) Sellers need not collect sales or use taxes in regard to sales for which the purchaser claims exemption from taxes by supplying to the seller the following documentation:

(1) Presenting for the seller's examination an unexpired tax exemption certificate issued under this section to the person making the purchase from which the seller shall document the name of the permittee, the expiration date and the identifying number dis-

played on the card; and

(2) The name, address, social security number and signature of the individual claiming the exemption either as holder of the tax exemption certificate or on behalf of the holder of the tax exemption certificate.

(e) After receipt of the required documentation, a seller has no duty or obligation to collect tax regardless of whether the purchaser properly or improperly claimed an exemption provided that the seller retains the documentation for each such exempted sale for the period of time required under section 63-3624, Idaho Code. A seller who is relieved of the obligation to collect tax under this section is also relieved of any liability to the purchaser for failure to collect tax or for making any report or disclosure of information required or permitted under this chapter. The tax commission may, by regulation, provide for alternative forms of exemption documentation for certain exempt sales to which the tax exemption certificate would not apply, and for certain purchases exempt from the tax imposed by this chapter to which the tax exemption certificate would not apply.

(f) When the tax commission determines that a retail sale claimed exempt in the manner provided in this section is not exempt and the purchaser has failed to voluntarily report and pay use tax in regard to the property purchased on a use tax return as provided in section 63-3621, Idaho Code, the tax commission shall issue to the purchaser a notice of deficiency determination in the manner provided in section 63-3629, Idaho Code, asserting tax together with interest, at the rate provided in section 63-3045, Idaho Code, and a penalty equal to five percent (5%) of the sales price of the property or two hundred dollars ($200), whichever is greater. The tax commission may abate the penalty when the purchaser establishes during a proceeding for redetermination under section 63-3631, Idaho Code, that there was reasonable grounds for believing that the purchase was properly exempt from tax.

(g) An individual who claims an exemption on behalf of another person knowing that the sale is not exempt shall be personally liable for a civil penalty equal to five percent (5%) of the sales price of the property or two hundred dollars ($200), whichever is greater. The penalty may be in addition to the penalty provisions found elsewhere in this chapter. The penalty provided herein shall be asserted by a notice of deficiency determination issued in the manner provided in section 63-3629, Idaho Code. The tax commission may abate the penalty when the individual establishes during a proceeding for redetermination under section 63-3631, Idaho Code, that there was reasonable grounds for believing that the purchase was properly exempt from tax.

(h) In addition to the aforesaid authority, the tax commission whenever it shall discover a violation of the provisions of this chapter or of any rules or regulations shall have the authority to require any person to appear before it at a designated time and place to show cause why the tax exemption certificate or certificates issued to that person shall not be revoked. Notice of the hearing shall not be less than fifteen (15) days by certified mail addressed to the person's last known address or in lieu thereof, by personal service.

(i) A person who makes retail purchases exempt from or not subject to the taxes imposed in this chapter who does not apply to the tax commission for a tax exemption certificate shall pay tax to all

sellers within this state and all sellers engaged in business in this state. A purchaser who has paid the tax imposed in this chapter to a seller in regard to any purchase which is exempt from or not subject to the tax may file with the tax commission a claim for refund of such taxes on such forms as the commission may require and in a manner provided in section 63-3626, Idaho Code, and tax commission regulations.

SECTION 7. That Section 63-3624, Idaho Code, be, and the same is hereby amended to read as follows:

63-3624. ADMINISTRATION. (a) The state tax commission shall enforce the provisions of this act and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this act. The state tax commission may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

(b) The state tax commission shall employ qualified auditors for examination of taxpayers' records and books. The state tax commission shall also employ such accountants, investigators, regional supervisors, assistants, clerks, and other personnel as are necessary for the efficient administration of this act, and may delegate authority to its representatives to conduct hearings, or perform any other duties imposed by this act.

(c) Every seller, every retailer, and every person storing, using, or otherwise consuming in this state tangible personal property purchased from a ~~retailer~~ seller shall keep such records, receipts, invoices and other pertinent papers as the state tax commission may require. Every such seller, retailer or person who files the returns required under this act shall keep such records for not less than four (4) years from the making of such records unless the state tax commission in writing sooner authorizes their destruction.

(d) Retail food stores may petition to the state tax commission to be relieved from the responsibility of retaining detailed invoices of nontaxed sales for which the documentation required in section 63-3620B(d) or 63-3622(d), Idaho Code, and any other documentation which may be required by the tax commission, has been obtained by the store from the purchaser. The tax commission shall review each petition and may examine the books and records of the petitioner to insure that the products sold by the petitioner are those sold by a retail food store. The tax commission shall give written notice of its determination to the petitioner as soon as practicable after receiving the written request, but in no event later than sixty (60) days after receiving the petition. As used in this section, "retail food stores" shall mean those retail stores primarily engaged in selling food for home preparation and consumption described in major group 54 of the standard industrial classification manual (SIC) of 1987, as amended, published by the office of management and budget of the executive office of the president of the United States.

(e) The state tax commission, or any person authorized in writing by it, may examine the books, papers, records, and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made, or, if no

return is made by the person, to ascertain and determine the amount required to be paid.

(~~e~~f) ~~Retailers~~ Purchasers claiming exemption from tax and sellers whose pertinent records are kept outside of the state must bring the records to Idaho for examination by the state tax commission upon request of the latter, or, by agreement with the state tax commission, permit an auditor designated by the state tax commission to visit the place where the records are kept, and there audit such records.

(~~f~~g) In the administration of the use tax, the state tax commission may require the filing of reports by any purchaser to whom a tax exemption certificate has been issued or by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property the storage, use, or other consumption of which is subject to the tax. The reports shall be filed when the state tax commission requires and shall set forth the names and addresses of purchasers of tangible personal property, the ~~sale price of the property, the date of sale, and such other information~~ as the state tax commission may require.

SECTION 8. That Section 63-3626, Idaho Code, be, and the same is hereby amended to read as follows:

63-3626. REFUNDS, LIMITATIONS, INTEREST. (a) Any purchaser who is required to file a sales tax return who has paid tax with regard to property purchased for resale and any purchaser who is required to file a use tax return who has paid tax with regard to property purchased which is exempt from or not subject to the tax shall apply for credit of the tax so paid against the sales and use tax due on the returns required in section 63-3623, Idaho Code. In the event the amount of credit applied for exceeds the amount of tax due upon the return, credit will be allowed against future taxes due unless the amount of credit exceeds two hundred fifty dollars ($250), in which case the purchaser may request, in such form as the tax commission may require by regulation, that the tax commission issue a refund.

(b) Any purchaser other than a purchaser described in subsection (a) of this section who has paid the tax imposed in this chapter to a seller in regard to a sale which is exempt from or not subject to the tax may file a claim for refund with the tax commission in such form as the commission may require by regulation. Refund claims for two hundred fifty dollars ($250) or less shall be filed no more frequently than quarterly. Refund claims for amounts more than two hundred fifty dollars ($250) may be filed at any time within the limitations provided in this section.

(c) All other claims for refund, including claims for refunds arising from bad debts, shall be in a form and manner prescribed by regulation of the tax commission.

(~~a~~d) If the tax commission determines that any amount due under this ~~act~~ chapter has been paid more than once or has been erroneously or illegally collected or computed, has been paid by a purchaser in regard to any purchase which is exempt from the tax or has been paid by a purchaser for resale, the tax 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 tax commission from

that person and any balance refunded to the person by whom it was paid or to his successors, administrators or executors; the tax commission is authorized and the state board of tax appeals authorized to order the tax commission in proper cases to credit or refund such amounts whether or not such payments have been paid under protest and certify such refund to the state board of examiners.

(~~b~~e) No such credit or refund shall be allowed or made after three (3) years from the time the payment was made, unless before the expiration of such period a claim therefor is filed by the taxpayer. Provided the three (3) year period allowed by this section for making refunds or credit claims shall not apply in cases where the tax commission asserts a deficiency under sections 63-3629 and 63-3630, Idaho Code, and taxpayers desiring to appeal or otherwise seek a refund of amounts paid in obedience to such deficiencies must do so within the time limits elsewhere prescribed in this act.

(~~e~~f) Interest shall be allowed on the amount of such credits or refunds at the rate provided in section 63-3045, Idaho Code, from the date such tax was paid, except with regard to refunds claimed under subsections (a) and (b) of this section in which case interest shall only apply to any amount not refunded and due thirty (30) days after receipt by the tax commission of the claim for refund.

(~~d~~g) Appeal of a tax commission decision denying in whole or part a claim for refund shall be made in accordance with and within the time limits prescribed in section 63-3632, Idaho Code.

SECTION 9. That Section 63-3634, Idaho Code, be, and the same is hereby amended to read as follows:

63-3634. ADDITIONS AND PENALTIES. The additions, penalties and requirements provided by the Idaho Income Tax Act, sections 63-3046, 63-3075, 63-3076 and 63-3077, Idaho Code, shall apply in the same manner and to the same extent to this act as to the Idaho Income Tax Act and shall cover acts, omissions, and delinquencies under this act similar to acts, omissions and delinquencies under the Idaho Income Tax Act and such additions, penalties and requirements shall, for this purpose, be described as and be for acts, omissions, delinquencies and requirements under the Idaho Sales Tax Act; provided, however, that the provisions of section 63-3076, Idaho Code, shall not prevent the release of information about a specific transaction to any party to such transaction, including the tax exemption certificate holder, the seller, and any individual signing an exemption claim relating to the transaction; nor shall the provisions of section 63-3076, Idaho Code, prevent release by the tax commission of the names, identifying numbers, and expiration date of persons holding valid, revoked, or expired tax exemption certificates. The tax commission may release such information only when it determines that the release will benefit the enforcement of this chapter, and not otherwise.

SECTION 10. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3636, Idaho Code, and to read as follows:

63-3636. CRIMINAL PENALTIES. (a) Any person who shall forge, counterfeit, or alter a tax exemption certificate, and any person who shall knowingly use a tax exemption certificate issued to another which has been stolen or otherwise obtained and used without the express consent of the holder of the certificate shall be guilty of a felony punishable as provided in section 18-112, Idaho Code, and additionally shall be thereafter ineligible to have issued to him a tax exemption certificate.

(b) Any person who gives a tax exemption certificate for property which he knows at the time of purchase is not exempt or 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.

SECTION 11. This act shall be in full force and effect on and after January 1, 1992, except that the state tax commission may take such necessary actions, including the adoption of regulations and the implementation of procedures, prior to January 1, 1992, as are necessary to start to implement the provisions of this act on January 1, 1992, and to fully implement the provisions by not later than April 1, 1992.

Approved March 29, 1991.

CHAPTER 177
(H.B. No. 326)

AN ACT

RELATING TO STUDENT TRANSPORTATION; AMENDING SECTION 33-1501, IDAHO CODE, TO PROVIDE STUDENT TRANSPORTATION BETWEEN CHILD CARE FACILITIES AND THE SCHOOL.

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

SECTION 1. That Section 33-1501, Idaho Code, be, and the same is hereby amended to read as follows:

33-1501. TRANSPORTATION AUTHORIZED. To afford more equal opportunity for public school attendance, the board of trustees of each district, including specially chartered school districts, shall, where practicable, provide transportation for the public school pupils within the district, and pupils resident within adjoining districts annually agreed to in writing by the districts involved, under conditions and limitations herein set forth. Nonpublic school students may be transported, where practicable, when the full costs for providing such transportation are recovered. In approving the routing of any school bus, or in the maintenance and operation of all such transportation equipment, or in the appointment or employment of chauffeurs,

the primary requirements to be observed by the board of trustees are the safety and adequate protection of the health of the pupils. Nothing herein contained shall prevent any board of trustees from denying transportation to any pupil in any school bus operated by or under the authority of said board, upon good cause being given, in writing, to the parents or guardian, or either of them, of such pupil.

No board of trustees shall be required to provide transportation for any pupil living less than one and one-half (1 1/2) miles from the nearest appropriate school. A board of trustees may require pupils who live less than one and one-half (1 1/2) miles from the nearest established bus stop to walk or provide their own transportation to such bus stop. That distance shall be determined by the nearest and best route from the junction of the driveway of the pupil's home and the nearest public road, to the nearest door of the schoolhouse he attends, or to the bus stop, as the case may be. The board may transport any pupil a lesser distance when in its judgment the age or health or safety of the pupil warrants.

A day care center, family day care home, or a group day care facility, as defined in section 39-1102, Idaho Code, may substitute for the student's residence for student transportation to and from school. School districts may not transport students between child care facilities and home. Student transportation between a child care facility and a school will qualify for state reimbursement providing that the child care facility is one and one-half (1 1/2) miles or more from the school to which the student is transported.

To effectuate the public policy hereby declared, the board of trustees of any school district may purchase or lease, and maintain and operate school buses; may enter into contracts with individuals, firms, corporations or private carriers; or may make payments to parents or guardians, subject to the limitations herein provided, when transportation is not furnished by the district.

Approved March 29, 1991.

CHAPTER 178
(H.B. No. 328)

AN ACT

RELATING TO RECREATION DISTRICTS; AMENDING SECTION 31-4316, IDAHO CODE, TO PROVIDE THAT A RECREATION DISTRICT MAY ACQUIRE, PROVIDE, MAINTAIN AND OPERATE RECREATIONAL PATHWAYS.

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

SECTION 1. That Section 31-4316, Idaho Code, be, and the same is hereby amended to read as follows:

31-4316. PURPOSE OF DISTRICT. Each district is organized for the uses and purposes of acquiring, providing, maintaining and operating public recreation centers, swimming facilities, pools, picnic areas, camping facilities, ball parks, handball courts, tennis courts, marine

and snowmobile facilities, recreational pathways, ski areas, and golf courses together with all related grounds, buildings, equipment and apparatus for the use of the residents of the district and the public generally.

Approved March 29, 1991.

CHAPTER 179
(H.B. No. 339)

AN ACT

RELATING TO LIQUOR LICENSES; AMENDING SECTION 23-910, IDAHO CODE, TO PROVIDE THAT MEMBERS OF THE GOVERNING BOARD OF A NONPROFIT CORPORATION TO WHICH A LICENSE HAS BEEN ISSUED NEED NOT BE RESIDENTS OF THE STATE.

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

SECTION 1. That Section 23-910, Idaho Code, be, and the same is hereby amended to read as follows:

23-910. PERSONS NOT QUALIFIED TO BE LICENSED. No license shall be issued to:

a. An individual who is not a citizen of the United States or who has not been a bona fide resident of the state of Idaho for at least one (1) month next preceding the granting of such license; or to a partnership unless all members thereof are citizens of the United States and have been residents of the state of Idaho for at least one (1) month; or to a corporation or association unless the same is organized under the laws of the state of Idaho or qualified under the laws of the state of Idaho to do business in this state and unless the principal officers and the members of the governing board are citizens of the United States and residents of the state of Idaho for at least one (1) month, except the officers and members of the governing board of a railroad or airline or a nonprofit corporation managed by members pursuant to the Idaho nonprofit corporation act, chapter 3, title 30, Idaho Code, need not be residents of the state of Idaho.

b. Any person, or any one (1) of its members, officers, or governing board, who has, within three (3) years prior to the date of making application, been convicted of any violation of the laws of the United States, the state of Idaho, or any other state of the United States, or of the resolutions or ordinances of any county or city of this state, relating to the importation, transportation, manufacture or sale of alcoholic liquor or beer; or who has been convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment or completed any sentence of confinement for any felony within five (5) years prior to the date of making application for any license.

c. A person who is engaged in the operation, or interested therein, of any house or place for the purpose of prostitution or who has been convicted of any crime or misdemeanor opposed to decency and

morality.

d. A person whose license issued under this act has been revoked; an individual who was a member of a partnership or association which was a licensee under this act and whose license has been revoked; an individual who was an officer, member of the governing board or one (1) of the ten (10) principal stockholders of a corporation which was a licensee under this act and whose license has been revoked; a partnership or association one (1) of whose members was a licensee under this act and whose license was revoked; a corporation one (1) of whose officers, member of the governing board or ten (10) principal stockholders was a licensee under the provisions of this act and whose license has been revoked; an association or partnership, one (1) of whose members was a member of a partnership or association licensed under the provisions of this act and whose license has been revoked; a partnership or association, one (1) of whose members was an officer, a member of the governing board, or one (1) of the ten (10) principal stockholders of a corporation licensed under the provisions of this act and whose license has been revoked; a corporation, one (1) of whose officers, member of the governing board, or ten (10) principal stockholders was a member of a partnership or association licensed under the provisions of this act and whose license was revoked; a corporation, one (1) of whose officers, member of the governing board, or ten (10) principal stockholders was an officer, member of the governing board, or one (1) of the ten (10) principal stockholders of a corporation licensed under the provisions of this act and whose license was revoked.

e. Any officer, agent, or employee of any distillery, winery, brewery, or any wholesaler, or jobber, of liquor or malt beverages.

f. A person who does not hold a retail beer license issued under the laws of the state of Idaho.

g. A person licensed under this act as a bartender and whose permit as bartender has been revoked.

h. Any license, held by any licensee disqualified under the provisions of this section from being issued a license, shall forthwith be revoked by the director.

Approved March 29, 1991.

CHAPTER 180
(H.B. No. 347)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 1992; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 186, LAWS OF 1990; AND DECLARING AN EMERGENCY FOR SECTION 6 OF THE ACT.

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, 1991, through June 30, 1992:

FOR:	
Personnel Costs	$5,520,900
Operating Expenditures	497,900
Capital Outlay	96,300
Trustee and Benefit Payments	500,000
TOTAL	$6,615,100
FROM:	
General Account	$3,248,200
AG-Federal Funding Account	105,000
Interagency Billing and Receipts Account	3,261,900
TOTAL	$6,615,100

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. STATE LEGAL SERVICES:					
FROM:					
General Account	$2,196,100	$355,800	$96,300	$500,000	$3,148,200
AG-Federal Funding Account	100,000	5,000			105,000
Interagency Billing and Receipts Account	3,224,800	37,100			3,261,900
TOTAL	$5,520,900	$397,900	$96,300	$500,000	$6,515,100
II. SPECIAL SERVICES LITIGATION:					
FROM:					
General Account		$100,000			$ 100,000
GRAND TOTAL	$5,520,900	$497,900	$96,300	$500,000	$6,615,100

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 according to 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 period July 1, 1990, through June 30, 1991, to be expended for the period July 1, 1991,

through June 30, 1992 for nonrecurring expenditures only.

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, by Section 5, Chapter 122, Laws of 1988, by Section 5, Chapter 222, Laws of 1989, and by Section 5, Chapter 186, Laws of 1990, and any unexpended and unencumbered balances of the General Account money appropriated by Section 1, Chapter 80, Laws of 1990, and reappropriated by Section 4, Chapter 186, Laws of 1990, to be expended for the Reserved Water Rights Technical Studies Program for the period July 1, 1991, through June 30, 1992.

SECTION 6. In addition to the appropriation made by Section 2, Chapter 186, Laws of 1990, there is hereby appropriated to the Attorney General for the State Legal Services Program the following amount to be expended according to the designated expense classes from the listed account for the period July 1, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$23,300
Operating Expenditures	1,700
TOTAL	$25,000
FROM:	
General Account	$25,000

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Section 6 of this act shall be in full force and effect on and after its passage and approval.

Approved March 29, 1991.

CHAPTER 181
(H.B. No. 350)

AN ACT

RELATING TO THE USE OF UNUSED SICK LEAVE OF STATE EMPLOYEES; AMENDING SECTION 67-5339, IDAHO CODE, TO ALLOW STATE EMPLOYEES WHO RETIRE FROM STATE EMPLOYMENT IN ACCORDANCE WITH CHAPTER 1, TITLE 33, IDAHO CODE, TO RECEIVE THE BENEFITS OF CERTAIN INSURANCE PROGRAMS TO THE EXTENT OF FUNDS CREDITED TO THEIR ACCOUNT BY THEIR STATE EMPLOYER; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 67-5339, Idaho Code, be, and the same is hereby amended to read as follows:

67-5339. USE OF UNUSED SICK LEAVE. (1) Upon separation from state employment by retirement in accordance with chapter 13, title 59 or chapter 1, title 33, Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 1976, and shall be reported by the employer to the public employee retirement system. A sum equal to one-half (1/2), or the maximum amount allowed by subsection (2) hereof, whichever is the lesser, 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 (3) 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 pay premiums for such group health, accident, and life insurance programs as may be maintained by the state, to the extent of the funds credited to the employee's account pursuant to this section. Upon an employee's death, any unexpended sums remaining in the account shall revert to the sick leave account.

(2) For the purposes of determining the monetary value of unused sick leave, the maximum unused sick leave which may be considered, shall be:

(a) During the first ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be one hundred ninety-two (192) hours;

(b) During the second ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be two hundred forty (240) hours;

(c) During the third ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be two hundred eighty-eight (288) hours; and

(d) Thereafter, the maximum unused sick leave which may be considered shall be three hundred thirty-six (336) hours.

(3) Each employer in state government 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.

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, 1990.

Approved March 29, 1991.

CHAPTER 182
(H.B. No. 358)

AN ACT

APPROPRIATING MONEYS FOR THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 1992.

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$165,600	$103,500	$2,200	$271,300
Interagency Billing and Receipts Account	55,200	26,000	800	82,000
TOTAL	$220,800	$129,500	$3,000	$353,300

Approved March 29, 1991.

CHAPTER 183
(H.B. No. 361)

AN ACT

RELATING TO INCOME TAX CHECKOFFS AND ALZHEIMER'S DISEASE; AMENDING CHAPTER 30, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3067B, IDAHO CODE, TO PROVIDE FOR DESIGNATION BY RESIDENT INDIVIDUALS OF INCOME TAX OVERPAYMENTS TO CERTAIN TRUST ACCOUNTS; AND AMENDING CHAPTER 8, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-819, IDAHO CODE, TO CREATE THE ALZHEIMER'S DISEASE SERVICES ACCOUNT IN THE DEDICATED FUND.

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 63-3067B, Idaho Code, and to read as follows:

63-3067B. DESIGNATION BY INDIVIDUALS -- TRUST ACCOUNTS. (a) Every resident 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 set-aside account created by section 36-111, 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;

(v) The United States olympic account created by section 57-817, Idaho Code, but no donation shall exceed five dollars ($5.00); and

(vi) The Alzheimer's disease services account created in section 57-819, Idaho Code.

(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 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 57-819, Idaho Code, and to read as follows:

57-819. ALZHEIMER'S DISEASE SERVICES ACCOUNT. There is hereby created in the dedicated fund of the state treasury, the Alzheimer's disease services account. Moneys in the account shall be appropriated to the Idaho chapter of the Alzheimer's disease and related disorders association for use in services for and support of families and victims of Alzheimer's disease who are residents of the state of Idaho.

Approved March 29, 1991.

CHAPTER 184
(H.B. No. 365)

AN ACT

RELATING TO SOIL AND PLANT AMENDMENTS; AMENDING SECTION 22-1103, IDAHO CODE, AS ENACTED BY CHAPTER 426, LAWS OF 1990, TO REDESIGNATE THE

SECTION AND TO FURTHER DEFINE A TERM; AMENDING SECTION 22-1104, IDAHO CODE, AS ENACTED BY CHAPTER 426, LAWS OF 1990, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR ADDITIONAL INFORMATION TO APPEAR ON A SOIL OR PLANT AMENDMENT LABEL; AMENDING SECTION 22-1105, IDAHO CODE, AS ENACTED BY CHAPTER 426, LAWS OF 1990, TO REDESIGNATE THE SECTION AND TO REVISE REGISTRATION REQUIREMENTS; AMENDING SECTION 22-1106, IDAHO CODE, AS ENACTED BY CHAPTER 426, LAWS OF 1990, TO REDESIGNATE THE SECTION, TO REQUIRE THE REGISTRANT TO PAY INSPECTION FEES AND TO PROVIDE A PROPER CODE CITATION; AND AMENDING CHAPTER 22, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2213, IDAHO CODE, TO PROVIDE FOR RULES AND REGULATIONS.

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

SECTION 1. That Section 22-1103, Idaho Code, as enacted by Chapter 426, Laws of 1990, be, and the same is hereby amended to read as follows:

22-~~11~~2203. 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 or his duly authorized representative.

(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.

SECTION 2. That Section 22-1104, Idaho Code, as enacted by Chapter 426, Laws of 1990, be, and the same is hereby amended to read as follows:

22-~~11~~2204. 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 or volume by gallon or cubic foot;

(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.

SECTION 3. That Section 22-1105, Idaho Code, as enacted by Chapter 426, Laws of 1990, be, and the same is hereby amended to read as follows:

22-~~11~~2205. 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. Such statement of laboratory procedure may be exempted by regulation.

(4) Upon receipt of a complete application for registration of a product the department ~~shall cause~~ may test and analyze 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 efficacy or 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.~~ Refusal to register, suspension.

(a) If it does not appear to the director that composition of the soil amendment or plant amendment is such as to warrant the proposed claims for it, or if the soil or plant amendment and its labeling or other material required to be submitted do not comply with the provisions of this chapter or rules and regulations promulgated pursuant thereto, he shall notify the applicant of the manner in which the soil amendment or plant amendment labeling or other material required to be submitted fails to comply with the provisions of this chapter so as to afford the applicant an opportunity to make the necessary corrections. If upon receipt of such notice, the applicant does not make the required changes, the director may refuse to register the soil amendment or plant amend-

ment. The applicant may request a hearing as provided in chapter 52, title 67, Idaho Code.

(b) When the director determines that a soil amendment or plant amendment or its labeling does not comply with the provisions of this chapter, or the regulations adopted thereunder, or when necessary to prevent unreasonable adverse affects on the environment, he may suspend, revoke or modify the registration of such soil amendment or plant amendment in accordance with the provisions of chapter 52, title 67, Idaho Code.

(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.

SECTION 4. That Section 22-1106, Idaho Code, as enacted by Chapter 426, Laws of 1990, be, and the same is hereby amended to read as follows:

22-~~11~~2206. INSPECTION FEE. (1) There shall be paid to the department ~~for~~ by the registrant of 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-~~11~~2210, Idaho Code, against the person responsible for such payment and report.

SECTION 5. That Chapter 22, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-2213, Idaho Code, and to read as follows:

22-2213. RULES AND REGULATIONS. The director is authorized to adopt and enforce such rules and regulations relating to sampling, analytical methods, form, minimum percentages, soil amending or plant amending ingredients, exempted materials, investigational allowances, definitions, records, labels, labeling, liability bond, misbranding, mislabeling and the distribution of soil amendments or plant amendments as may be necessary to carry into effect the full intent and meaning of the provisions of this chapter.

Approved March 29, 1991.

CHAPTER 185
(H.B. No. 370)

AN ACT

APPROPRIATING MONEYS FOR THE HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 1992; 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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. WOI VETERINARY EDUCATION:					
FROM:					
General Account	$ 500,000	$411,600			$ 911,600
B. WAMI MEDICAL EDUCATION:					
FROM:					
General Account	$ 412,600	$ 61,100	$49,900	$1,587,600	$2,111,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Interagency Billing and Receipts Account	9,800	2,500		115,900	128,200
TOTAL	$ 422,400	$ 63,600	$49,900	$1,703,500	$2,239,400
C. DENTAL EDUCATION:					
FROM:					
General Account	$ 114,400	$ 11,200	$ 800	$ 224,400	$ 350,800
Interagency Billing and Receipts Account	43,800				43,800
TOTAL	$ 158,200	$ 11,200	$ 800	$ 224,400	$ 394,600
D. WICHE UNIVERSITY OF UTAH:					
FROM:					
General Account				$ 482,200	$ 482,200
E. FAMILY PRACTICE RESIDENCY:					
FROM:					
General Account				$ 278,000	$ 278,000
GRAND TOTAL	$1,080,600	$486,400	$50,700	$2,688,100	$4,305,800

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 416, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

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 416, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

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 1, Chapter 416, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

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 1, Chapter 416, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

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 1, Chapter 416, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

Approved March 29, 1991.

CHAPTER 186
(H.B. No. 379)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 1992; APPROPRIATING MONEYS TO THE JOINT SENATE FINANCE-HOUSE APPROPRIATIONS COMMITTEE FOR FISCAL YEAR 1992; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS TO THE LEGISLATIVE COUNCIL; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS TO THE JOINT SENATE FINANCE-HOUSE APPROPRIATIONS COMMITTEE.

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

SECTION 1. There is hereby appropriated to the Legislative Council the following amount to be expended according to the designated expense classes from the listed accounts for the period July 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Account	$627,300	$183,500	$810,800
Interagency Billing and Receipts Account		42,800	42,800
TOTAL	$627,300	$226,300	$853,600

SECTION 2. There is hereby appropriated to the Joint Senate Finance-House Appropriations Committee 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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR LUMP SUM	TOTAL
A. LEGISLATIVE AUDITOR:					
FROM:					
General Account	$ 734,400	$ 20,600			$ 755,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR LUMP SUM	TOTAL
Interagency Billing and Receipts Account	646,700	91,200			737,900
TOTAL	$1,381,100	$111,800			$1,492,900
B. LEGISLATIVE BUDGET OFFICE:					
FROM:					
General Account	$ 512,700	$ 53,200	$ 33,500		$ 599,400
C. JOINT SENATE FINANCE-HOUSE APPROPRIATIONS INTERIM COMMITTEE:					
FROM:					
General Account				$ 24,000	$ 24,000
GRAND TOTAL	$1,893,800	$ 165,000	$ 33,500	$ 24,000	$2,116,300

SECTION 3. There is hereby reappropriated to the Legislative Council any unexpended and unencumbered balance of moneys appropriated in Section 1, Chapter 339, Laws of 1990, for the period July 1, 1991, through June 30, 1992, 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, Chapter 339, Laws of 1990, for the period July 1, 1991, through June 30, 1992, to be used for nonrecurring expenditures only.

Approved March 29, 1991.

CHAPTER 187
(H.B. No. 385)

AN ACT
APPROPRIATING MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 1992; 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 amounts to be expended for the listed programs from the listed accounts for the period July 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. MILITARY MANAGEMENT				
FROM:				
General Account				$1,565,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Adjutant General Receipts Account				221,300
Interagency Billing and Receipts Account				36,200
TOTAL				$1,822,700
B. FEDERAL AND STATE CONTRACTS				
FROM:				
General Account	$ 115,100	$ 178,400	$7,000	$ 300,500
Adjutant General Receipts Account		52,800		52,800
Federal and State Contracts Account	3,142,800	2,364,900		5,507,700
TOTAL	$3,257,900	$2,596,100	$7,000	$5,861,000
C. DISASTER SERVICES				
FROM:				
General Account				$ 309,500
Disaster Services Account				783,800
Federal Indirect Cost Account				55,100
TOTAL				$1,148,400
GRAND TOTAL				$8,832,100

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 174, Laws of 1990, for the period July 1, 1991, through June 30, 1992.

Approved March 29, 1991.

CHAPTER 188
(H.B. No. 386)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1992; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; TRANSFERRING FUNDS FROM THE GENERAL ACCOUNT TO THE REVOLVING DEVELOPMENT ACCOUNT; AND EXPRESSING LEGISLATIVE INTENT.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Water Resources not exceed the following amount for the designated expense classes from the listed accounts for the period July 1, 1991, through June 30, 1992:

FOR:	
Personnel Costs	$ 6,594,400
Operating Expenditures	2,692,300
Capital Outlay	390,500
Trustee and Benefit Payments	2,864,300
TOTAL	$12,541,500
FROM:	
General Account	$ 6,284,700
Watermaster Service Account	262,700
Federal Indirect Support Account	215,800
Miscellaneous Federal Account	628,200
Federal Energy Account	1,499,800
Water Pollution Control Account	541,100
Water Resources Adjudication Account	3,109,200
TOTAL	$12,541,500

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT & SUPPORT SERVICES:					
FROM:					
General Account	$ 534,100	$ 283,400	$125,000	$1,059,000	$ 2,001,500
Federal Indirect Support Account	112,500	103,300			215,800
TOTAL	$ 646,600	$ 386,700	$125,000	$1,059,000	$ 2,217,300
II. PLANNING AND POLICY DIVISION:					
FROM:					
General Account	$1,112,800	$ 250,700	$ 59,500	$ 434,600	$ 1,857,600
Miscellaneous Federal Account	351,100	108,000			459,100
Water Pollution Control Account	131,500	38,800	20,800	350,000	541,100
TOTAL	$1,595,400	$ 397,500	$ 80,300	$ 784,600	$ 2,857,800
III. ENERGY RESOURCES DIVISION:					
FROM:					
General Account	$ 115,800	$ 46,100			$ 161,900
Federal Energy Account	739,800	760,000			1,499,800
TOTAL	$ 855,600	$ 806,100			$ 1,661,700
IV. WATER MANAGEMENT DIVISION:					
A. SNAKE BASIN ADJUDICATIONS:					
FROM:					
Water Resources Adjudication Account	$1,366,400	$ 616,900	$105,200	$1,020,700	$ 3,109,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. WATER MANAGEMENT:					
FROM:					
General Account	$1,765,900	$ 417,800	$ 80,000		$ 2,263,700
Watermaster Service Account	227,400	35,300			262,700
Miscellaneous Federal Account	137,100	32,000			169,100
TOTAL	$2,130,400	$ 485,100	$ 80,000		$ 2,695,500
GRAND TOTAL	$6,594,400	$2,692,300	$390,500	$2,864,300	$12,541,500

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 193, Laws of 1990, to be used for nonrecurring expenditures only, for the period July 1, 1991, through June 30, 1992.

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 $200,000 from the General Account to the Revolving Development Account.

SECTION 5. It is legislative intent that of the moneys reappropriated in Section 3 of this act, the sum of $100,000 is specifically earmarked for technical studies in preparation for reserved water rights litigation. If signed agreements with the Shoshone-Bannock tribes make this expenditure unnecessary, the State Auditor shall transfer the $100,000 from the General Account to the Revolving Development Account.

Approved March 29, 1991.

CHAPTER 189
(H.B. No. 390)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1992; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; EXEMPTING CONSTRUCTION AUTHORIZED IN THIS ACT FROM THE PROVISIONS OF SECTION 67-5711, IDAHO CODE; AMENDING SECTION 2, CHAPTER 148, LAWS OF 1990; 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, 1991, through June 30, 1992:

FOR:	
Personnel Costs	$ 5,948,500
Operating Expenditures	1,995,300
Capital Outlay	3,509,100
Trustee and Benefit Payments	5,251,900
TOTAL	$16,704,800
FROM:	
General Account	$ 5,771,200
Dedicated Accounts	8,954,600
Federal Accounts	1,979,000
TOTAL	$16,704,800

SECTION 2. There is hereby appropriated to the Department of Parks and Recreation the following amount, to be expended for the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Account	$ 669,400	$ 192,600	$ 110,000		$ 972,000
Park and Recreation Account	258,900	263,200	44,500		566,600
Parks and Recreation Capital Improvement Account			18,200		18,200
Motorbike Recreation Account		16,800			16,800
Recreational Vehicle Account	83,000	21,500			104,500
Parks and Recreation Federal Account	2,000	100			2,100
Federal Surcharge Account	38,300	20,000			58,300
TOTAL	$1,051,600	$ 514,200	$ 172,700		$ 1,738,500
II. PARK OPERATIONS:					
FROM:					
General Account	$2,671,200	$ 498,100	$ 79,800		$ 3,249,100
Parks and Recreation Capital Improvement Account			354,900		354,900
Park and Recreation Account	861,300	375,900	1,500		1,238,700
Park Donation Account		5,900			5,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Harriman State Park Account	69,200	60,200	2,000		131,400
Parks and Recreation Federal Account	52,200	17,800			70,000
TOTAL	$3,653,900	$ 957,900	$ 438,200		$ 5,050,000
III. PARK DEVELOPMENT:					
FROM:					
General Account	$ 185,800	$ 25,000	$1,040,000	$ 31,800	$ 1,282,600
Park Land Trust Account			500,000		500,000
Parks and Recreation Capital Improvement Account	61,500		720,000		781,500
Park and Recreation Account	38,600	36,700			75,300
TOTAL	$ 285,900	$ 61,700	$2,260,000	$ 31,800	$ 2,639,400
IV. RECREATIONAL RESOURCES:					
FROM:					
General Account	$ 128,100	$ 19,400			$ 147,500
State Vessel Account				$1,070,000	1,070,000
Cross-Country Skiing Account		6,800	$ 9,000	24,000	39,800
Parks and Recreation Capital Improvement Account			15,000		15,000
Park and Recreation Account		37,400		12,000	49,400
Waterways Improvement Account	74,800	46,800	67,000	1,151,100	1,339,700
Off-Road Motor Vehicle Account	120,200	28,500	393,600	398,100	940,400
State Snowmobile Account				230,000	230,000
Motorbike Recreation Account	15,800	1,000		20,200	37,000
Recreational Vehicle Account	65,200	60,300	10,000	710,700	846,200
Federal Pass-Through Account				1,500,000	1,500,000
Park and Recreation Federal Account		6,500			6,500
Federal Surcharge Account	89,300	3,500			92,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Coast Guard Boat Safety Account	81,400	60,300	3,600	104,000	249,300
TOTAL	$ 574,800	$ 270,500	$ 498,200	$5,220,100	$ 6,563,600
V. LAVA HOT SPRINGS FOUNDATION:					
FROM:					
General Account			$ 120,000		$ 120,000
Lava Hot Springs Foundation Account	$ 382,300	$ 191,000	20,000		593,300
TOTAL	$ 382,300	$ 191,000	$ 140,000		$ 713,300
GRAND TOTAL	$5,948,500	$1,995,300	$3,509,100	$5,251,900	$16,704,800

SECTION 3. There is hereby reappropriated to the Department of Parks and Recreation any unexpended and unencumbered balances of the General Account moneys appropriated by Section 2, Chapter 148, Laws of 1990, to be used for nonrecurring expenditures only, for the period July 1, 1991, through June 30, 1992.

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. That Section 2, Chapter 148, Laws of 1990, be, and the same is hereby amended to read as follows:

SECTION 2. There is hereby appropriated to the Department of Parks and Recreation the following amount, to be expended for 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

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
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
II. PARK OPERATIONS:					
FROM:					
General Account	~~$2,401,900~~	~~$ 396,200~~	~~$ 000~~		~~$2,790,900~~
	2,406,700	397,200	19,300		2,823,200
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~~		~~$4,190,000~~
	3,147,300	786,300	288,700		4,222,300
III. PARK DEVELOPMENT:					
FROM:					
General Account	~~$ 170,200~~		~~$2,250,000~~	$ 31,800	$2,452,000
	200,200		2,220,000		
Park Land Trust Account			500,000		500,000
Parks and Recreation Capital Improvement Account			441,200		441,200
Park and Recreation Account	35,000	~~$ 19,600~~			~~54,600~~
		31,600			66,600
TOTAL	~~$ 205,200~~	~~$ 19,600~~	~~$2,691,200~~	$ 31,800	~~$2,947,800~~
	235,200	31,600	3,161,200		3,459,800
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

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
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	~~390,100~~	~~876,200~~
				498,100	976,200
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~~
				1,060,700	1,183,100
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~~
				5,270,100	6,467,200
V. LAVA HOT SPRINGS FOUNDATION:					
FROM:					
General Account			$ ~~430,000~~		$ ~~430,000~~
			445,500		445,500
Lava Hot Springs Foundation Account	$ 327,700	$ 183,900	20,000		531,600
TOTAL	$ 327,700	$ 183,900	$ ~~450,000~~		$ ~~961,600~~
			465,500		977,100
GRAND TOTAL	~~$5,052,900~~	~~$1,618,500~~	~~$3,938,600~~	~~$4,831,900~~	~~$15,441,900~~
	5,087,700	1,631,500	4,442,600	5,301,900	16,463,700

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 passage and approval.

Approved March 29, 1991.

CHAPTER 190
(H.B. No. 391)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 1992; APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 278, LAWS OF 1990; AND DECLARING AN EMERGENCY FOR SECTION 3 OF THIS ACT.

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, 1991, through June 30, 1992:

FROM:	
General Account	$ 2,733,500
Federal Vocational Rehabilitation Account	8,257,500
Vocational Rehabilitation Cost Recovery Account	260,000
Interagency Billing and Receipts Account	2,000
TOTAL	$11,253,000

SECTION 2. There is hereby appropriated to the State Board of Education for the Division of Vocational Rehabilitation the following amount, to be expended for the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1991, through June 30, 1992:

A. RENAL DISEASE:	
FROM:	
General Account	$ 460,200
FOR:	
Trustee and Benefit Payments	$ 460,200
B. VOCATIONAL REHABILITATION:	
FROM:	
General Account	$ 2,203,300
Federal Vocational Rehabilitation Account	8,257,500
Vocational Rehabilitation Cost Recovery Account	260,000
Interagency Billing and Receipts Account	2,000
TOTAL	$10,722,800
FOR:	
Personnel Costs	$ 3,827,300
Operating Expenditures	673,200
Capital Outlay	100,200
Trustee and Benefit Payments	6,122,100
TOTAL	$10,722,800
C. EPILEPSY SERVICES:	
FROM:	
General Account	$ 70,000
FOR:	
Trustee and Benefit Payments	$ 70,000
GRAND TOTAL	$11,253,000

SECTION 3. In addition to the appropriation made by Section 2, Chapter 278, Laws of 1990, there is hereby appropriated to the State Board of Education for the Division of Vocational Rehabilitation the following amount, to be expended for the named program according to the designated expenditure classes from the listed accounts for the period July 1, 1990, through June 30, 1991:

VOCATIONAL REHABILITATION:

FROM:	
General Account	$14,000
Federal Vocational Rehabilitation Account	47,100
TOTAL	$61,100
FOR:	
Personnel Costs	$52,200
Operating Expenditures	1,400
Capital Outlay	7,500
TOTAL	$61,100

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 passage and approval.

Approved March 29, 1991.

CHAPTER 191
(H.B. No. 393)

AN ACT

APPROPRIATING MONEYS FOR THE COMMISSION FOR THE BLIND FOR FISCAL YEAR 1992.

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$ 546,600	$101,500	$ 7,000	$ 426,000	$1,081,100
Blind Commission Donations Account			3,000		3,000
Randolph Sheppard Account	26,600	48,000		85,100	159,700
Idaho Commission for the Blind Account	586,500	269,200	14,000	560,200	1,429,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Interagency Billing and Receipts Account		10,100		8,600	18,700
TOTAL	$1,159,700	$428,800	$24,000	$1,079,900	$2,692,400

Approved March 29, 1991.

CHAPTER 192
(H.B. No. 399)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR FISCAL YEAR 1992; AND EXPRESSING LEGISLATIVE INTENT AS TO MATCHING FUNDS.

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, 1991, through June 30, 1992:

FROM:	
General Account	$ 8,856,500
Idaho Law Enforcement Telecommunications Account	385,000
Drug Enforcement Donation Account	255,400
Federal Justice Assistance Account	3,252,200
Federal Motor Carrier Safety Account	34,600
Idaho State Racing Commission Account	627,400
State Brand Board Account	1,781,800
Idaho Horse Breeders' and Owners' Award Account	125,000
County Dog Racing Fund Account	250,000
Interagency Billing and Receipts Account	936,700
Peace Officers Account	887,100
TOTAL	$17,391,700

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Account	$1,133,000	$ 332,100	$ 14,100		$ 1,479,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Motor Carrier Safety Account	33,600	1,000			34,600
Interagency Billing and Receipts Account	35,600	5,300			40,900
TOTAL	$1,202,200	$ 338,400	$ 14,100		$ 1,554,700
II. POLICE SERVICES:					
FROM:					
General Account	$4,071,900	$2,221,300	$336,400		$ 6,629,600
Idaho Law Enforcement Telecommunications Account	110,800	274,200			385,000
Drug Enforcement Donation Account		221,500	33,900		255,400
Federal Justice Assistance Account	600,100	166,000		$2,486,100	3,252,200
Interagency Billing and Receipts Account	63,100	322,600		500,000	885,700
TOTAL	$4,845,900	$3,205,600	$370,300	$2,986,100	$11,407,900
III. BRAND INSPECTION:					
FROM:					
State Brand Board Account	$1,479,400	$ 252,400	$ 50,000		$ 1,781,800
IV. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Account	$ 371,400	$ 256,000			$ 627,400
Idaho Horse Breeders' and Owners' Award Account				$ 125,000	125,000
County Dog Racing Fund Account				250,000	250,000
TOTAL	$ 371,400	$ 256,000		$ 375,000	$ 1,002,400
V. ALCOHOL BEVERAGE CONTROL:					
FROM:					
General Account	$ 573,400	$ 142,800	$ 31,500		$ 747,700
Interagency Billing and Receipts Account		1,000			1,000
TOTAL	$ 573,400	$ 143,800	$ 31,500		$ 748,700
VI. POST ACADEMY:					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
Peace Officers Account	$ 350,900	$ 421,200	$ 41,300	$ 73,700	$ 887,100
Interagency Billing and Receipts Account		5,100	4,000		9,100
TOTAL	$ 350,900	$ 426,300	$ 45,300	$ 73,700	$ 896,200
GRAND TOTAL	$8,823,200	$4,622,500	$511,200	$3,434,800	$17,391,700

SECTION 3. It is legislative intent that any new drug related funds may be used as a match for federal anti-drug abuse grant moneys.

Approved March 29, 1991.

CHAPTER 193
(H.B. No. 400)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 1992; 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 to be expended according to designated expense classes for the period J uly 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Account	$1,261,100	$1,060,100	$ 228,000	$ 2,549,200
Idaho Travel and Convention Account	303,100	1,105,000	1,045,900	2,454,000
Idaho Development and Publicity Account		167,600		167,600
Economic and Community Affairs Account	345,500	122,700	8,624,900	9,093,100
TOTAL	$1,909,700	$2,455,400	$9,898,800	$14,263,900

SECTION 2. There is hereby reappropriated to the Department of Commerce any unexpended and unencumbered balances of the General

Account moneys appropriated by Section 1, Chapter 398, Laws of 1990, to be used for nonrecurring expenditures only, for the period July 1, 1991, through June 30, 1992.

Approved March 29, 1991.

CHAPTER 194
(H.B. No. 401)

AN ACT

APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH EXTENSION SERVICE FOR FISCAL YEAR 1992; 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, 1991, through June 30, 1992:

FROM:	
General Account	$16,414,100
Water Pollution Control Account	75,000
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	$20,864,900

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 265, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

SECTION 3. It is legislative intent that the appropriation of moneys from the Water Pollution Control Account, in Section 1 of this act, specifically supersedes the provisions of Section 39-3606, Idaho Code.

Approved March 29, 1991.

CHAPTER 195
(H.B. No. 402)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES FOR FISCAL YEAR 1992.

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, 1991, through June 30, 1992:

FOR:	
Personnel Costs	$3,110,200
Operating Expenditures	905,300
Capital Outlay	139,400
TOTAL	$4,154,900
FROM:	
General Account	$ 436,000
Electrical Board Account	1,545,300
Plumbing Board Account	787,500
Idaho Building Code Account	566,800
Manufactured Housing Account	50,700
Interagency Billing and Receipts Account	661,900
Mine Safety Training Grant Account	106,700
TOTAL	$4,154,900

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
General Account	$ 45,500	$ 4,300	$ 400	$ 50,200
Electrical Board Account	187,900	11,800	1,400	201,100
Plumbing Board Account	87,500	7,100	700	95,300
Idaho Building Code Account	66,000	13,800	500	80,300
Interagency Billing and Receipts Account	56,200	29,000	500	85,700
TOTAL	$ 443,100	$ 66,000	$ 3,500	$ 512,600
B. SAFETY COMPLIANCE:				
FROM:				
General Account	$ 43,500	$ 11,000		$ 54,500
Electrical Board Account	1,012,500	316,700	$ 15,000	1,344,200
Plumbing Board Account	469,700	166,600	55,900	692,200
Idaho Building Code Account	374,400	76,100	36,000	486,500
Manufactured Housing				

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Account	35,700	15,000		50,700
Mine Safety Training Grant Account	30,400	16,300		46,700
TOTAL	$1,966,200	$601,700	$106,900	$2,674,800
C. INDUSTRIAL RELATIONS AND SAFETY:				
FROM:				
General Account	$ 260,200	$ 71,100		$ 331,300
Interagency Billing and Receipts Account	402,900	144,300	$ 29,000	576,200
Mine Safety Training Grant Account	37,800	22,200		60,000
TOTAL	$ 700,900	$237,600	$ 29,000	$ 967,500
GRAND TOTAL	$3,110,200	$905,300	$139,400	$4,154,900

Approved March 29, 1991.

CHAPTER 196
(H.B. No. 404)

AN ACT

APPROPRIATING MONEYS FOR THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 1992; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Division of Financial Management the following amount, to be expended according to the designated expense classes from the listed accounts for the period July 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$933,800	$218,600	$16,700	$1,169,100
Indirect Cost Recovery Account		22,800		22,800
Interagency Billing and Receipts Account	38,600	23,900	1,400	63,900
TOTAL	$972,400	$265,300	$18,100	$1,255,800

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 260, Laws of 1990, for the period July 1, 1991, through June 30, 1992.

Approved March 29, 1991.

CHAPTER 197
(H.B. No. 405)

AN ACT

APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1992; 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, 1991, through June 30, 1992:

FOR:	
Personnel Costs	$634,400
Operating Expenditures	348,400
Capital Outlay	2,800
TOTAL	$985,600
FROM:	
General Account	$985,600

SECTION 2. There is hereby reappropriated to the State Board of Education for the Office of the State Board of Education, any unexpended and unencumbered balances of the General Account moneys appropriated by Section 1, Chapter 419, Laws of 1990, to be used for nonrecurring expenditures only, for the period July 1, 1991, through June 30, 1992.

Approved March 29, 1991.

CHAPTER 198
(H.B. No. 406)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 1992; 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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$ 682,000	$305,900	$50,000	$1,037,900
PBS Federal Grant	634,200	614,700		1,248,900
TOTAL	$1,316,200	$920,600	$50,000	$2,286,800

SECTION 2. 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 422, Laws of 1990, to be used for nonrecurring expenditures only for the period of July 1, 1991, through June 30, 1992.

Approved March 29, 1991.

CHAPTER 199
(H.B. No. 407)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE SCHOOL FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 1992; 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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$4,000,000	$803,700	$193,300	$4,997,000
State School for the Deaf and the Blind Income Account		53,100		53,100
Federal Deaf and Blind Children Account	1,500			1,500
Interagency Billing and Receipts Account	4,000	19,300		23,300
TOTAL	$4,005,500	$876,100	$193,300	$5,074,900

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 341, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

Approved March 29, 1991.

CHAPTER 200
(H.B. No. 408)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 1992; 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, 1991, through June 30, 1992:

FROM:	
General Account	$ 3,089,000
Dedicated Accounts	2,612,800
Federal Accounts	55,128,100
Interagency Billing and Receipts Account	90,200
TOTAL	$60,920,100

SECTION 2. There is hereby appropriated to the Superintendent of Public Instruction/State Department 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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. MANAGEMENT:					
FROM:					
General Account	$ 293,600	$ 103,100	$ 400		$ 397,100
B. FINANCE AND ADMINISTRATION:					
FROM:					
General Account	$1,098,200	$ 302,400	$1,100		$ 1,401,700
Interagency Billing and Receipts Account	59,100	31,000	100		90,200
Indirect Cost					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Recovery Account	25,500	52,300			77,800
Driver Training Account	93,300	89,700	300	$ 1,354,000	1,537,300
Commodity Distribution Account		509,300		600	509,900
Computer Services Account	103,300	32,800			136,100
Food Services Account	315,900	201,100	500	17,155,000	17,672,500
Education Projects, Nonfederal Account		31,200			31,200
TOTAL	$1,695,300	$1,249,800	$2,000	$18,509,600	$21,456,700
C. STATE-FEDERAL INSTRUCTIONAL SERVICES:					
FROM:					
General Account	$ 632,900	$ 468,100	$ 800	$ 188,400	$ 1,290,200
Professional Standards Commission Account	161,300	128,900	200		290,400
Northwest Association of Schools and Colleges Account		10,300			10,300
Education Projects, Nonfederal Account		8,600			8,600
Association for the Humanities in Idaho Account		83,800		47,200	131,000
Idaho Ag in the Classroom Account				11,200	11,200
Indian Education Account	2,500	3,600		147,900	154,000
Education Projects - Health and Human Services Account	66,100	115,800	100	724,100	906,100
Elementary and Secondary Education Account	903,800	955,400	1,300	31,813,600	33,674,100
Education Block Grant Account	469,200	131,100	700	1,989,400	2,590,400
TOTAL	$2,235,800	$1,905,600	$3,100	$34,921,800	$39,066,300
GRAND TOTAL	$4,224,700	$3,258,500	$5,500	$53,431,400	$60,920,100

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 according to the 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 262, Laws of 1990, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

Approved March 29, 1991.

CHAPTER 201
(H.B. No. 418)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 382, LAWS OF 1990; EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 1992; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND DECLARING AN EMERGENCY FOR SECTION 1 OF THIS ACT.

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

SECTION 1. In addition to the appropriation made by Section 2, Chapter 382, Laws of 1990, there is hereby appropriated to the Department of Agriculture for the designated programs the following amounts, 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	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. PLANT INDUSTRIES:					
FROM:					
General Account	$2,000	$40,900		$12,700	$ 55,600
B. AGRICULTURAL INSPECTIONS:					
FROM:					
General Account			$62,500		$ 62,500
TOTAL	$2,000	$40,900	$62,500	$12,700	$118,100

SECTION 2. It is legislative intent that the expenditures for the Department of Agriculture not exceed the following amount for the period July 1, 1991, through June 30, 1992:

FOR:	
Personnel Costs	$11,810,100
Operating Expenditures	2,790,000
Capital Outlay	414,900

Trustee and Benefit Payments	802,000
TOTAL	$15,817,000
FROM:	
General Account	$ 3,008,500
Dedicated Accounts	12,344,000
Interagency Billing and Receipts Account	464,500
TOTAL	$15,817,000

SECTION 3. There is hereby appropriated to the Department of Agriculture 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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Account	$ 233,700	$ 124,200	$ 25,000		$ 382,900
Interagency Billing and Receipts Account	38,800	178,400			217,200
Agriculture Department Inspection Account	245,100	16,100			261,200
TOTAL	$ 517,600	$ 318,700	$ 25,000		$ 861,300
B. ANIMAL INDUSTRY:					
FROM:					
General Account	$ 518,000	$ 46,600	$ 51,600		$ 616,200
Livestock Disease Control & T.B. Indemnity Account	335,700	185,900	30,100		551,700
Dairy Industry and Inspection Account	276,000	82,600	22,400		381,000
Livestock Dealer License Account	3,000	2,500			5,500
Interagency Billing and Receipts Account		143,500			143,500
TOTAL	$ 1,132,700	$ 461,100	$104,100		$ 1,697,900
C. AGRICULTURAL TECHNOLOGY:					
FROM:					
Water Pollution Control Account	$ 85,300	$ 21,400	$ 21,000		$ 127,700
Pesticide Account	703,900	229,200	42,000		975,100
TOTAL	$ 789,200	$ 250,600	$ 63,000		$ 1,102,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
D. PLANT INDUSTRY:					
FROM:					
General Account	$ 250,500	$ 92,100		$ 92,200	$ 434,800
Agriculture Department Inspection Account	690,700	151,200	16,900		858,800
Bee Inspection Account	24,100	6,600			30,700
Commercial Feed and Fertilizer Account	271,700	89,700	2,600		364,000
TOTAL	$ 1,237,000	$ 339,600	$ 19,500	$ 92,200	$ 1,688,300
E. AGRICULTURAL INSPECTIONS:					
FROM:					
General Account	$ 638,300	$ 194,400	$ 80,000		$ 912,700
Agriculture Department Inspection Account	140,300	50,300		$ 3,500	194,100
Fresh Fruit and Vegetable Inspection Account	6,782,500	736,000	60,300	290,000	7,868,800
Egg Inspection Account	99,000	23,300			122,300
Public Livestock Market Account	6,800	2,000			8,800
Organic Food Products Administration Account	45,200	9,700	8,000		62,900
TOTAL	$ 7,712,100	$1,015,700	$148,300	$293,500	$ 9,169,600
F. AGRICULTURAL MARKETING AND DEVELOPMENT:					
FROM:					
General Account	$ 213,600	$ 120,200	$ 5,000		$ 338,800
Agriculture Department Inspection Account	26,300				26,300
Wheat Statistics Account	2,000	9,100			11,100
Interagency Billing and Receipts Account	40,100	63,700			103,800
Rural Rehabilitation Account	13,000	14,600		$159,100	186,700
TOTAL	$ 295,000	$ 207,600	$ 5,000	$159,100	$ 666,700
G. ANIMAL DAMAGE:					
FROM:					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
General Account				$ 87,600	$ 87,600
Sheep Commission Account				119,600	119,600
Animal Damage Control Account				50,000	50,000
TOTAL				$257,200	$ 257,200
H. SHEEP COMMISSION:					
FROM:					
General Account	$ 29,100	$ 6,400			$ 35,500
Sheep Commission Account	97,100	27,200			124,300
TOTAL	$ 126,200	$ 33,600			$ 159,800
I. HONEY ADVERTISING COMMISSION:					
FROM:					
Idaho Honey Advertising Account	$ 300	$ 13,100			$ 13,400
J. QUALITY ASSURANCE LABORATORY:					
FROM:					
General Account		$ 150,000	$ 50,000		$ 200,000
GRAND TOTAL	$11,810,100	$2,790,000	$414,900	$802,000	$15,817,000

SECTION 4. There is hereby reappropriated to the Department of Agriculture any unexpended and unencumbered balances of the General Account moneys appropriated in Section 2, Chapter 382, Laws of 1990, to be used for nonrecurring expenditures only, for the period July 1, 1991, through June 30, 1992.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved March 29, 1991.

CHAPTER 202
(H.B. 384)

AN ACT

RELATING TO THE RESTORATION OF CIVIL RIGHTS; AMENDING SECTION 18-310, IDAHO CODE, TO PROVIDE THAT A FELONY CONVICTION FOR CERTAIN CRIMES MAY BE USED AS A BASIS FOR DENIAL TO SHIP, TRANSPORT, POSSESS OR

RECEIVE A FIREARM, AND TO PROVIDE AUTHORITY TO THE COMMISSION ON PARDONS AND PAROLE TO RESTORE THE CIVIL RIGHT TO SHIP, TRANSPORT, POSSESS OR RECEIVE A FIREARM UNDER CERTAIN CIRCUMSTANCES UPON APPLICATION MADE FIVE YEARS AFTER FINAL DISCHARGE.

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

SECTION 1. That Section 18-310, Idaho Code, be, and the same is hereby amended to read as follows:

18-310. IMPRISONMENT -- EFFECT ON CIVIL RIGHTS AND OFFICES. (1) A sentence of ~~imprisonment in a state prison~~ custody to the Idaho state board of correction for any time less than for life suspends all the civil rights of the person so sentenced including the right to refuse treatment authorized by the sentencing court, and forfeits all public offices and all private trusts, authority or power during such imprisonment: provided that any such person may lawfully exercise all civil rights that are not political during any period of parole or probation, except the right to ship, transport, possess or receive a firearm, and the right to refuse treatment authorized by the sentencing court.

(2) Upon the final discharge of a person convicted of any Idaho felony except treason and those enumerated in paragraph (a) of this subsection with regard to the right to ship, transport, possess or receive a firearm, a person shall be restored the full rights of citizenship. As used in this subsection, "final discharge" means satisfactory completion of imprisonment, probation and parole as the case may be.

(a) Any person convicted of aggravated assault (18-905, Idaho Code), aggravated battery (18-907, Idaho Code), assault with intent to commit a serious felony (18-909, Idaho Code), battery with intent to commit a serious felony (18-911, Idaho Code), burglary (18-1401, Idaho Code), lewd conduct with a minor or child under sixteen (18-1508(3), (4), (5) and (6), Idaho Code), sexual abuse of a child under sixteen (18-1506, Idaho Code), felonious rescuing prisoners (18-2501, Idaho Code), escape by one charged with, convicted of or on probation for a felony (18-2505, Idaho Code), degrees of murder (18-4003, Idaho Code), voluntary manslaughter (18-4006(1), Idaho Code), assault with intent to murder (18-4015, Idaho Code), administering poison with intent to kill (18-4014, Idaho Code), kidnapping (18-4501, Idaho Code), mayhem (18-5001, Idaho Code), rape (18-6101, Idaho Code), male rape (18-6108, Idaho Code), robbery (18-6501, Idaho Code), ritualized abuse of a child (18-1506A, Idaho Code), cannibalism (18-5003, Idaho Code), felonious manufacture, delivery or possession with the intent to manufacture or deliver, or possession of a controlled or counterfeit substance (37-2732, Idaho Code), or any person convicted of an attempt (18-306, Idaho Code), conspiracy (18-1701, Idaho Code), or solicitation (18-2001, Idaho Code), to commit any of the crimes described in subsection (2)(a) of this section.

(b) The provisions of this subsection shall apply only to those persons convicted of the enumerated felonies in paragraph (a) of

this subsection on or after July 1, 1991.

(3) A person not restored to the civil right to ship, transport, possess or receive a firearm may make application to the commission of pardons and parole to restore the civil right to ship, transport, possess or receive a firearm. The commission shall not accept any such application until five (5) years after the date of final discharge. The commission shall conduct the proceeding upon such application pursuant to the rules and regulations adopted in accordance with the law. The commission shall not restore the right to ship, transport, possess or receive a firearm to any person convicted of murder in the first degree (18-4003, Idaho Code), murder in the second degree (18-4003, Idaho Code), or any felony enumerated in paragraph (a) of this subsection, upon which the sentence was enhanced for the use of a firearm during the commission of said felony.

Approved April 1, 1991.

CHAPTER 203
(S.B. No. 1014)

AN ACT

RELATING TO THE DONATION OF ORGANS OR TISSUE; AMENDING SECTION 49-315, IDAHO CODE, TO PROVIDE FOR IMPRINTING ON A DRIVER'S LICENSE FOR PERSONS WISHING TO DONATE ORGANS OR TISSUE UPON DEATH; AMENDING SECTION 49-2444, IDAHO CODE, TO PROVIDE FOR IMPRINTING ON AN IDENTIFICATION CARD FOR PERSONS WISHING TO DONATE ORGANS OR TISSUE UPON DEATH; AND AMENDING SECTION 39-3401, IDAHO CODE, TO FURTHER DEFINE A TERM AND TO PROVIDE CORRECT NOMENCLATURE.

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

SECTION 1. That Section 49-315, Idaho Code, be, and the same is hereby amended to read as follows:

49-315. LICENSES ISSUED TO DRIVERS. (1) The department shall issue to every qualifying applicant a driver's license as applied for, which shall bear a distinguishing number assigned to the licensee, the full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, color photograph, name of this state, date of issuance, date of expiration, license class, endorsements, restrictions and the applicant's signature; and no driver's license shall be valid until it has been signed by the licensee.

(2) Every driver's license shall bear a color photograph of the licensee, which shall be taken by the examiner at the time the application is made. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A driver's license may contain a statement or indication of the medical condition of the licensee.

(3) The department shall notify the commercial driver license information system that a class A, B or C driver's license has been issued as required by 49 CFR part 383.

(4) A licensee desiring to donate any or all organs or tissue in the event of death, pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, at the option of the donor may indicate this desire on the driver's license by the imprinting of the word "donor" on the license.

SECTION 2. 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 seven dollars and fifty cents ($7.50) of which five dollars ($5.00) shall be retained by the county and credited to the current expense fund, and 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 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.

(4) A person possessing an identification card desiring to donate any or all organs or tissue in the event of death, pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, at the option of the donor may indicate this desire on the identification card by the imprinting of the word "donor" on the identification card.

SECTION 3. That Section 39-3401, Idaho Code, be, and the same is hereby amended to read as follows:

39-3401. DEFINITIONS. As used in this chapter:

(1) "Anatomical gift" means a donation of all or part of a human body to take effect upon or after death.

(2) "Decedent" means a deceased individual and includes ~~es~~ a stillborn infant or fetus.

(3) "Document of gift" means a card, a statement attached to or imprinted on a motor vehicle ~~operator's--or--chauffeur's~~ driver's license or on an identification card, a will, or other writing used to make an anatomical gift.

(4) "Donor" means an individual who ~~make~~ makes an anatomical gift of all or part of the individual's body.

(5) "Enucleation" means removing or processing eyes or parts of eyes.

(6) "Enucleator" means an individual who has completed a course in eye enucleation and has a certificate of competence from an agency or organization designated by the Idaho board of medicine for the purpose of providing such training.

(7) "Hospital" means a facility licensed, accredited, or approved as a hospital under the law of any state or a facility operated as a hospital by the United States government, a state, or a subdivision of a state.

(8) "Part" means an organ, tissue, eye, bone, artery, blood, fluid, or other portion of a human body.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, government, governmental subdivision or agency, or any other legal or commercial entity.

(10) "Physician" or "surgeon" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state.

(11) "Procurement organization" means a person licensed, accredited, or approved under the laws of any state for procurement, distribution, or storage of human bodies or parts.

(12) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(13) "Technician" means an individual who is certified by the Idaho board of medicine to remove or process a part.

Approved April 2, 1991.

CHAPTER 204
(S.B. No. 1015)

AN ACT

RELATING TO ORGAN OR TISSUE DONORS; AMENDING SECTION 39-3403, IDAHO CODE, TO PROVIDE FOR ATTACHING DOCUMENTS OF REFUSAL OF GIFT OF ORGANS OR TISSUE UPON DEATH TO AN INDIVIDUAL'S DRIVER'S LICENSE OR IDENTIFICATION CARD.

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

SECTION 1. That Section 39-3403, Idaho Code, be, and the same is hereby amended to read as follows:

39-3403. MAKING, AMENDING, REVOKING, AND REFUSING TO MAKE ANATOMICAL GIFTS BY INDIVIDUAL. (1) An individual who is at least eighteen (18) years of age may (i) make an anatomical gift for any of the purposes stated in section 39-3407 (1), Idaho Code, (ii) limit an anatomical gift to one (1) or more of those purposes, or (iii) refuse to make an anatomical gift.

(2) An anatomical gift may be made only by a document of gift signed by the donor. If the donor cannot sign, the document of gift must be signed by another individual and by two (2) witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and state that it has been so signed.

(3) ~~If--a--document--of--gift-is~~ An individual may attached to ~~or imprinted-on-a-donor's-motor-vehicle--operator's--or--chauffeur's~~ his driver's license~~,~~ or identification card a document and the document of gift must comply with subsection (2) of this section. Revocation, suspension, expiration, or cancellation of the license does not invalidate the anatomical gift.

(4) A document of gift may designate a particular physician or surgeon to carry out the appropriate prodcedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician, surgeon, technician, or enucleator to carry out the appropriate procedures.

(5) An anatomical gift by will takes effect upon death of the testator, whether or not the will is probated. If, after death, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

(6) A donor may amend or revoke an anatomical gift, not made by will, only by:

(a) A signed statement;

(b) An oral statement made in the presence of two (2) individuals;

(c) Any form of communication during a terminal illness or injury addressed to a physician or surgeon; or

(d) The delivery of a signed statement to a specified donee to whom a document of gift had been delivered.

(7) The donor of an anatomical gift made by will may amend or revoke the gift in the manner provided for amendment or revocation of wills, or as provided in subsection (6) of this section.

(8) An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.

(9) An individual may refuse to make an anatomical gift of the individual's body or part by (i) a writing signed in the same manner as a document of gift, (ii) ~~a-statement-attached-to-or-imprinted-on--a donor's--motor-vehicle-operator's-or-chauffeur's~~ attaching a statement on his driver's license or identification card, or (iii) any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(10) In the absence of contrary indications by the donor, an anatomical gift or a part is neither a refusal to give other parts nor a limitation on an anatomical gift under section 39-3404, Idaho Code, or on a removal or release of other parts under section 39-3405, Idaho Code.

(11) In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not refusal to make another anatomical gift. If the donor intends a revocation to be refusal to make an anatomical gift, the donor shall make the refusal

pursuant to subsection (9) of this section.

Approved April 2, 1991.

CHAPTER 205
(S.B. No. 1029)

AN ACT

RELATING TO STATEHOOD CENTENNIAL LICENSE PLATES; AMENDING SECTION 49-416, IDAHO CODE, TO PROVIDE CLARIFICATION AS TO WHEN CENTENNIAL LICENSE PLATES CAN BE ISSUED, AND TO PROVIDE FOR DISTRIBUTION OF FEES; AMENDING SECTION 2 OF CHAPTER 385, LAWS OF 1990, TO PROVIDE A PROPER EFFECTIVE DATE; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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 ~~[EFFECTIVE--JULY--1, 1991]~~. (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 or at the department. 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. All revenues from such initial registration and annual renewal fees for registrations issued or renewed on or before December 31, 1990, shall be deposited in the statehood centennial commission account. On and after January 1, 1991, rRevenues from the special fees shall be deposited in the highway distribution account.

(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 highway distribution account and other fees deposited as provided by law.

(5) 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. That Section 2, Chapter 385, Laws of 1990, be, and the same is hereby amended to read as follows:

SECTION 2. This act shall be in full force and effect on and after ~~July~~ January 1, 1991.

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, 1991.

Approved April 2, 1991.

CHAPTER 206
(S.B. No. 1047)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-706, IDAHO CODE, TO PROVIDE THE TIME FOR FILING AN APPLICATION FOR HEARING FOR ADDITIONAL INCOME BENEFITS WHERE INCOME BENEFITS HAVE BEEN PAID AND DISCONTINUED MORE THAN FOUR YEARS FROM THE DATE OF THE ACCIDENT OR MANIFESTATION OF OCCUPATIONAL DISEASE, TO PROVIDE THAT PAYMENT OF MEDICAL BENEFITS BEYOND FIVE YEARS SHALL NOT EXTEND THE TIME FOR FILING A CLAIM OR APPLICATION FOR HEARING FOR ADDITIONAL INCOME BENEFITS, AND TO PROVIDE THAT THE PROVISIONS OF THE SECTION SHALL NOT AFFECT A CLAIMANT'S RIGHT TO MEDICAL BENEFITS UNDER SECTION 72-432(1), IDAHO CODE.

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

SECTION 1. That Section 72-706, Idaho Code, be, and the same is hereby amended to read as follows:

72-706. LIMITATION ON TIME ON APPLICATION FOR HEARING. (1) When no compensation paid. When a claim for compensation has been made and no compensation has been paid thereon, the claimant, unless misled to his prejudice by the employer or surety, shall have one (1) year from the date of making claim within which to make and file with the commission an application requesting a hearing and an award under such claim.

(2) When compensation discontinued. When payments of compensation have been made and thereafter discontinued, the claimant shall have five (5) years from the date of the accident causing the injury or date of first manifestation of an occupational disease~~,-or,-if-compensation-is-discontinued-more-than-four-(4)-years-from-the-date--of--the accident--causing-the-injury-or-the-date-of-first-manifestation-of-an occupational-disease,-within-one-(1)-year-from-the-date--of--the--last payment--of--compensation,~~ within which to make and file with the com-

mission an application requesting a hearing for further compensation and award.

(3) When income benefits discontinued. If income benefits have been paid and discontinued more than four (4) years from the date of the accident causing the injury or the date of first manifestation of an occupational disease, the claimant shall have one (1) year from the date of the last payment of income benefits within which to make and file with the commission an application requesting a hearing for additional income benefits.

(4) Medical benefits. The payment of medical benefits beyond five (5) years from the date of the accident causing the injury or the date of first manifestation of an occupational disease shall not extend the time for filing a claim or an application requesting a hearing for additional income benefits as provided in this section.

(5) Right to medical benefits not affected. The provisions of this section shall not affect a claimant's right to medical benefits under the provisions of section 72-432(1), Idaho Code.

(~~3~~6) Relief barred. In the event an application is not made and filed as in this section provided, relief on any such claim shall be forever barred.

Approved April 2, 1991.

CHAPTER 207
(S.B. No. 1050, As Amended)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-408, IDAHO CODE, TO INCREASE THE LEVEL OF INCOME BENEFITS FOR A DISABLED WORKER AND TO REMOVE PAYMENTS FOR DEPENDENT CHILDREN; AMENDING SECTION 72-409, IDAHO CODE, TO STRIKE A REFERENCE AND TO ADD CLARIFYING LANGUAGE; AMENDING SECTION 72-413, IDAHO CODE, TO PROVIDE THAT INCOME BENEFITS FOR DEATH SHALL BE SUBJECT TO ANNUAL ADJUSTMENT AND TO PROVIDE AN EXCEPTION; AMENDING CHAPTER 4, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-413A, IDAHO CODE, TO PROVIDE FOR A LUMP SUM PAYMENT TO A WIDOW OR WIDOWER UPON REMARRIAGE AND TO PROVIDE AN EXCEPTION.

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

SECTION 1. That Section 72-408, Idaho Code, be, and the same is hereby amended to read as follows:

72-408. INCOME BENEFITS FOR TOTAL AND PARTIAL DISABILITY. Income benefits for total and partial disability during the period of recovery, and thereafter in cases of total and permanent disability, shall be paid to the disabled employee subject to deduction on account of waiting period and subject to the maximum and minimum limits set forth in section 72-409, Idaho Code, as follows:

(1) ~~Total disability for employee without dependent children.--To an employee without dependent children, but~~ For a period not to exceed

a period of fifty-two (52) weeks, an amount equal to sixty-seven per cent (60~~7~~%) of his average weekly wage and thereafter an amount equal to sixty-seven per cent (60~~7~~%) of the currently applicable average weekly state wage.

(2) ~~Total disability for employee with dependent children. To an employee with dependent children, in addition to the amounts fixed in subsection (1) herein, an amount equal to seven per cent (7%) of the currently applicable average weekly state wage for each dependent child to and including a maximum of five (5). In case of an employee who is receiving a minimum weekly benefit, the allowance for dependent children shall be added to such minimum benefit subject to the overall maximum of ninety per cent (90%) of average weekly wage as provided in section 72-409, Idaho Code.~~

~~(3)~~ Partial disability. For partial disability during the period of recovery an amount equal to sixty-seven per cent (60~~7~~%) of his decrease in wage-earning capacity, but in no event to exceed the income benefits payable for total disability.

SECTION 2. That Section 72-409, Idaho Code, be, and the same is hereby amended to read as follows:

72-409. MAXIMUM AND MINIMUM INCOME BENEFITS FOR TOTAL DISABILITY. (1) The weekly income benefits provided for in section 72-408(1), Idaho Code, shall be subject to a maximum of ninety per cent (90%) and a minimum of forty-five per cent (45%) of the currently applicable average weekly state wage, provided, however, that during the first fifty-two (52) weeks of total disability ~~the~~ income benefits ~~provided for in either sections 72-408(1) or 72-408(2), Idaho Code,~~ shall not in any case exceed ninety per cent (90%) of the employee's average weekly wage except as benefits may be increased by reason of increases in the average weekly state wage as computed in subsection (2) hereof, nor shall income benefits paid subsequent to the first fifty-two (52) weeks of total disability exceed income benefits paid during the first fifty-two (52) weeks of total disability except as the same may be increased by reason of increases in the average weekly state wage, provided, however, that where an employee's benefit rate for the first fifty-two (52) week period was less than the minimums prescribed above, his benefit rate thereafter shall be not less than forty-five per cent (45%) of the currently applicable average weekly state wage.

(2) For the purpose of this law the average weekly wage in the state shall be determined by the commission as follows: on or before June 1 of each year, the total wages reported on contribution reports to the department of employment for the preceding calendar year shall be divided by the average monthly number of insured workers determined by dividing the total insured workers reported for the preceding year by twelve (12). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly state wage thus determined rounded to the nearest dollar. The average weekly state wage as so determined shall be applicable for the calendar year commencing January 1 following the June 1 determination.

SECTION 3. That Section 72-413, Idaho Code, be, and the same is hereby amended to read as follows:

72-413. INCOME BENEFITS FOR DEATH. If death results from the injury or occupational disease within four (4) years, the employer shall pay to or for the benefit of the following particular classes of dependents' weekly income benefits equal to the following percentages of the average weekly state wage as defined in section 72-409, Idaho Code. The benefits payable hereunder shall be subject to annual adjustment as provided in section 72-409(2), Idaho Code. The annual adjustment provided herein shall not apply to benefits for an injury or occupational disease resulting in death if the accident causing the injury or the manifestation of the occupational disease occurred prior to July 1, 1991.

(1) To a dependent widow or widower, if there be no dependent children, forty-five per cent (45%).

(2) To a dependent widow or widower, if there be dependent children, an additional five per cent (5%) of the average weekly state wage for each dependent child to and including a total of three (3). Such compensation to the widow or widower shall be for the use and benefit of the widow or widower and of the dependent children and the commission may from time to time apportion such compensation between them in such a way as it deems best.

(3) If there be no dependent widow or widower, but a dependent child or children, thirty per cent (30%) of the average weekly state wage for one (1) child and ten per cent (10%) for each additional child to and including a total of three (3), to a maximum not to exceed sixty per cent (60%) of the average weekly state wage, to be divided equally among such children.

(4) To the parents, if one (1) be wholly dependent for support upon the deceased employee at the time of his death and the other is not dependent to any extent, twenty-five per cent (25%) of the average weekly state wage; if both are wholly dependent, twenty per cent (20%) of the average weekly state wage to each; if one (1) be or both are partly dependent, a proportionate amount in the discretion of the commission.

The above percentages shall be paid if there be no dependent widow, widower or child. If there be a widow, widower or child, there shall be paid so much of the above percentages as, when added to the total percentage payable to the widow, widower and children, will not exceed a total of sixty per cent (60%) of the average state weekly wage.

(5) To the brothers, sisters, grandparents and grandchildren, if one (1) be wholly dependent upon the deceased employee at the time of his death, twenty per cent (20%) of the average state weekly wage to such dependents; if more than one be wholly dependent, thirty per cent (30%) of the average state weekly wage, divided among such dependents, share and share alike. If there be no one (1) of them wholly dependent, but one (1) or more partially dependent, ten per cent (10%) of the average state weekly wage divided among such dependents, share and share alike.

The above percentages shall be paid if there be no dependent widow, widower, child or parent. If there be a dependent widow, widower, child or parent, there shall be paid so much of the above percentages as, when added to the total percentages payable to the widow, widower, children and dependent parents, will not exceed a total of

sixty per cent (60%) of the average weekly state wage.

Payments made for and on behalf of a dependent child or children shall be made to such child's or children's natural or adoptive surviving parent for the use and benefit of the child or children, if such child or children reside with such parent, notwithstanding the remarriage of such parent; provided, however, if the care and the custody of such child or children has been awarded by a court of competent jurisdiction of this state or any other state to a person or persons other than the child's or children's natural or adoptive parent, then such payments shall be made to that person or those persons so awarded care and custody for the use and benefit of the child or children. Whenever the commission deems it necessary, it may direct any payments made hereunder to be made under such terms and conditions as it deems necessary.

SECTION 4. That Chapter 4, 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 72-413A, Idaho Code, and to read as follows:

72-413A. LUMP SUM PAYMENT UPON REMARRIAGE. In the event of remarriage of the widow or widower prior to the expiration of five hundred (500) weeks as provided in section 42-412, Idaho Code, a lump sum shall be paid to the widow or widower in an amount equal to the lesser of one hundred (100) weeks or the total of income benefits for the remainder of the five-hundred (500) week period computed on the basis of a weekly rate of forty-five per cent (45%) of the average weekly state wage in effect at the time of remarriage. The provisions of this section shall not apply to benefits for an injury or occupational disease resulting in death where the accident causing the injury or the manifestation of the occupational disease occurred prior to July 1, 1991.

Approved April 2, 1991.

CHAPTER 208
(S.B. No. 1057, As Amended in the House)

AN ACT
RELATING TO THE CONTINUATION OF CHILD SUPPORT GUIDELINES; AMENDING SECTION 3, CHAPTER 411, LAWS OF 1989, TO PROVIDE A SUNSET DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 3, Chapter 411, Laws of 1989, Idaho Code, be, and the same is hereby amended to read as follows:

SECTION 3. The provisions of Section 2 of this act shall be null, void and of no force and effect on and after July 1, 199~~1~~2.".

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

Approved April 2, 1991.

CHAPTER 209
(S.B. No. 1070, As Amended)

AN ACT

RELATING TO LICENSE PLATES; AMENDING SECTION 49-443, IDAHO CODE, TO PROVIDE FOR AN IDENTIFICATION OF COUNTIES TO BE AFFIXED TO LICENSE PLATES ISSUED ON AND AFTER JANUARY 1, 1992.

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

SECTION 1. 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. Commencing January 1, 1992, each license plate issued pursuant to section 49-402(1), Idaho Code, shall contain an identification of the county in which the motor vehicle to which the plates will be affixed is registered.

(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 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.

(10) 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."

Approved April 2, 1991.

CHAPTER 210
(S.B. No. 1099)

AN ACT

RELATING TO THE HOSPITALIZATION OF MENTALLY ILL; AMENDING SECTION 66-326, IDAHO CODE, TO PROHIBIT THE DETENTION OF MENTALLY ILL PERSONS IN JAILS; AMENDING SECTION 66-329, IDAHO CODE, TO PROHIBIT THE DETENTION OF MENTALLY ILL PERSONS IN JAILS, AND TO PROVIDE VENUE FOR HEARINGS; AND AMENDING SECTION 66-330, IDAHO CODE, TO PROHIBIT THE DETENTION OF MENTALLY ILL IN JAILS.

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

SECTION 1. That Section 66-326, Idaho Code, be, and the same is hereby amended to read as follows:

66-326. DETENTION WITHOUT HEARING. (a) No person shall be taken into custody as an alleged emergency patient unless and until the court has ordered such apprehension and custody under the provisions outlined in section 66-329, Idaho Code; provided, however, that a person may be taken into custody by a peace officer and placed in a facility, if the peace officer has reason to believe that the person's continued liberty poses an imminent danger to that person or others, as evidenced by a threat of substantial physical harm; provided, under no circumstances shall the proposed patient be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses. Whenever a person is taken into custody under this section without court order, the evidence supporting the claim of imminent danger must be presented to a duly authorized court within twenty-four (24) hours from the time the individual was placed in custody.

(b) If the court finds the individual to be imminently dangerous under subsection (a) of this section, the court shall issue a temporary custody order requiring the person to be held in a facility, and requiring an examination of the person by a designated examiner within twenty-four (24) hours of the entry of the order of the court. ~~If necessary to protect against immediate and substantial injury to the proposed patient or others, the court may authorize~~ Under no circumstances shall the proposed patient ~~to~~ be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses.

(c) Where an examination is required under subsection (b) of this section, the designated examiner shall make his findings and report to the court within twenty-four (24) hours of the examination.

(d) If the designated examiner finds, in his examination under this section, that the person is mentally ill, and either is likely to injure himself or others or is gravely disabled, the prosecuting attorney shall file, within twenty-four (24) hours of the examination of the person, a petition with the court requesting the patient's detention pending commitment proceedings pursuant to the provisions of section 66-329, Idaho Code. Upon the receipt of such a petition, the court shall order his detention to await hearing which shall be within

five (5) days (including Saturdays, Sundays and legal holidays) of the detention order. If no petition is filed within twenty-four (24) hours of the designated examiner's examination of the person, the person shall be released.

(e) Any person held in custody under the provisions of this section shall have the same protection and rights which are guaranteed to a person already committed to the department director. Upon taking a person into custody, notice shall be given to the person's immediate relatives of the person's physical whereabouts and the reasons for taking the person into custody.

SECTION 2. That Section 66-329, Idaho Code, be, and the same is hereby amended to read as follows:

66-329. COMMITMENT TO DEPARTMENT DIRECTOR UPON COURT ORDER -- JUDICIAL PROCEDURE. (a) Proceedings for the involuntary care and treatment of mentally ill persons by the department of health and welfare may be commenced by the filing of a written application with a court of competent jurisdiction by a friend, relative, spouse or guardian of the proposed patient, or by a licensed physician, prosecuting attorney, or other public official of a municipality, county or of the state of Idaho, or the director of any facility in which such patient may be.

(b) The application shall state the name and last known address of the proposed patient; the name and address of either the spouse, guardian, next of kin or friend of the proposed patient; whether the proposed patient can be cared for privately in the event commitment is not ordered; if the proposed patient is, at the time of the application, a voluntary patient; whether the proposed patient has applied for release pursuant to section 66-320, Idaho Code; and a simple and precise statement of the facts showing that the proposed patient is mentally ill and either likely to injure himself or others or <u>is</u> gravely disabled.

(c) Any such application shall be accompanied by a certificate of a designated examiner stating that he has personally examined the proposed patient within the last fourteen (14) days and is of the opinion that the proposed patient is (i) mentally ill; (ii) likely to injure himself or others or <u>is</u> gravely disabled; and (iii) lacks capacity to make informed decisions about treatment, or a written statement by the applicant that the proposed patient has refused to submit to examination by a designated examiner.

(d) Upon receipt of an application for commitment, the court shall, within forty-eight (48) hours appoint another designated examiner to make a personal examination of the proposed patient or if the proposed patient has not been examined, the court shall appoint two (2) designated examiners to make individual personal examinations of the proposed patient and may order the proposed patient to submit to an immediate examination. If neither designated examiner is a physician, the court shall order a physical examination of the proposed patient. At least one (1) designated examiner shall be a psychiatrist, licensed physician or licensed psychologist; no more than one (1) designated examiner may be a physician not practicing psychiatry, a holder of an earned masters level or higher degree in social work from

an accredited program, a registered nurse with an earned masters level or higher degree in psychiatric nursing from an accredited program, or a holder of an earned masters level or higher degree in psychology from an accredited program. The designated examiners shall report to the court their findings within the following seventy-two (72) hours as to the mental condition of the proposed patient and his need for custody, care, or treatment by a facility. The reports shall be in the form of written certificates which shall be filed with the court. The court may terminate the proceedings and dismiss the application without taking any further action in the event the reports of the designated examiners are to the effect that the proposed patient is not mentally ill or, although mentally ill, is not likely to injure himself or others or is not gravely disabled. If the proceedings are terminated, the proposed patient shall be released immediately.

(e) If the designated examiner's certificate states a belief that the proposed patient is mentally ill and either likely to injure himself or others or is gravely disabled, the judge of such court shall issue an order authorizing any health officer, peace officer, or director of a facility to take the proposed patient to a facility in the community in which the proposed patient is residing or to the nearest facility to await the hearing and for good cause may authorize treatment during such period subject to the provisions of section 66-346(a)(4), Idaho Code. ~~If it is necessary to protect against immediate and substantial injury to the proposed patient or others, the court may authorize~~ Under no circumstances shall the proposed patient ~~to~~ be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses.

(f) Upon receipt of such application and designated examiners' reports the court shall appoint a time and place for hearing not more than seven (7) days from the receipt of such designated examiners' reports and thereupon give written notice of such time and place of such hearing together with a copy of the application, designated examiner's certificates, and notice of the proposed patient's right to be represented by an attorney, or if indigent, to be represented by a court-appointed attorney, to the applicant, to the proposed patient, to the proposed patient's spouse, guardian, next of kin or friend. With the consent of the proposed patient and his attorney, the hearing may be held immediately. Upon motion of the proposed patient and attorney and for good cause shown, the court may continue the hearing up to an additional fourteen (14) days during which time, for good cause shown, the court may authorize treatment.

(g) An opportunity to be represented by counsel shall be afforded to every proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel in accordance with chapter 8, title 19, Idaho Code, no later than the time the application is received by the court.

(h) The hearing shall be held at a facility, at the home of the proposed patient, or at any other suitable place not likely to have a harmful effect on the proposed patient's physical or mental health. Venue for the hearing shall be in the county of residence of the proposed patient, unless the patient waives the right to have venue fixed there.

(i) In all proceedings under this section, any existing provision

of the law prohibiting the disclosure of confidential communications between the designated examiner and proposed patient shall not apply and any designated examiner who shall have examined the proposed patient shall be a competent witness to testify as to the proposed patient's condition.

(j) The proposed patient, the applicant, and any other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The proposed patient shall be required to be present at the hearing unless the court determines that the mental or physical state of the proposed patient is such that his presence at the hearing would be detrimental to the proposed patient's health or would unduly disrupt the proceedings. A record of the proceedings shall be made as for other civil hearings. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall receive all relevant and material evidence consistent with the rules of evidence.

(k) If, upon completion of the hearing and consideration of the record, the court finds by clear and convincing evidence that the proposed patient:

(1) is mentally ill; and

(2) is, because of such condition, likely to injure himself or others, or is gravely disabled due to mental illness;

the court shall order the proposed patient committed to the custody of the department director for an indeterminate period of time not to exceed three (3) years. The department director, through his dispositioner, shall determine within twenty-four (24) hours the least restrictive available facility consistent with the needs of each patient committed under this section for observation, care, and treatment.

(l) Nothing in this chapter or in any rule or regulation adopted pursuant thereto shall be construed to authorize the detention or involuntary admission to a hospital or other facility of an individual who:

(1) is epileptic, mentally deficient, mentally retarded, impaired by chronic alcoholism or drug abuse, or aged, unless in addition to such condition, such person is mentally ill;

(2) is a patient under treatment by spiritual means alone, through prayer, in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof and who asserts to any authority attempting to detain him that he is under such treatment and who gives the name of a practitioner so treating him to such authority; or

(3) can be properly cared for privately with the help of willing and able family or friends, and provided, that such persons may be detained or involuntarily admitted if such persons are mentally ill and present a substantial risk of injury to himself or others if allowed to remain at liberty.

(m) The order of commitment shall state whether the proposed patient lacks capacity to make informed decisions about treatment, the name and address of the patient's attorney and either the patient's spouse, guardian, adult next of kin, or friend.

(n) If the patient has no spouse or guardian and if the patient

has property which may not be cared for pursuant to chapter 5, title 66, Idaho Code, or by the patient while confined at a facility, the court shall appoint a guardian ad litem for the purpose of preserving the patient's estate, pending further guardianship or conservatorship proceedings.

(o) The commitment shall continue until the commitment is terminated and shall be unaffected by the patient's conditional release or change in disposition.

SECTION 3. That Section 66-330, Idaho Code, be, and the same is hereby amended to read as follows:

66-330. TRANSPORTATION -- TEMPORARY DETENTION -- NOTICE. (a) After the dispositioner has designated the place of treatment, he shall notify the facility director of the disposition and of any medical, security or behavioral needs of the committed patient. The county shall deliver the patient within forty-eight (48) hours to the designated facility. Whenever practicable, the individual may be accompanied by one or more of his friends or relatives.

(b) Pending his removal to the designated place of treatment, a patient taken into custody or ordered to be committed to the custody of the department director pursuant to this chapter may be detained in his home, a licensed foster home, or any other suitable facility under such reasonable conditions as the dispositioner may fix, but he shall not~~, unless necessary to protect against immediate and substantial injury to the patient or others and upon approval of the court,~~ be detained in a nonmedical facility used for the detention of individuals charged with or convicted of penal offenses. The dispositioner shall take such reasonable measures, to secure proper mental health care and treatment of an individual temporarily detained pursuant to this chapter.

(c) The dispositioner shall notify the court, the patient's attorney and either the patient's spouse, guardian, adult next of kin or friend, of the facility to which the patient has been dispositioned.

Approved April 2, 1991.

CHAPTER 211
(S.B. No. 1105)

AN ACT

RELATING TO MOTOR VEHICLE LAW DEFINITIONS; AMENDING SECTION 49-119, IDAHO CODE, TO REDEFINE "RESIDENT"; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-119, Idaho Code, be, and the same is hereby amended to read as follows:

49-119. DEFINITIONS -- R.

(1) "Racing" means the use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle, or to test the physical stamina or endurance of drivers over long-distance driving routes.

(2) "Radio operator, amateur" means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation and holding a conditional class license or higher.

(3) "Railroad" means a carrier of persons or property upon cars operated upon stationary rails.

(4) "Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

(5) "Railroad sign" or "signal" means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(6) "Recreational vehicle" means a motor home, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy. It does not include pick-up hoods, shells, or canopies designed, created or modified for occupational usage. School buses or van type vehicles which are converted to recreational use, are defined as recreational vehicles.

(7) "Registered owner" means any person required to register a vehicle, whether or not a lien holder appears on the title in the records of the department.

(8) "Registration" means the registration certificate or certificates and license plate or plates issued under the laws of this state pertaining to the registration of vehicles.

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

(10) "Rescission of sale." (See section 28-2-608, Idaho Code)

(11) "Resident" means a person who ~~has resided~~ resides within Idaho ~~continuously for a period of at least ninety (90) days, not including a full-time student who is a resident of another state, however, any person residing in Idaho and gainfully employed in Idaho, or a full-time student in the state of Idaho, may~~ and who has declared Idaho to be his ~~residency, notwithstanding that the period of residency is less than ninety (90) days~~ state of residence. A resident shall be considered in violation of laws relating to vehicle registration, vehicle titling and licensing of drivers, where applicable, subsequent to ninety (90) days of continuous residence within the state.

(12) "Residential district." (See "District", section 49-105, Idaho Code)

(13) "Revocation of driver's license" means the termination by formal action of the department or as otherwise provided in this title of a person's driver's license or privilege to operate a motor vehicle on the highways, which terminated driver's license or privilege shall not be subject to renewal or restoration except that an application for a new driver's license may be presented and acted upon by the department after the expiration of the applicable period of time pre-

scribed in this title.

(14) "Ridesharing arrangement" means the nonprofit transportation in a passenger motor vehicle with a seating capacity not exceeding fifteen (15) people including the driver, which is not otherwise used for commercial purposes or as a public conveyance, whereby a fixed group, not exceeding fifteen (15) people including passengers and driver, is transported between their residences or nearby termini, and their places of employment or educational or other institutions or termini near those places, in a single daily round trip where the driver is also on the way to or from his place of employment or education or other institution.

(15) "Right-of-way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other. The term shall not be interpreted to mean that a highway user is relieved from the duty to exercise reasonable care at all times and from doing everything to prevent an accident. Failure to yield right-of-way shall not be construed as negligence per se or as prima facie evidence of negligence.

(16) "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of sidewalks, shoulders, berms and rights-of-way.

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

Approved April 2, 1991.

CHAPTER 212
(S.B. No. 1133, As Amended)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1601, IDAHO CODE, TO PROVIDE FURTHER LEGISLATIVE POLICY REGARDING PRESERVING, PROTECTING AND ENHANCING THE FAMILY RELATIONSHIP; AMENDING SECTION 16-1602, IDAHO CODE, TO FURTHER DEFINE THE TERM "RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES"; AMENDING SECTION 16-1603, IDAHO CODE, TO PROVIDE THAT EXCEPT AS MAY OTHERWISE BE PROVIDED, THE COURT SHALL HAVE EXCLUSIVE ORIGINAL JURISDICTION IN ALL PROCEEDINGS CONCERNING ANY CHILD LIVING OR FOUND WITHIN THE STATE UNDER THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1610, IDAHO CODE, TO PROVIDE THAT THE VESTING OF LEGAL CUSTODY OF A CHILD IN THE DEPARTMENT OR OTHER AUTHORIZED AGENCY SHALL BE SUBJECT TO FULL JUDICIAL REVIEW BY THE COURT OF ALL MATTERS RELATING TO HANDLING OF CUSTODY OF THE CHILD BY THE DEPARTMENT OR OTHER AUTHORIZED AGENCY; AMENDING SECTION 16-1611, IDAHO CODE, TO PROVIDE FOR A PETITION FOR REVIEW OF THE CUSTODIAL HANDLING OF ANY CHILD; AND AMENDING SECTION 16-1623, IDAHO CODE, TO PROVIDE FOR JUDICIAL REVIEW OF THE POWERS AND DUTIES OF THE DEPARTMENT UNDER THE CHILD

PROTECTIVE ACT.

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

SECTION 1. That Section 16-1601, Idaho Code, be, and the same is hereby amended to read as follows:

16-1601. POLICY. The policy of the state of Idaho is hereby declared to be the establishment of a legal framework conducive to the judicial processing of child abuse, abandonment and neglect cases, and the protection of children whose life, health or welfare is endangered. Each child coming within the purview of this chapter shall receive, preferably in his own home, the care, guidance and control that will promote his welfare and the best interest of the state of Idaho, and if he is removed from the control of his parents, guardian or other custodian, the state shall secure adequate care for him; provided, however, that the state of Idaho shall, to the fullest extent possible, seek to preserve, protect, enhance and reunite the family relationship. This chapter seeks to coordinate efforts by state and local public agencies, in cooperation with private agencies and organizations, citizens' groups, and concerned individuals, to:

(1) preserve the privacy and unity of the family whenever possible;

(2) take such actions as may be necessary and feasible to prevent the abuse, neglect or abandonment of children.

SECTION 2. That Section 16-1602, Idaho Code, be, and the same is hereby amended to read as follows:

16-1602. DEFINITIONS. For purposes of this chapter:

(a) "Abused" means any case in which a child has been the victim of:

(1) Conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive or death, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence; or

(2) Sexual conduct, including rape, molestation, incest, prostitution, obscene or pornographic photographing, filming or depiction for commercial purposes, or other similar forms of sexual exploitation harming or threatening the child's health or welfare or mental injury to the child.

(b) "Abandoned" means the failure of the parent to maintain a normal parental relationship with his child, including but not limited to reasonable support or regular personal contact. Failure to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment.

(c) "Adjudicatory hearing" means a hearing to determine the truth of the allegations in the petition filed under this chapter.

(d) "Authorized agency" means the department, a local agency, a

person, an organization, corporation, benevolent society or association licensed or approved by the department or the court to receive children for control, care, maintenance or placement.

(e) "Child" means an individual who is under the age of eighteen (18) years.

(f) "Child advocate coordinator" means a person or entity receiving moneys from the grant administrator for the purpose of carrying out any of the duties as set forth in section 16-1630, Idaho Code.

(g) "Commit" means to transfer legal and physical custody.

(h) "Court" means district court or magistrate's division thereof, or if the context requires, a magistrate or judge thereof.

(i) "Custodian" means a person, other than a parent or legal guardian, to whom legal custody of the child has been given by court order or who is acting in loco parentis.

(j) "Department" means the department of health and welfare and its authorized representatives.

(k) "Disposition hearing" means a hearing to determine whether the best interests of the child require protective supervision or vesting legal custody of the child in an authorized agency.

(~~k~~l) "Family or household member" shall have the same meaning as in section 39-6303(2), Idaho Code.

(~~l~~m) "Grant administrator" means any such organization or agency as may be designated by the supreme court from time to time to administer funds from the guardian ad litem account in accordance with the provisions of this chapter.

(~~m~~n) "Guardian ad litem" means a person appointed by the court pursuant to a guardian ad litem volunteer program to act as special advocate for a child under this chapter.

(~~n~~o) "Guardian ad litem program" means the program to recruit, train and coordinate volunteer persons to serve as guardians ad litem for abused, neglected or abandoned children.

(~~o~~p) "Law enforcement agency" means a city police department, the prosecuting attorney of any county, state law enforcement officers, or the office of a sheriff of any county.

(~~p~~q) "Legal custody" means a relationship created by order of the court, which vests in a custodian the following duties and rights:

(1) To have physical custody and control of the child, and to determine where and with whom the child shall live.

(2) To supply the child with food, clothing, shelter and incidental necessities.

(3) To provide the child with care, education and discipline.

(4) To authorize ordinary medical, dental, psychiatric, psychological, or other remedial care and treatment for the child, including care and treatment in a facility with a program of services for children; and to authorize surgery if the surgery is deemed by two (2) physicians licensed to practice in this state to be necessary for the child.

(~~q~~r) "Mental injury" means a substantial impairment in the intellectual or psychological ability of a child to function within a normal range of performance and/or behavior.

(~~r~~s) "Neglected" means a child:

(1) Who is without proper parental care and control, or subsistence, education, medical or other care or control necessary for

his well-being because of the conduct or omission of his parents, guardian or other custodian or their neglect or refusal to provide them; provided, however, no child whose parent or guardian chooses for such child treatment by prayers through spiritual means alone in lieu of medical treatment, shall be deemed for that reason alone to be neglected or lack parental care necessary for his health and well-being, but further provided this subsection shall not prevent the court from acting pursuant to section 16-1616, Idaho Code; or

(2) Whose parents, guardian or other custodian are unable to discharge their responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity; or

(3) Who has been placed for care or adoption in violation of law.

(t) "Protective order" means an order created by the court granting relief as delineated in section 39-6306, Idaho Code, and shall be for a period not to exceed three (3) months unless otherwise stated herein. Failure to comply with the order shall be a misdemeanor.

(~~s~~u) "Protective supervision" means a legal status created by court order in neglect and abuse cases whereby the child is permitted to remain in his home under supervision by the department.

(~~t~~v) "Residual parental rights and responsibilities" mean those rights and responsibilities remaining with the parent after the transfer of legal custody, including but not necessarily limited to the right of visitation, consent to adoption, the right to determine religious affiliation, the right to family counseling when beneficial, and the responsibility for support.

(~~u~~w) "Shelter care" means places designated by the department for temporary care of children pending court disposition or placement.

SECTION 3. That Section 16-1603, Idaho Code, be, and the same is hereby amended to read as follows:

16-1603. JURISDICTION OF THE COURTS. Except as otherwise provided herein, the court shall have exclusive original jurisdiction in all proceedings under this chapter concerning any child living or found within the state~~;~~:

(a) who is neglected, abused or abandoned by his parents, guardian or other legal custodian, or who is homeless; or

(b) whose parent or other legal custodian fails or is unable to provide a stable home environment. In considering the child's home environment, the court shall determine if the parent or other legal custodian is unable to provide such environment by reason of immaturity or emotional, mental, or physical disability.

SECTION 4. That Section 16-1610, Idaho Code, be, and the same is hereby amended to read as follows:

16-1610. DECREE -- DISPOSITION HEARING. (a) If a preponderance of the evidence of the adjudicatory hearing shows that the child comes within the purview of this chapter, the court shall so decree and in its decree shall make a finding of the facts and conclusions of law upon which it exercises jurisdiction over the child.

(b) Upon entry of its decree, the court may consider any information relevant to the disposition of the child, but in any event shall either:

(1) Place the child under protective supervision in his own home for an indeterminate period not to exceed one (1) year from the date entered but the court may extend the period of time upon a showing by the authorized agency that continued supervision is necessary for the best interests of the child.

(2) Vest legal custody in the department or other authorized agency subject to residual parental rights and subject to full judicial review by the court of all matters relating to the custody of the child by the department or other authorized agency. The court shall make written findings as to whether the department made reasonable efforts to prevent the placement of the child in foster care, including findings, when appropriate, that (i) reasonable efforts were made but were not successful in eliminating the need for foster care placement of the child, or (ii) reasonable efforts were not made because of immediate danger to the child.

(c) A decree vesting legal custody in the department shall be binding upon the department, and shall state the department shall prepare a written case plan within thirty (30) days of placement designed to make it possible for the child to return to his home; and shall be for an indeterminate period not to exceed one (1) year from the date entered, except that the department may file a petition with the court requesting renewal of the order and the court, after notice to the parties and hearing and finding, may renew the order if it finds such renewal necessary to safeguard the best interests of the child. Renewals may be made during minority, but no order shall have any force or effect beyond minority. The department may petition the court at any time to vacate any order placing a child in its custody or under its protective supervision. Upon such renewal, the court shall expressly include in its order determination of the future status of the child, specifically stating whether the child should return home, continue in foster care for a specified time, be placed for adoption or, due to special needs, be in foster care permanently or long term.

(d) A decree vesting legal custody in an authorized agency other than the department shall be, for an indeterminate period of time not to exceed one (1) year from the date entered, but the court may extend the period of time during the child's minority upon a showing by the authorized agency that continued custody or supervision is necessary for the best interests of the child, and on such other terms as the court shall state in its decree to be in the best interests of the child and which the court finds to be acceptable to such authorized agency.

(e) In order to preserve the unity of the family system and to insure the best interests of the child whether issuing an order of protective supervision or an order of legal custody, the court may consider extending or initiating a protective order as part of the decree. The protective order shall be determined as in the best interests of the child and upon a showing of continuing danger to the child. The conditions and terms of the protective order shall be clearly stated in the decree.

(f) If the court does not find that the child comes within the purview of this chapter pursuant to subsection (a) of this section it shall dismiss the petition.

SECTION 5. That Section 16-1611, Idaho Code, be, and the same is hereby amended to read as follows:

16-1611. MODIFICATION OR REVOCATION. (a) A petition for revocation or modification of an order issued under section 16-1610, Idaho Code, or a petition for review of the child's case may be filed by the child's parents or guardian ad litem; provided that no petition may be filed under this section within three (3) months of a prior hearing on care and placement of the child.

(b) If the petition filed under subsection (a) of this section alleges that the child's best interests are no longer served by carrying out the order issued under section 16-1610, Idaho Code, or the department or other authorized agency has failed to provide adequate care for the child, the court shall hold a hearing on the petition.

(c) At a hearing to consider the petition filed under subsection (a) of this section the court shall proceed according to the provisions of subsection (b) of section 16-1608, Idaho Code. The court may dismiss the petition or it may revoke or modify the order as required by the best interests of the child.

(d) The department or authorized agency may petition the court at any time to vacate any order placing a child in its custody or under its protective supervision.

SECTION 6. 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 regis-

try for the reporting of child neglect, abuse and abandonment information.

(d) The department shall make periodic evaluation of all persons in its custody or under its supervision for the purpose of determining whether existing orders and dispositions in individual cases shall be modified or continued in force. Evaluations may be made as frequently as the department considers desirable and shall be made with respect to every person at intervals not exceeding six (6) months. Reports of evaluation made pursuant to this section shall be filed with the court which vested custody of the person with the department. Failure of the department to evaluate a person or to reevaluate him within six (6) months of a previous examination shall not of itself entitle the person to a change in disposition but shall entitle him, his parent, guardian or custodian or his counsel to petition the court pursuant to section 16-1611, Idaho Code.

(e) In a consultive capacity, the department shall assist communities in the development of constructive programs for the protection, prevention and care of children and youth.

(f) The department shall keep written records of investigations, evaluations, prognosis and all orders concerning disposition or treatment of every person over whom it has legal custody. Department records must remain confidential unless otherwise ordered by the court, the person consents to the disclosure, or disclosure is necessary for the delivery of services to the person.

(g) The department shall establish appropriate administrative procedures for the processing of complaints of child neglect, abuse and abandonment received and for the implementation of the protection, treatment and care of children formally or informally placed in the custody of the department under this chapter.

(h) The department having been granted legal custody of a child, subject to the judicial review provisions of this subsection, 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~~. Provided however, that the court shall retain jurisdiction over the child, which jurisdiction shall be entered on any order or petition granting legal custody to the department, and the court shall have jurisdiction over all matters relating to the child. T~~t~~he department shall not place the child in the home from which the court ordered the child removed without first obtaining the approval of the court.

(i) The department shall give to the court any information concerning the child that the court may at any time require, but in any event shall report the progress of the child under its custody at intervals of not to exceed six (6) months.

(j) The department shall establish appropriate administrative procedures for the conduct of administrative reviews and hearings as required by federal statute for all children committed to the department and placed in out of home care.

Approved April 2, 1991.

CHAPTER 213
(S.B. No. 1150, As Amended)

AN ACT

RELATING TO THE ISSUANCE OF LICENSES TO CARRY A CONCEALED WEAPON; AMENDING SECTION 18-3302, IDAHO CODE, TO PROVIDE FOR THE APPLICATION FOR A LICENSE AND THE FEES TO BE COLLECTED FOR THE PROCESSING OF FINGERPRINTS TAKEN PURSUANT TO THE STATUTE; AND DECLARING AN EMERGENCY.

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 amended 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

(1) 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 application shall be in triplicate, in a form to be prescribed by the director of the department of law enforcement, and shall ~~bear~~ ask the name, address, description and signature of the licensee, date of birth, social security number, military status, 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~~ The license will be in a form substantially similar to that of the Idaho driver's license. It will bear the signature, name, address, date of birth, social security number and picture 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. Upon issuing a license under this section, the sheriff will mail a copy to the director of the department of law enforcement.

(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. The sheriff may collect any additional fees necessary to cover the cost of processing fingerprints levied by any state or federal agency or department, and the cost of materials for the license levied by any state agency or department, which costs shall be paid to the state.

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

Approved April 2, 1991.

CHAPTER 214
(S.B. No. 1172)

AN ACT

RELATING TO FEES FOR MOTOR VEHICLE SAMPLE LICENSE PLATES; AMENDING SECTION 49-202, IDAHO CODE, TO PROVIDE A FEE FOR A SAMPLE LICENSE PLATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-202, Idaho Code, be, and the same is hereby amended to read as follows:

49-202. DUTIES OF DEPARTMENT. (1) All registration and driver's license records in the office of the department shall be public records and open to inspection by the public during normal business hours.

(2) In addition to other fees required by law to be collected by the department, the department shall collect the following:

(a) For certifying a copy of any record pertaining to any motor vehicle license, any certificate of title, or any 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

(n) For all sample license plates, each $12.00

(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.

(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 2. An emergency existing therefor, which emergency is

hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 2, 1991.

CHAPTER 215
(S.B. No. 1179)

AN ACT

RELATING TO BANKS, TRUST COMPANIES, AFFILIATED BANKS, AND AFFILIATED TRUST COMPANIES; AMENDING SECTION 68-107, IDAHO CODE, TO PROVIDE FOR TRANSFERS OF TRUSTEE OFFICES PURSUANT TO CHAPTER 14, TITLE 26, IDAHO CODE; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE 26, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE TRANSFER OF FIDUCIARY CAPACITIES TO AN AFFILIATED BANK OR AN AFFILIATED TRUST COMPANY, TO PROVIDE FOR TRANSFER OF FIDUCIARY CAPACITIES NOT PROHIBITED BY SECTION 68-107, IDAHO CODE, TO PROVIDE FOR COMPLIANCE WITH CHAPTER 26, TITLE 26, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 68-107, Idaho Code, be, and the same is hereby amended to read as follows:

68-107. TRUSTEE'S OFFICE NOT TRANSFERABLE -- TRANSACTIONS UNDER CHAPTER 14, TITLE 26, IDAHO CODE, EXCEPTED. (1) The trustee shall not transfer his office to another or delegate the entire administration of the trust to a co-trustee or another.

(2) Subsection (1) of this section does not apply to any transfer permitted under chapter 14, title 26, Idaho Code.

SECTION 2. 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 14, Title 26, Idaho Code, and to read as follows:

CHAPTER 14
AFFILIATED BANK COMPANY

26-1401. DEFINITIONS. In this chapter:

(1) "Affiliated bank," with respect to a trust company or another bank, means any bank:

(a) That owns, directly or indirectly, eighty per cent (80%) or more of the voting stock of such trust company or other bank; or

(b) Eighty per cent (80%) or more of the voting stock of which is owned, directly or indirectly, by the same bank holding company that owns, directly or indirectly, eighty per cent (80%) or more of the voting stock of such trust company or other bank.

(2) "Affiliated trust company" means a trust company whose principal place of business is located within the state of Idaho, and eighty per cent (80%) or more of the voting stock of which is owned,

directly or indirectly, by the same bank or bank holding company that owns, directly or indirectly, eighty per cent (80%) or more of the voting stock of a trust company or a bank with respect to which the affiliated trust company is participating in a transfer of fiduciary capacities as provided in this chapter.

(3) "Bank" means any state bank or national bank whose operations are principally conducted in this state and which is authorized to engage in trust business.

(4) "Bank holding company" means a bank holding company as defined in the United States bank holding company act of 1956, as amended.

(5) "Director" means the director of the department of finance.

(6) "Fiduciary account," with respect to an affiliated bank, affiliated trust company, or trust company, means an estate, trust, or other fiduciary relationship, and includes all rights, privileges, duties, obligations, and undertakings thereof, that have been established or provided for by a written instrument or in any other lawful manner with such affiliated bank, affiliated trust company or trust company.

(7) "Fiduciary capacity" means a capacity resulting from the undertaking to act alone or jointly with others as a personal representative of a decedent's estate, a guardian or conservator of an estate, a receiver, a trustee under appointment of any court or under authority of any law, or a trustee for any other purpose permitted by law.

(8) "Principal office," with respect to any affiliated bank, affiliated trust company, or trust company means such entity's principal place of business within the state of Idaho.

(9) "Trust company" means a corporation holding a charter to engage in the trust business in this state, issued pursuant to chapter 13, title 26, Idaho Code, and whose principal place of business is located within the state of Idaho.

26-1402. TRANSFER OF FIDUCIARY CAPACITIES TO AN AFFILIATED BANK OR AN AFFILIATED TRUST COMPANY. (1) A bank or trust company may transfer some or all of its fiduciary capacities to an affiliated bank or an affiliated trust company. To accomplish such a transfer, the bank or trust company shall file a verified application in the district court of the county in which the bank's or trust company's principal office is located, requesting that every fiduciary capacity of the bank or trust company, except as may be expressly excluded in such application, be transferred to an affiliated bank or affiliated trust company specified in the application, and the specified affiliated bank or affiliated trust company shall join in such application. The application shall indicate the county in which the principal office of the affiliated bank or affiliated trust company joining in the application is located.

(2) When any application under subsection (1) of this section has been filed, the clerk of the court where the application is filed shall enter an order fixing a date and time (which date shall not be more than sixty (60) days from the date the application is filed) for a hearing on the application. The bank or trust company filing an application under subsection (1) of this section shall prepare a

notice as provided in subsection (3) of this section, and shall cause a copy of such notice to be published at least once a week for three (3) successive weeks preceding the hearing date, the first such publication to be at least thirty (30) days preceding the hearing date. Proof of such publication shall be made by certified copy of the notice or by affidavit, and the same shall be filed with the district court wherein the application was filed. Such publication shall be in a newspaper of general circulation published in each county in which the principal office of the bank or trust company is located or, if in any case there is no such newspaper, then in a newspaper of general circulation published in a contiguous county. In addition, at least thirty (30) days preceding the hearing date, the bank or trust company shall cause a copy of such notice to be mailed by first class mail to all persons entitled to and then receiving trust accountings from the bank or trust company.

(3) The notice to be published and mailed with respect to each application shall state the time and place of the hearing on the application, the name of the bank or trust company that has filed the application, the name of the affiliated bank or affiliated trust company which has joined in the application, that a transfer is requested of fiduciary capacities to the affiliated bank or affiliated trust company specified in the application, and that any interested person may file with the clerk of the court, on or before the date of the hearing, a written objection to the transfer as provided in subsection (4) of this section.

(4) On or before the date and time of the hearing on the application, any interested person, who is authorized by a will or relevant trust instrument to prohibit, challenge, amend or revoke a transfer of a fiduciary capacity otherwise allowed under this chapter and arising from a fiduciary account in which the person is interested, may file an objection to such transfer with the clerk of the court. Failure to file an objection on or before the date and time of the hearing on the application shall constitute a waiver by such interested person of the right to object under this subsection, and waiver of any power under a will or relevant trust instrument to prohibit, challenge, amend, or revoke with respect to any transfer of fiduciary capacity otherwise authorized under this chapter.

(5) At the hearing, upon finding that notice has been given as required in this section, and upon finding that the affiliated bank or affiliated trust company has been duly authorized by the director to commence the business for which it is organized, the district court shall enter an order transferring to the affiliated bank or affiliated trust company every fiduciary capacity of the bank or trust company, excepting as may be otherwise specified in the application and excepting fiduciary capacities with respect to which a proper objection has been filed pursuant to subsection (4) of this section. Upon entry of the order, the affiliated bank or affiliated trust company shall, without further act and by operation of law, be substituted in every such fiduciary capacity. The transfer may be made a matter of record in any county of this state by filing a certified copy of the order of transfer in the office of the clerk of any district court in this state or by filing a certified copy of such order in the office of the recorder of any county in this state, to be recorded and indexed by

such officer in like manner and with like effect as other orders and decrees of courts are recorded and indexed. Any fiduciary capacities of the bank or trust company excepted from the order of transfer shall remain with such bank or trust company.

(6) Each designation of the bank or trust company as fiduciary in a will or other relevant trust instrument executed before or after the date the order of transfer is entered shall be deemed a designation of the affiliated bank or affiliated trust company substituted for such bank or trust company pursuant to this section, except when such will or other relevant trust instrument is executed after the order of transfer and expressly negates the application of the provisions of this section. Any grant in any such will or other relevant trust instrument of any discretionary power shall be deemed conferred upon the affiliated bank or affiliated trust company deemed designated as the fiduciary pursuant to an order of transfer under the provisions of this section.

(7) Each bank or trust company shall account jointly with the affiliated bank or affiliated trust company which has been substituted as fiduciary pursuant to this section for the accounting period during which the affiliated bank or affiliated trust company is initially so substituted. Upon a transfer of fiduciary capacities pursuant to the provisions of this section, each bank or trust company shall deliver to the affiliated bank or affiliated trust company all related fiduciary accounts and assets held by such bank or trust company (except assets held for accounts with respect to which there has been no transfer of fiduciary capacities pursuant to this section), and upon such transfer the affiliated bank or affiliated trust company shall, without the necessity of any instrument of transfer or conveyance, succeed to all rights, privileges, duties, obligations and undertakings under any fiduciary capacity and fiduciary account transferred in the manner authorized in this chapter.

26-1403. TRANSFERS OF FIDUCIARY CAPACITIES NOT PROHIBITED BY SECTION 68-107, IDAHO CODE. No transfer of fiduciary capacities pursuant to the provisions of this chapter shall be deemed to be a transfer or delegation prohibited by the provisions of section 68-107, Idaho Code.

26-1404. COMPLIANCE AND APPROVAL WITH FINANCIAL INSTITUTION ACQUISITION ACT REQUIRED. No out-of-state financial institution or out-of-state financial institution holding company shall be allowed to join in an application for transfer of fiduciary capacities pursuant to the provisions of this chapter unless such out-of-state financial institution or out-of-state financial institution holding company first complies in full with the provisions of chapter 26, title 26, Idaho Code, and obtains approval of the director as specified in chapter 26, title 26, 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 2, 1991.

CHAPTER 216
(S.B. No. 1184)

AN ACT

RELATING TO THE PERSONNEL SYSTEM; AMENDING SECTION 67-5303, IDAHO CODE, TO PROVIDE CLARIFICATION OF THE PERSONNEL SYSTEM AS IT APPLIES TO EMPLOYEES AND OFFICERS OF THE STATE BOARD OF EDUCATION.

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

SECTION 1. That Section 67-5303, Idaho Code, be, and the same is hereby amended to read as follows:

67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state of Idaho and all employees in such departments, except those employees specifically defined as nonclassified, shall be classified employees, who are subject to this act and to the system of personnel administration which it prescribes. Nonclassified employees shall be:

(a) Members of the state legislature and all other officers of the state of Idaho elected by popular vote, and persons appointed to fill vacancies in elective offices, and employees of the state legislature.

(b) Members of statutory boards and commissions and heads of departments appointed by and serving at the pleasure of the governor, and members of advisory boards and councils appointed by the departments.

(c) All employees and officers in the office, and at the residence, of the governor; and all employees and officers in the offices of the lieutenant-governor, secretary of state, attorney general, state treasurer, state auditor, and state superintendent of public instruction who are appointed on and after the effective date of this act.

(d) Except as otherwise provided by law, not more than one (1) declared position for each board or commission and/or head of a participating department in addition to those declared to be nonclassified by other provisions of law.

(e) Part-time professional consultants who are paid on a fee basis for any form of legal, medical or other professional service, and who are not engaged in the performance of administrative duties for the state.

(f) Judges, temporary referees, receivers and jurors.

(g) All employees of the Idaho supreme court and district courts.

(h) All employees of the Idaho state bar.

(i) Assistant attorneys general attached to the office of the attorney general.

(j) Officers, ~~and~~ members of the teaching staffs of state educational institutions, ~~and~~ the professional staff of the Idaho department of education administered by the board of regents and the board of education, and the professional staffs of the Idaho department of vocational education and vocational rehabilitation administered by the state board for vocational education. "Teaching staff" includes teachers, coaches, resident directors, librarians and those principally

engaged in academic research. The word "officer" ~~as-used-in-this-subsection~~ means presidents, vice presidents, deans, ~~or~~ directors, or employees in ~~any~~ positions ~~meeting-all-of-the-following-criteria:~~ designated by the state board who receive an annual salary of not less than step "A" of the pay grade equivalent to three hundred and fifty-five (355) Hay points in the state compensation schedule. A nonclassified employee who is designated as an "officer" on July 5, 1991, but does not meet the requirements of this subsection, may make a one (1) time irrevocable election to remain nonclassified. Such an election must be made not later than August 2, 1991. When such positions become vacant, these positions will be reviewed and designated as either classified or nonclassified in accordance with this subsection.

~~1.--Answers-directly-to-or-is-responsible-to-a-person-occupying-an administrative-position-no-lower-than-the-dean-or-director--level; and,~~

~~2.--Is--involved--in-or-substantially-participates-in-the-development-of-policy;-and,~~

~~3.--Receives-an-annual-salary-of-not-less-than-the--equivalent--of step--one--(1)--of--pay-grade-twenty-four-(24)-of-the-state-salary schedule;-and,~~

~~4.--Requires-not-less-than-an-earned--bachelor's--degree--from--an accredited--college--or-university,-or-equivalent-as-prescribed-by the-personnel-commission.~~

(k) Employees of the military division not assigned to the bureau of disaster services.

(l) Patients, inmates or students employed in a state institution.

(m) Persons employed in positions established under federal grants, which, by law, restrict employment eligibility to specific individuals or groups on the basis of nonmerit selection requirements. Such employees shall be termed "project exempt" and the tenure of their employment shall be limited to the length of the project grant, or twenty-four (24) months, or four thousand one hundred sixty (4,160) hours of credited state service, whichever is of the shortest duration. No person hired on a project-exempt appointment shall be employed in any position allocated to the classified service.

(n) Temporary employees.

(o) All employees and officers of the following named commodity commissions, and all employees and officers of any commodity commission created hereafter: the Idaho potato commission, as provided in chapter 12, title 22, Idaho Code; the Idaho honey advertising commission, as provided in chapter 28, title 22, Idaho Code; the Idaho bean commission, as provided in chapter 29, title 22, Idaho Code; the Idaho prune commission, as provided in chapter 30, title 22, Idaho Code; the Idaho hop grower's commission, as provided in chapter 31, title 22, Idaho Code; the Idaho wheat commission, as provided in chapter 33, title 22, Idaho Code; the Idaho pea and lentil commission, as provided in chapter 35, title 22, Idaho Code; the Idaho apple commission, as provided in chapter 36, title 22, Idaho Code; the Idaho cherry commission, as provided in chapter 37, title 22, Idaho Code; the Idaho mint grower's commission, as provided in chapter 38, title 22, Idaho Code; the state board of sheep commissioners, as provided in chapter 1,

title 25, Idaho Code; the state brand board, as provided in chapter 11, title 25, Idaho Code; the Idaho beef council, as provided in chapter 29, title 25, Idaho Code; and the Idaho dairy products commission, as provided in chapter 31, title 25, Idaho Code.

(p) All inspectors of the fresh fruit and vegetable inspection service of the Idaho department of agriculture.

(q) All employees of the division of correctional industries within the department of correction.

Approved April 2, 1991.

CHAPTER 217
(S.B. No. 1200)

AN ACT

RELATING TO CROP LIENS; AMENDING SECTION 45-307, IDAHO CODE, TO CLARIFY THE PROCESS FOR ATTACHMENT OF CROP LIENS.

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

SECTION 1. That Section 45-307, Idaho Code, be, and the same is hereby amended to read as follows:

45-307. ATTACHMENT OF LIEN. (1) A lien in a crop attaches when a claimant files a notice of claim of lien with the secretary of state.

(2) A lien attaches to the crop subject to the lien, ~~but not to proceeds of the sale of the crop~~ to any right or claim arising from any loss or damage to the crop, and to any payment to the producer for the crop from any purchaser thereof.

Approved April 2, 1991.

CHAPTER 218
(S.B. No. 1206)

AN ACT

RELATING TO INSPECTION AND COPYING OF FINANCIAL INSTITUTION AND UTILITY RECORDS; AMENDING SECTION 37-2741A, IDAHO CODE, TO PROVIDE THAT A RESPONSE TO A SUBPOENA SHALL BE MADE BY AN AUTHORIZED REPRESENTATIVE OF THE FINANCIAL INSTITUTION OR UTILITY, AND TO PROVIDE CORRECT NOMENCLATURE.

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

SECTION 1. That Section 37-2741A, Idaho Code, be, and the same is hereby amended to read as follows:

37-2741A. FINANCIAL INSTITUTION AND UTILITY RECORDS -- INSPECTION AND COPYING -- WRONGFUL DISCLOSURE. (a) Upon request of the attorney general or prosecuting attorney, a subpoena for the production of records of a financial institution or utility may be signed and issued by a district court judge if there is probable cause that a violation of the provisions of sections 37-2732, 37-2733, 37-2734 or 37-2734A, Idaho Code, has occurred or is occurring and that the records sought will materially aid in the investigation of such activity or appear reasonably calculated to lead to the discovery of information that will do so. The subpoena shall be served on the financial institution or utility as in civil actions. The court may, upon motion timely made and in any event before the time specified for compliance with the subpoena, condition compliance upon advancement by the attorney general or prosecuting attorney of the reasonable costs of producing the records specified in the subpoena.

(b) A response to a subpoena issued under this section is sufficient if a copy or printout, duly authenticated by an ~~officer~~ authorized representative of the financial institution or utility as a true and correct copy or printout of its records, is provided, unless otherwise provided in ~~this~~ the subpoena for good cause shown.

(c) Except as provided in this subsection, a financial institution or utility served with a subpoena under this section may disclose to the customer the fact that a subpoena seeking records relating to the customer has been served. A judge of the district court may order that the attorney general, prosecuting attorney, financial institution or utility refrain from disclosing the fact that a subpoena has been served.

(d) A financial institution or utility shall be reimbursed in an amount set by the court for reasonable costs incurred in providing information pursuant to the provisions of this section.

(e) The provisions of this section do not preclude the use of other legally authorized means of obtaining records, nor preclude the assertion of any legally recognized privileges or the right to seek a protective order where appropriate.

(f) Disclosure by the attorney general, county prosecuting attorney, or any peace officer or other person designated by the attorney general or the county prosecuting attorney, of information obtained under this section, except in the proper discharge of official duties, is punishable as a misdemeanor.

(g) Upon filing of any civil or criminal action, the nondisclosure requirements of any subpoena or order under this section shall terminate, and the attorney general or prosecuting attorney filing the action shall provide copies to the defendant of all subpoenas or other orders issued under this section.

(h) A good faith reliance on a court order by a financial institution or a utility shall constitute a complete defense to any civil or criminal action brought against such a financial institution or utility under the laws of this state.

Approved April 2, 1991.

CHAPTER 219
(S.B. No. 1216)

AN ACT

RELATING TO VETERANS; AMENDING SECTIONS 42-2014, 49-415, 65-203, 65-507 AND 65-509, IDAHO CODE, TO PROVIDE A COMMON DEFINITION FOR SERVICE IN WARTIME.

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

SECTION 1. That Section 42-2014, Idaho Code, be, and the same is hereby amended to read as follows:

42-2014. APPLICATION TO ENTER -- PREFERENCE TO EX-SERVICE PERSON -- "EX-SERVICE PERSON" DEFINED. Any citizen of the United States or any person having declared his intention to become a citizen of the United States may make application under oath, to the department of water resources, to enter any of said land in an amount not to exceed the maximum number of acres for which such person is permitted to apply by federal law for any one (1) person: provided, that ex-service persons as herein defined shall have a thirty (30) day preference right of entry upon any and all lands opened for entry by the state of Idaho under this act; and such application shall set forth that the person desiring to make such entry does so for the purpose of actual reclamation, cultivation and settlement in accordance with the act of congress and the laws of this state relating thereto, and that the applicant has never received the benefit of the provisions of this chapter to an amount greater than the maximum number of acres for which such person is permitted to apply by federal law, including the number of acres specified in the application under consideration.

Each application shall be accompanied by evidence of the applicant's ability to meet standards of personal financial responsibility or acceptable personal credit backing or membership in a group as provided in section 42-2003, Idaho Code, and said group shall establish composite financial responsibility and/or acceptable credit. Such standards shall be prescribed by the director by rule and regulation. Such application must be accompanied by a certified copy of a contract for a perpetual water right, made and entered into by the party making application with the person, company or association who has been authorized by the director to furnish water for the reclamation of said lands; and if said applicant has at any previous time entered lands under the provisions of this chapter he shall so state in his application, together with description, date of entry and location of said land. The director shall thereupon file in his office the application and papers relating thereto, and, if allowed, issue a certificate of location to the applicant. All applications for entry shall be accompanied by the payment of five dollars ($5.00) per acre, which shall be paid as a partial payment on the land if the application is allowed; and all certificates when issued shall be recorded in a book to be kept for the purpose. If the application is not allowed, the five dollars ($5.00) per acre accompanying it shall be refunded to the applicant. The director shall dispose of all lands accepted by the

state under the provisions of this chapter at a uniform price of ten dollars ($10.00) per acre, half to be paid at the time of entry and the remainder at the time of making final proof by the settler: provided further, that the term ex-service person as used in this act is hereby defined to mean any person who was regularly enlisted, inducted or commissioned, and who served on active duty in any branch of the armed forces of the United States during ~~the period of the Civil War, the Spanish-American War, World War I between April 6, 1917 and November 11, 1918, World War II between December 8, 1941 and October 24, 1951, the Korean conflict between June 26, 1950 and January 31, 1955, or the Viet Nam conflict beginning August 5, 1964 during its duration~~ any period of war recognized by the United States department of veterans affairs for the purpose of awarding federal veterans benefits as may be defined in title 38, U.S. code, chapter 1, section 101(11), and is a citizen of the United States and has resided in the state of Idaho for a period of six (6) months or more, preceding the date of such opening.

SECTION 2. That Section 49-415, Idaho Code, be, and the same is hereby amended to read as follows:

49-415. SPECIAL PLATES -- POW. (1) Any veteran, who was a prisoner of war (POW) of an armed enemy of the United States during active service in the armed forces of the United States, that service occurring during any portion of a recognized war period enumerated in this section, and who has been released or discharged from the armed forces under other than dishonorable conditions, may upon application to the department, register and receive for not more than one (1) motor vehicle, special POW number plates in lieu of regular number plates.

(2) In addition to the regular annual registration fee, the applicant shall be charged an initial one-time fee of ten dollars ($10.00) for the issuance of such plates. Whenever a qualifying former POW transfers or assigns his title or interest to a vehicle especially registered under this section the registration shall expire, but the former POW may hold his special plates which he may have reissued to him upon the payment of the required transfer fees. He may only display those plates after receipt of new registration from the department.

(3) POW plates shall bear the letters "POW" followed by three (3) numerals, and shall in all other respects be as provided by law.

(4) Recognized war periods for the purpose of this section shall be: any period of war recognized by the United States department of veterans affairs for the purpose of awarding federal veterans benefits as may be defined in title 38, U.S. code, chapter 1, section 101(11).

~~World War I ..... April 6, 1917 to November 11, 1918~~
~~World War II ..... December 7, 1941 to December 31, 1946~~
~~Korean War ..... June 27, 1950 to July 27, 1954~~
~~Vietnam War ..... August 5, 1964 to August 14, 1974~~

SECTION 3. That Section 65-203, Idaho Code, be, and the same is hereby amended to read as follows:

65-203. "VETERAN" DEFINED. The word veteran as used in this chap-

ter shall include any honorably discharged person who was an actual resident of the state of Idaho for a period of at least three (3) months immediately before his or her entry into the armed forces of the United States, or who has been an actual resident of the state of Idaho for a period of at least three (3) years next preceding the date of his or her application for relief and who was regularly enlisted, drafted, inducted or commissioned and who served on active duty in the armed forces of the United States at some time during ~~the periods from April 21, 1898, and before August 13, 1898, during the Spanish--American--War, --and--from August 13, 1898, and before July 15, 1903, during the Philippine Insurrection and service in Moro--Province, --from--June 20, --1900, and before May 13, 1901, in the Boxer Rebellion, from April 6, 1917, and before November 12, 1918, in World War I, --from--November 11, --1918, --and before April 1, 1920, in active service in Russia; and from December 7, 1941, and on or before December 31, 1946 in World War II, from June 27, 1950, and before February 1, --1955, --in--the--Korean conflict, --and from August 5, 1964 to May 7, 1975, in the Vietnam conflict~~ any period of war recognized by the United States department of veterans affairs for the purpose of awarding federal veterans benefits as may be defined in title 38, U.S. code, chapter 1, section 101(11); or, who, being a citizen and resident of the state of Idaho, at the time of his or her entry therein, or who has been an actual resident of the state of Idaho for at least three (3) consecutive years immediately preceding the date of his or her application for relief, served on active duty in the naval, military or air forces of any of the governments associated with the United States during said periods; provided, that no person shall be entitled to any benefits under this chapter (a) who being in the armed forces of the United States or of any of the governments associated with the United States during said periods, refused on conscientious, political, or other grounds, to be subject to military discipline or unqualified service; or (b) who being in such service was separated therefrom under circumstances amounting to dishonorable discharge or discharge without honor; provided, however, that nothing in this chapter contained shall prevent said Idaho veterans affairs commission from rendering every possible aid and assistance to any honorably discharged veteran, or his or her dependents, except grants of direct relief shall be confined to veterans and their dependents as defined herein. Any aid or assistance, which is determined by the commission to be duplicated in any manner by any other agency or organization authorized by the veterans administration, may not be rendered by said commission.

SECTION 4. That Section 65-507, Idaho Code, be, and the same is hereby amended to read as follows:

65-507. ~~DEFINITIONS~~ DISABLED VETERAN DEFINED. The term "~~D~~disabled war veterans" as used in this act means ~~disabled persons~~ an individual who ~~have~~ has served ~~in the active service of~~ on military duty in the armed forces of the United States during any period of ~~the--following recognized war periods~~ recognized by the United States department of veterans affairs for the purposes of awarding federal veterans benefits as may be defined in title 38, U.S. code, chapter 1, section 101(11); and ~~have~~ has been ~~discharged or released~~ separated therefrom

under other-than-dishonorable conditions;:

Spanish-American.....April-21,-1898,-to-August-12,-1898
Philippine-Insurrection.....August-13,-1898,-to-July-4,-1902
(If-service-was-in-Moro-Province,-ending-date-is-July-15,-1903)
Boxer-Rebellion.....June-20,-1900,-to-May-12,-1901
World-War-I.....April-6,-1917,-to-November-11,-1918
(If-service-was-in-Russia,-ending-date-is-April-1,-1920)
World-War-II.....December-7,-1941,-to-December-31,-1946
Korean-Conflict.....June-27,-1950,-to-January-31,-1955
Vietnam-Conflict.....August-5,-1964-to-May-7,-1975

The--term--"Armed--Forces"--includes-the-Army,-Navy,-Marine-Corps, Coast-Guard,-Air-Force-and-their-auxiliaries.

In-addition-to-the-recognized-war-periods-enumerated--above,--disabled-persons-who-had-active-service-in-any-war-or-conflict-officially engaged--in-by-the-government-of-the-United-States-shall-be-recognized as-disabled-war-veterans.-The-term-"disabled-persons"-as-used-in--this act--means-persons-who-had-active-service-in-any-war-or-conflict-officially-engaged-in-by-the-government-of-the-United-States-and--who--are officially--recognized-by-the-U.S.-veterans-administration-as-having-a disability-incurred-in-service-of-a-degree-of-10-per-cent-or--more--or who-are-in-receipt-of-pension-or-compensation-for-nonservice-connected disabilities--in--accordance-with-laws-and-regulations-administered-by the-U.S.-veterans-administration and has established the present existence of a service-connected disability; and is receiving compensation, disability retirement benefits, or pension under public statute as administered by the department of veterans affairs or a military department.

SECTION 5. That Section 65-509, Idaho Code, be, and the same is hereby amended to read as follows:

65-509. "VETERAN" DEFINED. Whenever the term "veteran" is used in the laws of the state of Idaho, it shall be construed to include any person who has served in the active service of the armed forces of the United States during any armed-conflict,-or-any-war-period-officially recognized-by-and-participated-in-by-the-United--States--armed--forces period of war recognized by the United States department of veterans affairs for the purpose of awarding federal veterans benefits as may be defined in title 38, U.S. code, chapter 1, section 101(11), and who has been discharged under other than dishonorable conditions.

Approved April 2, 1991.

CHAPTER 220
(S.B. No. 1230)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1992; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAP-

TER 288, LAWS OF 1990; 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, 1991, through June 30, 1992:

FROM:	
General Account	$ 8,576,800
Dedicated Accounts	9,013,000
Federal Accounts	314,300
Interagency Billing and Receipts Account	298,900
TOTAL	$18,203,000

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. SUPPORTING SERVICES:					
FROM:					
General Account	$1,021,700	$ 465,700	$ 56,300		$ 1,543,700
Interagency Billing and Receipts Account		15,000	1,500		16,500
Fire Presuppression Account	250,200	35,600	2,000		287,800
Lands Federal Account		50,800			50,800
TOTAL	$1,271,900	$ 567,100	$ 59,800		$ 1,898,800
B. FOREST RESOURCES MANAGEMENT:					
FROM:					
General Account	$2,200,300	$ 378,500	$135,300		$ 2,714,100
Scaling Practices Operations Account	725,700	60,600	40,800		827,100
Water Pollution Control Account	108,700	14,000	13,700		136,400
Forest Practices Administration Account	136,100	26,500			162,600
Road Maintenance Account	260,000	469,000			729,000
10% Timber Lease Account	1,439,200	1,289,500	180,400		2,909,100
Forest Pest					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Account	33,300	61,300			94,600
Forest Practices Rehabilitation Account	97,700				97,700
Lands Federal Account	55,400	30,000			85,400
TOTAL	$5,056,400	$2,329,400	$370,200		$ 7,756,000
C. LAND, RANGE AND MINERAL RESOURCE MANAGEMENT:					
FROM:					
General Account	$1,414,000	$ 214,400	$ 55,300		$ 1,683,700
Interagency Billing and Receipts Account		44,600			44,600
10% Grazing Lease Account	84,300	107,900			192,200
Oil and Gas Commission Account		3,700			3,700
Dredge and Placer Mining Account	19,600	8,000			27,600
10% Recreation Lease Account	70,100	98,300			168,400
Pilgrim Cove Water System Account		5,300			5,300
TOTAL	$1,588,000	$ 482,200	$ 55,300		$ 2,125,500
D. SOIL & WATER CONSERVATION:					
FROM:					
General Account	$ 401,400	$ 67,500	$ 5,000	$231,000	$ 704,900
Interagency Billing and Receipts Account	220,900	16,900			237,800
Lands Federal Account	126,800	9,500		41,800	178,100
Water Pollution Control Account				261,300	261,300
Resource Conservation and Rangeland Loan Account	6,000	17,600			23,600
TOTAL	$ 755,100	$ 111,500	$ 5,000	$534,100	$ 1,405,700
E. SCALING PRACTICES:					
FROM:					
Scaling Practices Account	$ 196,500	$ 33,800	$ 10,500		$ 240,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
F. FOREST & RANGE PROTECTION:					
FROM:					
General Account					$ 1,930,400
Keep Idaho Green Account					10,200
Fire Suppression Account					101,200
Fire Presuppression Account					1,311,500
State District Hazard Management Account					501,200
Clearwater Potlatch Hazard Management Account					712,600
Southern Idaho Hazard Management Account					209,100
TOTAL					$ 4,776,200
GRAND TOTAL					$18,203,000

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 288, Laws of 1990, to be used for nonrecurring expenditures only, for the period July 1, 1991, through June 30, 1992.

SECTION 4. In addition to the appropriation made by Section 2, Chapter 288, Laws of 1990, there is hereby appropriated to the Department of Lands 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
FOREST RESOURCES MANAGEMENT:			
FROM:			
General Account	$ 50,000	$ 10,000	$ 60,000
Lands Federal Account	50,000	10,000	60,000
TOTAL	$100,000	$ 20,000	$ 120,000
FOREST AND RANGE PROTECTION			
FROM:			
General Account			$ 527,300
Timber Fire Deficiency Warrant			

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
Account			1,076,700
TOTAL			$1,604,000
LAND, RANGE AND MINERAL RESOURCES:			
FROM:			
10% Recreation Lease Account		$ 15,000	$ 15,000
SCALING PRACTICES:			
FROM:			
Scaling Practices Account	$ 3,600		$ 3,600
GRAND TOTAL			

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 passage and approval.

Approved April 2, 1991.

CHAPTER 221
(S.B. No. 1137)

AN ACT

RELATING TO THE COMPREHENSIVE STATE WATER PLAN; RATIFYING AND APPROVING THE COMPREHENSIVE STATE WATER PLAN FOR THE PAYETTE RIVER REACHES AS ADOPTED BY THE IDAHO WATER RESOURCE BOARD ON FEBRUARY 1, 1991.

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

SECTION 1. That pursuant to Section 42-1734B(6), Idaho Code, the Comprehensive State Water Plan for the Payette River Reaches, adopted by resolution of the Idaho Water Resource Board on February 1, 1991, be, and the same is hereby ratified and approved. In accordance with Section 42-1734A, Idaho Code, the basin plan includes protected river reach designations summarized as follows:

(1) The South Fork of the Payette River from the boundary of the Sawtooth National Recreation Area to its confluence with the Middle Fork Payette River as a recreational river;

(2) The North Fork of the Payette River from Cabarton Bridge to its confluence with the Payette River as a recreational river; and

(3) The Payette River from the confluence of the Middle and South Forks of the Payette River to Beehive Bend (a point approximately two and one-half miles upstream of Gardena) as a recreational river.

Approved April 2, 1991.

CHAPTER 222
(H.B. No. 155)

AN ACT

RELATING TO FISH AND GAME LAW VIOLATIONS; AMENDING CHAPTER 5, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-505, IDAHO CODE, TO PROVIDE FOR SUSPENSION OF HUNTING, FISHING AND TRAPPING LICENSES AND PRIVILEGES FOR FAILURE TO PAY AN INFRACTION PENALTY.

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

SECTION 1. That Chapter 5, 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 36-505, Idaho Code, and to read as follows:

36-505. SUSPENSION OF HUNTING, FISHING OR TRAPPING LICENSE FOR FAILURE TO PAY UNDERLYING INFRACTION PENALTY -- APPEAL. (1) The department shall immediately suspend the hunting, fishing or trapping license and the hunting, fishing or trapping privileges of any person upon receiving notice from any court of the state that a person has failed to pay the penalty for a fish and game infraction judgment. The notice may be sent to the department by any court which shall certify that a judgment for an infraction violation has been entered against the person and that he has failed to pay the penalty after notice and hearing, or opportunity for hearing, as prescribed by rule of the supreme court.

(2) The suspension of privileges under this section shall continue from notice of suspension by the department until the penalty has been paid. The person shall not be eligible to exercise hunting, fishing or trapping privileges or purchase a new hunting, fishing or trapping license until the penalty has been paid to the county in which judgment was entered. The department shall notify the person by registered mail of the suspension of his hunting, fishing or trapping privileges. No hearing shall be required regarding the suspension of privileges pursuant to this section.

(3) Any person hunting, fishing or trapping while such privileges are suspended under the provisions of this section, shall be in violation of the provisions of title 36, Idaho Code, prohibiting hunting, fishing or trapping without a valid license.

(4) Any person whose hunting, fishing or trapping license has been suspended under the provisions of this section may appeal to the district court in the county where the infraction judgment was entered within the time and in the manner provided for criminal appeals from the magistrates division to the district court. The appeal shall be expedited as provided by rule of the supreme court. If the district court finds that the notice of nonpayment of the infraction penalty should not have been sent to the department for suspension of the hunting, fishing or trapping license, the district court shall order the license reinstated by the department. The department upon receipt of a copy of such order shall reinstate the person's license.

Approved April 2, 1991.

CHAPTER 223
(H.B. No. 196, As Amended)

AN ACT

RELATING TO THE COMMODITY INDEMNITY ACCOUNT PROGRAM; AMENDING SECTION 69-255, IDAHO CODE, TO DELETE LANGUAGE PROVIDING THAT THE PROGRAM WOULD BE IN LIEU OF THE BONDING AND SECURITY PROVISIONS OF THE COMMODITY DEALERS LAW; AMENDING SECTION 69-258, IDAHO CODE, TO DELETE LANGUAGE RELATING TO THE RELEASE OF BONDS OR OTHER SECURITY; AND AMENDING SECTION 69-262, IDAHO CODE, TO PROVIDE THAT PRIOR TO ANY PAYMENT FROM THE ACCOUNT, A CLAIMANT SHALL BE REQUIRED TO ASSIGN HIS RIGHT TO RECOVER FROM ANY OTHER SOURCE, TO PROVIDE THE DEPARTMENT OF AGRICULTURE MAY THEN PAY UP TO NINETY PERCENT OF THE APPROVED CLAIM TO THE CLAIMANT, TO PROVIDE THAT THE DEPARTMENT SHALL HAVE A PRIORITY CLAIM FOR THAT AMOUNT, AND TO PROVIDE THAT THE CLAIMANT SHALL BE ENTITLED TO SEEK FURTHER RECOVERY AS SPECIFIED.

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

SECTION 1. That Section 69-255, Idaho Code, be, and the same is hereby amended to read as follows:

69-255. SHORT TITLE -- INDEMNITY ACCOUNT PROGRAM -- START-UP PROCEDURE. The provisions of this section and sections 69-256 through 69-267, Idaho Code, constitute the "Commodity Indemnity Account Program" (program). The director shall notify each licensed warehouse and dealer of the effective date of the program provisions. ~~Except-as-provided-in-section-69-258,-Idaho-Code,-the-program-shall-be-in--lieu--of the--bonding--and--security--provisions-of-this-chapter-and-chapter-5, title-69,-Idaho-Code.~~ The program shall commence on May 1, 1989.

SECTION 2. That Section 69-258, 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 producer's assessment provided, that warehousemen and/or commodity dealers shall be responsible for the collection of 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 3. 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 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 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 approved claim from the commodity indemnity account. Prior to any payment from the account to a claimant, the claimant shall be required to subrogate and assign his right to recover from any other source. The department may then pay up to ninety per cent (90%) of the approved claim to the claimant. The department shall have a priority claim for that amount. The claimant shall be entitled to seek recovery of the remaining ten per cent (10%) which was not originally assigned to the department. 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 producer's pro rata share of available commodities and the deficiency shall be considered as a claim of the 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.

Approved April 2, 1991.

CHAPTER 224
(H.B. No. 212, As Amended)

AN ACT

RELATING TO BEE INSPECTION; AMENDING SECTION 22-2518, IDAHO CODE, TO DEFINE ADDITIONAL TERMS; AMENDING SECTION 22-2536, IDAHO CODE, TO DELETE CERTAIN PROCEDURES FOR THE COLLECTION OF THE TAX ON BEES; AMENDING SECTION 22-2539, IDAHO CODE, TO PROVIDE FOR CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS, FOR DUE PROCESS, FOR DEPOSIT OF MONEYS COLLECTED AND FOR DISCRETIONARY ACTION BY THE DIRECTOR; AND AMENDING CHAPTER 25, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2540, IDAHO CODE, TO PROVIDE PROCEDURES FOR OBTAINING JUDICIAL REVIEW OF ACTIONS OF THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE.

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

SECTION 1. That Section 22-2518, Idaho Code, be, and the same is hereby amended to read as follows:

22-2518. DEFINITIONS. The following terms shall be construed respectively when used in this act to mean:

(a) "Apiary" any place where one or more colonies of bees are kept, or one or more hives containing honey combs or bee combs are kept.

(b) "Equipment" hives, supers, frames, veils, gloves or any apparatus, tools, machines or other devices used in the handling and manipulation of bees, wax and hives, and shall also include any containers for honey and wax which may be used in any apiary or in transporting bees and their products and apiary supplies.

(c) "Hive" frame, hive, box, barrel, log gum, skep, or any other receptacle or container, natural or artificial, or any part thereof, which may be used as a domicile for bees.

(d) "Bees" any stage of common honey bee, Apis Mmellifera L.

(e) "Bee diseases" American or European foulbrood, sacbrood, bee paralysis or any other disease or abnormal condition of egg, larval, pupa or adult stages of bees.

(f) "Colony" the hive and bees therein with or without extra supers.

(g) "Persons" individuals, associations, partnerships and corporations.

(h) "Queen apiary" any apiary or premises in which queen bees are reared or kept for sale or gift.

(i) "Director" means the director of the Idaho department of agriculture or his designated agent.

(j) "Comb" includes all materials which are normally deposited

into hives by bees. It does not include extracted honey or royal jelly, trapped pollen and processed beeswax.

(k) "Qualified bi-state beekeeper" a person who is a bona fide registered beekeeper and resident of and taxpayer of the state of Idaho, owning a bee yard or bee yards in both Idaho and another state, whose headquarters are in the state of Idaho.

(l) "Hobbyist beekeeper" a person engaged in the management of honey bees for pleasure and whose stock does not exceed fifty (50) colonies.

(m) "Commercial beekeeper" a person engaged in the management of honey bees for their products and for pollination services.

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 upon each beekeeper within the state of Idaho 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 twenty cents (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. 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 22-2539, Idaho Code, be, and the same is hereby amended to read as follows:

22-2539. PENALTY FOR ~~VIOLATING ACT~~ VIOLATIONS. (1) Any person who violates or ~~who causes or permits a violation of~~ fails to comply with any of the provisions of this ~~act~~ chapter shall be 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 be 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 of the provisions of this chapter or any regulations promulgated under this chapter may be assessed a civil penalty by the department or its duly authorized agent of not more than one hundred dollars ($100) 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 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 the provisions of this section may, within thirty (30) days of the final action by the agency 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 remitted to the agricultural inspection account.

(3) Nothing in this chapter shall be construed as requiring the director to report minor violations for prosecution when he believes that the public interest will be best served by suitable warnings or other administrative action.

SECTION 4. That Chapter 25, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-2540, Idaho Code, and to read as follows:

22-2540. REVIEW OF ACTION OF DIRECTOR. Any individual who has exhausted all administrative remedies available within the department and who is aggrieved by a final decision in a contested case is entitled to judicial review in accordance with chapter 52, title 67, Idaho Code. The review may be obtained by filing in the district court

within thirty (30) days following the action of the director a written petition praying that such action be set aside. A copy of such petition shall forthwith be delivered to the director and within thirty (30) days thereafter, the director shall certify and file in the district court of the area affected a transcript of any record pertaining thereto, including a transcript of evidence received at any hearing of referendum. The district court shall give notice by United States mail, to the director, at Boise, Idaho, and to the petitioner or petitioners of the time and place at which the court will hear such petition, at which time any interested party may be heard. Upon completion of the hearing, the court shall affirm, set aside or modify the action of the director, except that the finding of the director as to the facts, if supported by substantial evidence, shall be conclusive.

Approved April 2, 1991.

CHAPTER 225
(H.B. No. 213, As Amended)

AN ACT

RELATING TO DUE DATES OF THE TAX ON BEES; AMENDING SECTION 22-2808, IDAHO CODE, TO PROVIDE WHEN THE TAX IS DUE AND TO CORRECT A MISSPELLING.

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

SECTION 1. That Section 22-2808, Idaho Code, be, and the same is hereby amended to read as follows:

22-2808. LEVY AND COLLECTION OF TAXES -- CHANGE OF TAX BY REFERENDUM -- VIOLATIONS -- PENALTY. (a) There is hereby levied and imposed upon each colony or hive of bees within the state of Idaho on July 1 of each year a continuing annual tax of five cents (5¢) per hive or colony of bees beginning in the year 1970 for the purpose of carrying out the provisions of chapter 28, title 22, Idaho Code.

(b) The tax may be decreased to not less than three cents (3¢) per hive or colony per year or it may be increased to not more than ten cents (10¢) 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 l~~a~~evy of the tax will continue annually at the changed rate until again changed by another referendum. Any resident of Idaho who is a registered Idaho beekeeper with the department of agriculture may vote at such referendum. Any referendum 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) Notice of t~~T~~he tax provided for in this section shall be mailed no later than June 1 and the tax shall be due and payable on or before ~~October 31~~ July 1 of each year, and it shall be collected by the Idaho department of agriculture and shall forthwith be paid over

by the Idaho department of agriculture to the Idaho honey advertising fund.

(d) 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.

(e) The Idaho honey advertising commission may promulgate the necessary rules and forms to implement and carry out this section.

(f) Any person who shall violate the provisions of this section or the rules and regulations promulgated under it shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars ($300) or imprisonment for a period not to exceed ninety (90) days, or both such fine and imprisonment, and all fines collected for violation of this section shall be paid into the Idaho honey advertising fund.

Approved April 2, 1991.

CHAPTER 226
(H.B. No. 227, As Amended)

AN ACT

RELATING TO OVERWEIGHT PENALTIES AND THE DISPOSITION OF FINES FOR OVERWEIGHT TRUCKS; AMENDING SECTION 49-1001, IDAHO CODE, TO PROVIDE A MAXIMUM WEIGHT LIMITATION, TO PROVIDE FOR THE ACCUMULATION OF AXLE WEIGHTS, TO PROVIDE FOR MANDATORY LEGALIZATION OF OVERWEIGHT TRUCKS, AND TO PROVIDE FOR A PASS TO BE PURCHASED FOR TRUCKS NOT CAPABLE OF LEGALIZATION; AMENDING SECTION 49-1002, IDAHO CODE, TO PROVIDE FOR MANDATORY LEGALIZATION OF OVERWEIGHT TRUCKS OR PASSES TO BE PURCHASED FOR TRUCKS NOT CAPABLE OF LEGALIZATION; AMENDING SECTION 49-1013, IDAHO CODE, TO PROVIDE FOR INCREASED PENALTIES FOR OVERWEIGHT VIOLATIONS, TO INCREASE ALL OTHER VIOLATIONS IN CHAPTER 10, TITLE 49, IDAHO CODE, TO A MAXIMUM OF THREE HUNDRED DOLLARS, AND TO PROVIDE THAT ALL OVERWEIGHT FINES BE DEPOSITED INTO THE HIGHWAY DISTRIBUTION ACCOUNT; AMENDING SECTION 49-1501, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF INFRACTION CITATIONS BY TRANSPORTATION DEPARTMENT EMPLOYEES; AMENDING SECTION 19-4705, IDAHO CODE, TO PROVIDE THAT FINES FROM OVERWEIGHT VIOLATIONS BE DEPOSITED INTO THE HIGHWAY DISTRIBUTION ACCOUNT; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-1001, Idaho Code, be, and the same is hereby amended to read as follows:

49-1001. ALLOWABLE GROSS LOADS. The gross load imposed on the highway by any vehicle or combination of vehicles shall not exceed the limits in this section. The maximum single axle gross weight shall be twenty thousand (20,000) pounds, the maximum single wheel gross weight

shall be ten thousand (10,000) pounds and the maximum gross vehicle or combination weight shall be one hundred five thousand five hundred (105,500) pounds, provided that maximum gross vehicle or combination weight on United States federal interstate and defense highways of this state shall not exceed eighty thousand (80,000) pounds, except as permitted under the provisions of section 49-1004, Idaho Code.

(1) The total gross weight imposed on the highway by any group of consecutive axles shall be determined by the following formula:

$$W=500((LN/N-1)+12N+36)$$

Where W is the maximum weight in pounds (to the nearest 500 pounds) carried on any group of two (2) or more consecutive axles. L is the distance in feet between the extremes of any group of two (2) or more consecutive axles, and N is the number of axles under consideration.

The formula is modified as illustrated in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles							
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
4	34,000							
5	34,000			WHEN NO ALLOWABLE WEIGHT IS				
6	34,000			LISTED FOR ANY AXLE SPACING,				
7	34,000			APPLY THE ALLOWABLE WEIGHT AS				
8	34,000	42,000		LISTED IN THE FIRST COLUMN TO				
9	39,000	42,500		THE LEFT				
10	40,000	43,500						
11		44,000						
12		45,000	50,000					
13		45,500	50,500					
14		46,500	51,500					
15		47,000	52,000					
16		48,000	52,500	58,000				
17		48,500	53,500	58,500				
18		49,500	54,000	59,000				
19		50,000	54,500	60,000				
20		51,000	55,500	60,500	66,000			
21		51,500	56,000	61,000	66,500			
22		52,500	56,500	61,500	67,000			
23		53,000	57,500	62,500	68,000			
24		54,000	58,000	63,000	68,500	74,000		
25		54,500	58,500	64,500	69,000	74,500		
26		55,500	59,500	65,000	69,500	75,000		
27		56,000	60,000	65,000	70,000	75,500		
28		57,000	60,500	65,500	71,500	76,500	82,000	
29		57,500	61,500	66,000	71,500	77,000	82,500	
30		58,500	62,000	66,500	72,000	77,500	83,000	
31		59,000	62,500	67,500	72,500	78,000	83,500	
32		60,000	63,500	68,000	73,000	78,500	84,500	90,000
33			64,000	68,500	74,000	79,000	85,000	90,500
34			64,500	69,000	74,500	80,000	85,500	91,000

35	65,500	70,000	75,000	80,500	86,000	91,500
36	66,000	70,500	75,500	81,000	86,500	92,000
37	66,500	71,000	76,000	81,500	87,000	93,000
38	67,500	72,000	77,000	82,000	87,500	93,500
39	68,000	72,500	77,500	82,500	88,500	94,000
40	68,500	73,000	78,000	83,500	89,000	94,500
41	69,500	73,500	78,500	84,000	89,500	95,000
42	70,000	74,000	79,000	84,500	90,000	95,500
43	70,500	75,000	80,000	85,000	90,500	96,000
44	71,500	75,500	80,500	85,500	91,000	96,500
45	72,000	76,000	81,000	86,000	91,500	97,500
46	72,500	76,500	81,500	87,000	92,500	98,000
47	73,500	77,500	82,000	87,500	93,000	98,500
48	74,000	78,000	83,000	88,000	93,500	99,000
49	74,500	78,500	83,500	88,500	94,000	99,500
50	75,500	79,000	84,000	89,000	94,500	100,000
51	76,000	80,000	84,500	89,500	95,000	100,500
52	76,500	80,500	85,000	90,500	95,500	101,000
53	77,500	81,000	86,000	91,000	96,500	102,000
54	78,000	81,500	86,500	91,500	97,000	102,500
55	78,500	82,500	87,000	92,000	97,500	103,000
56	79,500	83,000	87,500	92,500	98,000	103,500
57	80,000	83,500	88,000	93,000	98,500	104,000
58		84,000	89,000	94,000	99,000	104,500
59		85,000	89,500	94,500	99,500	105,000
60		85,500	90,000	95,000	100,500	105,500
61		86,000	90,500	95,500	101,000	
62		87,000	91,000	96,000	101,500	
63		87,500	92,000	96,500	102,000	
64		88,000	92,500	97,500	102,500	
65		88,500	93,000	98,000	103,000	
66		89,500	93,500	98,500	103,500	
67		90,000	94,000	99,000	104,500	
68		90,500	95,000	99,500	105,000	
69		91,000	95,500	100,000	105,500	
70		92,000	96,000	101,000		
71		92,500	96,500	101,500		
72		93,000	97,000	102,000		
73		93,500	98,000	102,500		
74		94,500	98,500	103,000		
75		95,000	99,000	103,500		
76		95,500	99,500	104,500		
77		96,000	100,000	105,000		
78		97,000	101,000	105,500		
79		97,500	101,500			
80		98,000	102,000			
81		98,500	102,500			
82		99,000	103,000			
83		100,000	104,000			
84			104,500			
85			105,000			
86 or more			105,500			

(a) The board may limit the application of the weights authorized

in this section as to certain highways which it determines have limited structural capacity of pavements, bridges, or other appurtenances. In designating such highways, it may specify a minimum wheelbase for combinations to be operated thereon. It may also designate specific highways or portions on which operation of a combination of vehicles with seven (7), eight (8) or nine (9) axle vehicles will be subject to specified lesser allowable gross weights.

(b) Notwithstanding the figures shown in the above table, two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand (34,000) pounds each, providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six (36) feet or more.

(2) The weight limitations set forth in the table above shall not apply to any vehicle, or combination of vehicles when a greater allowed weight in pounds would be permitted such vehicles under the table provided in this subsection, except that with regard to transportation on the United States federal interstate and defense highways of this state, the following table of allowable weights shall apply only to vehicles engaged in the transportation of logs, pulp wood, stull, rough lumber, poles or piling; or to any such vehicle engaged in the transportation of ores, concentrates, sand and gravel and aggregates thereof, in bulk; or to any such vehicle engaged in the transportation of agricultural commodities, including livestock:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four axles	Vehicles with Five or more axles
3 through 12	37,800	37,800
13	56,470	56,470
14	57,940	57,940
15	59,400	59,400
16	60,610	60,610
17	61,820	61,820
18	63,140	63,140
19	64,350	64,350
20	65,450	65,450
21	66,000	66,330
22	66,000	67,250
23	66,000	67,880
24	66,000	68,510
25	66,000	69,150
26	66,000	69,770
27	66,000	70,400
28	66,000	70,950
29	66,000	71,500
30	66,000	72,050
31		72,600
32		73,150
33		73,700
34		74,250
35		74,800
36		75,350

37	75,900
38	76,450
39	77,000
40	77,550
41	78,100
42	78,650
43 and over	79,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles exceeds seventy-nine thousand (79,000) pounds.

(3) In determining the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles under subsections (1) or (2) of this section, the total gross weight of the vehicle or combination of vehicles or the gross weight of any two (2) or more consecutive axles shall be the sum of the axle weights.

(4) In applying the weight limitations imposed in this section, a vehicle or combination of vehicles must comply exclusively with the weight limitations in either subsection (1) or (2) of this section.

(~~3~~5) In applying the weight limitations imposed in this section, the distance between axles shall be measured to the nearest even foot. When a fraction is exactly one-half (1/2%) foot the next larger whole number shall be used.

(~~4~~6) The limitations imposed in this section are in addition and supplemental to all other laws imposing limitations upon the size and weight of vehicles.

(~~5~~7) Notwithstanding the other provisions of this chapter, no vehicle, motor vehicle, trailer and/or semitrailer, or combination thereof, may be operated on the public highways of the state under loads which would result in the withholding of funds by operation of controlling federal law as provided in the Federal Aid Highway Act of 1956, as amended.

(8) Except as provided herein, no vehicle or combination of vehicles may proceed past the place of weighing at temporary or permanent ports of entry or checking stations when: the weight of a single axle exceeds the maximum limitations set forth herein by two thousand (2,000) pounds or more; the weight of a combination of axles, or gross vehicle weight exceeds the maximum allowable weight as set forth herein by seven percent (7%) or more. Vehicles or combinations of vehicles which exceed the weight limitations set forth herein shall be required to be brought into compliance with applicable weight limitations contained within this subsection at the place of weighing prior to continuing, except those vehicles or combinations of vehicles which are transporting loads which, in the determination of the board or other proper authorities in charge of or having jurisdiction over a highway, are deemed unsafe or impractical to bring into compliance at the place of weighing. Vehicles or combinations of vehicles transporting loads in this latter category shall obtain a travel authorization to the nearest place of safe unloading, load adjustment or other means of legalization.

(a) Neither the state of Idaho or its employees, nor any authority and its employees in charge of or having jurisdiction over a highway, shall be held liable for personal injury or property damage resulting from the requirements of section 49-1001(8), Idaho

Code.

(b) The fee for a travel authorization as set forth above shall be fifty dollars ($50.00) and shall be on a form prescribed by the board or other proper authorities.

(c) The board or other proper authorities in charge of or having jurisdiction over a highway shall adopt and enforce administrative rules and regulations as may be necessary to carry out the provisions of this section.

SECTION 2. That Section 49-1002, Idaho Code, be, and the same is hereby amended to read as follows:

49-1002. ALLOWABLE LOAD PER INCH WIDTH OF TIRE. (1) The maximum allowable load for any vehicle tire operated on any public highway shall not exceed six hundred (600) pounds per inch width of tire. The width of a tire shall be determined by the manufacturer's description marked on the sidewall of the tire. Tires on vehicles manufactured prior to July 1, 1987, may exceed the six hundred (600) pounds per inch width of tire limit subject to a maximum of eight hundred (800) pounds per inch width of tire.

(2) Except as provided herein, no vehicle or combination of vehicles may proceed past the place of weighing at temporary or permanent ports of entry or checking stations when the weight carried on a single tire, as determined by dividing the weight carried on an axle or group of axles by the number of wheels on the axle or group of axles, exceeds on a single axle the allowable weight above by two thousand (2,000) pounds or more or the weight of a combination of axles exceeds the allowable weight above by seven percent (7%) or more. Vehicles or combinations of vehicles which exceed the weight limitations set forth herein shall be required to be brought into compliance with the applicable weight per inch width of tire contained within this subsection prior to continuing except those vehicles or combinations of vehicles which are transporting loads which, in the determination of the board or other proper authorities in charge of or having jurisdiction over a highway, are deemed unsafe or impractical to bring into compliance at the place of weighing. Vehicles or combinations of vehicles transporting loads in this latter category shall obtain a travel authorization to the nearest place of safe unloading, load adjustment or other means of legalization.

(a) Neither the state of Idaho or its employees, nor any authority and its employees in charge of or having jurisdiction over a highway, shall be held liable for personal injury or property damage resulting from the requirements of section 49-1001(8), Idaho Code.

(b) The fee for a travel authorization as set forth above shall be fifty dollars ($50.00) and shall be on a form prescribed by the board or other proper authorities.

(c) The board or other proper authorities in charge of or having jurisdiction over a highway shall adopt and enforce administrative rules and regulations as may be necessary to carry out the provisions of this section.

SECTION 3. That Section 49-1013, Idaho Code, be, and the same is

hereby amended to read as follows:

49-1013. PENALTIES FOR VIOLATIONS. (1) It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this chapter~~,--and-any-person-convicted-of-such-violation.~~

(2) Persons convicted of violations of the provisions of sections 49-1003 and 49-1005 through 49-1012, Idaho Code, shall be subject to punishment by a fine of not to exceed ~~one~~ three hundred dollars (~~$1~~$300) or by imprisonment in the county jail for not more than thirty (30) days ~~and-to-the-cancellation-of-registration-of-each-motor-vehicle-operated-in-violation-of-any-order-for-the-regulation--or--suspension--of--traffic--issued--under-the-authority-of-this-chapter-and-the cancellation-of-the-license-of-the-operator-of-such-vehicle~~ or by a combination of such fine and imprisonment.

(3) Persons convicted of violations of the provisions of sections 49-1001, 49-1002, and 49-1004, Idaho Code, shall be subject to a penalty as prescribed herein:

(a) One (1) pound through one thousand (1,000) pounds overweight shall be five dollars ($5.00).

(b) One thousand one (1,001) pounds through two thousand (2,000) pounds overweight shall be fifteen dollars ($15.00).

(c) Two thousand one (2,001) pounds through four thousand (4,000) pounds overweight shall be twenty-five dollars ($25.00).

(d) Four thousand one (4,001) pounds through fifteen thousand (15,000) pounds overweight shall be twenty-five dollars ($25.00) plus $.1341 per pound for each additional pound over four thousand (4,000) pounds overweight.

(e) Fifteen thousand one (15,001) pounds through twenty thousand (20,000) pounds overweight shall be one thousand five hundred dollars ($1,500) plus twenty cents ($.20) per pound for each additional pound over fifteen thousand (15,000) pounds overweight.

(f) Twenty thousand one (20,001) pounds and greater shall be two thousand five hundred dollars ($2,500) plus thirty cents ($.30) per pound for each additional pound over twenty thousand (20,000) pounds overweight.

(4) All moneys collected as a result of the penalties prescribed in subsection (3) of this section, shall be deposited into the highway distribution account.

SECTION 4. 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 or authorized employee of the Idaho transportation department 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 5. That Section 19-4705, Idaho Code, be, and the same is hereby amended to read as follows:

19-4705. PAYMENT OF FINES AND FORFEITURES -- SATISFACTION OF JUDGMENT -- DISPOSITION -- APPORTIONMENT. (a) All fines and forfeitures collected pursuant to the judgment of any court of the state shall be remitted to the court in which the judgment was rendered. The judgment shall then be satisfied by entry in the docket of the court. The clerk of the court shall daily remit all fines and forfeitures to the county auditor who shall at the end of each month apportion the proceeds according to the provisions of this act. ~~Every~~ o<u>O</u>ther existing law<u>s</u> regarding the disposition of fines and forfeitures ~~is~~ <u>are</u> hereby repealed to the extent such <u>laws are</u> ~~is~~ inconsistent with the provisions of this act <u>except as provided in section 49-1013(3), Idaho Code</u>.

(b) Fines and forfeitures remitted for violations of fish and game laws shall be apportioned five per cent (5%) to the state treasurer for deposit in the state general account, five per cent (5%) to the search and rescue account, twenty-two and one-half per cent (22 1/2%) to the district court fund and sixty-seven and one-half per cent (67 1/2%) to the public school income fund.

(c) Fines and forfeitures remitted for violations of state ~~and~~ motor vehicle laws, for violation of state driving privilege laws, and for violation of state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account, forty-five per cent (45%) to the state treasurer for deposit in the highway distribution account, twenty-two and one-half per cent (22 1/2%) to the district court fund and twenty-two and one-half per cent (22 1/2%) to the state treasurer for deposit in the public school income fund; provided, however, that fines and forfeitures remitted for violation of state motor vehicle laws, for violation of state driving privilege laws, and for violation of state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, where an arrest is made or a citation is issued by a city law enforcement official, or by a law enforcement official of a governmental agency under contract to provide law enforcement services for a city, shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account and ninety per cent (90%) to the city whose officer made the arrest or issued the citation.

(d) Fines and forfeitures remitted for violation of any state law not involving fish and game laws, or motor vehicle laws, or state driving privilege laws, or state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account and ninety per cent (90%) to the district court fund of the county in which the violation occurred.

(e) Fines and forfeitures remitted for violation of county ordinances shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account and ninety per cent (90%) to the district court fund of the county whose ordinance was violated.

(f) Fines and forfeitures remitted for violation of city ordinances shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account and ninety per cent (90%) to the city whose ordinance was violated.

(g) Fines and forfeitures remitted for violations not specified in this act shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account and ninety per cent (90%) to the district court fund of the county in which the violation occurred except in cases where a duly designated officer of any city police department or city law enforcement official shall have made the arrest for any such violation, in which case ninety per cent (90%) shall be apportioned to the city whose officer made the arrest.

(h) Fines and forfeitures remitted for violations involving registrations of motorcycles or motor-driven cycles used off highways, snowmobiles, or use of winter recreation parking areas shall be apportioned ten per cent (10%) to the state treasurer for deposit to the state general account and ninety per cent (90%) to the general account of the county or city whose law enforcement official issued the citation.

(i) Fines and forfeitures remitted for violations of overweight laws as provided in section 49-1013(3), Idaho Code, shall be deposited one hundred per cent (100%) into the highway distribution account.

(j) As used in this section, the term "city law enforcement official" shall include an official of any governmental agency which is providing law enforcement services to a city in accordance with the terms of a contract or agreement, when such official makes the arrest or issues a citation within the geographical limits of the city and when the contract or agreement provides for payment to the city of fines and forfeitures resulting from such service.

SECTION 6. This act shall be in full force and effect on and after January 1, 1992.

Approved April 2, 1991.

CHAPTER 227
(S.B. No. 1040)

AN ACT

RELATING TO MURDER; AMENDING SECTION 18-4003, IDAHO CODE, TO PROVIDE THAT ANY MURDER COMMITTED BY AGGRAVATED BATTERY ON A CHILD UNDER TWELVE YEARS OF AGE IS MURDER OF THE FIRST DEGREE.

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

SECTION 1. That Section 18-4003, Idaho Code, be, and the same is hereby amended to read as follows:

18-4003. DEGREES OF MURDER. (a) All murder which is perpetrated by means of poison, or lying in wait, or torture, when torture is inflicted with the intent to cause suffering, to execute vengeance, to extort something from the victim, or to satisfy some sadistic inclination, or which is perpetrated by any kind of wilful, deliberate and premeditated killing is murder of the first degree.

(b) Any murder of any peace officer, executive officer, officer

of the court, fireman, judicial officer or prosecuting attorney who was acting in the lawful discharge of an official duty, and was known or should have been known by the perpetrator of the murder to be an officer so acting, shall be murder of the first degree.

(c) Any murder committed by a person under a sentence for murder of the first or second degree, including such persons on parole or probation from such sentence, shall be murder of the first degree.

(d) Any murder committed in the perpetration of, or attempt to perpetrate, aggravated battery on a child under twelve (12) years of age, arson, rape, robbery, burglary, kidnapping or mayhem is murder of the first degree.

(e) Any murder committed by a person incarcerated in a penal institution upon a person employed by the penal institution, another inmate of the penal institution or a visitor to the penal institution shall be murder of the first degree.

(f) Any murder committed by a person while escaping or attempting to escape from a penal institution is murder of the first degree.

(g) All other kinds of murder are of the second degree.

Approved April 2, 1991.

CHAPTER 228
(H.B. No. 258)

AN ACT

RELATING TO RATIFICATION OF THE FORT HALL INDIAN WATER RIGHTS AGREEMENT OF 1990 AND AUTHORIZATION FOR PAYMENT OF FILING FEES AND TO PROVIDE A CONTINGENCY IF THE AGREEMENT DOES NOT BECOME EFFECTIVE.

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

SECTION 1. RATIFICATION OF FORT HALL INDIAN WATER RIGHTS AGREEMENT OF 1990. The 1990 Fort Hall Indian Water Rights Agreement executed by the Governor, the Attorney General and the Idaho Water Resource Board on July 5, 1990, and approved by the United States as Pub. L. No. 101-602, 104 Stat. 3059 (1990), is hereby approved, ratified and confirmed.

SECTION 2. AUTHORIZATION FOR PAYMENT OF FILING FEES. The Attorney General is hereby authorized to pay the filing fees required by the provisions of Section 42-1414, Idaho Code, for those water rights to be decreed as a part of the 1990 Fort Hall Indian Water Rights Agreement from the Attorney General's special litigation account upon approval of the Agreement by the general membership of the Shoshone-Bannock Tribes. In the event that the Agreement does not become effective as provided in Section 18 of the Agreement, any moneys paid pursuant to this section shall be refunded to the Attorney General's special litigation account.

Approved April 2, 1991.

CHAPTER 229
(H.B. No. 434)

AN ACT

RELATING TO THE COMBUSTION OF MEDICAL WASTES; AMENDING CHAPTER 1, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-118C, IDAHO CODE, TO DEFINE A TERM, TO PROVIDE THAT A PERMIT MAY NOT BE ISSUED FOR NOR MAY CONSTRUCTION BEGIN ON A NEW MEDICAL WASTE COMBUSTOR NOR ON THE CONSTRUCTION, EXPANSION OR MODIFICATION OF EXISTING MEDICAL WASTE COMBUSTORS PRIOR TO JULY 1, 1992, AND TO PROVIDE PENALTIES AND REMEDIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 1, 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 39-118C, Idaho Code, and to read as follows:

39-118C. COMBUSTORS OF MEDICAL WASTE. (1) As used in this section, "medical waste combustor" means any device, incinerator, furnace, boiler or burner and any and all appurtenances thereto which burns or pyrolyzes human or animal tissues, medical cultures, human blood or blood products, materials contaminated with human blood or tissues, used or unused surgical wastes, used or unused sharps including hypodermic needles, suture needles, syringes and scalpel blades.

(2) Notwithstanding any other provision of law to the contrary, prior to July 1 1992, no permit may be issued for, nor may construction begin on a new medical waste combustor, or for modification or expansion to an existing medical waste combustor. Construction on or operation of a new medical waste combustor, or modification or expansion of an existing medical waste combustor shall not begin prior to a permit being obtained for such activity from the department. Any person or entity violating the provisions of this section shall be subject to the penalties and remedies contained in the environmental protection and health act, chapter 1, title 39, Idaho Code.

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

Approved April 3, 1991.

CHAPTER 230
(H.B. No. 309)

AN ACT

RELATING TO GAMBLING; AMENDING SECTION 18-3801, IDAHO CODE, TO PROVIDE A CURRENT DEFINITION OF GAMBLING AND THE PENALTY FOR GAMBLING, AND TO DESCRIBE ACTIVITIES THAT DO NOT CONSTITUTE GAMBLING.

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

SECTION 1. That Section 18-3801, Idaho Code, be, and the same is hereby amended to read as follows:

18-3801. GAMBLING. (1) Every person who deals, plays or carries on, opens or causes to be opened, or who conducts, either as owner, employee, or lessee, whether for hire or not, any game ~~of faro, monte, roulette, lansquenet, rouge et noir, rondo, Indian stick game, or any game played with cards, dice or any other device for money, checks, credit or any other representative of values~~, scheme, or device not authorized under the provisions of chapter 25, title 54, Idaho Code, or chapter 74, title 67, Idaho Code, in which each of the elements of chance, consideration and prize is present, is guilty of the crime of gambling which is a misdemeanor ~~and is punishable by fine not less than $200 nor more than $1,000 or imprisonment in the county jail not less than two (2) months nor more than twelve (12) months or both such fine and imprisonment~~.

(2) Any game, scheme or device for entertainment or amusement which allows the player to use a skill to manipulate or control any part of the game, device or scheme and which awards the player additional play only is not gambling.

Approved April 2, 1991.

CHAPTER 231
(H.B. No. 433)

AN ACT

RELATING TO MEDICAL ASSISTANCE PROGRAMS; SUMMARIZING THE FISCAL YEAR 1992 APPROPRIATION FOR THE MEDICAL ASSISTANCE PROGRAMS; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 1992; APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE CATASTROPHIC HEALTH CARE COST ACCOUNT FOR FISCAL YEAR 1992; AND PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL ACCOUNT TO THE COOPERATIVE WELFARE ACCOUNT.

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

SECTION 1. In summary, the appropriation for the Medical Assistance Programs includes various amounts from the listed accounts within the designated fund categories for the period October 1, 1991, through June 30, 1992:

FROM:

General Fund:	
General Account	$6,112,500*
	$3,091,800*
Federal Funds	
Cooperative Welfare Account	3,404,300
TOTAL	$9,516,800*
	$6,496,100*

SECTION 2. There is hereby appropriated to the Department of Health and Welfare the following amount to be expended for the designated programs from various accounts within the fund category listed for the period October 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENT	TOTAL
A. INDIRECT SUPPORT SERVICES:				
FROM				
General Fund		$40,000		$40,000
B. ELIGIBILITY SERVICES:				
FROM:				
General Fund		$21,700		$21,700
C. MEDICAID:				
FROM:				
General Fund	$59,400	$92,700	$2,878,000	$3,030,100
Federal Funds		60,000	3,344,300	3,404,300
TOTAL	$59,400	$152,700	$622,300	$6,434,400
GRAND TOTAL				$6,496,100

~~SECTION 3. There is hereby appropriated from the General Account to the Catastrophic Health Care Cost Account the sum of $3,020,700 for the period October 1, 1991, through June 30, 1992.~~*

SECTION 4. As appropriated in Section 2 of this act, the State Auditor shall make transfers of the General Account 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 with line item veto April 4, 1991.

* Section 3 was line item vetoed, as indicated, and consequently the figures in Section 1 changed accordingly, as indicated.

CHAPTER 232
(S.B. No. 1249)

AN ACT

APPROPRIATING MONEYS FROM THE PERMANENT BUILDING ACCOUNT TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND THE DIVISION OF PUBLIC WORKS FOR THE PURPOSES SPECIFIED; APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE PERMANENT BUILDING ACCOUNT; APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE UNIVERSITY OF IDAHO LIBRARY ACCOUNT; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO INTEREST EARNINGS; EXPRESSING LEGISLATIVE INTENT CONCERNING THE USE OF MONEYS APPROPRIATED BY THIS ACT; EXEMPTING THE APPROPRIATIONS FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE

PROVISIONS OF SECTION 67-3516, IDAHO CODE; AUTHORIZING THE USE OF TAX ANTICIPATION NOTES; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated from the Permanent Building Account to the Permanent Building Fund Advisory Council and the Division of Public Works the following amounts, or so much thereof as in each case may be necessary, for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair, of the following buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, named and listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building Account for the purpose of undertaking the construction, renovation, repair and acquisitions herein authorized, without delay, and to determine the priority of construction pursuant to which the work hereunder will be undertaken.

A. PREVENTIVE MAINTENANCE PROJECTS:	
Department of Administration	$ 320,000
State Board of Education	5,646,800
Department of Correction	1,346,800
Department of Health and Welfare	1,452,000
Department of Lands	105,000
Idaho Commission for the Blind	40,500
Military Division	110,000
Department of Parks and Recreation	100,000
Idaho Transportation Department	565,000
Department of Employment	28,000
Department of Fish and Game	80,500
Statewide Contingency	205,400
TOTAL	$10,000,000
B. ASBESTOS ABATEMENT PROJECTS:	
State Board of Education	$ 577,400
Department of Correction	100,000
Department of Health and Welfare	134,700
Department of Administration Contingency	187,900
TOTAL	$ 1,000,000
C. DEPARTMENT OF LANDS:	
Kamiah Office Building	$ 75,000
D. DEPARTMENT OF CORRECTION:	
Food Service Remodel, ISCI-Boise	800,000
Womens' Prison, First Construction Phase	5,300,000
Building Remodel/40-bed Unit, NICI-Cottonwood	120,000
TOTAL	$ 6,220,000
E. DEPARTMENT OF PARKS AND RECREATION:	
Headquarters/South Regional Offices, Planning & Design; and Relocation of North Regional Offices	$ 550,000
F. STATE BOARD OF EDUCATION:	
BSU Math/Geology Building Renovation	$ 1,750,000
ISU/U of I Center for Higher Education, Idaho Falls	3,100,000
~~BSU/Canyon County Campus Classroom Building, Nampa~~	~~2,200,000*~~
LCSC, Remodel of Old Library	1,450,000

~~NIC, Remodel Old Library/Lee Hall, Planning~~	~~150,000*~~
~~CSI, Library/Media Center, Planning~~	~~300,000*~~
~~EITC, Classroom Complex, Planning~~	~~250,000*~~
ISU, Frazier Hall Renovation	1,400,000
TOTAL	$10,600,000*
	$ 7,700,100*
G. DEPARTMENT OF ADMINISTRATION:	
Capitol Mall Fiber-optic Backbone, Design	$ 105,000
H. DEPARTMENT OF HEALTH AND WELFARE:	
State Hospital North, Renovation/Addition, Planning	$ 500,000
GRAND TOTAL	$29,050,000*
	$26,150,000*

SECTION 2. There is hereby appropriated $2,580,000 from the General Account to the Permanent Building Account.

SECTION 3. There is hereby appropriated $1,503,500 from the General Account to the University of Idaho Library Account, for the library addition and remodel project.

SECTION 4. It is legislative intent that the interest earnings on the balance of the University of Idaho Library Account, including the appropriation made in Section 3 of this act, shall remain in the account for use on the library addition and remodel project.

SECTION 5. 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 6. 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 7. The State Treasurer is hereby authorized and directed to anticipate the revenues in the Permanent Building Fund by the issuance of tax anticipation notes in accordance with authority conferred by Sections 63-3201, 63-3202, 63-3203, 63-3204 and 63-3205, Idaho Code, and in accordance with the procedures and subject to the limitations provided in those sections, in the same manner as though the revenues in the General Account were being anticipated.

SECTION 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 with line item vetoes April 4, 1991.

* These items were line item vetoed, as indicated, and consequently the total figure for Section F and the Grand Total figure changed, as indicated.

CHAPTER 233
(H.B. No. 378)

AN ACT

RELATING TO MEDICAL ASSISTANCE PROGRAMS; REPEALING CHAPTER 87, LAWS OF 1990; AMENDING SECTION 31-873, IDAHO CODE, TO STRIKE REFERENCE TO A COUNTY'S OBLIGATION TO ASSIST WITH PAYMENTS FOR THE MEDICAID PROGRAM; AMENDING SECTIONS 31-3404, 31-3405, 31-3406 AND 31-3407, IDAHO CODE, TO STRIKE REFERENCE TO SECTION 31-873, IDAHO CODE; AMENDING SECTION 31-3502, IDAHO CODE, TO PROVIDE AUTHORITY FOR A COUNTY TO RECOVER UP TO ALL OF THE MEDICAL ASSISTANCE ADVANCED, TO PROVIDE FOR AN ADMINISTRATOR, AND TO STRIKE REFERENCE TO A NEGOTIATED INSURANCE POLICY; AMENDING SECTION 31-3503, IDAHO CODE, TO PROVIDE PROPER REFERENCES AND TO STRIKE REFERENCE TO COUNTY PARTICIPATION IN THE CATASTROPHIC HEALTH CARE COST PROGRAM; AMENDING SECTIONS 31-3504 AND 31-3505, IDAHO CODE, TO STRIKE REFERENCE TO SECTION 31-873, IDAHO CODE; AMENDING SECTION 31-3517, IDAHO CODE, TO PROVIDE FOR A GOVERNING BOARD FOR THE CATASTROPHIC HEALTH CARE COST PROGRAM; AMENDING SECTION 31-3518, IDAHO CODE, TO PROVIDE ADDITIONAL ADMINISTRATIVE RESPONSIBILITY FOR THE ADMINISTRATOR; AMENDING SECTION 31-3519, IDAHO CODE, TO STRIKE REFERENCE TO PAYMENTS BY COUNTIES; REPEALING SECTION 56-460, IDAHO CODE; AMENDING SECTION 56-209d, IDAHO CODE, TO ADD ADDITIONAL SERVICES TO BE PROVIDED BY THE STATE'S MEDICAL ASSISTANCE PROGRAM; AMENDING SECTION 56-209f, IDAHO CODE, TO PROVIDE FOR A STATE FUNDED CATASTROPHIC HEALTH CARE COST PROGRAM; AMENDING SECTION 57-813, IDAHO CODE, TO STRIKE REFERENCE TO COUNTY CONTRIBUTIONS TO THE CATASTROPHIC HEALTH CARE COST ACCOUNT, AND TO STRIKE REFERENCE TO FINANCIAL OBLIGATION BEYOND THE AMOUNT IN THE ACCOUNT; AMENDING SECTION 56-209d, IDAHO CODE, TO ADD A MEDICALLY NEEDY PROGRAM TO THE STATE'S MEDICAL ASSISTANCE PROGRAM; DECLARING AN EMERGENCY FOR SECTION 1 OF THE ACT, AND PROVIDING EFFECTIVE DATES FOR ALL OTHER SECTIONS OF THE ACT, PROVIDING FOR DISTRIBUTION OF MONEYS CONTRIBUTED BY PARTICIPATING COUNTIES, AND PROVIDING FOR PAYMENT OF CLAIMS INCURRED AFTER OCTOBER 1, 1991.

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

SECTION 1. That Chapter 87, Laws of 1990, be, and the same is hereby repealed.

SECTION 2. That Section 31-873, Idaho Code, be, and the same is hereby amended to read as follows:

31-873. REIMBURSEMENT FOR CERTAIN MEDICAL ASSISTANCE PAYMENTS. (1) For the purpose of assisting counties with their medical indigency claims, state participation in the federal medical assistance (medicaid) program under title XIX of the social security act, as amended, ~~will~~ shall be expanded ~~by using county funds~~ to match federal funds for coverage of services as defined by section 56-209d, Idaho Code. ~~Each and every county shall reimburse the county medical indigency suspense account as established in chapter 4, title 56, Idaho Code, an amount as determined by the director of the department of health and welfare or the director's designee.~~

~~(2) In making the determination required in subsection (1) of this section, the director of the department of health and welfare shall use the following procedure:~~

~~(a) Determine the medical assistance expenditures resulting from nursing home eligibles, drug and inpatient hospital expenditures that would not have been incurred under the standards and limits in effect on June 30, 1987. However, the income limitation in effect on June 30, 1987, shall be assumed to increase each time a cost of living increase is granted under the social security act.~~

~~(b) Determine (i) the obligated county using the provisions of section 31-3506, Idaho Code, unless there is a written correspondence signed by the county commissioners of both affected counties, changing the obligated county; and (ii) the total expenditures by county.~~

~~(c) Multiply that total by a percentage equal to the nonfederal share percentage as defined by 42 CFR 433.10 plus an additional amount distributed on the basis of payment volume for the actual nonfederal share of administrative costs as determined by the methodology approved by the federal administrative cost allocation plan. In the event federal financial participation (FFP) becomes limited under title XIX of the social security act, full FFP will be applied first to those services and limits in effect before June 30, 1987, with the remainder available for the new services.~~

~~(d) Audit settlements made with nursing homes or hospitals for either underpayments or overpayments will be billed or credited to the respective counties on the basis of the amount that county participated in the original payments to that facility during the period covered by the audit.~~

~~(e) Any federal deferrals or disallowances will be billed to the counties on the basis of dollar volume of the original payments during the period covered by the deferrals or disallowances.~~

~~(3) Payments required by counties shall be due, not later than thirty (30) days after presentation by the Idaho department of health and welfare of itemized statements showing medical assistance payments made during the prior period. The itemized statements shall show each client's name and medical assistance identification number, the providers to whom qualifying payments were made, the amount of each such payment, and the total amount due. Failure to pay within sixty (60) days will result in an amount equal to the amount determined by the director pursuant to subsections (1) and (2) of this section being transferred by the tax commission from the sales tax due that county under section 63-3638, Idaho Code, for the amount due to the county medical indigency suspense account, upon the written request of the~~

~~director.~~

(~~4~~2) Boards of county commissioners shall safeguard all provided information as provided for in section 1902(a)(7) of the social security act, 42 CFR 431.300 through 431.307 and sections 56-221 and 56-222, Idaho Code.

~~(5)--In-order-to-facilitate-the-start-up-and--continued--operation of--the--expanded--medical-assistance-program-each-and-every-county-of the-state-of-Idaho-will-pay,-or-cause-to-be-paid,-to-the--director--of the--department-of-health-and-welfare-an-amount-equal-to-that-county's population,-as-determined-by-the-most--recent--census,--times--seventy cents-(70c).-This-amount-is-due-and-payable-on-July-15,-1987.-Thereafter--the-amount-of-the-suspense-fund-will-be-adjusted-as-determined-by the-director-to-provide-adequate-cash-flow-to-make-payment--of--bills. The--director-will-deposit-this-amount-to-the-county-medical-indigency suspense-account.~~

~~(6)--Any-disputes-brought-by-a-county-under-this--section--against the-state-of-Idaho-shall-be-made-by-petition-to-the-director-of-health and--welfare--who-shall-have-fifteen-(15)-days-to-make-a-determination on-such-petition-before-the-county-may-seek--judicial--review--on--the matter-pursuant-to-section-67-5215,-Idaho-Code.~~

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, any medically indigent, sick or otherwise indigent person desiring aid from any county of this state, shall before such aid can be given, make a written application to the clerk of the board of county commissioners of the county where such applicant may reside, setting forth and describing all resources of the applicant; which application must be signed by the party or parties making such application and sworn to before some officer authorized by the laws of this state to administer oaths, and filed in the office of the clerk of the board of county commissioners not less than ten (10) days prior to admission to any health care facility or hospital: provided however, except in the case of an emergency or extreme necessity no person shall receive the benefit of this chapter who shall not have been a resident of the state of Idaho for at least one (1) year and of the county at least six (6) months next preceding the application for county aid.

An application for hospitalization for a medically indigent person shall be on a standard form provided by the board of county commissioners.

SECTION 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 physi-

cian 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, 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 medically indigent, sick or otherwise indigent person until the filing and approval of the application; provided, that the board of county commissioners, or, if such board be not then in session, any member thereof, by written order to be filed with the clerk of said board, may authorize the expenditure of not to exceed two hundred dollars ($200), in the aggregate, to provide for the immediate necessities of any indigent person where, in the opinion of said board of commissioners, or the member so making said order, it is proper so to do rather than send such person to the county hospital; provided further that a claim against the county shall be allowed for services rendered prior to approval of the application heretofore mentioned where a hospital renders the services to a medically indigent person in an emergency and subsequently there is obtained said approval heretofore mentioned. Services rendered in an emergency are defined as those reasonably necessary to alleviate illness or injury which if untreated is likely to cause death or serious disability. Such services shall be paid for by the county of residence of the sick or otherwise indigent person. Bills for such expenditures, duly verified under oath, shall be presented to said board and the board shall audit

and pay such bills out of the proper fund of such county. Payment for hospitalization of medically indigent persons shall be controlled and determined by the provisions of chapter 35, title 31, Idaho Code.

SECTION 7. 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 all or a portion of their medical expenses, when investigation of their application pursuant to chapters 34 and 35, title 31, Idaho Code, determines their ability to do so.

(2) "Hospital" means a facility licensed as such in Idaho providing community service for in-patient, medical and/or surgical care of acute illness or injury and/or obstetrics, and excluding state institutions.

(3) "Dependent" means any person whom a taxpayer could claim as a dependent under the income tax laws of the state of Idaho.

(4) "Reimbursement rates" mean the unadjusted medicaid rate of reimbursement for medical charges allowed pursuant to title XIX of the social security act, as amended. For long term care facilities, maximum "reimbursement rates" mean the unadjusted medicaid rate of reimbursement allowed pursuant to the medical assistance program as determined by chapter 1, title 56, Idaho Code, or the unadjusted medicare rate of reimbursement established under title XVIII of the social security act, as amended, whichever is greater.

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

(6) "Sick" means any person affected with disease or who is unable to care for himself and who does not have the means to provide for his own support, but who does not necessarily require the services of a hospital as defined in subsection (2) of this section.

(7) "Indigent" means any person who is destitute of property and unable to provide for the necessities of life.

(8) "County hospital" means any county approved institution or facility for the care of sick persons.

(9) "Administrator" means the ~~administrator--appointed--by--the counties,--collectively,-by-a-valid-agreement-under-the-joint-exercise of-powers-act,-sections-67-2326-through-67-2333~~ board of the catastrophic health care cost program, as provided in section 31-3517, Idaho Code.

(10) "Catastrophic health care costs" mean all medical expenses for which an applicant for relief under this chapter or any third party are not liable and which are incurred by a recipient, and not paid for or reimbursed by third party payers, during any twelve (12)

month period, which exceed in aggregate the sum of ten thousand dollars ($10,000)~~,--or--a--lesser-amount-as-determined-by-the-negotiated catastrophic-insurance-policy.~~

(11) "Recipient" means an individual determined eligible for county medical assistance under uniform county guidelines on indigent eligibility adopted by the administrator pursuant to law.

(12) "Residency" or "residence", as used in this chapter, means a physical presence with a home, house, place of abode, place of habitation, dwelling or place where one actually lives.

SECTION 8. That Section 31-3503, Idaho Code, be, and the same is hereby amended to read as follows:

31-3503. POWERS AND DUTIES OF BOARDS OF COUNTY COMMISSIONERS. The boards of county commissioners in their respective counties shall, under such limitations and restrictions as are prescribed by law:

(1) Care for and maintain the medically or otherwise indigent, and may provide for the care of other sick persons as provided in ~~section--31-3514,--Idaho--Code~~ this chapter, and for this purpose said boards are authorized to levy an ad valorem tax not to exceed ten one-hundredths of one percent (0.10%) of the market value for assessment purposes of all taxable property in the county. Such levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, and the moneys derived from such levy shall be exempt from the limitation imposed by section 63-2220, Idaho Code.

(2) Have the jurisdiction and power to provide county hospitals and public general hospitals for the county and others who are sick, injured, maimed, aged and infirm and to erect, enlarge, purchase, lease, or otherwise acquire, and to officer, maintain and improve hospitals, hospital grounds, nurses' homes, shelter care facilities and 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 9. That Section 31-3504, Idaho Code, be, and the same is hereby amended to read as follows:

31-3504. TIME FOR FILING APPLICATIONS -- NOTICE TO COUNTIES. ~~Except--as-provided-in-section-31-873,-Idaho-Code,-a~~An application for or on behalf of a medically indigent person receiving emergency medical services may be made any time within forty-five (45) days following the admission of said person to the hospital furnishing said care. If a person becomes medically indigent subsequent to admission to a hospital or subsequent to receiving treatment by a hospital, an application for the person, or on his behalf, shall be made within thirty (30) days of the time the person becomes medically indigent. The chargeable county or counties shall be notified as soon as practicable upon the hospital's obtaining information disclosing that a patient is medically indigent.

SECTION 10. That Section 31-3505, Idaho Code, be, and the same is hereby amended to read as follows:

31-3505. DENIAL OF APPLICATION -- APPEAL. ~~Except-as-provided-in section-31-873,-Idaho-Code,-i~~If the board of county commissioners fails to act upon an application within sixty (60) days from the receipt of said application, it shall notify the applicant in writing, or upon its failure to give notice within said time, the application shall be deemed approved, and the applicant entitled to payment as if said application had been approved.

If the application is denied, the applicant may request a hearing before the board of county commissioners. The applicant shall be entitled to judicial review of the decision of the board, in substantially the manner provided in the administrative procedures act, chapter 52, title 67, Idaho Code.

SECTION 11. That Section 31-3517, Idaho Code, be, and the same is hereby amended to read as follows:

31-3517. ESTABLISHMENT OF A CATASTROPHIC HEALTH CARE COST PROGRAM. (1) The governing board of the catastrophic health care cost program created by the counties pursuant to a joint exercise of powers agreement, dated October 1, 1984, and serving on June 30, 1991, is hereby continued as such through December 31, 1992, to complete the affairs of the board, to continue to pay for those medical costs incurred by participating counties prior to October 1, 1991, until all costs are paid or the moneys in the catastrophic health care cost account contributed by participating counties are exhausted, and to pay the balance of such contributions back to the county of origin in the proportion contributed.

(2) Commencing October 1, 1991, a catastrophic health care cost program board is hereby established, and the board shall be the administrator of the catastrophic health care cost program. This board shall consist of seven (7) members, with six (6) county commissioners, one (1) from each of the six (6) districts or regions established by the Idaho association of counties, and one (1) member appointed by the governor.

(a) The commissioner members shall be elected by the boards of county commissioners of the member counties of each district or region, with each board of county commissioners entitled to one (1) vote. The process and procedures for conducting the election and determining the members shall be determined by the board itself, except that the election must be conducted, completed and results certified by December 31 of each year in which an election for members is conducted. The board recognized in subsection (1) of this section shall authorize and conduct the election in 1991.

(b) The term of office of a member shall be two (2) years, commencing on January 1 next following election or appointment, except that for commissioner members elected in 1991, the commissioner members from districts or regions 1, 3 and 5 shall serve for a term of one (1) year, and the commissioner members from districts or regions 2, 4 and 6 shall serve for a term of two (2) years. Members may be reelected or reappointed. Election or appointment to fill vacancies shall be for the balance of the unexpired term.

(c) Members shall be compensated as provided in section 59-509(b), Idaho Code, from the catastrophic health care cost account.

(d) At the first meeting of the board in January of each year, the board shall organize by electing a chair, a vice-chair, and such other officers as desired.

(3) ~~The--administrator--shall-establish-a-program-to-assist-counties-who-incur-catastrophic-health-care-costs-as-defined--herein.~~ The administrator is authorized to contract with a health insurance company, group health services organization or other provider of third party payment for health services authorized to do business in this state, or to establish a self-insurance fund in order to implement a catastrophic health care costs program.

The contract shall provide that the health insurance company, group health service organization or other third party payer, shall, for consideration, which shall be set by the administrator, assume the risk of providing for recipients under the catastrophic health care cost provisions of this chapter.

The administrator shall develop ~~specifications~~ rules for ~~the~~ a catastrophic health care cost program after consulting with the counties, organizations representing the counties, health care providers, and organizations representing health care providers.

The administrator shall cause an independent, certified audit of the program, including the operations of the catastrophic health care cost account to be performed annually, and the audit shall be submitted by the administrator, with an annual report of the program, to the Idaho Association of Counties and the legislature. The report shall be filed not later than the fifteenth day of the legislative session with the germane committees of the senate and the house of representatives.

SECTION 12. That Section 31-3518, Idaho Code, be, and the same is hereby amended to read as follows:

31-3518. ADMINISTRATIVE RESPONSIBILITY. (1) The administrator shall, in order to facilitate payment to providers participating in

the county medically indigent program and the catastrophic health care cost program, have on file the reimbursement rates allowed for all participating providers of medical care. However, in no event shall the amount to be paid exceed the usual, reasonable, and customary charges for the area.

(2) The administrator may contract with an independent contractor to provide services to manage and operate the program, or the administrator may employ staff to manage and operate the program.

(3) The administrator shall submit all proposed rules to the legislative council for review prior to adoption, in a manner substantially the same as proposed executive agency rules are reviewed under chapter 52, title 67, Idaho Code. Following adoption, the administrator shall submit all adopted rules to the legislature for review in a manner substantially the same as adopted executive agency rules are reviewed under chapter 52, title 67, Idaho Code. The legislature, by concurrent resolution, may modify, amend, or repeal any rule of the administrator.

SECTION 13. That Section 31-3519, Idaho Code, be, and the same is hereby amended to read as follows:

31-3519. PAYMENT FOR SERVICES. Each board of county commissioners shall make payments to providers for covered services provided to recipients based upon the schedule of fees established as provided in section 31-3518, Idaho Code, and in accordance with the uniform county guidelines on indigent eligibility as required in section 31-3503, Idaho Code, until such payments reach the level of catastrophic health care costs. After a catastrophic health care program is established by the administrator as provided in section 31-3517, Idaho Code, payments to providers shall be made under the provisions of the program, as established by the administrator. ~~In the event no catastrophic health care program is contracted, payments shall continue to be made by each board of county commissioners.~~

SECTION 14. That Section 56-460, Idaho Code, be, and the same is hereby repealed.

SECTION 15. That Section 56-209d, Idaho Code, be, and the same is hereby amended to read as follows:

56-209d. MEDICAL ASSISTANCE PROGRAM -- SERVICES TO BE PROVIDED. Notwithstanding any other provision of this chapter, medical assistance shall increase:

(1) Payment as determined under regulations established by the director from forty (40) days per fiscal year to unlimited days of inpatient hospital care per state fiscal year.

(2) Payment as determined under regulations established by the director from thirty dollars ($30.00) per month to an unlimited amount of prescribed drugs for each recipient.

(3) Provision of eligibility for medical assistance for residents of skilled and intermediate care facilities who meet the medical criteria for medical assistance, from those with countable income of two hundred one and two-tenths percent (201.2%) to those with countable

income of three hundred percent (300%) of the SSI standard.

(4) Payment, as authorized by title XIX of the social security act, as amended, and as determined under regulations established by the director for:

(a) Durable medical equipment.

(b) Soft organ transplants.

(c) Adult dental services.

(d) Adult vision services.

(e) Adult hearing services.

(f) Prosthetics.

SECTION 16. That Section 56-209f, Idaho Code, be, and the same is hereby amended to read as follows:

56-209f. STATE MEDICAL ASSISTANCE PROGRAM. ~~(1)~~ Beginning October 1, 1991, t~~T~~he ~~department~~ state shall ~~develop-a-medical-assistance-program,-which-shall-be-known-as-the-Idaho--medical--assistance--program,-for-low-income~~ fund the catastrophic health care cost program from the catastrophic health care cost account which shall provide assistance to medically indigent 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 17. That Section 57-813, Idaho Code, be, and the same is hereby amended to read as follows:

57-813. CATASTROPHIC HEALTH CARE COST ACCOUNT. (1) There is hereby created in the agency asset fund in the state treasury an account to be designated the "Catastrophic Health Care Cost Account." The account shall be used solely for payment of insurance premiums, payment of claims or payment of the expenses of administering the catastrophic health care cost account.

(2) ~~Each-county,-on-or-before-October-15-of-each-year,-shall-make contributions-to-the-account-in-an-amount-determined-by--the--administrator--of--the--catastrophic-health-care-cost-account.-Later-payments may-be-made-through-February-1-of-the--current--fiscal--year--together with--interest--calculated--from-October-15-to-the-actual-date-of-pay-~~

~~ment.-The-applicable-interest-rate-shall-be-the-rate-earned-by-investments-already-in-the-account-as-of-October-15.-The-administrator-shall give-each-county-notice-of-the-amount--of--contribution--required--not later--than--August--1.--Each--county-may-use-the-proceeds-of-the-levy authorized-by-section-31-3503(1),-Idaho-Code,-or-other-funds--lawfully available-to-meet-the-contributions-required-by-this-section.~~

~~(3)~~ The administrator of the catastrophic health care cost program may retain counsel ~~and-institute-an-action-in-the-district--court of--Ada-County-against-any-county-that-fails-to-make-the-contributions required-by-this-section.-The-district-court-shall-award-costs-to--the prevailing-party.~~

(~~4~~3) All moneys placed in the account are hereby perpetually appropriated to the administrator of the catastrophic health care cost program for purposes of this program. All expenditures from the account shall be paid out in warrants drawn by the state auditor upon presentation of proper vouchers from the administrator. Pending use, surplus moneys in the account shall be invested by the state treasurer in the same manner as prescribed in section 67-1210, Idaho Code, with respect to surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the account.

~~(5)--No--policy,--contract--or-claim-shall-create,-or-be-deemed-to constitute,-any-financial-obligation-on-the-part-of-the-state-of-Idaho beyond-the-amount-in-the-catastrophic-health-care-cost-account.~~

SECTION 18. That Section 56-209d, Idaho Code, be, and the same is hereby amended to read as follows:

56-209d. MEDICAL ASSISTANCE PROGRAM -- SERVICES TO BE PROVIDED. Notwithstanding any other provision of this chapter, medical assistance shall increase:

(1) Payment as determined under regulations established by the director from forty (40) days per fiscal year to unlimited days of inpatient hospital care per state fiscal year.

(2) Payment as determined under regulations established by the director from thirty dollars ($30.00) per month to an unlimited amount of prescribed drugs for each recipient.

(3) Provision of eligibility for medical assistance for residents of skilled and intermediate care facilities who meet the medical criteria for medical assistance, from those with countable income of two hundred one and two-tenths percent (201.2%) to those with countable income of three hundred percent (300%) of the SSI standard.

(4) Payment, as authorized by title XIX of the social security act, as amended, and as determined under regulations established by the director for:

(a) Durable medical equipment.
(b) Soft organ transplants.
(c) Adult dental services.
(d) Adult vision services.
(e) Adult hearing services.
(f) Prosthetics.
(g) A medically needy program.

SECTION 19. (1) An emergency existing therefore, which emergency

is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

(2) Sections 2 through 17 of this act shall be in full force and effect on and after October 1, 1991.

(3) Section 18 of this act shall be in full force and effect on and after July 1, 1992.

(4) On October 1, 1991, all moneys contributed by counties to the catastrophic health care cost account as of the close of business on September 30, 1991, shall be separately identified and set aside, and shall be used by the administrator to fund medical costs of participating counties which occurred prior to October 1, 1991, until all claims are paid or until such moneys are exhausted. Any fund balance remaining after the proper payment of claims incurred prior to October 1, 1991, shall be apportioned back to the county of origin. If no fund balance exists, but outstanding claims exist that were incurred prior to October 1, 1991, such claims shall be paid as provided in subsection (5) of this section.

(5) All claims incurred on or after October 1, 1991, shall be paid from the catastrophic health care cost account funded from state appropriations to the account.

Law without signature April 13, 1991.

CHAPTER 234
(S.B. No. 1009)

AN ACT

RELATING TO THE COMPREHENSIVE STATE WATER PLAN; RATIFYING AND APPROVING THE COMPREHENSIVE STATE WATER PLAN FOR THE PRIEST RIVER BASIN AS ADOPTED BY THE IDAHO WATER RESOURCE BOARD ON MAY 25, 1990; AND DECLARING AN EMERGENCY.

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

SECTION 1. That pursuant to section 42-1734B(6), Idaho Code, the comprehensive state water plan for the Priest River basin, adopted by resolution of the Idaho water resource board on May 25, 1990, be, and the same is hereby ratified and approved. In accordance with section 42-1734A, Idaho Code, the basin plan includes protected river reach designations summarized as follows:

(1) The upper Priest River from the international boundary to upper Priest Lake, upper Priest Lake and the Thorofare as natural rivers;

(2) The Hughes Fork, Rock Creek, Lime Creek, Cedar Creek, Trapper Creek and Granite Creek as recreational rivers; and

(3) The Priest River from the Priest Lake outlet structure to McAbee Falls as a recreational river.

SECTION 2. An emergency existing therefor, which emergency is

hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 4, 1991.

CHAPTER 235
(S.B. No. 1066, As Amended)

AN ACT

RELATING TO A MENTAL HEALTH PROFESSIONAL'S DUTY TO WARN; AMENDING TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 19, TITLE 6, IDAHO CODE, TO PROVIDE A DEFINITION, TO PROVIDE THAT THERE IS NO DUTY TO WARN AND TO PROVIDE AN EXCEPTION, TO PROVIDE PROCEDURES FOR DISCHARGING THE DUTY TO WARN, AND TO PROVIDE IMMUNITY FROM LIABILITY FOR WARNING.

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

CHAPTER 19
LIMITATION OF A MENTAL HEALTH PROFESSIONAL'S DUTY TO WARN

6-1901. MENTAL HEALTH PROFESSIONAL DEFINED. As used in this chapter "mental health professional" means:

(1) A physician licensed pursuant to chapter 18, title 54, Idaho Code;

(2) A professional counselor licensed pursuant to chapter 34, title 54, Idaho Code;

(3) A psychologist licensed pursuant to chapter 23, title 54, Idaho Code;

(4) A social worker licensed pursuant to chapter 32, title 54, Idaho Code; or

(5) A licensed professional nurse licensed pursuant to chapter 14, title 54, Idaho Code.

6-1902. A MENTAL HEALTH PROFESSIONAL'S DUTY TO WARN. A mental health professional has a duty to warn a victim if a patient has communicated to the mental health professional an explicit threat of imminent serious physical harm or death to a clearly identified or identifiable victim or victims, and the patient has the apparent intent and ability to carry out such a threat.

6-1903. DISCHARGE OF A MENTAL HEALTH PROFESSIONAL'S DUTY TO WARN. (1) The duty to warn arises only under the limited circumstances specified in section 6-1902, Idaho Code. The duty to warn a clearly identifiable victim shall be discharged when the mental health professional has made a reasonable effort to communicate, in a reasonable timely manner, the threat to the victim and has notified the law

enforcement agency closest to the patient's or victim's residence of the threat of violence, and has supplied a requesting law enforcement agency with any information he has concerning the threat of violence. If the victim is a minor, in addition to notifying the appropriate law enforcement agency as required in this subsection, the mental health professional shall make a reasonable effort to communicate the threat to the victim's custodial parent, noncustodial parent, or legal guardian.

(2) The provisions of this section do not limit or affect the mental health professional's duty to report child abuse or neglect in accordance with section 16-1619, Idaho Code.

6-1904. IMMUNITY FROM LIABILITY. (1) No professional disciplinary procedure, no monetary liability and no cause of action may arise against any mental health care professional for failure to predict or take precautions to provide protection from a patient's violent behavior, other than the duty to warn provided in section 6-1902, Idaho Code, unless the mental health care professional failed to exercise that reasonable degree of skill, knowledge, and care ordinarily possessed and exercised by members of his professional specialty under similar circumstances.

(2) No professional disciplinary procedure, no monetary liability and no cause of action may arise against any mental health professional, who has a reasonable basis for believing that he has a duty to warn pursuant to section 6-1602, Idaho Code, for disclosing confidential or privileged information in an effort to discharge such duty.

(3) The provisions of this section do not modify any duty to take precautions to prevent harm by a patient that may arise if the patient is within the custodial responsibility of a hospital or other facility or is being discharged therefrom.

(4) Except as provided in section 6-1902, Idaho Code, the provisions of this section do not modify the provisions of sections 6-1001 through 6-1013, Idaho Code.

Approved April 4, 1991.

CHAPTER 236
(S.B. No. 1072, As Amended)

AN ACT

RELATING TO CREDIT UNIONS; AMENDING SECTION 26-2119, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF FINANCE TO REQUIRE CERTIFIED APPRAISALS ON REAL ESTATE SECURED LOANS; AMENDING SECTION 26-2121, IDAHO CODE, TO CHANGE THE SUPERVISORY COMMITTEE EXAMINATION TO AN ANNUAL FROM A SEMIANNUAL REQUIREMENT, TO AUTHORIZE ADDITIONAL EXAMINATIONS AND TO REQUIRE AN AUDIT BY THE DIRECTOR WHEN THE SUPERVISORY COMMITTEE FAILS TO PERFORM AN ACCEPTABLE AUDIT; AMENDING SECTION 26-2128, IDAHO CODE, TO PROVIDE A CHANGE IN TERMINOLOGY; REPEALING SECTION 26-2129, IDAHO CODE; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2129, IDAHO CODE, TO ADD NEW RESERVE REQUIREMENTS; AMENDING

CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2140A, IDAHO CODE, TO AUTHORIZE THE DIRECTOR TO PLACE A CREDIT UNION INTO CONSERVATORSHIP; AND AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2140B, IDAHO CODE, TO AUTHORIZE THE DIRECTOR TO REMOVE OFFICERS, DIRECTORS OR EMPLOYEES OF CREDIT UNIONS FOR MISCONDUCT.

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

SECTION 1. That Section 26-2119, Idaho Code, be, and the same is hereby amended to read as follows:

26-2119. LOANS TO MEMBERS. (a) A credit union may loan to members for a provident or productive purpose and upon such security as the bylaws may provide, and the credit committee or loan officer shall approve. If permitted by law the borrowing members may be charged for the cost of filing fees on security instruments in connection with the transaction. Every application for a loan shall be made upon a form, which the credit committee prescribes and the board approves, which shall state the purpose for which the loan is desired and the security, if any, offered. Every loan shall be evidenced by a written instrument. No secured or unsecured loan shall be made to any member in excess of the limits set by written board policy. No loan shall be made unless it has been approved in writing by a loan officer or has received majority approval of the members of the credit committee present when the loan was considered, which members present shall constitute at least a majority of the credit committee.

(b) Loans may be made to, cosigned, endorsed, or guaranteed by members of the board, credit committee, and supervisory committee under the same general terms and conditions as to other members of the credit union. Any loan made to, cosigned, endorsed or guaranteed by members of the official family shall require the additional two-thirds (2/3) written agreement of all members of the board and credit committee where such loan or aggregate of such loans exceed~~s~~ the unsecured loan limit of the credit union plus the unencumbered share balance of the borrowing official.

(c) Loans may be granted to members of the credit union, secured by a first mortgage or deed of trust on improved real estate. Such loans shall not exceed eighty percent (80%) of the appraised value of the real estate made by an independent qualified appraiser and such loans shall provide additionally substantial equal monthly payments for the payment of insurance premiums and taxes assessed against the security, or in lieu thereof, the credit union may accept the assignment of a savings passbook. The total outstanding balance of loans secured by a mortgage or deed of trust on real estate shall not exceed fifteen percent (15%) of the ~~outstanding~~ members' shares and ~~certificates--of--deposit-of~~ deposits in the credit union, and shall be amortized in monthly payments for a maturity of not more than twenty (20) years. Notwithstanding the above, a credit union may make residential real estate loans which are made to finance the acquisition of a one (1) to four (4) family dwelling for the principal residence of a credit union member, which is secured by a first lien upon such dwelling, and which may have a maturity not exceeding thirty (30) years, if

the credit union has previously obtained a commitment to sell the loan on the secondary market and does sell the loan no later than ninety (90) days from the date the funds are disbursed.

(d) A credit union may advance funds secured by a second mortgage or deed of trust on real estate. The total balance of the first and second mortgage or deed of trust combined shall not exceed eighty percent (80%) of the appraised value of the real property secured by the mortgage or deed of trust. Total second mortgage loans or deeds of trust on real estate shall not exceed ten percent (10%) of the ~~outstanding~~ members' shares and ~~certificates-of-deposit-of~~ deposits in the credit union. At the time a loan secured by a second mortgage or deed of trust is granted the credit union must have an appraisal performed by an independent qualified appraiser.

(e) A credit union may loan to members under the provisions of titles I and II of the national housing act and such insurance on these loans shall be deemed adequate security. The terms of such loans shall be as defined by the credit committee or under the provisions of titles I and II of the national housing act.

(f) In addition to generally accepted types of security, the assignment of shares in a manner consistent with the laws of Idaho, shall be deemed security within the meaning of this chapter and the adequacy of all securities shall be within the determination of the credit committee or loan officer subject to the provisions of this chapter and the bylaws. A member may pay the whole or any part of his loan on any day in which the credit union office is open for business.

(g) The credit committee, or when authorized, the loan officer, may approve in advance upon application by a member, an extension of credit, and loans may be granted to such members within the limits of such extension of credit. Where an extension of credit has been approved, applications for loans need no further consideration as long as the aggregate obligation does not exceed the limits of such extension of credit. The credit committee shall, at least once a year, review all extensions of credit and any extension of credit shall expire if the member becomes more than sixty (60) days delinquent in his obligations to the credit union.

(h) The director may, in his discretion, require any credit union to obtain a certified appraisal on any real estate secured loan.

SECTION 2. That Section 26-2121, Idaho Code, be, and the same is hereby amended to read as follows:

26-2121. SUPERVISORY COMMITTEE. (a) The supervisory committee shall make or cause to be made, at least ~~semi~~annually, an examination of the affairs of the credit union, including an audit of its ~~books~~ accounting records and reports; shall submit a written report of its ~~semi~~annual examination and audit to the board~~;~~ and ~~shall-make-or-cause-to-be-made-an-annual-audit,-a-written-report-of-which-shall-be-submitted~~ to the members at the next annual meeting of the credit union.

(b) The supervisory committee shall cause the passbook and accounts of the members to be verified with the records of the treasurer from time to time, and not less frequently than once each year. The term "~~passbook~~accounts" shall include any passbook, loan account, statement of accounts, or other pertinent or related record.

(c) Additional audits, examinations or verifications of member accounts may be made as deemed necessary by the supervisory committee or as directed by the board of directors.

(d) If the annual examination is not conducted by the supervisory committee or is deemed to be unsatisfactory to the director, the board of directors of the credit union may be required by the director to contract for an outside examination acceptable to the director.

(e) Notwithstanding any other provision of law to the contrary, the supervisory committee of a state or federally chartered credit union may contract with the Idaho credit union league, or any of its subsidiary organizations, for preparation of any reports the supervisory committee is required by law to submit to the board of directors, and the Idaho credit union league, or its subsidiaries, may perform such function on behalf of the supervisory committee and any report prepared thereby may be accepted by the board of directors or any governmental entity in lieu of any supervisory committee report required under this section.

(f) By unanimous vote, the supervisory committee, if it deems such action to be necessary to the proper conduct of the credit union, may suspend any officer, director or member of the committee and call the members together to act on such suspension. The members at said meeting may sustain such suspension and remove said officer permanently or may reinstate said officer.

(g) By majority vote the supervisory committee may call a special meeting of the members to consider any matter submitted to it by said meeting.

SECTION 3. That Section 26-2128, Idaho Code, be, and the same is hereby amended to read as follows:

26-2128. ~~CREDIT--UNION-RESERVES~~ LIQUIDITY REQUIREMENTS. (a) Every credit union shall have on hand as a liquidity reserve an amount equal to four percent (4%) of its outstanding shares, certificates of deposit, and certificates of indebtedness. Share or deposit accounts from which a member may withdraw funds by the use of a negotiable instrument shall be subject to the liquidity reserve requirements of subsection (b) of this section and not to the liquidity reserve requirements of this subsection. Said liquidity reserves, except as hereinafter otherwise provided, shall be kept in cash on hand or on deposit subject to check or draft, with any bank or banks or corporate credit union located in the state of Idaho, which shall have been approved by the director as liquidity reserve depositories and shall be computed monthly as follows: on the basis of average daily bank deposits and average daily cash on hand.

(b) Every credit union which provides for its member's share or deposit accounts from which the member may withdraw funds by the use of negotiable instrument shall have on hand as a liquidity reserve in addition to the liquidity reserve required by subsection (a) of this section an amount equal to ten percent (10%) of its share and deposit accounts which are subject to withdrawal by the use of negotiable instrument. Said liquidity reserves shall be kept in cash on hand or on deposit subject to check or draft, with any bank or banks or corporate credit union located in the state of Idaho which shall have been

approved by the director as liquidity reserve depositories and shall be computed monthly as follows: on the basis of average daily bank or corporate credit union deposits, and average daily cash on hand.

(c) Certificates of deposit issued by the Idaho Corporate Credit Union may be included in meeting the requirements of this section. To the extent a credit union is required to maintain reserves pursuant to the monetary control act of 1980 and the implementing regulations of the board of governors of the federal reserve system, as the same is presently enacted and as it may be amended in the future, the reserves required to be so maintained shall be considered as a part of, and not in addition to, the liquidity reserves required by this section.

SECTION 4. That Section 26-2129, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2129, Idaho Code, and to read as follows:

26-2129. RESERVE REQUIREMENTS. (a) At the end of each accounting period the gross income shall be determined. From this amount there shall be set aside, as a regular reserve against losses on loans and against such other losses as may be specified in rules prescribed under this chapter, sums in accordance with the following:

(1) A credit union in operation for more than four (4) years and having assets of five hundred thousand dollars ($500,000) or more shall set aside: (i) ten per cent (10%) of gross income until the regular reserve plus the allowance for loan loss account shall equal four per cent (4%) of the total of outstanding loans and risk assets, then (ii) five per cent (5%) of gross income until the regular reserve plus the allowance for loan loss account shall equal six per cent (6%) of the total of outstanding loans and risk assets.

(2) A credit union in operation less than four (4) years or having assets of less than five hundred thousand dollars ($500,000) shall set aside: (i) ten per cent (10%) of gross income until the regular reserve plus the allowance for loan loss account shall equal seven and one-half per cent (7.5%) of the total of outstanding loans and risk assets, then (ii) five per cent (5%) of gross income until the regular reserve plus the allowance for loan loss account shall equal ten per cent (10%) of the total of outstanding loans and risk assets.

(3) Risk assets do not include loans fully secured by member savings and loans guaranteed by an agency of the state or federal government, to the extent of such guarantee.

(4) Whenever the regular reserve plus the allowance for loan loss account falls below the stated per cent of the total outstanding loans and risk assets, it shall be replenished by regular contributions in such amounts as may be needed to maintain the stated reserve goals.

(b) The director, in his discretion, may decrease the reserve requirements set forth in subsection (a) of this section when in his

opinion such a decrease is necessary or desirable. The director may also require special reserves to protect the interests of members either by rule if it is to be generally applied, or by order for an individual credit union in a particular case.

SECTION 6. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2140A, Idaho Code, and to read as follows:

26-2140A. CONSERVATORSHIP. (a) The director may, in his discretion and without notice, appoint himself or an agent as conservator and immediately take possession and control of the business and assets of any credit union in any case in which:

(1) The director determines that such action is necessary to conserve the assets of any credit union or to protect the interests of the members of such credit union;

(2) The credit union, by a resolution of its board of directors, consents to such an action by the director;

(3) There is a violation of a cease and desist order, or any law, rule, regulation or any written agreement entered into with the director; or

(4) There is concealment of books, papers, records, or assets of the credit union or refusal to submit books, papers, records, or affairs of the credit union for inspection to any examiner or to any lawful agent of the director.

(b) Not later than thirty (30) calendar days after the date on which the director takes possession and control of the business and assets of a credit union, such credit union may apply to the district court for the judicial district in which the credit union is located for an order requiring the director to show cause why he should not be enjoined from continuing such possession and control. Except as provided in this subsection, no court may take any action, except at the request of the director, to restrain or affect the exercise of powers or functions of the director as conservator.

(c) The director may maintain possession and control of the business and assets of such credit union and may operate such credit union until such time as:

(1) The director shall permit such credit union to continue business subject to such terms and conditions as may be imposed by the director;

(2) Such credit union is liquidated in accordance with the provisions of section 26-2141, Idaho Code; or

(3) Otherwise ordered by the district court of the judicial district in which the credit union is located.

(d) The director may appoint such agents as he considers necessary in order to carry out his duties as conservator.

(e) All expenses of the credit union during the period of the conservatorship shall be paid by the credit union.

(f) The conservator shall have all the powers of the members, the directors, the officers and the committees of the credit union and shall be authorized to operate the credit union in its own name or to conserve its assets in the manner and to the extent authorized by the

director.

(g) The authority granted in this section is in addition to all other authority granted to the director under this chapter.

SECTION 7. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2140B, Idaho Code, and to read as follows:

26-2140B. REMOVAL OF DIRECTORS, OFFICERS, OR EMPLOYEES. Any director, officer or employee of any credit union found by the director to be negligent, dishonest, reckless or incompetent in the performance of his official duties, shall be removed from office by the board of directors of such credit union on the written order of the director. If the directors neglect or refuse to remove such director, officer or employee, in the event any losses accrue to such credit union thereafter by reason of the negligence, dishonesty, recklessness or incompetency of such director, officer or employee, the written order of the director shall be deemed to be conclusive evidence of the negligence of the directors failing to act upon the same in any action brought against them, or any of them, for recovery of such losses. The director, officer or employee affected by order of the director may petition the district court in the judicial district in which the credit union is located to set aside the order of the director. Upon the filing of such petition the court shall have the jurisdiction to affirm, set aside, or modify the order of the director. If the directors fail or neglect to remove such director, officer or employee, and the director of the department of finance has reasonable cause to believe that the continued participation in the affairs of the credit union by the director, officer or employee will place the credit union in an unsafe or unsound condition, the director of the department of finance may apply to the district court for a temporary restraining order and injunction preventing the participation of the director, officer or employee in the affairs of the credit union. The findings of the director as to the facts, if supported by substantial evidence, shall be conclusive that the credit union director, officer or employee who is the subject of an order for removal by the director of the department of finance is or has been negligent, dishonest, reckless or incompetent in the performance of his duties.

Approved April 4, 1991.

CHAPTER 237
(S.B. No. 1084)

AN ACT

RELATING TO CASCADE AND DEADWOOD RESERVOIRS; AUTHORIZING THE IDAHO WATER RESOURCE BOARD OR ITS DESIGNEES TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH THE U.S. BUREAU OF RECLAMATION FOR THE PURCHASE OF WATER STORAGE SPACE IN CASCADE AND DEADWOOD RESERVOIRS.

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

SECTION 1. The Idaho Water Resource Board or its designees is authorized to negotiate and execute an agreement with the U.S. Bureau of Reclamation for the purchase of unallocated water storage space in Cascade and Deadwood reservoirs. The agreement shall be contingent upon subsequent funding approval by the Legislature. The board is authorized to acquire and hold rights to the stored water under the agreement and to continue the present uses of the water for recreation, water quality, resident fishery, and similar beneficial purposes. The board is further authorized to investigate and seek appropriate methods for reimbursement of the operation and maintenance costs associated with the storage water from those persons or entities most directly benefiting from state ownership of the water.

Approved April 4, 1991.

CHAPTER 238
(S.B. No. 1089)

AN ACT

RELATING TO HARD-TO-PLACE CHILDREN; AMENDING SECTION 56-805, IDAHO CODE, TO INCLUDE IN THE FINANCIAL ASSISTANCE TO BE MADE AVAILABLE TO FAMILIES ADOPTING HARD-TO-PLACE CHILDREN NONRECURRING ADOPTION EXPENSES.

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

SECTION 1. That Section 56-805, Idaho Code, be, and the same is hereby amended to read as follows:

56-805. FINANCIAL AID -- PERIOD. Financial aid to families adopting hard-to-place children shall be awarded by the department as follows:

(1) There may be paid an amount of financial assistance not more than the amount that would be paid for foster or institutional care for the child if the placement for adoption had not taken place. Assistance may be provided families adopting hard-to-place children until such child is eighteen (18) years of age, parents are no longer legally responsible for the child, or until the parents are no longer providing support for the child. This is subject to annual review by the department and the adoptive parents.

(2) Payment of the costs of medical services shall be made directly to the physician or provider of the services according to the department's established procedures.

(3) Payment of the cost of nonrecurring adoption expenses are limited to the following: reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of state or federal laws.

(4) Eligibility for the benefits payable and amounts thereof

shall be determined on a case-by-case basis by the adoption support section of the department as set forth in the rules and regulations promulgated by the state board of health and welfare.

Approved April 4, 1991.

CHAPTER 239
(S.B. No. 1091)

AN ACT

RELATING TO THE IDAHO HOUSING AGENCY; AMENDING SECTIONS 67-6207 AND 67-6207C, IDAHO CODE, TO CLARIFY THE AGENCY'S SUPERVISION OF HOUSING PROJECTS AND RATES OF RETURN TO HOUSING SPONSORS; AMENDING SECTION 67-6211, IDAHO CODE, TO INCREASE THE LIMITATION ON THE AMOUNT OF OUTSTANDING AGENCY OBLIGATIONS; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Section 67-6207, Idaho Code, be, and the same is hereby amended to read as follows:

67-6207. MANAGEMENT AND OPERATION OF HOUSING PROJECTS -- PRIORITY OF APPLICATIONS -- LIMITED PROFIT SPONSORS. (a) It is hereby declared to be the policy of the state that the Idaho housing agency shall manage and operate housing projects or cause its housing projects to be managed and operated in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with providing adequate, safe and sanitary accommodations, and shall not construct or operate any such project for profit or as a source of revenue. The agency shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which, together with all other available moneys, revenues, income and receipts of the agency from whatever sources derived, will be sufficient:

(1) To pay, as the same become due, the principal and interest on the bonds of the agency; and

(2) To pay its cost of operation.

(b) In considering any application for a mortgage loan, the agency shall give first priority to applications for housing projects which will be well planned and well designed; and shall also give consideration to:

(1) The comparative need for housing for persons of low income in the area to be served by the proposed project;

(2) The ability of the applicant to carry out, operate, manage and maintain the proposed housing project; and

(3) The existence of zoning or other regulations to protect adequately the proposed housing project against detrimental future uses which could cause undue depreciation in the value of the project.

(c) The agency shall have authority to set from time to time the

interest rates at which it shall make loans and commitments therefor. Such interest rates shall be established by the agency in its sole discretion at the lowest level consistent with the agency's cost of operation and its responsibilities to the holders of its bonds, notes or other obligations.

(d) A limited profit housing sponsor shall not make distributions in any one (1) year with respect to a housing project financed by the agency in excess of such percentage of a housing sponsor's equity in such housing project as shall be prescribed by rules and regulations of the agency, nor shall any of the principals or stockholders of such a housing sponsor at any time earn, accept, or receive a return greater than such percentage of its investment in such housing project as shall be prescribed by rules and regulations of the agency. A housing sponsor's equity in a housing project shall consist of ~~the difference between the mortgage loan and the total housing project cost~~ <u>its investment in the housing project as determined by the board of commissioners of the agency.</u>

SECTION 2. That Section 67-6207C, Idaho Code, be, and the same is hereby amended to read as follows:

67-6207C. HOUSING SPONSORSHIP. The agency shall have the power to supervise housing sponsors, including limited profit housing sponsors, and their real and personal property in the following respects:

(a) The reorganization of any housing sponsor shall be subject to the supervision and control of the agency, and no such reorganization shall be had without the consent of the agency.

(b) In the event of violation by a housing sponsor of any provisions of a loan, the terms of any agreement between the agency and the housing sponsor, the provisions of this act, or of any rules or regulations duly promulgated pursuant to this act, the agency may remove any or all of the existing directors or officers of such housing sponsor and may appoint such person or persons whom the agency in its sole discretion deems advisable as new directors or officers to serve in the places of those removed, notwithstanding the provisions of any other law; provided, however, that any such directors or officers so appointed by the agency shall serve only for a period coexistent with the duration of such violation or until the agency is assured in a manner satisfactory to it against violations of a similar nature. Officers or directors so appointed need not be stockholders or meet other qualifications which may be prescribed by the certificate or articles of incorporation, or by-laws, or by other instruments or laws governing such housing sponsor.

(c) The agency shall require the housing sponsor receiving a loan or its contractor to post labor and materials, construction performance, surety bonds or make other assurances of completion in amounts related to the housing project cost as established by the agency's regulations, and to execute such other assurances and guarantees as the agency may deem necessary.

(d) The agency shall

(1) prescribe uniform systems of accounts and records for housing sponsors,

(2) require such housing sponsors to make reports,

(3) make certifications as to expenditures made by such housing sponsors, and

(4) examine all books and records with reference to capital structure, income, expenditures and other payments of a housing sponsor.

(e) The agency shall supervise the operation and maintenance of any housing project.

(f) The agency shall fix and may alter from time to time a schedule of rents and charges for any housing project.

(g) The agency shall determine standards for, and shall control tenant selection by a housing sponsor.

(h) The agency may require the housing project sponsor to demonstrate to the agency that the housing project will be occupied to the maximum extent feasible by persons whose incomes fall in the lowest twenty-five per cent (25%) of all persons who are eligible to occupy the housing project under the income guidelines established by the agency for admission to such housing projects.

(i) The agency shall prescribe regulations specifying the categories of cost which shall be allowable in the construction, reconstruction, remodeling, improvement or rehabilitation of a housing project. The agency shall require any housing sponsor to certify the actual housing project costs upon completion of the housing project, subject to audit and determination by the agency. Notwithstanding the provisions of this subsection, the agency may accept, in lieu of any certification of housing project costs as provided herein, such other assurances of the said housing project costs, in any form or manner whatsoever, as will enable the agency to determine with reasonable accuracy the amount of said housing project costs.

(j) The agency shall regulate the retirement of any capital investment or the redemption of stock of a limited profit housing sponsor where any such retirement or redemption when added to any dividend or other distribution will exceed in any one (1) fiscal year ~~eight-per-cent-(8%)-(or~~ such ~~lesser per-cent~~ <u>percentage</u> as shall be prescribed by rules and regulations of the agency~~)-of-the-original face-amount~~ of such sponsor's investment or equity in any housing project.

(k) Notwithstanding any other provision of this chapter, the agency is not empowered to finance any housing project undertaken by a housing sponsor unless, prior to the financing of any housing project hereunder, the agency finds:

(~~i~~<u>1</u>) That there exists a shortage of decent, safe, and sanitary housing at rentals or prices which persons of low income can afford within the general housing market area to be served by the proposed housing project.

(~~ii~~<u>2</u>) That private enterprise and investment have been unable, without assistance, to provide the needed decent, safe, and sanitary housing at rentals or prices which persons of low income can afford or to provide sufficient mortgage financing for residential housing for occupancy by such persons.

SECTION 3. That Section 67-6211, Idaho Code, be, and the same is hereby amended to read as follows:

67-6211. ADDITIONAL DEFINITIONS AND CAPITAL RESERVE FUND PROCEDURES. As used in this section, the following words and phrases shall have the following meanings unless the context shall indicate another or different meaning or intent:

(a) "Maximum capital reserve fund requirement" shall mean the amount set forth in the agency's resolution or indenture authorizing the bonds or other obligations secured by a capital reserve fund, or, if no amount is stated in such resolution or indenture, then, as of any particular date of computation, an amount of money equal to the greatest of the respective amounts, for the then current or any future fiscal year of the agency, of annual debt service of the agency, such annual debt service for any fiscal year being the amount of money equal to the aggregate of:

(1) All interest payable during such fiscal year on all bonds secured by such capital reserve fund of the agency outstanding on said date of computation, plus

(2) The principal amount of all bonds of the agency secured by such capital reserve fund, outstanding on said date of computation which matures during such fiscal year, plus

(3) The amount of all annual sinking fund payments payable during such fiscal year with respect to any bonds of the agency secured by such capital reserve fund, outstanding on said date of computation.

(b) "Annual sinking fund payment" shall mean the amount of money specified in the resolution authorizing term bonds as payable into a sinking fund during a particular fiscal year for the retirement of term bonds which mature after such fiscal year, but shall not include any amount payable by reason only of the maturity of a bond.

(c) "Available operating revenues" shall mean all amounts received on account of rentals and fees and other charges imposed by the agency, if any, and income or interest earned or added to funds of the agency due to the investment thereof and not required under the terms or provisions of any covenant or agreement with holders of any bonds or notes of the agency to be applied to any purposes other than payment of expenses of the agency.

(d) "Amortized value," when used with respect to securities purchased at a premium above or a discount below par, shall mean the value as of any given date obtained by dividing the total premiums or discount at which such securities were purchased by the number of interest payments remaining to maturity on such securities after such purchase, and by multiplying the amount so calculated by the number of interest payment dates having passed since the date of such purchase; and

(1) In the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and

(2) In the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.

(e) The agency shall create and establish one or more special funds (herein referred to as "capital reserve funds"), and shall credit each such capital reserve fund:

(1) Any proceeds of sale of notes or bonds, to the extent provided in the resolution or resolutions of the agency authorizing the issuance thereof,

(2) Any funds directed to be transferred by the agency to such fund, and

(3) Any other moneys which may be made available to the agency for the purpose of such fund from any other source or sources.

(f) All moneys held in or credited to each such capital reserve fund, except as hereinafter provided, shall be used, as required, solely for the payment of the principal of bonds or of the sinking fund payments hereinafter mentioned with respect to such bonds, the purchase or redemption of bonds, the payment of interest on bonds or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however:

(1) That moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum capital reserve fund requirement, except for the purposes of making payment, when due, with respect to such bonds, of principal or redemption price of, interest and the sinking fund payments, as the same become due, and for the payment of which other moneys of the agency are not available.

(2) Any income or interest earned by, or increment to, any capital reserve fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of such capital reserve fund below the maximum capital reserve fund requirement.

(g) Within sixty (60) days after the close of the agency's fiscal year, the chairman of the agency shall certify to the state tax commission the amount, if any, required to maintain the capital reserve funds established pursuant to this section at the maximum capital reserve fund requirement, but only for any capital reserve fund of the agency which is required by a resolution of the agency to be maintained by a continuing appropriation from the sales tax account. The chairman of the agency shall not be entitled to so certify to the state tax commission at any time that the total principal amount of the agency's outstanding bonds exceeds the sum of ~~nine~~ one thousand four hundred ~~ninety~~ million dollars ($991,400,000,000).

(h) The agency shall not issue bonds at any time if upon issuance there will be created a capital reserve fund and the amount in the capital reserve fund securing such bonds will be less than the maximum capital reserve fund requirement, unless the agency, at the time of issuance of such bonds, shall deposit in such fund, from the proceeds of the bonds so to be issued, or sources other than the state sales tax fund, an amount which, together with the amount then in such fund, will not be less than the maximum capital reserve fund requirement.

(i) Moneys in a capital reserve fund not required for immediate use or disbursement may be invested in obligations of the state or the United States of America or obligations the principal of and interest on which are guaranteed by the state or the United States of America or obligations of agencies of the United States of America or any obligations which may from time to time be legally purchased by banks under title 26, Idaho Code, as investment of funds belonging to them or in their control. In computing the amount of a capital reserve fund for the purposes of this section, securities in which all or a portion of such fund are invested shall be valued at par if purchased at par or, if purchased at other than par, at amortized value.

(j) The agency shall create and establish such other fund or funds as may be necessary or desirable for its corporate purposes.

(k) In the event of the dissolution of the agency, any funds or assets of the agency remaining after paying its bonds, notes or other obligations shall revert to the state.

(l) The total principal amount of the agency's outstanding bonds secured by a capital reserve fund entitled to appropriation from the state sales tax account pursuant to section 67-6211(g), Idaho Code, and section 63-3638(d)(1), Idaho Code, shall not exceed the sum of four hundred million dollars ($400,000,000).

SECTION 4. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

Approved April 4, 1991.

CHAPTER 240
(S.B. No. 1097)

AN ACT

RELATING TO HEALTH CARE IN RURAL, MEDICALLY UNDERSERVED AREAS; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 59, TITLE 39, IDAHO CODE, TO DEFINE TERMS, AND TO PROVIDE FOR A HEALTH PROFESSIONAL LOAN REPAYMENT PROGRAM ADMINISTERED BY THE DEPARTMENT OF HEALTH AND WELFARE.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 59, Title 39, Idaho Code, and to read as follows:

CHAPTER 59
HEALTH PROFESSIONAL LOAN REPAYMENT

39-5901. DEFINITIONS. As used in this chapter:

(1) "Department" means the department of health and welfare.

(2) "Loan repayment" means a medical education loan that is paid in full or in part by the state if the participant renders health care services in a primary care shortage area.

(3) "Nurse practitioner" means a health care provider licensed pursuant to chapter 14, title 54, Idaho Code.

(4) "Participant" means a licensed physician, nurse practitioner, or physician assistant who has commenced practice as a primary care provider in a designated primary care shortage area and has been approved to participate in the Idaho health professional loan repayment program.

(5) "Physician assistant" means a health care provider licensed

pursuant to chapter 18, title 54, Idaho Code.

(6) "Primary care" means the provision of professional comprehensive health services that includes health education and disease prevention, initial assessment of health problems, treatment of acute and chronic health problems, and the overall management of an individual's or family's health care services as provided by an Idaho licensed internist, obstetrician, pediatrician, family practitioner, general practitioner, nurse practitioner, or physician assistant. It provides the initial contact for health services and referral for secondary and tertiary care.

(7) "Primary care physician" means an internist, obstetrician, pediatrician, family practitioner, or general practitioner licensed pursuant to chapter 18, title 54, Idaho Code.

(8) "Primary care shortage area" means an area designated by the department to meet the following minimum criteria: weighted consideration of the percentage of the population below the poverty line, the percentage of the population over sixty-five (65) years of age, the infant mortality rate, fertility rate, and the number of primary care physicians, nurse practitioners, or physician assistants per one thousand (1,000) population.

39-5902. HEALTH PROFESSIONAL LOAN REPAYMENT PROGRAM. (1) The department shall develop a loan repayment program for licensed primary care physicians, nurse practitioners, and physician assistants willing to practice in primary care shortage areas.

(2) The health professional loan repayment program is established for licensed primary care physicians, nurse practitioners, and physician assistants serving in primary care shortage areas. The program shall be administered by the department. In administering this program, the department shall have the following duties:

(a) It shall select licensed physicians, nurse practitioners, and physician assistants not practicing in the state of Idaho at the time of application to participate in the loan repayment program giving preference to Idaho residents. For purposes of this chapter, those in a residency program in Idaho are not considered practicing in Idaho and may apply for the program;

(b) It shall designate the specific areas of service;

(c) It shall promulgate rules and regulations to administer the program; and

(d) It shall publicize the program.

(3) The department may grant loan repayment awards to eligible participants from the funds appropriated for such purposes from the general account. The amount of the loan repayment shall not exceed twenty thousand dollars ($20,000) per year for a maximum of four (4) years. The department may establish awards of less than twenty thousand dollars ($20,000) per year based upon reasonable levels of expenditures for each of the health professionals covered under this chapter.

(4) Participants in the loan repayment program shall receive payment from the program for the purpose of repaying educational loans secured while attending a program of health professional training which leads to licensure as a primary care physician, nurse practitioner, or physician assistant in the state of Idaho.

(a) Participants shall agree to serve at least two (2) years in a designated primary care shortage area;
(b) Repayment shall be limited to reasonable educational expenses as determined by the department and shall include principal and interest;
(c) Loans from both government and private lending institutions may be repaid by the program. Participants shall agree to allow the department or its staff access to loan records and to acquire information from lenders necessary to verify eligibility and to make the required loan payments on a timely basis;
(d) Repayment of loans established pursuant to this program shall begin no later than ninety (90) days after the individual has become a participant. Payments shall be made quarterly, or more frequently if deemed appropriate by the department, to the lending institution until the loan is repaid or the participant becomes ineligible due to discontinued service in a primary care shortage area or after the fourth year of services when eligibility discontinues, whichever comes first;
(e) Should the participant discontinue services in a primary care shortage area, payments against the loans of the participant shall cease to be effective on the date that the participant discontinues service;
(f) Except for circumstances beyond their control, participants who serve less than two (2) years shall be obligated to repay to the program the sum of the total of the amounts the program paid for loan repayment plus an unserved obligation penalty rate as determined in section 28-22-104(2), Idaho Code, assessed on the amount paid by the program on behalf of the participant;
(g) Any amount which the program is entitled to recover due to the breach of a program contract must be paid within one (1) year from the day of breach;
(h) The department is responsible for the collection of payments made on behalf of participants from the participants who discontinue service before completing their two (2) year obligation. The department shall exercise due diligence in such collection, maintaining all necessary records to ensure that the maximum amount of payment made on behalf of the participant is recovered. Collection under this section shall be pursued using the full extent of the law, including wage garnishment if necessary;
(i) The department shall not be held responsible for any outstanding payments on principal and interest to any lenders once a participant's eligibility expires;
(j) The legislature recognizes the need for a medical practice to be financially viable, but, to the extent reasonably possible, and within such financial constraints, while participating in the loan repayment program, the physician shall provide medical services to medicare, medicaid and medically indigent patients, and such services shall be consistent with services provided to all other patients within his practice.

Approved April 4, 1991.

CHAPTER 241
(S.B. No. 1108)

AN ACT

RELATING TO FOREIGN TRADE ZONES; AMENDING CHAPTER 47, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4703A, IDAHO CODE, TO PROVIDE FOR THE ESTABLISHMENT OF FOREIGN TRADE ZONES IN IDAHO; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 47, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4703A, Idaho Code, and to read as follows:

67-4703A. FOREIGN TRADE ZONES. As applicable, the following may apply to the United States department of commerce, foreign trade zones board, for a grant of authority to establish, operate and maintain foreign trade zone(s) or subzones as provided in 19 U.S.C. 81a-81u (foreign trade zones act) within the state of Idaho:

(1) The director of the department of commerce or other designee of the governor, if the foreign trade zone is to be established, operated and maintained by the state or a corporation qualified under subsection (3) of this section;

(2) The governing body of a municipality by ordinance, if the foreign trade zone is to be established, operated and maintained within its corporate boundaries;

(3) Those officers of a corporation, incorporated in Idaho, who may be authorized by law or by the bylaws of the corporation, if they apply through the director of the department of commerce and in a manner consistent with the articles of incorporation.

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

Approved April 4, 1991.

CHAPTER 242
(S.B. No. 1130, As Amended)

AN ACT

RELATING TO EMERGENCY RESPONSE TO HAZARDOUS SUBSTANCES SPILLS; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 71, TITLE 39, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE FOR AN EMERGENCY RESPONSE COMMISSION IN THE OFFICE OF THE GOVERNOR, TO PROVIDE FOR DESIGNATION OF EMERGENCY RESPONSE AUTHORITIES, TO PROVIDE POWERS AND DUTIES OF LOCAL EMERGENCY AUTHORITIES, TO PROVIDE APPLICATION

OF THE STATE DISASTER PREPAREDNESS ACT, TO PROVIDE PROCEDURES FOR NOTIFICATION WHEN AN EVENT OCCURS, TO PROVIDE FOR REIMBURSEMENT OF CLAIMS, TO PROVIDE FOR THE ISSUANCE OF DEFICIENCY WARRANTS FOR REIMBURSEMENT OF RESPONSE COSTS, TO PROVIDE FOR LIABILITY FOR RELEASE OF A HAZARDOUS SUBSTANCE, TO PROVIDE FOR RECOVERY OF COSTS AND CIVIL REMEDIES, TO PROVIDE LIMITED IMMUNITY TO PERSONS RENDERING ASSISTANCE RELATING TO HAZARDOUS SUBSTANCE INCIDENTS, TO PROVIDE FOR APPROVAL FOR PRIVATE EMERGENCY RESPONSE PLANS, TO PROVIDE SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 71, Title 39, Idaho Code, and to read as follows:

CHAPTER 71
HAZARDOUS SUBSTANCE EMERGENCY RESPONSE ACT

39-7101. SHORT TITLE. This chapter may be known and cited as the "Idaho Hazardous Substance Response Act."

39-7102. LEGISLATIVE FINDINGS AND PURPOSES. (1) The legislature of the state of Idaho finds:

(a) That the state has a duty to protect the health, safety and welfare of the people of Idaho;

(b) That the protection and preservation of Idaho's environment promotes the health, safety and welfare of her people;

(c) That the unexpected and uncontrolled releases of hazardous substances constitute a threat to the people and environment of Idaho; and

(d) That knowledgeable persons, governmental entities and organizations should be encouraged to lend expert assistance in the event of a hazardous substance incident.

(2) Therefore, it is hereby declared that the purposes of the provisions of this chapter are:

(a) To facilitate emergency response planning and coordination at a state and local level;

(b) To provide for the prompt response and containment of releases of hazardous substances;

(c) To provide liability for emergency response costs associated with hazardous substances incidents;

(d) To encourage knowledgeable persons, governmental entities and organizations to lend assistance by providing them with limited immunity from civil liability; and

(e) To provide a mechanism for recovery of costs incurred by the state and local governments in responding to emergency hazardous substance incidents to be used in lieu of, and not in addition to, cost recovery mechanisms or claims for relief provided by applicable federal laws. By enacting this chapter, it is the intent of the legislature that the state and local governments elect to proceed in state courts under the provisions of this chapter and other provisions of state law rather than in federal court under

federal laws, where necessary to recover emergency response costs. There is no provision for cost recovery for a hazardous substance incident response occurring on private property where the owner responds to the incident with the approval of the incident commander.

39-7103. DEFINITIONS. As used in this chapter:

(1) "Commission" means the state emergency response commission.

(2) "Emergency" means an abrupt release which in the reasonable judgment of the local emergency response authority, threatens immediate and irreparable harm to the environment or the health and safety of any individual and which requires immediate action for the containment or control of a hazardous substance.

(3) "Hazardous substance incident" means an emergency circumstance requiring a response by the state emergency response team or the local emergency response authority to a release of a hazardous substance. A hazardous substance incident may require containment or confinement or both, but does not include site cleanup or remediation efforts after the incident commander has determined the emergency has ended.

(4) "Hazardous substance" means:

(a) Any "hazardous substance" within the scope of section 101(14) of the federal comprehensive environmental response, compensation and liability act (CERCLA), 42 U.S.C. 9601(14);

(b) Any hazardous material within the scope of section 104 of the federal hazardous materials transportation act, 49 U.S.C. 1803, and the federal department of transportation regulations promulgated pursuant thereto; and

(c) Any extremely hazardous substance within the scope of section 302 of the federal emergency planning and community right-to-know act, 42 U.S.C. 11002.

(5) "Incident commander" is the person in charge of all responders to a hazardous substance incident and who is identified in the Idaho hazardous materials emergency incident command and response plan or the private emergency response plan.

(6) "Local emergency response authority" means those persons designated under section 39-7105, Idaho Code, by the city, county, or the commission to be first responders to hazardous substance incidents.

(7) "Person" means any individual, public or private corporation, partnership, joint venture, association, firm, trust, estate, the United States or any department, institution, or agency thereof, the state or any department, institution, or agency thereof, any municipal corporation, county, city, or other political subdivision of the state, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

(8) "Private emergency response plan" means a plan designed to respond to emergency releases of hazardous substances at a specific facility or under a specific set of conditions.

(9) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, dumping or disposing of a hazardous substance into the environment. "Release" does not include any discharge of a hazardous substance into the environment which is

authorized by limits and conditions in a federal or state permit relating to the protection of public health or the environment so long as the permitted activity from which the release occurs is in compliance with applicable limits and conditions of the permit.

(10) "State emergency response team" means one (1) of the state emergency response teams authorized by the commission to respond to hazardous substance incidents.

39-7104. EMERGENCY RESPONSE COMMISSION. (1) There is hereby authorized an emergency response commission in the office of the governor. The commission shall consist of the following state and local officials, industry representatives, or their designees: the adjutant general of the Idaho national guard; the director of the department of health and welfare; the state fire marshal; the director of the department of law enforcement; the director of the Idaho transportation department; the director of the department of agriculture; one (1) member representing Idaho cities; one (1) member of an organization representing farmers or ranchers; one (1) member representing Idaho counties; one (1) member representing hazardous waste or materials transportation industry; one (1) member representing a user of hazardous materials; one (1) member representing the Idaho state fire chief's association; one (1) member representing the Idaho county sheriff's association; one (1) member of the Idaho police chief's association; and one (1) member at large representing the citizens of the state of Idaho. The last nine (9) members shall be appointed by the governor to serve staggered three (3) year terms. The state coordinator of disaster services shall be an ex officio member of the commission. All members shall serve without compensation, except that members who are not state officers or employees shall be compensated as provided in section 59-509(g), Idaho Code. The governor shall appoint a chairman from the appointees. The attorney general shall provide legal counsel to the commission.

(2) The commission shall implement the provisions of this chapter and direct the activities of its staff and, in so doing, the commission may:

(a) Create a staff and appoint a chief of that staff, with the concurrence of the governor, who shall be exempt from the requirements of the merit system, chapter 53, title 67, Idaho Code. In accordance with the laws of the state, the chief of the commission's staff may hire, fix the compensation, and prescribe the powers and duties of such other individuals, including consultants, emergency teams and committees, as may be necessary to carry out the provisions of this chapter.

(b) Create and implement state emergency response teams that have appropriately trained personnel and necessary equipment to respond to hazardous substance incidents. The commission shall enter into a written agreement with each entity or person providing equipment or services to a designated emergency response team. The teams shall be available and may respond to hazardous substance incidents at the direction of the commission or its designee or local incident commander.

(c) Contract with persons to meet state emergency response needs for the teams and response authorities.

(d) Advise, consult and cooperate with agencies of the state and federal government, other states and their state agencies, cities, counties, tribal governments and other persons concerned with emergency response and matters relating to and arising out of hazardous substance incidents.

(e) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations for and with state emergency response teams, local emergency response authorities and other interested persons.

(f) Collect and disseminate information relating to emergency response to hazardous substance incidents.

(g) Accept and administer loans, grants, or other funds or gifts, conditional or otherwise, made to the state for emergency response activities provided for in this chapter.

(h) Submit an annual report prior to February 1 to the governor and to the legislature concerning emergency response to hazardous substance incidents.

(i) Prepare, coordinate, implement and update a statewide hazardous materials incident command and response plan that coordinates state and local emergency response authorities to respond to hazardous substance incidents within the state for approval by the legislature. The plan shall address radiation incidents. The Idaho hazardous materials incident command and response plan shall be consistent with and a part of the Idaho state disaster plan provided in section 46-1006, Idaho Code, after legislative approval.

(3) The commission shall have the powers and duties of a state emergency response commission under the federal emergency planning and community right-to-know act, 42 U.S.C. section 11001 et seq., except that the Idaho bureau of disaster services shall oversee the creation, annual local review, exercise and revision of county plans for hazardous substance incident response.

(4) The commission shall promulgate rules and procedures which shall govern reimbursement of claims pursuant to this chapter.

(5) All state agencies and institutions will cooperate and provide staff assistance to the commission in carrying out its duties under this chapter.

39-7105. LOCAL EMERGENCY RESPONSE AUTHORITIES -- DESIGNATION. (1) It is the purpose of the provisions of this section to provide for the designation of local emergency response authorities for hazardous substance incidents.

(2) Cities and counties shall designate the local emergency response authorities for hazardous substance incidents that occur within their respective jurisdictions. Cities and counties are encouraged to appoint a response authority whose members will become trained in hazardous substance incident response.

(a) The governing body of every city shall designate by ordinance or resolution a local emergency response authority for hazardous substance incidents occurring within the corporate limits of such city. A city may designate the county as its emergency response authority and participate in the county plan for hazardous substance incident response, and shall notify the county of that designation in writing.

(b) The board of county commissioners of every county in the state shall designate by ordinance or resolution a local emergency response authority for hazardous substance incidents occurring within the unincorporated area of such county.

(c) The governing body of every city and every board of county commissioners shall notify the commission and Idaho emergency medical services communications center of its designated local emergency response authority. Such notification shall be in writing and shall occur as soon as practicable, and, in any event, no later than sixty (60) calendar days after this chapter becomes effective. Thereafter, any changes in such designations shall be communicated to the commission and Idaho emergency medical services communications center no later than ten (10) working days before such change becomes effective.

(d) If no local emergency response authority having the ability to respond to a hazardous substance incident exists within a city or county or if such a political subdivision is unable to obtain the services of an emergency response authority by way of a mutual aid agreement, contract or otherwise, such city or county may petition the commission to designate an emergency response authority to respond to hazardous substance incidents within the petitioning political subdivision's jurisdiction. The commission, in consultation with such political subdivision, may thereafter designate appropriate local emergency response authorities.

(3) If a hazardous substance incident occurs in an area in which no local emergency response authority has been designated, or if the Idaho state police has been designated as the local emergency response authority, the Idaho state police shall be the local emergency response authority for such hazardous substance incident for the purposes of this section.

39-7106. LOCAL EMERGENCY RESPONSE AUTHORITIES -- POWERS AND DUTIES. (1) Every local emergency response authority designated in or pursuant to this chapter will respond to a hazardous substance incident occurring within its jurisdiction in a fashion consistent with the Idaho hazardous materials emergency incident command and response plan except as provided in a private emergency response plan. The local emergency response authority will also respond to a hazardous substance incident which initially occurs within its jurisdiction but which spreads to another jurisdiction. If a hazardous substance incident occurs on a boundary between two (2) jurisdictions or in an area where the jurisdiction is not readily ascertainable, the first local emergency response authority to arrive at the scene of the incident will perform the initial emergency response.

(2) The incident commander shall declare the hazardous substance incident ended when the threat to public health and safety has ended and the threat to the environment has been minimized.

(3) Mutual aid agreements or contracts are encouraged among governmental entities, private parties, local emergency response authorities and the commission in order to safely respond to hazardous substance incidents. Further, mutual aid agreements are encouraged among governmental entities, local emergency response authorities and the commission with other similar entities in other states and Canada in

order to ensure appropriate response to hazardous substance incidents.

(4) Any local emergency response authority designated in or pursuant to the provisions of section 39-7105, Idaho Code, may request the commission to provide assistance consistent with the Idaho hazardous materials emergency incident command and response plan.

39-7107. STATE DISASTER PREPAREDNESS ACT CONTROLS DISASTER EMERGENCIES, EXCEPT FOR THE LIABILITY OF RESPONSIBLE PERSONS. In the event a disaster emergency or local disaster emergency is declared by proper authority as defined and set forth in chapter 10, title 46, Idaho Code, as a result of a hazardous substance incident, the provisions of chapter 10, title 46, Idaho Code, shall govern, except that the provisions of section 39-7109, Idaho Code, shall govern reimbursement of emergency response costs and the provisions of sections 39-7111 and 39-7112, Idaho Code, shall govern the liability of and cost recovery against persons responsible for hazardous substance incidents resulting in disaster emergencies in any case.

39-7108. NOTIFICATION OF RELEASE IS REQUIRED. (1) Any person who has responsibility for reporting a release under the federal comprehensive environmental response, compensation and liability act (CERCLA), 42 U.S.C. 9603, shall, as soon as practicable after he has knowledge of any such reportable release other than a permitted release or as exempted in section 39-7108(3), Idaho Code, notify the commission of such release.

(2) Any person who has responsibility for reporting a release under the federal emergency planning and community right-to-know act, 42 U.S.C. 11001 et seq., shall as soon as practicable after he has knowledge of any such reportable release other than a permitted release notify the commission of such release.

(3) Any facility having a release reportable under section 39-7108(1), Idaho Code, shall not be required to report the release to the commission if the following circumstances are met:

(a) Such release is not reportable under subsection (2) of section 39-7108, Idaho Code.

(b) The facility has an approved private emergency response plan that details how such spills shall be responded to and reported.

This provision does not relieve the facility from any reporting required under other federal statutory, regulatory or other permit authorities.

(4) The commission shall immediately notify the division of environmental quality within the department of health and welfare of any release reported to the commission. Such reporting to the commission shall fulfill all state reporting requirements for the division of environmental quality.

(5) Any person who does not notify the commission in accordance with the provisions of section 39-7108, Idaho Code, shall be liable for a civil penalty of a sum not to exceed one thousand dollars ($1,000) for each day the violation continues to a maximum of twenty-five thousand dollars ($25,000).

(6) No penalty pursuant to this section shall occur if an incident occurs on private property and results in no offsite environmental damage.

39-7109. RIGHT TO CLAIM REIMBURSEMENT. (1) State emergency response teams and local emergency response authorities may submit claims to the commission for reimbursement of the following documented costs incurred as a result of their response to and containment of a hazardous substance incident:

(a) Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the response;

(b) Compensation of employees for the time and efforts devoted specifically to the response that are not otherwise provided for in the applicant's operating budget, (e.g., overtime pay for permanent full-time and other than full-time employees, recalled personnel or responding when out of jurisdiction);

(c) Rental or leasing of equipment used specifically for the response (e.g., protective equipment or clothing, scientific and technical equipment);

(d) Replacement costs for equipment owned by the applicant that is contaminated beyond reuse or repair, if the applicant can demonstrate that the equipment was a total loss and that the loss occurred as a result of the response (e.g., self-contained breathing apparatus irretrievably contaminated during the response);

(e) Decontamination of equipment contaminated during the response;

(f) Special technical services specifically required for the response (e.g., costs associated with the time and efforts of technical experts/specialists not otherwise provided for by the local government);

(g) Medical monitoring or treatment of response personnel;

(h) Laboratory costs for purposes of analyzing samples taken during the response; and

(i) Disposal costs. Such costs may be reimbursed as provided in this chapter.

Reimbursement for the costs identified in paragraphs (a) through (c) of this subsection will not exceed the duration of the response.

(2) A private person, who is not a part of the state emergency response team or a local emergency response authority and is not liable under section 39-7111, Idaho Code, may submit a claim to the commission for costs identified in section 39-7109, Idaho Code, if their response was requested by the incident commander.

(3) Claims for reimbursement shall be submitted to the commission within sixty (60) days after termination of the hazardous substance incident for the state's determination of payment, if any.

(4) Reimbursements shall only be paid after the commission finds that the actions by the state emergency response team or the local emergency response authority were taken in response to a hazardous substance incident as defined in this chapter.

(5) The state of Idaho shall be subrogated to the rights of any such person so reimbursed to the extent of such reimbursement.

39-7110. DEFICIENCY WARRANTS FOR REIMBURSEMENT OF RESPONSE COSTS. (1) The commission shall review all claims for reimbursement and make recommendations as to payment or nonpayment of the claims to the board of examiners within one hundred twenty (120) days after termination of the hazardous substance incident. The board of examiners may authorize

the issuance of deficiency warrants for the purpose of reimbursing reasonable and documented costs associated with emergency response actions taken pursuant to this chapter. The costs associated with routine firefighting procedures shall not be reimbursable costs under this chapter.

(2) Deficiency warrants authorized by the board of examiners shall not exceed the sum of one hundred thousand dollars ($100,000) for reimbursement of all claims made as a result of a single hazardous substance incident. In the event all claims for reimbursement for a single hazardous substance incident exceeds the sum of one hundred thousand dollars ($100,000), the board of examiners shall determine an appropriate and equitable basis of payment of reimbursements.

(3) Upon authorization of deficiency warrants by the board of examiners in accordance with the provisions of this section, the state auditor shall, after notice to the state treasurer, draw deficiency warrants in the authorized amounts against the general account.

(4) Nothing contained in this section shall be construed to change or impair any right of recovery or subrogation arising under any other provisions of law.

39-7111. LIABILITY FOR RELEASE OF A HAZARDOUS SUBSTANCE. (1) Any person who owns, controls, transports, or causes the release of a hazardous substance which is involved in a hazardous substance incident shall be strictly liable for the costs arising out of a hazardous substance incident, identified in section 39-7112, Idaho Code. There shall be no liability under this chapter for a person otherwise liable who can establish by a preponderance of the evidence that:

(a) The hazardous substance incident was caused solely by:

(i) An act of God;

(ii) An act of war;

(iii) An act or omission of a third party, other than an employee or agent of the potentially liable person if:

1. The potentially liable person exercised reasonable care with respect to the hazardous substance involved taking into consideration the characteristics of the hazardous substance in light, of all relevant facts and circumstances; and

2. The potentially liable person took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions; or

(iv) Application of a pesticide product or fertilizer registered under the federal insecticide, fungicide, and rodenticide act, 7 U.S.C. section 136, et seq., according to label requirements.

39-7112. COST RECOVERY AND CIVIL REMEDIES. (1) The commission shall be responsible for recovering those costs incurred by the state arising out of a hazardous substance incident identified in section 39-7109, Idaho Code, and legal costs including attorney's fees, investigation costs and litigation costs.

(2) In deciding whether to commence a cost recovery action, and against whom a cost recovery action will be filed, the commission in

exercising its prosecutorial discretion will take into consideration the cause of the incident, the total amount of cost incurred in responding to the incident, the avoidability of the incident and such other factors as the commission deems appropriate.

(3) The remedy for the recovery of those emergency response costs identified in section 39-7109, Idaho Code, provided by this chapter shall be exclusive and shall not be used in conjunction with or in addition to any other remedy for recovery of such costs provided by applicable federal laws. Any person who receives compensation for the emergency response costs pursuant to any other federal or state law shall be precluded from recovering compensation for such costs pursuant to this chapter. Nothing in this chapter shall otherwise affect or modify in any way the obligations or liability of any person under any other provision of state or federal law, including common law, for damages, injury or loss resulting from the release of any hazardous substance or for remedial action or the cost of remedial action for such release.

(4) It shall be the duty of the attorney general to commence any civil action brought by the commission pursuant to this chapter. At the request of a political subdivision of the state or a local governmental entity who has responded to or contained a hazardous substance incident, the attorney general may commence a civil action on their behalf pursuant to this chapter.

(5) Any person who renders assistance in response to a hazardous substance incident may file a civil action under the provisions of this chapter for recoverable costs which have not been reimbursed by the state.

(6) Recoveries by the state for reimbursed costs shall be deposited in the general account fund to offset amounts paid as reimbursement.

39-7113. PERSONS RENDERING ASSISTANCE RELATING TO HAZARDOUS SUBSTANCE INCIDENTS -- GOOD SAMARITAN LIMITED IMMUNITY. (1) Consistent with the provisions of subsections (2) and (3) of this section:

(a) The state shall be liable for the acts or omissions of the state emergency response teams responding to a hazardous substance incident.

(b) The designating or requesting city or county shall be liable for the acts or omissions of a local emergency response authority responding to a hazardous substance incident within its jurisdiction.

(2) Notwithstanding any provision of law to the contrary, any state emergency response team, local emergency response authority or other person who responds to a hazardous substance incident at the request of an incident commander shall not be subject to civil liability for assistance or advice, except as provided in subsection (3) of this section.

(3) The exemption from civil liability provided in this section shall not apply to:

(a) An act or omission that caused in whole or in part such hazardous substance incident or a person who may otherwise be liable therefor; or

(b) Any person who has acted in a grossly negligent, reckless, or

intentional manner.

(4) Nothing in this section shall be construed to abrogate or limit the immunity granted to governmental entities pursuant to chapter 9, title 6, Idaho Code.

39-7114. PRIVATE EMERGENCY RESPONSE PLAN APPROVAL. Private emergency response plans may be prepared for any facility or specific set of conditions. A private emergency response plan must be approved by the local emergency response authority or state emergency response commission unless the plan:

(1) Is a contingency plan that has been approved in the issuance of a final part B operating permit, in accordance with section 39-4401, Idaho Code, by the Idaho division of environmental quality;

(2) Is a contingency plan prepared in accordance with the requirements of regulations promulgated pursuant to section 39-4401, Idaho Code, by the Idaho division of environmental quality;

(3) Has otherwise been approved by the state emergency response commission or division of environmental quality. Private emergency response plans must be submitted, for file purposes, to the local emergency response authorities and the state emergency response commission to qualify as a private emergency response plan under this section.

39-7115. 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. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 4, 1991.

CHAPTER 243
(S.B. No. 1135, As Amended)

AN ACT

RELATING TO THE CONSUMER PROTECTION ACT; AMENDING SECTION 48-606, IDAHO CODE, TO PROVIDE THAT CERTAIN FEES RECOVERED BY THE ATTORNEY GENERAL SHALL BE TREATED AS INTERACCOUNT RECEIPTS; AMENDING SECTION 48-612, IDAHO CODE, AS AMENDED BY SECTION 8, CHAPTER 273, LAWS OF 1990, TO PROVIDE THAT INFORMATION OBTAINED BY THE ATTORNEY GENERAL UNDER THE PROVISIONS OF THE CHAPTER IS SUBJECT TO THE DISCLOSURE REQUIREMENTS OF CHAPTER 3, TITLE 9, IDAHO CODE; REPEALING SECTION 67, CHAPTER 213, LAWS OF 1990, EFFECTIVE JULY 1, 1993; AMENDING SECTION 48-614, IDAHO CODE, TO ALLOW THE ATTORNEY GENERAL TO RECOVER EXPENSES AND ATTORNEY FEES IN CERTAIN CASES; DECLARING AN EMERGENCY FOR SECTION 2 OF THIS ACT, AND DECLARING EFFECTIVE DATES FOR SECTIONS 1, 3 AND 4 OF THIS ACT.

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

SECTION 1. 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 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:

(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.

(3) Unless the attorney general finds in writing that the purposes of this 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 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 shall be treated as interaccount receipts and may be expended pursuant to interaccount appropriation and shall be used for the furtherance of the attorney general's duties and activities under this chapter.

SECTION 2. That Section 48-612, Idaho Code, as amended by Section 8, Chapter 273, Laws of 1990, 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 chapter, the attorney general, in addition to other powers conferred upon him by this chapter, may issue subpoenas to any person and conduct hearings in aid of any investigation or inquiry; provided that information obtained pursuant to the powers conferred in this chapter shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 3. That Section 67, Chapter 213, Laws of 1990, proposing a prospective amendment to Section 48-612, Idaho Code, on July 1, 1993, be, and the same is hereby repealed effective July 1, 1993.

SECTION 4. 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. (1) 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~~a) Ordering such person to file such statement or report, or to comply with the subpoena or investigative demand issued by the attorney general;

(~~2~~b) 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~~c) Granting such other relief as may be required, until the person files the statement or report, or obeys the subpoena or investigative demand.

(2) The court shall award the prevailing party reasonable

expenses and attorney fees incurred in obtaining an order under this section if the court finds that the attorney general's request for an order under this section or a person's resistance to filing any statement or report, or obeying any subpoena or investigative demand, was without a reasonable basis in fact or law.

(3) 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 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 2 of this act shall be in full force and effect on and after its passage and approval. Section 3 of this act shall be in full force and effect on and after July 1, 1993. Sections 1 and 4 of this act shall be in full force and effect on and after July 1, 1991.

Approved April 4, 1991.

CHAPTER 244
(S.B. No. 1141)

AN ACT

RELATING TO FOREST PRACTICES AND WATER QUALITY; AMENDING SECTION 38-1302, IDAHO CODE, TO INCLUDE FEDERAL LANDS IN THE FOREST PRACTICES ACT; AMENDING SECTION 38-1303, IDAHO CODE, TO DEFINE AND REDEFINE TERMS; AND AMENDING SECTION 38-1305, IDAHO CODE, TO AUTHORIZE THE DEPARTMENT OF LANDS TO DEVELOP A CUMULATIVE EFFECTS PROGRAM.

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

SECTION 1. That Section 38-1302, Idaho Code, be, and the same is hereby amended to read as follows:

38-1302. POLICY OF THE STATE -- PURPOSE OF ACT. (1) Recognizing that federal, state and private forest lands make a vital contribution to Idaho by providing jobs, products, tax base, and other social and economic benefits, by helping to maintain forest tree species, soil, air and water resources, and by providing a habitat for wildlife and aquatic life, it is the public policy of the state to encourage forest practices on these lands that maintain and enhance those benefits and resources.

(2) To encourage forest practices implementing the policy of this chapter, and to provide a mechanism for harmonizing and helping it implement and enforce laws and rules relating to federal, state and private forest land, it is the purpose of this chapter to vest in the board authority to adopt rules designed to assure the continuous growing and harvesting of forest tree species and to protect and maintain

the forest soil, air, water resources, wildlife and aquatic habitat.

SECTION 2. That Section 38-1303, Idaho Code, be, and the same is hereby amended to read as follows:

38-1303. DEFINITIONS. Unless the context requires otherwise, in this chapter:

(1) "Forest practice" means (a) the harvesting of forest tree species; (b) road construction associated with harvesting of forest tree species; (c) reforestation; (d) use of chemicals or fertilizers for the purpose of growing or managing forest tree species; or (e) the management of slashings resulting from harvest, management or improvement of forest tree species.

(2) "Forest land" means federal, state and private land growing forest tree species which are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products. The term includes federal, state and private land from which forest tree species have been removed but have not yet been restocked, but it does not include land affirmatively converted to uses other than the growing of forest tree species.

(3) "Operator" means a person who conducts or is required to conduct a forest practice.

(4) "Harvesting" means a commercial activity related to the cutting or removal of forest tree species to be used as a forest product. A commercial activity does not include the cutting or removal of forest tree species by a person for his own personal use.

(5) "Rules" mean rules adopted by the board pursuant to section 38-1304, Idaho Code.

(6) "Landowner" means a person, partnership, corporation, or association of whatever nature that holds an ownership interest in forest land, including the state and federal government.

(7) "Timber owner" means a person, partnership, corporation, or association of whatever nature, other than the landowner, that holds an ownership interest in forest tree species on forest land.

(8) "Forest regions" means two (2) regions of forest land, one (1) region being north of the Salmon River and one (1) being south of the Salmon River.

(9) "Director" means the director of the Idaho department of lands.

(10) "Department" means the Idaho department of lands.

(11) "Board" means the Idaho board of land commissioners.

(12) "State" means the state of Idaho or any political subdivision thereof.

(13) "Forest practices advisory committee to the board" means that committee appointed by the director as provided in subsection (2)(a) of section 38-1305, Idaho Code.

(14) "Contract area" means the entire acreage which is subject to a single contract as specified in the notification of forest practices, pursuant to section 38-1306, Idaho Code.

(15) "Best management practice (BMP)" means a practice or combination of practices determined by the board, in consultation with the department and the forest practices advisory committee, to be the most effective and practicable means of preventing or reducing the amount

of nonpoint pollution generated by forest practices.

(16) "Stream segment of concern" means a specific stream segment or body of water that has been published in a final basin area report and subsequently published every two (2) years as an addendum to the water quality standards and waste water treatment requirements of the department of health and welfare.

(17) "Cumulative effects" mean the impact on water quality and/or beneficial uses which result from the incremental impact of two (2) or more forest practices. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

SECTION 3. That Section 38-1305, Idaho Code, be, and the same is hereby amended to read as follows:

38-1305. DUTIES, POWERS OF DEPARTMENT. The department:

(1) Shall administer and enforce this act;

(2) (a) Shall, through the director, appoint a forest practices advisory committee to the board for the purpose of providing technical advice to the board in carrying out the board's powers and duties as set forth in section 38-1304, Idaho Code. The forest practices advisory committee is composed of eight (8) members, three (3) residing in the north forest region and three (3) residing in the south forest region. The remaining member shall be residing in Idaho. Members of the committee shall be qualified by experience and/or training to provide technical advice related to forest practices. One (1) member residing in each forest region shall be a private landowner, a private timber owner, or authorized representative of the landowner or timber owner who regularly engages in forest practices. One (1) member residing in each forest region shall be an operator. One (1) member residing in each forest region shall be a representative of the general public. One (1) member shall be qualified by training and experience as a fisheries biologist. Members of the forest practices advisory committee shall be appointed by the director for three (3) year terms. Appointments under this subsection shall be made by the director within sixty (60) days after the effective date of this section. If there is a vacancy, for any cause, the director shall make an appointment to become immediately effective for the unexpired term. Said appointee shall possess the same qualifications under this act as the person being replaced. The committee shall select a chairman from among its members. A member of the department of lands shall be designated by the director to serve as secretary, without voting power, for the committee.

(b) Notwithstanding the terms of the committee members specified by subsection (2)(a) of this section, of the members first appointed to each such committee:

(A) Two (2) shall serve for a term of one (1) year;

(B) Two (2) shall serve for a term of two (2) years;

(C) Three (3) shall serve for a term of three (3) years.

(3) Shall advise and assist the board in the discharge of its duties as set forth in this act;

(4) Shall achieve coordination among state agencies which are

concerned with the forest environment;

(5) Shall cooperate with and provide advice to landowners and timber owners in the management of forest lands;

(6) May enter into cooperative agreement or contracts which may be necessary in the administration of this act~~.~~;

(7) May enter into written agreements with landowners incorporating site-specific BMPs which the director has determined are necessary to protect water quality in an affected stream segment of concern. Such agreements shall be binding on all parties and enforceable in an action for specific performance;

(8) Shall develop methods for controlling watershed impacts resulting from cumulative effects. The department shall form a cumulative effects watershed cooperative including, but not limited to, state and federal land managing agencies and owners of industrial private forest land, to serve as a clearinghouse for comparing and evaluating shared watershed information. The director shall select an interdisciplinary task force including appropriate technical specialists and affected landowners and shall, in consultation with the task force, formulate methods for controlling cumulative effects.

Approved April 4, 1991.

CHAPTER 245
(S.B. No. 1146, As Amended)

AN ACT

RELATING TO FOREST PRACTICES; AMENDING SECTION 38-1303, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AND AMENDING SECTION 38-1304, IDAHO CODE, TO PROVIDE THAT THE STATE BOARD OF LAND COMMISSIONERS SHALL PROVIDE FOR TIMELY SALVAGE LOGGING OF DEAD OR DYING TIMBER OR TIMBER THAT IS THREATENED BY VARIOUS PHYSICAL ELEMENTS AND TO PROVIDE APPLICATION.

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

SECTION 1. That Section 38-1303, Idaho Code, be, and the same is hereby amended to read as follows:

38-1303. DEFINITIONS. Unless the context requires otherwise, in this chapter:

(1) "Forest practice" means (a) the harvesting of forest tree species; (b) road construction associated with harvesting of forest tree species; (c) reforestation; (d) use of chemicals or fertilizers for the purpose of growing or managing forest tree species; ~~or~~ (e) the management of slashings resulting from harvest, management or improvement of forest tree species; or (f) the prompt salvage of dead or dying timber or timber that is threatened by insects, disease, windthrow, fire or extremes of weather.

(2) "Forest land" means state and private land growing forest

tree species which are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products. The term includes state and private land from which forest tree species have been removed but have not yet been restocked, but it does not include land affirmatively converted to uses other than the growing of forest tree species.

(3) "Operator" means a person who conducts or is required to conduct a forest practice.

(4) "Harvesting" means a commercial activity related to the cutting or removal of forest tree species to be used as a forest product. A commercial activity does not include the cutting or removal of forest tree species by a person for his own personal use.

(5) "Rules" mean rules adopted by the board pursuant to section 38-1304, Idaho Code.

(6) "Landowner" means a person, partnership, corporation, or association of whatever nature that holds an ownership interest in forest land, including the state.

(7) "Timber owner" means a person, partnership, corporation, or association of whatever nature, other than the landowner, that holds an ownership interest in forest tree species on forest land.

(8) "Forest regions" means two (2) regions of forest land, one (1) region being north of the Salmon River and one (1) being south of the Salmon River.

(9) "Director" means the director of the Idaho department of lands.

(10) "Department" means the Idaho department of lands.

(11) "Board" means the Idaho board of land commissioners.

(12) "State" means the state of Idaho or any political subdivision thereof.

(13) "Forest practices advisory committee to the board" means that committee appointed by the director as provided in subsection (2)(a) of section 38-1305, Idaho Code.

(14) "Contract area" means the entire acreage which is subject to a single contract as specified in the notification of forest practices, pursuant to section 38-1306, Idaho Code.

(15) "Best management practice (BMP)" means a practice or combination of practices determined by the board, in consultation with the department and the forest practices advisory committee, to be the most effective and practicable means of preventing or reducing the amount of nonpoint pollution generated by forest practices.

(16) "Salvage" means the timely removal of dead and dying timber or timber that is threatened by insects, disease or such physical elements as fire, windthrow, or extremes of weather, and where the removal of such timber will help contain insect or disease outbreaks, aid in the prevention of wildfire, or, over the long term, help protect such resources and values as wildlife, water, soils or air quality.

(17) "Stream segment of concern" means a specific stream segment or body of water that has been published in a final basin area report and subsequently published every two (2) years as an addendum to the water quality standards and waste water treatment requirements of the department of health and welfare.

SECTION 2. That Section 38-1304, Idaho Code, be, and the same is hereby amended to read as follows:

38-1304. DUTIES OF THE BOARD. The board:

(1) Shall adopt rules for forest regions establishing minimum standards for the conduct of forest practices on forest land. These rules shall be based upon the following criteria:

(a) Provide for the harvesting of forest tree species in a manner that will maintain the productivity of the forest land, minimize soil and debris entering streams and protect wildlife and fish habitat.

(b) Provide for road construction that will insure protection and maintenance of forest productivity, water quality and fish and wildlife habitat during construction and maintenance.

(c) Provide for reforestation that will maintain a continuous growing and harvesting of forest tree species by describing the conditions under which reforestation will be required, specifying the minimum number of trees per acre and the maximum period of time allowed after harvesting for establishment of forest tree species, and requiring stabilization of soils which have become exposed as a result of harvesting; however, an acreage exemption from reforestation may be established except that on such land exempted within one (1) year following harvesting, some form of vegetative cover shall be required sufficient to provide continuing soil productivity and stabilization.

(d) Provide for the use of chemicals or fertilizers in such a manner that the public health and aquatic and wildlife habitat will not be endangered from their handling, storage and application.

(e) Provide for management of slashings resulting from the harvesting, management or improvement of forest tree species in that manner necessary to protect reproduction and residual stands, to reduce risk from fire and insects and disease, to optimize the conditions for future regeneration of forest tree species, and to maintain air and water quality and fish and wildlife habitat.

(f) Provide for the timely salvage logging on all forest lands of dead or dying timber or timber that is threatened by various physical elements. Rules developed pursuant to this section shall consider both the economic value of the timber to be salvaged, the immediate costs of the salvage efforts, and the long-term costs to all forest resources and values associated with insect, disease or fire conditions which might otherwise be controlled by the salvage operations. The provisions of this subpart shall not apply to single contiguous forest ownerships less than two thousand (2,000) acres in size. Nothing in this paragraph shall be construed as requiring the removal of timber from private lands against the wishes of the private landowner.

Approved April 4, 1991.

CHAPTER 246
(S.B.No. 1162)

AN ACT

RELATING TO THE CRIME VICTIMS COMPENSATION ACCOUNT; AMENDING SECTION 72-1019, IDAHO CODE, TO PROVIDE THAT CLOSE RELATIVES OF A PERSON WHO HAS BEEN MURDERED OR SEXUALLY ASSAULTED MAY RECEIVE COMPENSATION FROM THE ACCOUNT FOR MENTAL HEALTH TREATMENT, AND TO PROVIDE LIMITATIONS.

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

SECTION 1. That Section 72-1019, Idaho Code, be, and the same is hereby amended to read as follows:

72-1019. COMPENSATION BENEFITS. (1) A claimant is entitled to weekly compensation benefits when the claimant has a total actual loss of wages due to injury as a result of criminally injurious conduct. During the time the claimant seeks such weekly benefits, the claimant, as a result of such injury, must have no reasonable prospect of being regularly employed in the normal labor market. The weekly benefit amount is sixty-six and two-thirds percent (66 2/3%) of the wages received at the time of the criminally injurious conduct, subject to a maximum of one hundred ~~and~~ seventy-five dollars ($175). Weekly compensation payments shall be made at the end of each two (2) week period. No weekly compensation payments may be paid for the first week after the criminally injurious conduct occurred, but if total actual loss of wages continues for one (1) week, weekly compensation payments shall be paid from the date the wage loss began. Weekly compensation payments shall continue until the claimant has a reasonable prospect of being regularly employed in the normal labor market.

(2) The commission may order payment of reasonable expenses actually incurred by the claimant for reasonable services by a physician or surgeon, reasonable hospital services and medicines, mental health counseling and care, and such other treatment as may be approved by the commission for the injuries suffered due to criminally injurious conduct.

(3) (a) The dependents of a victim who is killed as a result of criminally injurious conduct are entitled to receive aggregate weekly benefits amounting to sixty-six and two-thirds percent (66 2/3%) of the wages received at the time of the criminally injurious conduct causing the death, subject to a maximum of one hundred seventy-five dollars ($175) per week. Weekly compensation payments shall be made at the end of each two (2) week period.

(b) Benefits under subsection (3)(a) of this section shall be paid to the spouse for the benefit of the spouse and other dependents unless the commission determines that other payment arrangements should be made. If a spouse dies or remarries, benefits under subsection (3)(a) shall cease to be paid to the spouse but shall continue to be paid to the other dependents so long as their dependent status continues.

(4) Reasonable funeral and burial expenses of the victim, not exceeding two thousand five hundred dollars ($2,500), shall be paid if all other collateral sources have properly paid such expenses but have

not covered all such expenses.

(5) Compensation payable to a victim and all of the victim's dependents in cases of the victim's death, because of injuries suffered due to an act of criminally injurious conduct may not exceed twenty-five thousand dollars ($25,000) in the aggregate.

(6) Compensation benefits are not payable for pain and suffering or property damage.

(7) (a) A person who has suffered injury as a result of criminally injurious conduct and as a result of such injury has no reasonable prospect of being regularly employed in the normal labor market, who was employable but was not employed at the time of such injury, may in the discretion of the commission be awarded weekly compensation benefits in an amount determined by the commission not to exceed one hundred fifty dollars ($150) per week. Weekly compensation payments shall continue until the claimant has a reasonable prospect of being regularly employed in the normal labor market or for a shorter period as determined by the commission. The claimant shall be awarded benefits as provided in subsection (2) of this section.

(b) The dependents of a victim who is killed as a result of criminally injurious conduct and who was employable but not employed at the time of death, may, in the discretion of the commission, be awarded, in an aggregate amount payable to all dependents, a sum not to exceed one hundred fifty dollars ($150) per week which shall be payable in the manner and for the period provided by subsection (3)(b) of this section or for such shorter period as determined by the commission. The claimant shall be awarded benefits as provided in subsection (4) of this section.

(c) Compensation payable to a victim or a victim's dependents under this subsection may not exceed twenty thousand dollars ($20,000), and the limitations of subsection (6) apply to compensation under this subsection (7).

(8) Amounts payable as weekly compensation may not be commuted to a lump sum and may not be paid less frequently than every two (2) weeks.

(9) (a) Subject to the limitations in subsection (9)(c) of this section, the spouse, parent, child, brother, or sister of a victim who is killed as a result of criminally injurious conduct is entitled to reimbursement for mental health treatment received as a result of the victim's death.

(b) Subject to the limitations in subsection (9)(c) of this section, the spouse, parent, child, brother or sister of a victim who is sexually assaulted is entitled to reimbursement for mental health treatment received as a result of the crime.

(c) Total payments made under subsections (9)(a) and (9)(b) of this section, may not exceed five hundred dollars ($500) for each person or one thousand five hundred dollars ($1,500) for a family.

(d) With regard to claims filed pursuant to this section, in order for family members of victims of crime to be entitled to benefits, the victim of the crime must also have been awarded benefits for the crime itself.

Approved April 4, 1991.

CHAPTER 247
(S.B. No. 1177)

AN ACT

RELATING TO THE IDAHO LIMITED PARTNERSHIP ACT; AMENDING SECTION 53-201, IDAHO CODE, TO REDEFINE DEFINITIONS; AMENDING SECTION 53-202, IDAHO CODE, TO REMOVE A RESTRICTION ON HOW A PARTNERSHIP CAN BE NAMED; AMENDING SECTION 53-205, IDAHO CODE, TO PROVIDE A DESCRIPTION OF CERTAIN PARTNERSHIP RECORDS WHICH MUST BE KEPT; AMENDING SECTION 53-208, IDAHO CODE, TO MODIFY THE PROVISIONS OF THE CERTIFICATE OF LIMITED PARTNERSHIP AND TO PROVIDE FOR A FORM OF CERTIFICATE; AMENDING SECTION 53-209, IDAHO CODE, TO PROVIDE WHEN A PARTNERSHIP CERTIFICATE MUST BE AMENDED AND TO PROVIDE FOR A FORM OF CERTIFICATE OF AMENDMENT; AMENDING SECTION 53-211, IDAHO CODE, TO REQUIRE GENERAL PARTNERS TO EXECUTE A CERTIFICATE OF LIMITED PARTNERSHIP; AMENDING SECTION 53-212, IDAHO CODE, TO PROVIDE A PROCEDURE FOR JUDICIAL EXECUTION OF A LIMITED PARTNERSHIP CERTIFICATE; AMENDING SECTION 53-215, IDAHO CODE, TO CORRECT TERMINOLOGY USAGE; AMENDING SECTION 53-217, IDAHO CODE, TO PROVIDE WHEN A LIMITED PARTNER IS ADDED; AMENDING SECTION 53-219, IDAHO CODE, TO PROVIDE WHEN, AND TO WHAT EXTENT, A LIMITED PARTNER IS LIABLE TO THIRD PARTIES FOR THE OBLIGATIONS OF A LIMITED PARTNERSHIP; AMENDING SECTION 53-220, IDAHO CODE, TO PROVIDE WHEN A PERSON WHO ERRONEOUSLY BELIEVES HE IS A LIMITED PARTNER IS LIABLE AS A GENERAL PARTNER; AMENDING SECTION 53-222, IDAHO CODE, TO PROVIDE A PROCEDURE FOR THE ADDITION OF GENERAL PARTNERS; AMENDING SECTION 53-223, IDAHO CODE, TO CORRECT TERMINOLOGY USAGE; AMENDING SECTION 53-229, IDAHO CODE, TO PROVIDE THAT PROFITS AND LOSSES BE ALLOCATED PURSUANT TO CERTAIN PARTNERSHIP RECORDS; AMENDING SECTION 53-230, IDAHO CODE, TO PROVIDE THAT THE SHARING OF PARTNERSHIP DISTRIBUTION BE ACCORDING TO CERTAIN PARTNERSHIP RECORDS; AMENDING SECTION 53-231, IDAHO CODE, TO PROVIDE WHEN A PARTNER CAN RECEIVE AN INTERIM DISTRIBUTION; AMENDING SECTION 53-233, IDAHO CODE, TO CORRECT A TERMINOLOGY USAGE; AMENDING SECTION 53-235, IDAHO CODE, TO CORRECT A TERMINOLOGY USAGE; AMENDING SECTION 53-238, IDAHO CODE, TO CORRECT A TERMINOLOGY USAGE AND TO PROVIDE A REFERENCE; AMENDING SECTION 53-242, IDAHO CODE, TO CORRECT A TERMINOLOGY USAGE AND TO PROVIDE A REFERENCE; AMENDING SECTION 53-244, IDAHO CODE, TO CORRECT A TERMINOLOGY USAGE; AMENDING SECTION 53-249, IDAHO CODE, TO REQUIRE FOREIGN LIMITED PARTNERSHIPS WHICH ARE APPLYING FOR ADMISSION TO IDAHO TO PROVIDE CERTAIN INFORMATION; AMENDING SECTION 53-259, IDAHO CODE, TO CLARIFY WHO IS A PROPER PLAINTIFF; AMENDING SECTION 53-262, IDAHO CODE, TO PROVIDE A FILING FEE FOR A RESTATED CERTIFICATE OF LIMITED PARTNERSHIP; AND AMENDING CHAPTER 2, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-268, IDAHO CODE, TO PROVIDE A SAVINGS CLAUSE.

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

SECTION 1. That Section 53-201, Idaho Code, be, and the same is hereby amended to read as follows:

53-201. DEFINITIONS. As used in this chapter, unless the context otherwise requires:

(1) "Certificate of limited partnership" means the certificate referred to in section 53-208, Idaho Code, and the certificate as amended or restated.

(2) "Contribution" means any cash, other property, tangible or intangible, or labor or services actually performed, which a partner contributes to a limited partnership in his capacity as a partner.

(3) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in section 53-223, Idaho Code.

(4) "Foreign limited partnership" means a partnership formed under the laws of any state other than this state and having as partners one or more general partners and one or more limited partners.

(5) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

(6) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement ~~and-named-in-the-certificate-of-limited--partnership as-a-limited-partner~~.

(7) "Limited partnership" and "domestic limited partnership" mean a partnership formed by two (2) or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(8) "Partner" means a limited or general partner.

(9) "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

(10) "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

(11) "Person" means a natural person, partnership, limited partnership (domestic or foreign), trust, estate, association, or corporation.

(12) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

SECTION 2. That Section 53-202, Idaho Code, be, and the same is hereby amended to read as follows:

53-202. NAME. The name of each limited partnership as set forth in its certificate of limited partnership:

(1) Shall contain without abbreviation the words "limited partnership";

(2) May not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(3) ~~May-not-contain-any-word-or--phrase--indicating--or--implying~~

~~that--it--is-organized-other-than-for-a-purpose-stated-in-its-certificate-of-limited-partnership;~~

~~(4)~~ May not be the same as, or deceptively similar to, the name of any corporation or limited partnership organized under the laws of this state or licensed or registered as a foreign corporation or limited partnership in this state; and

(~~5~~4) May not contain the following words or abbreviations: "corporation," "incorporated," "corp.," and "inc."

SECTION 3. That Section 53-205, Idaho Code, be, and the same is hereby amended to read as follows:

53-205. RECORDS TO BE KEPT. (a) Each limited partnership shall keep the following:

(1) ~~a~~A current list of the full name and last known business address of each partner ~~set-forth~~ separately identifying the general partners in alphabetical order, and the limited partners in alphabetical order;

(2) ~~a~~A copy of the certificate of limited partnership and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate has been executed~~,~~;

(3) ~~c~~Copies of the limited partnership's federal, state and local income tax returns and reports, if any, for the three (3) most recent years~~, and~~;

(4) ~~c~~Copies of any then effective written partnership agreements and of any financial statements of the limited partnership for the three (3) most recent years; and

(5) Unless contained in a written partnership agreement, a writing setting out:

(i) The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute;

(ii) The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made;

(iii) Any right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution; and

(iv) Any events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.

~~Those--records~~ Records kept under this section are subject to inspection and copying at the reasonable request, and at the expense, of any partner during ordinary business hours.

SECTION 4. That Section 53-208, Idaho Code, be, and the same is hereby amended to read as follows:

53-208. CERTIFICATE OF LIMITED PARTNERSHIP. (a) In order to form a limited partnership ~~two-(2)-or-more-persons-must-execute~~, a certificate of limited partnership~~.-The-certificate-shall-be~~ must be executed and filed in the office of the secretary of state ~~and~~. The certificate

shall be on a form prescribed by the secretary of state and shall set forth:

(1) The name of the limited partnership;

~~(2) The general character of its business;~~

~~(3)~~ The name and address of the registered agent for service of process required to be maintained by section 53-204, Idaho Code;

~~(4~~3) The name and the business address of each general partner ~~(specifying separately the general partners and limited partners)~~;

~~(5) The amount of cash and a description and statement of the agreed value of the other property or labor or services contributed by each partner;~~

~~(6) The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made;~~

~~(7) Any power of a limited partner to grant the right to become a limited partner to an assignee of any part of his partnership interest, and the terms and conditions of the power;~~

~~(8) If agreed upon, the time at which or the events on the happening of which a partner may terminate his membership in the limited partnership and the amount of, or the method of determining, the distribution to which he may be entitled respecting his partnership interest, and the terms and conditions of the termination and distribution;~~

~~(9) Any right of a partner to receive distributions of property, including cash from the limited partnership;~~

~~(10) Any right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution;~~

~~(11) Any time at which or events upon the happening of which the limited partnership is to be dissolved and its affairs wound up;~~

~~(12) Any right of the remaining general partners to continue the business on the happening of an event of withdrawal of a general partner; and~~

(4) The latest date upon which the limited partnership is to dissolve; and

~~(13~~5) Any other matters the general partners determine to include therein.

(b) A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the secretary of state or any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.

SECTION 5. That Section 53-209, Idaho Code, be, and the same is hereby amended to read as follows:

53-209. AMENDMENT TO CERTIFICATE. (a) A certificate of limited partnership is amended by filing a certificate of amendment thereto in the office of the secretary of state on a form prescribed by the secretary of state. The certificate shall set forth:

(1) The name of the limited partnership;

(2) The date of filing the certificate; and

(3) The amendment to the certificate.

(b) Within thirty (30) days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed:

(1) ~~A change in the amount or character of the contribution of any partner, or in any partner's obligation to make a contribution; provided, however, that a change consisting exclusively of a gift of a limited partnership interest between existing limited partners shall be excluded from the requirement to file an amendment to the certificate of limited partnership;~~

~~(2)~~ The admission of a new general partner;

(~~3~~2) The withdrawal of a general partner;

(~~4~~3) The continuation of the business under section 53-244, Idaho Code, after an event of withdrawal of a general partner; or

(~~5~~4) A change of the name or address of the registered agent.

(c) A general partner who becomes aware that any material statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any material respect, shall promptly amend the certificate~~, but an amendment to show a change of address of a limited partner need be filed only once every twelve (12) months~~.

(d) A certificate of limited partnership may be amended at any time for any other proper purpose the general partners determine.

(e) A restated certificate of limited partnership may be executed and filed in the same manner as a certificate of amendment.

SECTION 6. That Section 53-211, Idaho Code, be, and the same is hereby amended to read as follows:

53-211. EXECUTION OF CERTIFICATES. (a) Each certificate required by sections 53-208 through 53-216, Idaho Code, to be filed in the office of the secretary of state shall be executed in the following manner:

(1) An original certificate of limited partnership must be signed by all general partners ~~named therein~~;

(2) A certificate of amendment must be signed by at least one (1) general partner and by each other general partner designated in the certificate as a new general partner ~~or whose contribution is described as having been increased~~; and

(3) A certificate of cancellation must be signed by all general partners~~;~~.

(b) Any person may sign a certificate by an attorney-in-fact, but a power of attorney to sign a certificate relating to the admission~~, or increased contribution,~~ of a general partner must specifically describe the admission ~~or increase~~.

SECTION 7. That Section 53-212, Idaho Code, be, and the same is hereby amended to read as follows:

53-212. ~~AMENDMENT OR CANCELLATION~~ EXECUTION BY JUDICIAL ACT. If a person required by the provisions of section 53-211, Idaho Code, to execute ~~a~~ any certificate ~~of amendment or cancellation~~ fails or refuses to do so, any other ~~partner, and any assignee of a partnership interest,~~ person who is adversely affected by the failure or refusal~~,~~

may petition the district court to direct the ~~amendment--or--cancellation~~ execution of the certificate. If the court finds that ~~the-amendment-or-cancellation~~ it is proper for the certificate to be executed and that any person so designated has failed or refused to execute the certificate, the court may order that the certificate shall be filed by the secretary of state without such person's signature.

SECTION 8. That Section 53-215, Idaho Code, be, and the same is hereby amended to read as follows:

53-215. SCOPE OF NOTICE. The fact that a certificate of limited partnership is on file in the office of the secretary of state is notice that the partnership is a limited partnership and the persons designated therein as ~~limited~~ general partners are ~~limited~~ general partners, but it is not notice of any other fact.

SECTION 9. That Section 53-217, Idaho Code, be, and the same is hereby amended to read as follows:

53-217. ADMISSION OF ~~ADDITIONAL~~ LIMITED PARTNERS. (a) A person becomes a limited partner:

(1) At the time the limited partnership is formed; or

(2) At any later time specified in the records of the limited partnership for becoming a limited partner.

(b) After the filing of a limited partnership's original certificate of limited partnership, a person may be admitted as an additional limited partner:

(1) In the case of a person acquiring a partnership interest directly from the limited partnership, upon the compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the written consent of all partners; and

(2) In the case of an assignee of a partnership interest of a partner who has the power, as provided in section 53-242, Idaho Code, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.

~~(b)--In--each-case-under-subsection-(a)-hereof,-the-person-acquiring-the-partnership-interest--becomes--a--limited--partner--only--upon amendment--of--the--certificate--of-limited-partnership-reflecting-the fact.~~

SECTION 10. That Section 53-219, Idaho Code, be, and the same is hereby amended to read as follows:

53-219. LIABILITY TO THIRD PARTIES. (a) Except as provided in subsection (d) of this section, a limited partner is not liable for the obligations of a limited partnership unless he is also a general partner or, in addition to the exercise of his rights and powers as a limited partner, he ~~takes--part~~ participates in the control of the business. However, if the limited ~~partner's-participation~~ partner participates in the control of the business ~~is-not-substantially-the-same as-the-exercise-of-the-powers-of-a-general-partner~~, he is liable only to persons who transact business with the limited partnership ~~with~~

~~actual knowledge of his participation in control~~ reasonably believing, based upon the limited partner's conduct, that the limited partner is a general partner.

(b) A limited partner does not participate in the control of the business within the meaning of subsection (a) hereof solely by doing one or more of the following:

(1) Being a contractor for or an agent or employee of the limited partnership or of a general partner or being an officer, director, or shareholder of a general partner that is a corporation;

(2) Consulting with and advising a general partner with respect to the business of the limited partnership;

(3) Acting as surety for the limited partnership or guaranteeing or assuming one (1) or more specific obligations of the limited partnership;

(4) ~~Approving or disapproving an amendment to the partnership agreement~~ Taking any action required or permitted by law to bring or pursue a derivative action in the right of the limited partnership; ~~or~~

(5) ~~Voting on one or more of the following matters:~~ Requesting or attending a meeting of partners;

(6) Proposing, approving, or disapproving, by voting or otherwise, one (1) or more of the following matters:

(i) the dissolution and winding up of the limited partnership;

(ii) the sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited partnership ~~other than in the ordinary course of its business~~;

(iii) the incurrence of indebtedness by the limited partnership other than in the ordinary course of its business;

(iv) a change in the nature of the business; ~~or~~

(v) the admission or removal of a general partner~~.~~;

(vi) the admission or removal of a limited partner;

(vii) a transaction involving an actual or potential conflict of interest between a general partner and the limited partnership or the limited partners;

(viii) an amendment to the partnership agreement or certificate of limited partnership; or

(ix) matters related to the business of the limited partnership not otherwise enumerated in subsection (b) of this section, which the partnership agreement states in writing may be subject to the approval or disapproval of limited partners;

(7) Winding up the limited partnership pursuant to section 53-246, Idaho Code; or

(8) Exercising any right or power permitted to limited partners under this chapter and not specifically enumerated in subsection (b) of this section.

(c) The enumeration in subsection (b) hereof does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him in the business of the limited partnership.

(d) A limited partner who knowingly permits his name to be used

in the name of the limited partnership, except under circumstances permitted by section 53-202(2)(i), Idaho Code, is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

SECTION 11. That Section 53-220, Idaho Code, be, and the same is hereby amended to read as follows:

53-220. PERSON ERRONEOUSLY BELIEVING HIMSELF LIMITED PARTNER. (a) Except as provided in subsection (b) of this section, a person who makes a contribution to a business enterprise and erroneously, but in good faith, believes that he has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, on ascertaining the mistake, he:

(1) Causes an appropriate certificate of limited partnership or a certificate of amendment to be executed and filed; or

(2) Withdraws from future equity participation in the enterprise.

(b) A person who makes a contribution of the kind described in subsection (a) hereof is liable as a general partner to any third party who transacts business with the enterprise (i) before the person withdraws and, if the enterprise is a limited partnership, an appropriate certificate is filed to show withdrawal, or (ii) before an appropriate certificate is filed to show ~~his status as a limited partner--and;--in the case of an amendment, after expiration of the thirty (30) day period for filing an amendment relating to the--person--as--a limited partner under section 53-209, Idaho Code~~ that he is not a general partner, but in either case only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

SECTION 12. That Section 53-222, Idaho Code, be, and the same is hereby amended to read as follows:

53-222. ADMISSION OF ADDITIONAL GENERAL PARTNERS. After the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted ~~only~~ as provided in writing in the partnership agreement or if the partnership agreement does not provide in writing for the admission of additional general partners, with the ~~specific~~ written consent of ~~each~~ all partners.

SECTION 13. That Section 53-223, Idaho Code, be, and the same is hereby amended to read as follows:

53-223. EVENTS OF WITHDRAWAL OF GENERAL PARTNER. Except as approved by the specific written consent of all partners at the time, a person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

(1) The general partner withdraws from the limited partnership as provided in section 53-232, Idaho Code;

(2) The general partner ceases to be a member of the limited partnership as provided in section 53-240, Idaho Code;

(3) The general partner is removed as a general partner in accordance with the partnership agreement;
(4) Unless otherwise provided in writing in the ~~certificate of limited~~ partnership agreement, the general partner: (i) makes an assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) is adjudicated a bankrupt or insolvent; (iv) files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law, or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him in any proceeding of this nature; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties;
(5) Unless otherwise provided in writing in the ~~certificate--of limited~~ partnership agreement, one hundred twenty (120) days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, the proceeding has not been dismissed, or if within ninety (90) days after the appointment without his consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties, the appointment is not vacated or stayed or within ninety (90) days after the expiration of any such stay, the appointment is not vacated;
(6) In the case of a general partner who is a natural person:
(i) his death; or
(ii) the entry by a court of competent jurisdiction adjudicating him incompetent to manage his person or his estate;
(7) In the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);
(8) In the case of a general partner that is a separate partnership, the dissolution and commencement of winding up of the separate partnership;
(9) In the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; or
(10) In the case of an estate, the distribution by the fiduciary of the estate's entire interest in the partnership.

SECTION 14. That Section 53-229, Idaho Code, be, and the same is hereby amended to read as follows:

53-229. SHARING OF PROFITS AND LOSSES. The profits and losses of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in writing in the partnership agreement. If the partnership agreement does not so provide in writing, profits and losses shall be allocated on the basis of the value, ~~(as stated in the certificate of limited partnership)~~ records required to be kept pursuant to section 53-205, Idaho Code, of the

contributions made by each partner to the extent they have been received by the partnership and have not been returned.

SECTION 15. That Section 53-230, Idaho Code, be, and the same is hereby amended to read as follows:

53-230. SHARING OF DISTRIBUTIONS. Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in writing in the partnership agreement. If the partnership agreement does not so provide in writing, distributions shall be made on the basis of the value ~~(~~as stated in the ~~certificate of limited partnership)~~ records required to be kept pursuant to section 53-205, Idaho Code, of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.

SECTION 16. That Section 53-231, Idaho Code, be, and the same is hereby amended to read as follows:

53-231. INTERIM DISTRIBUTIONS. Except as provided in sections 53-231 through 53-238, Idaho Code, a partner is entitled to receive distributions from a limited partnership before his withdrawal from the limited partnership and before the dissolution and winding up thereof~~:~~

~~(1) T~~to the extent and at the times or upon the happening of the events specified in the partnership agreement~~; and~~

~~(2) If any distribution constitutes a return of any part of his contribution under section 53-238(b), Idaho Code, to the extent and at the times or upon the happening of the events specified in the certificate of limited partnership.~~

SECTION 17. That Section 53-233, Idaho Code, be, and the same is hereby amended to read as follows:

53-233. WITHDRAWAL OF LIMITED PARTNER. A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in ~~the certificate of limited partnership and in accordance with~~ writing in the partnership agreement. If the ~~certificate~~ agreement does not specify in writing the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six (6) months' prior written notice to each general partner at his address on the books of the limited partnership at its office in this state.

SECTION 18. That Section 53-235, Idaho Code, be, and the same is hereby amended to read as follows:

53-235. DISTRIBUTION IN KIND. Except as provided in writing in the ~~certificate of limited~~ partnership agreement, a partner, regardless of the nature of his contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in writing in the partnership agreement,

a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to him exceeds a percentage of that asset which is equal to the percentage in which he shares in distributions from the limited partnership.

SECTION 19. That Section 53-238, Idaho Code, be, and the same is hereby amended to read as follows:

53-238. LIABILITY UPON RETURN OF CONTRIBUTION. (a) If a partner has received the return of any part of his contribution without violation of the partnership agreement or this chapter, he is liable to the limited partnership for a period of one (1) year thereafter for the amount of the returned contribution, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the partnership.

(b) If a partner has received the return of any part of his contribution in violation of the partnership agreement or this chapter, he is liable to the limited partnership for a period of six (6) years thereafter for the amount of the contribution wrongfully returned.

(c) A partner receives a return of his contribution to the extent that a distribution to him reduces his share of the fair value of the net assets of the limited partnership below the value ~~(~~as set forth in the ~~certificate-of-limited~~ partnership~~)~~ records required to be kept pursuant to section 53-205, Idaho Code, of his contribution which has not been distributed to him.

SECTION 20. That Section 53-242, Idaho Code, be, and the same is hereby amended to read as follows:

53-242. RIGHTS OF ASSIGNEE TO BECOME LIMITED PARTNER. (a) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that (1) the assignor gives the assignee that right in accordance with authority described in the ~~certificate-of-limited~~ partnership agreement, or (2) all other partners consent.

(b) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this chapter. An assignee who becomes a limited partner also is liable for the obligations of his assignor to make and return contributions as provided in sections 53-23~~1~~27 through 53-238, Idaho Code. However, the assignee is not obligated for liabilities unknown to the assignee at the time he became a limited partner ~~and--which could-not-be-ascertained-from-the-certificate-of-limited-partnership~~.

(c) If an assignee of a partnership interest becomes a limited partner, the assignor is not released from his liability to the limited partnership under sections 53-214 ~~and-53-228~~, Idaho Code.

SECTION 21. That Section 53-244, Idaho Code, be, and the same is hereby amended to read as follows:

53-244. NONJUDICIAL DISSOLUTION. A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

(1) At the time specified in the certificate of limited partnership;

(2) ~~or--u~~Upon the happening of events specified in writing in the ~~certificate-of-limited~~ partnership agreement;

(~~2~~3) Written consent of all partners;

(~~3~~4) An event of withdrawal of a general partner unless at the time there is at least one (1) other general partner and the ~~certificate-of-limited~~ written provisions of the partnership agreement permit~~s~~ the business of the limited partnership to be carried on by the remaining general partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal, if, within ninety (90) days after the withdrawal, all partners agree in writing to continue the business of the limited partnership and to the appointment of one or more additional general partners if necessary or desired; or

(~~4~~5) Entry of a decree of judicial dissolution under section 53-245, Idaho Code.

SECTION 22. That Section 53-249, Idaho Code, be, and the same is hereby amended to read as follows:

53-249. ADMISSION OF FOREIGN LIMITED PARTNERSHIPS. Before transacting business in this state, a foreign limited partnership shall make application to the secretary of state. In order to be admitted, a foreign limited partnership shall submit to the secretary of state, in duplicate, an application for registration as a foreign limited partnership, signed and verified by a general partner and setting forth:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to be authorized to transact business in this state;

(2) The state and date of its formation;

(3) ~~The general character of the business it proposes to transact in this state;~~

~~(4)~~ The name and address of any registered agent for service of process on the foreign limited partnership whom the foreign limited partnership elects to appoint; the agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this state;

(~~5~~4) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership; ~~and~~

(~~6~~5) The name and address of each general partner and of each limited partner whose contribution is equal to or greater than five per cent (5%) of the total contribution of all partners; and

(6) The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited

partnership to keep those records until the foreign limited partnership's registration in this state is cancelled or withdrawn.

The application will be accompanied by a certificate certifying to the lawful existence of the limited partnership, issued by the proper officer of the jurisdiction in which the certificate of limited partnership is filed or recorded.

SECTION 23. That Section 53-259, Idaho Code, be, and the same is hereby amended to read as follows:

53-259. PROPER PLAINTIFF. In a derivative action, the plaintiff must be a partner at the time of bringing the action and (1) must have been a partner at the time of the transaction of which he complains or (2) his status as a partner ~~had~~ must have devolved upon him by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction.

SECTION 24. That Section 53-262, Idaho Code, be, and the same is hereby amended to read as follows:

53-262. FILING FEES. The secretary of state shall charge and collect for:

(a) Filing a certificate of limited partnership, sixty dollars ($60.00);

(b) Filing a certificate of amendment or a restated certificate of limited partnership, twenty dollars ($20.00);

(c) Filing a certificate of cancellation, twenty dollars ($20.00);

(d) Filing a judicial decree of amendment or cancellation, twenty dollars ($20.00);

(e) Filing an application for registration as a foreign limited partnership, sixty dollars ($60.00);

(f) Filing a certificate of change or correction of an application for registration of a foreign limited partnership, twenty dollars ($20.00);

(g) Filing a statement of change of registered agent of a foreign limited partnership or its address, ten dollars ($10.00);

(h) Filing an application for withdrawal of a foreign limited partnership from the state, ten dollars ($10.00);

(i) Filing an application for a name reservation, or transfer thereof, ten dollars ($10.00);

(j) Filing any other statement, ten dollars ($10.00);

(k) Filing any document relating to a limited partnership, when the filing party requires the evidence thereof to be returned within eight (8) working hours, a surcharge of ten dollars ($10.00).

SECTION 25. That Chapter 2, Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-268, Idaho Code, and to read as follows:

53-268. SAVINGS CLAUSE. The repeal of any statutory provision by

this chapter does not impair, or otherwise affect, the organization or the continued existence of a limited partnership existing at the effective date of this chapter, nor does the repeal of any existing statutory provision by this chapter impair any contract or affect any right accrued before the effective date of this chapter.

Approved April 4, 1991.

CHAPTER 248
(S.B. No. 1183)

AN ACT

RELATING TO THE ADMINISTRATIVE PROCEDURES ACT; AMENDING SECTION 67-5215, IDAHO CODE, TO PROVIDE FOR VENUE FOR REVIEW IN THE DISTRICT COURT OF CONTESTED CASES.

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

SECTION 1. That Section 67-5215, Idaho Code, be, and the same is hereby amended to read as follows:

67-5215. JUDICIAL REVIEW OF CONTESTED CASES. (a) A person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case of an agency other than the industrial commission or the public utilities commission is entitled to judicial review under this act. This section does not limit utilization of or the scope of judicial review available under other means of review, redress or relief provided by law. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy.

(b) Except when otherwise provided by law, proceedings for review are instituted by filing a petition in the district court of either the county in which:

(1) the hearing was had, or

(2) the county in which the final decision of the agency was made, or

(3) the county in which the aggrieved person resides, or

(4) the county in which the real or personal property which was the subject of the agency decision is attached,

within thirty (30) days after the service of the final decision of the agency or, if a rehearing is requested within thirty (30) days after the decision thereon.

(c) The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay upon appropriate terms.

(d) Within thirty (30) days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party

unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require subsequent corrections to the record and may also require or permit additions to the record.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decisions by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(f) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

(g) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(1) in violation of constitutional or statutory provisions;

(2) in excess of the statutory authority of the agency;

(3) made upon unlawful procedure;

(4) affected by other error of law;

(5) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Approved April 4, 1991.

CHAPTER 249
(S.B. No. 1191)

AN ACT

RELATING TO THE EFFECT OF A RELEASE OF A TORTFEASOR; AMENDING SECTION 6-805, IDAHO CODE, TO PROVIDE THE EFFECT OF A RELEASE BY AN INJURED PERSON OF ONE OR MORE TORTFEASORS WHO ARE NOT JOINTLY AND SEVERALLY LIABLE TO THE INJURED PERSON.

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

SECTION 1. That Section 6-805, Idaho Code, be, and the same is hereby amended to read as follows:

6-805. EFFECT OF RELEASE OF ONE TORTFEASOR ON LIABILITY OF OTHERS. (1) A release by the injured person of one (1) joint

tortfeasor, whether before or after judgment, does not discharge the other tortfeasors unless the release so provides, but, unless otherwise provided in subsection (2) of this section, reduces the claim against the other tortfeasors in the amount of the consideration paid for the release, or in any amount or proportion by which the release provides that the total claim shall be reduced, if such amount or proportion is greater than the consideration paid.

(2) A release by the injured person of one (1) or more tortfeasors who are not jointly and severally liable to the injured person, whether before or after judgment, does not discharge another tortfeasor or reduce the claim against another tortfeasor unless the release so provides and the negligence or comparative responsibility of the tortfeasor receiving the release is presented to and considered by the finder of fact, whether or not the finder of fact apportions responsibility to the tortfeasor receiving the release.

Approved April 4, 1991.

CHAPTER 250
(S.B. No. 1194, As Amended)

AN ACT

RELATING TO RELEASE FROM PUBLIC SCHOOLS FOR RELIGIOUS INSTRUCTION; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-519, IDAHO CODE, TO ALLOW A STUDENT ATTENDING THE PUBLIC SCHOOLS TO BE EXCUSED FROM SCHOOL FOR PERIODS NOT EXCEEDING FIVE PERIODS PER WEEK AND NOT EXCEEDING ONE HUNDRED SIXTY-FIVE HOURS PER STUDENT DURING ANY ONE SCHOOL YEAR FOR RELIGIOUS OR OTHER PURPOSES, TO PROVIDE FOR EFFECT OF RELEASE TIME, TO PROVIDE APPLICATION TO PUBLIC SCHOOL FACILITIES AND TO PROHIBIT THE MAINTENANCE OF ATTENDANCE RECORDS FOR THE BENEFIT OF RELEASE TIME CLASSES FOR RELIGIOUS INSTRUCTION AND TO PROVIDE FOR NO AWARD OF CREDIT FOR RELIGIOUS PURPOSES, AND TO ALLOW BOARD DISCRETION FOR GRANTING OF CREDIT FOR OTHER PURPOSES.

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 33-519, Idaho Code, and to read as follows:

33-519. RELEASE FOR RELIGIOUS INSTRUCTION. Upon application of his parent or guardian, or, if the student has attained the age of eighteen (18) years, upon application of the student, a student attending a public school in grades nine (9) through twelve (12) may be excused from school for a period not exceeding five (5) periods in any week and not exceeding one hundred sixty-five (165) hours per student during any one (1) school year for religious or other purposes. Release time pursuant to this section shall be scheduled by the board of trustees upon application as provided herein and the board shall

have reasonable discretion over the scheduling and timing of the release time. Release time pursuant to this section shall not reduce the minimum graduation requirements for accredited Idaho high schools. The provisions of this section shall not be deemed to authorize the use of any public school facility for religious instruction. The board of trustees of a school district may not authorize the use of, and public school facilities, personnel or equipment may not be utilized, to maintain attendance records for the benefit of release time classes for religious instruction. No credit shall be awarded by the school or school district for completion of courses during release time for religious purposes. At the discretion of the board credit may be granted for other purposes.

Approved April 4, 1991.

CHAPTER 251
(S.B. No. 1212)

AN ACT

RELATING TO IMMUNIZATION; AMENDING SECTION 39-4801, IDAHO CODE, TO REQUIRE PROOF OF IMMUNIZATION UPON ADMISSION TO SCHOOL AND TO DELETE OBSOLETE LANGUAGE.

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

SECTION 1. That Section 39-4801, Idaho Code, be, and the same is hereby amended to read as follows:

39-4801. IMMUNIZATION REQUIRED. Except as provided in section 39-4802, Idaho Code, any child in Idaho of school age may attend grades kindergarten through five of any public, private or parochial elementary school operating in this state if otherwise eligible, provided that ~~within--sixty-(60)-days-of-the-first~~ upon admission, the parent or guardian shall provide a statement to the school authorities regarding the child's immunity to certain childhood diseases. This statement shall provide a certificate signed by a physician or his representative, that such 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.

~~The-parent-or-guardian-of-any-child-who-is-attending--kindergarten through--the-third-grade-shall-comply-with-this-chapter-beginning-with the-1979-regular-fall-school-term.-The-parent-or-guardian-of-any-child who-is-attending-kindergarten-through-the--fifth--grade--shall--comply with-this-chapter-beginning-with-the-1980-regular-fall-school-term-and thereafter.~~

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, in cooperation with

the state board of education and the Idaho school boards association, shall promulgate appropriate rules and regulations for the enforcement of the required immunization program and specify reporting requirements of schools, pursuant to the provisions of chapter 52, title 67, Idaho Code.

Approved April 4, 1991.

CHAPTER 252
(S.B. No. 1221, As Amended in the House)

AN ACT

RELATING TO THE INSURANCE GUARANTY ASSOCIATION ACT; PROVIDING A STATEMENT OF LEGISLATIVE PURPOSE; AND AMENDING SECTION 41-3603, IDAHO CODE, TO CLARIFY APPLICATION TO THE STATE INSURANCE FUND AND THE IDAHO PETROLEUM CLEAN WATER TRUST FUND.

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

SECTION 1. The legislature finds that the state insurance fund, created pursuant to chapter 9, title 72, Idaho Code, was not intended to be and has not been subject to the Idaho insurance guaranty association act. The legislature also finds that the Idaho petroleum clean water trust fund, created pursuant to chapter 49, title 41, Idaho Code, the trustee of which is the manager of the state insurance fund, was not intended to be and has not been subject to the Idaho insurance guaranty association act and by this act, desires to confirm those legislative purposes.

SECTION 2. That Section 41-3603, Idaho Code, be, and the same is hereby amended to read as follows:

41-3603. APPLICATION OF ACT. This act shall apply to all kinds of direct insurance, except life, title, surety, disability, credit, mortgage guaranty, and ocean marine insurance. <u>This act shall not apply to the state insurance fund, created pursuant to chapter 9, title 72, Idaho Code, or to the Idaho petroleum clean water trust fund, created pursuant to chapter 49, title 41, Idaho Code.</u>

Approved April 4, 1991.

CHAPTER 253
(S.B. No. 1228)

AN ACT

RELATING TO EARLY INTERVENTION SERVICES FOR TODDLERS AND INFANTS; AMENDING TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 1, TITLE 16, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS, TO PROVIDE POLICY, TO PROVIDE DEFINITIONS, TO PROVIDE FOR AN EARLY INTERVEN-

TION SYSTEM, TO PROVIDE FOR AN INTERAGENCY COORDINATING COUNCIL, TO PROVIDE FOR DUTIES OF THE COORDINATING COUNCIL, TO PROVIDE FOR RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE FOR REGIONAL COMMITTEES, TO PROVIDE FOR INDIVIDUALIZED FAMILY SERVICE PLANS, TO PROVIDE PROCEDURAL SAFEGUARDS, TO PROVIDE FOR USES OF FUNDS, TO PROHIBIT CERTAIN USE OF FUNDS, AND TO REQUIRE THE MAINTENANCE OF EXISTING PROGRAM LEVELS.

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

SECTION 1. That Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 1, Title 16, Idaho Code, and to read as follows:

CHAPTER 1
EARLY INTERVENTION SERVICES

16-101. LEGISLATIVE FINDINGS. The legislature finds that there is an urgent and substantial need:

(1) To enhance the development of all infants and toddlers with disabilities in the state of Idaho in order to minimize developmental delay, and to maximize individual potential for adult independence;

(2) To enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities;

(3) To reduce the educational costs by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

(4) To reduce social services costs and to minimize the likelihood of institutionalization of individuals with disabilities;

(5) To reduce the health costs of preventable secondary impairments and disabilities by screening and monitoring children at risk and improving the long term health of infants and toddlers with disabilities; and

(6) To comply with federal law as it pertains to services for infants and toddlers with disabilities and their families.

16-102. POLICY. The legislature intends that the policy of the state of Idaho shall be:

(1) To reaffirm the importance of the family in all areas of the child's development and to reinforce the role of the family in the decision making processes regarding their child;

(2) To provide assistance and support to the family of an infant or toddler with a disability that addresses the individual needs of the family;

(3) To develop and implement with available resources a statewide screening and tracking system for infants and toddlers at risk;

(4) To develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for all infants and toddlers with disabilities and their families;

(5) To enhance the capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities;

(6) To facilitate the coordination of payment for early intervention services from federal, state, local, and private sources including public and private insurance coverage; and

(7) To guarantee financial assistance for the purposes of coordinating early intervention services in communities and to enhance their capacity to provide individualized services to infants and toddlers with disabilities and their families.

16-103. DEFINITIONS. In this chapter:

(1) "Allocation" means state and federal funds designated for coordination of program functions in the seven (7) regions.

(2) "Applications" mean the documents submitted by the regional infant toddler committees to the infant toddler council, detailing the budget request for the regional committee activities and comprehensive component plans for the planning and coordination of programs authorized in this chapter.

(3) "Awards and contracts" mean the state and federal funds designated by the lead agency for projects relating to planning, resource development, or provision of direct service.

(4) "Council" means the state interagency coordinating council established in section 16-105, Idaho Code.

(5) "Early intervention services" mean those services which are provided under public supervision by qualified personnel, in conformity with the individual family service plan (IFSP), and are designed to meet the developmental needs of eligible children as defined in this chapter. These services are selected and provided in collaboration with the families; and, to the extent appropriate, are provided in types of settings in which infants and toddlers without disabilities would participate. These services, necessary to enable the child to benefit from the other early intervention services, include:

(a) audiology;
(b) case management services, including transitions;
(c) family training, counseling or home-based services;
(d) health services including dental;
(e) medical services for diagnostic or evaluation purposes only;
(f) nursing services;
(g) nutrition services;
(h) occupational therapy;
(i) physical therapy;
(j) psychological services;
(k) respite care;
(l) social work services;
(m) special instruction/developmental therapy;
(n) speech and language pathology services; and
(o) transportation including the cost of travel (e.g., mileage, or travel by taxi, common carrier, or other means) and related costs (parking expense) that are necessary to enable an eligible child and the child's family to receive early intervention services.

(6) "Early intervention system" means the management structure established in this chapter, comprised of the interdependent continuum of services and activities for the provision of a statewide, compre-

hensive, coordinated, multidisciplinary, interagency program for young children who have a disability or are at risk.

(7) "Health and safety standards" mean those standards which address the facilities where early intervention services are offered, excluding the child's home. Such standards may include but are not limited to the dimensions or size of a facility, communicable disease, social environment, nutrition, immunization, and fire codes.

(8) "Include" means that all items named are not all of the possible items that are covered whether like or unlike the ones named.

(9) "Individualized family service plan (IFSP)" means a written plan designed to address the strengths and needs of an infant or toddler with disabilities and the family that meets the requirements of section 16-109, Idaho Code.

(10) "Infants and toddlers at risk" mean children who are in need of screening and tracking services to monitor their development because they have:

(a) Medical or biological risk factors, which refer to prenatal, perinatal, and neonatal events which increase the probability of delayed development or result in disability (e.g., low birth weight, prematurity, abnormal neurological findings); or

(b) Environmental risk factors, which refer to high-risk environmental influences that may affect development or result in disability (e.g., adolescent parent, poverty, psychiatric stress or known history of child abuse or neglect).

(11) "Infants and toddlers with disabilities" mean children age birth to thirty-six (36) months who need early intervention services because:

(a) They are experiencing developmental delays, as measured by diagnostic instruments and procedures (referenced in administrative rules) in one (1) or more of the following areas:

(i) physical development;

(ii) cognitive development;

(iii) communication, language, speech and hearing development;

(iv) psychosocial development;

(v) self-help skills;

(vi) sensory skills; or

(b) They are at risk of experiencing developmental delay due to established risk factors, which refer to diagnosed disorders where the condition is known to ultimately affect development or result in disability (e.g., the congenital anomalies associated wih Down syndrome or hydrocephaly).

(12) "Lead agency" means the department of health and welfare.

(13) "Multidisciplinary team" means a group comprised of the parent(s) or legal guardian and the professionals described in this chapter, as appropriate, who are assembled for the purposes of assessing the developmental needs of an infant or toddler, developing the IFSP, and providing the infant or toddler and the family with the early intervention services as detailed in the IFSP design to meet the individual family needs.

(14) "Program standards" mean those standards which address the coordination and provision of early intervention services. Such standards may include, but are not limited to, service year, length of program, personnel qualifications, staff/child ratio, caseload, maxi-

mum class size, and length of day.

(15) "Qualified" means that a person has met the highest standards of state approved or recognized certification, licensing, registration or other comparable requirements that apply to the area in which the person is providing early intervention services.

(16) "Region" means one of the seven (7) administrative regions of the lead agency.

(17) "Regional committee" means an interagency coordinating committee established within each of the seven (7) administrative regions of the lead agency to facilitate interagency coordination at the regional level and provide applications for regional committee activities, planning and direction for regional program activities.

(18) "Screening and tracking services" mean the identification of infants and toddlers delayed or at risk of delay using standardized procedures, and the entry of demographic information into an automated system for periodically monitoring the child's services or need for services.

(19) "Service providers" mean those individuals or programs that deliver services to eligible infants and toddlers and their families in compliance with the applicable standards of state and local licensing and operational rules and regulations.

16-104. EARLY INTERVENTION SYSTEM. The early intervention system shall consist of the lead agency, council, the regional committees, program personnel, a statewide parent education and resource system, eligible children, families, advocates, and public and private providers of early intervention services. The lead agency shall identify statewide and regional early intervention staff to be responsible for planning, developing, coordinating, monitoring and evaluating the requirements of this chapter.

16-105. INTERAGENCY COORDINATING COUNCIL. (1) The governor shall appoint the members and the chair of the interagency coordinating council. For budgetary purposes, the council shall be assigned to the lead agency. The term of appointment for a member of the council shall be three (3) years, and members may be reappointed. In making appointments to the council, the governor shall ensure that the membership geographically represents the population of the state.

(2) The council membership shall consist of:

(a) At least three (3) parents of young children with disabilities;

(b) At least three (3) public or private providers of early intervention services;

(c) At least one (1) member of the state legislature;

(d) At least one (1) person involved in personnel preparation;

(e) The superintendent of public instruction, or designee;

(f) A representative of the executive council of the lead agency;

(g) A physician skilled in early intervention;

(h) A representative of the council on developmental disabilities.

16-106. DUTIES OF COORDINATING COUNCIL. (1) The council shall have the following authority, duties and responsibilities, and such other functions as may be assigned by executive order:

(a) To assist the lead agency and all other appropriate agencies

in ensuring the joint development and maintenance of a statewide system of coordinated, comprehensive, multidisciplinary, interagency programs providing early intervention services to all infants and toddlers with disabilities and their families. Such system shall include the following minimum components:

(i) a definition of child and family eligibility under this program;

(ii) a central directory, accessible to the general public;

(iii) a public awareness program;

(iv) a child find program consistent with the individuals with disabilities education act which identifies infants and toddlers with disabilities and other risk factors;

(v) a comprehensive, multidisciplinary evaluation for each referred child;

(vi) a program of personnel development;

(vii) standards and certification necessary to assure qualified personnel;

(viii) family education and participation throughout the early intervention system;

(ix) a statewide data collection system for monitoring and evaluating the early intervention system. The system shall meet federal requirements;

(x) an individualized family services plan for each eligible child and family who chooses to participate in the program;

(xi) procedural safeguards that meet the requirements in section 16-110, Idaho Code.

(b) To assist the lead agency and all other appropriate agencies to ensure:

(i) adoption of uniform or compatible administrative rules dealing with early intervention services;

(ii) reasonable transition between and among the participating agencies;

(iii) available funds under the provisions of this chapter are shared by the participating agencies in a manner that enables the optimum provision of necessary services for the child and the family;

(iv) uniformity of program and health and safety standards; and

(v) program policies dealing with infants and toddlers with disabilities and their families reflect the policy priorities of the council.

(c) To participate with the lead agency in the implementation of time lines for a statewide, comprehensive, coordinated, interagency system of early intervention services;

(d) To prepare and submit periodic reports no less than annually to the governor, legislature and the lead agency on the status of early intervention programs for infants and toddlers with disabilities and their families with recommendations for timely corrective action as needed;

(e) To develop a public awareness program focusing on early identification of infants and toddlers with disabilities;

(f) To participate with the lead agency and other appropriate agencies in the development, maintenance, evaluation, and revision

of program, health and safety standards;

(g) To conduct public hearings and community needs assessments for the purpose of developing the state plan and applications for funding.

(2) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest.

16-107. RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH AND WELFARE. The department of health and welfare, as the lead agency for administration of the provisions of this chapter, shall have primary responsibility for:

(a) The administration of all funds appropriated to implement the provisions of this chapter;

(b) The identification and coordination of all available financial resources within the state from federal, state, local and private sources;

(c) The entry into formal intra-agency and interagency agreements with other agencies involved in early intervention services. The agreement(s) must include programmatic and financial responsibility, procedures for resolving disputes and additional components necessary to ensure effective cooperation and coordination among all agencies involved in the state's early intervention system. Agreements are to include statements addressing nonsubstitution or commingling of funds, interim payments and reimbursements, nonreduction of benefits and confidentiality. Agreements are to be signed by the administrators of:

(i) title V, social security act (relating to maternal and child health);

(ii) title XIX, social security act (relating to medicaid and EPSDT);

(iii) the head start act;

(iv) parts B and H of the individuals with disabilities education act;

(v) subpart 2, part B, chapter I of title I of elementary and secondary education act, 1964, as amended;

(vi) the developmentally disabled assistance and bill of rights act (PL100-146);

(vii) other federal programs.

(d) The entry into contracts with service provider agencies within a local community which have been identified by the regional committee;

(e) The development of procedures to monitor services that are provided to infants and toddlers with disabilities and their families;

(f) The development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families in a timely manner pending resolution of any disputes among public agencies or service providers;

(g) The writing of all policy and procedures and administrative rules in conjunction with the council which are necessary for implementation of the provisions of this chapter;

(h) Providing staff and services as may be necessary to carry out the functions of the interagency coordinating council.

16-108. REGIONAL COMMITTEES. (1) The regional director of each of the seven (7) administrative regions of the lead agency shall appoint a local interagency coordinating committee to assist the regional lead agency and all other appropriate agencies in the planning and coordinating of services for infants and toddlers with disabilities and their families who reside within the region served by the regional committee. With recommendations from the regional committee, the regional director shall appoint staff to support regional committee activities and early intervention services. Staff persons will report to the regional director.

(2) Membership on the committee shall consist of parents, agency personnel with the authority to effectively represent their agencies and other public officials and private providers.

(3) The regional interagency coordinating committee shall have the following responsibility:

(a) To advise and assist the council on regional issues or concerns; and

(b) To assist the lead agency and other appropriate agencies in the implementation of the early intervention system locally as stipulated in rules and regulations.

16-109. INDIVIDUALIZED FAMILY SERVICE PLAN. (1) Infants and toddlers receiving early intervention services and their families shall receive the following:

(a) A comprehensive multidisciplinary evaluation of the strengths and needs of the infant or toddler and the family, and the identification of services to meet such needs;

(b) An explanation of the multidisciplinary evaluation and all service options in the family's native language or through an interpreter, if necessary; and

(c) A written individualized family service plan developed by a multidisciplinary team with the parents as fully participating members of the team.

(2) The individualized family service plan shall be developed within a reasonable time following the completed evaluation required in subsection (1) of this section. With the parent's consent, development of an interim individualized family service plan and compliance with evaluation timelines, early intervention services may commence prior to the completion of such assessment.

(3) The individualized family service plan shall be in writing and a copy of the plan shall be made available to the family, and in the family's native language when appropriate and necessary to ensure understanding, and shall contain the following:

(a) A statement of the infant's or toddler's present levels of physical development, cognitive development, communication, language and speech development, psychosocial development, sensory impairment and self-help skills based on objective criteria;

(b) A statement of the family's strengths and needs related to enhancing the development of the infant or toddler with disabilities, developed with concurrence of the family;

(c) A statement of the goals and objectives expected to be achieved for the infant or toddler and the family, including the criteria, procedures, and time lines used to determine the degree

to which progress toward achieving the outcomes is being made, and whether modifications or revisions of the outcomes or services are necessary;

(d) A statement of specific early intervention services necessary to meet the individual needs of the infant or toddler with disabilities and the family; such statement should include the frequency, intensity and the method of delivering these services;

(e) A statement of the health status, and medical needs of the infant or toddler and family to support the development of the child, and the names of the health care providers;

(f) The projected dates for initiation of services and the anticipated duration of such services;

(g) The name of the case manager who will be responsible for the implementation of the plan and coordination with other agencies and persons; and

(h) The steps to be taken in supporting the transition of the infant or toddler to other services.

(4) The individualized family service plan shall serve as the singular comprehensive service plan for all agencies involved in providing early intervention services to the infant or toddler and the family.

(5) The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at six (6) months intervals or more frequently where appropriate based on the needs of the infant or toddler and the family.

16-110. PROCEDURAL SAFEGUARDS. The procedural safeguards to be included in the statewide system shall provide, at a minimum, the following:

(1) The timely administrative resolution of complaints by parents;

(2) The right to confidentiality of personally identifiable information;

(3) The opportunity for parents or guardian to examine and receive a copy of records relating to assessment, screening eligibility determinations, and the development and implementation of the IFSP;

(4) Procedures to protect the rights of the infant or toddler with disabilities whenever the parents or guardian of the child are not known or are unavailable or the child is a ward of the state, including the assignment of an individual (who shall not be an employee of any state agency involved in the provision of early intervention or other services to the child) to act as surrogate for the parents or guardian;

(5) Written notice to the parents or guardian of the infant or toddler whenever the state agency or service provider proposes, or refuses, to initiate or change the identification, evaluation, placement, or the provision of early intervention services to the infant or toddler;

(6) Written consent of the parents or guardian of the infant or toddler whenever the state agency or service provider proposes to initiate or change the identification, evaluation, placement or the provision of early intervention services to the infant or toddler;

(7) Procedures designed to assure that the notice required in subsection (5) of this section fully informs the parents or guardian, in the parents' or guardian's native language or by an interpreter of all procedures available pursuant to this section; and

(8) Procedures for impartial complaint resolution.

16-111. USES OF FUNDS. The use of federal P.L. 99-457, part H funds as well as state funds shall be allocated by the director through collaborative regional programs to implement the statewide system required under such law, in the following priority:

(1) For early intervention services to infants and toddlers with disabilities that are not otherwise provided from other public or private funds;

(2) To expand and improve on the services for infant and toddlers with disabilities that are otherwise available; and

(3) For screening and tracking of infants and toddlers at risk of developmental delay.

16-112. PROHIBITED USE OF FUNDS. The use of early intervention funds provided under this chapter to supplant funds from other sources is not permitted. All local and state programs for infants and toddlers with disabilities shall maintain the funding which supported infant and toddler programs at levels as of July 1, 1990.

16-113. MAINTENANCE OF EXISTING PROGRAM LEVELS. Nothing in this chapter shall be construed to permit:

(1) The reduction of local, state, or federal medical or other assistance available;

(2) The alteration of eligibility under title V of the social security act (relating to maternal and child health);

(3) The alteration of eligibility under title XIX of the social security act (relating to medicaid for infant and toddlers with disabilities);

(4) The reduction of early intervention services provided by the state department of education, the department of health and welfare, or the school for the deaf and the blind.

Approved April 4, 1991.

CHAPTER 254
(S.B. No. 1232)

AN ACT

APPROPRIATING MONEYS FOR THE PERSONNEL COMMISSION FOR FISCAL YEAR 1992; 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 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, 1991, through June 30, 1992:

FOR:	
Personnel Costs	$1,401,800
Operating Expenditures	384,000
Capital Outlay	60,500
TOTAL	$1,846,300
FROM:	
Personnel Commission Account	$1,836,300
Interagency Billing and Receipts Account	10,000
TOTAL	$1,846,300

SECTION 2. There is hereby reappropriated to the Department of Administration for the Personnel Commission any unexpended and unencumbered balances of the moneys appropriated by Section 1, Chapter 195, Laws of 1990, to be used for nonrecurring expenditures only, for the period July 1, 1991, through June 30, 1992.

Approved April 4, 1991.

CHAPTER 255
(S.B. No. 1233)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 1992; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 194, LAWS OF 1990; 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 Administration not exceed the following amount for the period July 1, 1991, through June 30, 1992:

FOR:	
Personnel Costs	$ 6,029,000
Operating Expenditures	6,380,100
Capital Outlay	418,100
Trustee & Benefit Payments	7,095,000
TOTAL	$19,922,200
FROM:	
General Account	$ 2,609,100
Interagency Billing and Receipts Account	10,485,100
Permanent Building Account	5,746,900
Federal Surplus Property Revolving Account	396,800
Risk Retention Account	373,300
Employee Group Insurance Account	311,000
TOTAL	$19,922,200

SECTION 2. There is hereby appropriated to the Department of Administration 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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Account	$ 110,800	$ 72,000			$ 182,800
Interagency Billing and Receipts Account	506,100	290,700		$ 50,000	846,800
TOTAL	$ 616,900	$ 362,700		$ 50,000	$ 1,029,600
II. GENERAL SERVICES:					
FROM:					
General Account	$ 398,000	$ 66,900			$ 464,900
Interagency Billing and Receipts Account	1,111,400	571,900	220,700		1,904,000
TOTAL	$1,509,400	$ 638,800	$220,700		$ 2,368,900
III. PUBLIC WORKS:					
FROM:					
General Account				$1,475,700	$ 1,475,700
Interagency Billing and Receipts Account	$ 927,600	$2,787,400		1,019,300	4,734,300
Permanent Building Account	832,900	364,000		4,550,000	5,746,900
TOTAL	$1,760,500	$3,151,400		$7,045,000	$11,956,900
IV. PURCHASING:					
FROM:					
General Account	$ 325,200	$ 145,100	$ 15,400		$ 485,700
Interagency Billing and Receipts Account	1,146,000	1,672,000	182,000		3,000,000
Federal Surplus Property Revolving Account	246,600	150,200			396,800
TOTAL	$1,717,800	$1,967,300	$197,400		$ 3,882,500
V. INSURANCE MANAGEMENT:					
FROM:					
Employee Group Insurance Account	$ 180,000	$ 131,000			$ 311,000
Risk Retention Account	244,400	128,900			373,300
TOTAL	$ 424,400	$ 259,900			$ 684,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
GRAND TOTAL	$6,029,000	$6,380,100	$418,100	$7,095,000	$19,922,200

SECTION 3. There is hereby reappropriated to the Department of Administration any unexpended and unencumbered balances of the moneys appropriated by Section 2, Chapter 194, Laws of 1990, to be used for nonrecurring expenditures only, for the period July 1, 1991, through June 30, 1992.

SECTION 4. In addition to the appropriation made by Section 2, Chapter 194, Laws of 1990, there is hereby appropriated to the Department of Administration the following amount to be expended for the Bureau of Printing Services according to the designated expense class from the listed account for the period July 1, 1990, through June 30, 1991:

FOR:	
Personnel Costs	$12,400
FROM:	
Interagency Billing and Receipts Account	$12,400

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 passage and approval.

Approved April 4, 1991.

CHAPTER 256
(S.B. No. 1234)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE OFFICE OF THE GOVERNOR FOR DEPOSIT IN THE GOVERNOR'S EMERGENCY FUND.

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

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

FOR:	
Trustee and Benefit Payments	$5,000
FROM:	
General Account	$5,000

Approved April 4, 1991.

CHAPTER 257
(S.B. No. 1235)

AN ACT

SUMMARIZING THE FISCAL YEAR 1992 APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 1992; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 389, LAWS OF 1990; SUPERSEDING THE PROVISIONS OF SECTION 39-3606, IDAHO CODE; PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM VARIOUS ACCOUNTS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AUTHORIZED OR MANDATED SERVICES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE DISTRIBUTION OF FUNDS TO CURRENT SERVICE PROVIDERS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AND DECLARING AN EMERGENCY FOR SECTION 3 OF THIS ACT.

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

SECTION 1. In summary, the appropriation to the Department of Health and Welfare, as contained in Section 2 of this act, includes various amounts from the listed accounts within the designated fund categories for the period July 1, 1991, through June 30, 1992:

FROM:	
General Fund:	$143,822,600
General Account	
Dedicated Funds:	27,050,500
Domestic Violence Account	
Cancer Control Account	
Emergency Medical Services Account I	
Emergency Medical Services Account II	
Medical Assistance Account	
Liquor Account	
Water Pollution Control Account	
Central Tumor Registry Account	
Alcoholism Treatment Account	
Hazardous Waste Monitoring Account	
State Agricultural Smoke Management Account	
State Youth Training Center Income Account	
State Hospital South Income Account	
State Hospital North Income Account	
Idaho Veterans Home Income Account	
County Medical Indigency Suspense Account	
Federal Funds:	270,816,700
Cooperative Welfare Account	
Other Funds:	24,158,800
Cooperative Welfare Account	
TOTAL	$465,848,600

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 various accounts within the fund categories listed for the period July 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. INDIRECT SUPPORT SERVICES:						
FROM:						
General Fund	$ 4,499,400	$ 2,972,100	$ 79,600			$ 7,551,100
Dedicated Funds		54,000				54,000
Federal Funds	3,948,500	2,757,000	39,800			6,745,300
Other Funds		20,200	4,600			24,800
TOTAL	$ 8,447,900	$ 5,803,300	$ 124,000			$ 14,375,200
II. DIVISION OF HEALTH SERVICES:						
A. PHYSICAL HEALTH SERVICES:						
FROM:						
General Fund	$ 693,000	$ 1,436,900	$ 1,700	$ 1,086,700		$ 3,218,300
Dedicated Funds	19,400	355,600		110,000		485,000
Federal Funds	1,529,800	1,443,800	14,000	17,061,900		20,049,500
Other Funds	457,700	361,000	50,500	104,100		973,300
TOTAL	$ 2,699,900	$ 3,597,300	$ 66,200	$ 18,362,700		$ 24,726,100
B. EMERGENCY MEDICAL SERVICES:						
FROM:						
Dedicated Funds	$ 631,900	$ 463,200	$ 52,500	$ 335,600		$ 1,483,200
Federal Funds	61,100	201,000				262,100
Other Funds		101,000		23,000		124,000
TOTAL	$ 693,000	$ 765,200	$ 52,500	$ 358,600		$ 1,869,300
C. LABORATORY SERVICES:						
FROM:						
General Fund	$ 1,056,000	$ 326,900	$ 103,300	$ 175,500		$ 1,661,700
Dedicated Funds	161,800	55,900	39,800			257,500
Federal Funds	313,400	172,800		15,000		501,200
Other Funds	498,400	192,300	5,000	26,200		721,900
TOTAL	$ 2,029,600	$ 747,900	$ 148,100	$ 216,700		$ 3,142,300
DIVISION TOTAL	$ 5,422,500	$ 5,110,400	$ 266,800	$ 18,938,000		$ 29,737,700
III. DIVISION OF WELFARE:						
A. ELIGIBILITY SERVICES:						
FROM:						
General Fund	$ 6,955,100	$ 2,779,700	$ 101,000			$ 9,835,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
Dedicated Funds		28,900				28,900
Federal Funds	7,074,900	2,510,900	93,100			9,678,900
Other Funds	57,600	14,700				72,300
TOTAL	$14,087,600	$ 5,334,200	$ 194,100			$ 19,615,900
B. MEDICAL ASSISTANCE PAYMENTS:						
FROM:						
General Fund	$ 1,767,300	$ 1,151,400	$ 10,700	$ 52,254,900		$ 55,184,300
Dedicated Funds	79,200	43,600		2,932,300		3,055,100
Federal Funds	3,059,200	2,868,200	20,200	146,002,100		151,949,700
Other Funds	71,000	122,800		3,175,600		3,369,400
TOTAL	$ 4,976,700	$ 4,186,000	$ 30,900	$204,364,900		$213,558,500
C. ADULT AND ADC ASSISTANCE PAYMENTS:						
FROM:						
General Fund				$ 9,076,200	$ 1,400,000	$ 10,476,200
Federal Funds				15,914,200	582,800	16,497,000
Other Funds				7,650,200		7,650,200
TOTAL				$ 32,640,600	$ 1,982,800	$ 34,623,400
D. WORK PROGRAMS:						
FROM:						
General Fund	$ 585,100	$ 439,800		$ 879,600		$ 1,904,500
Federal Funds	1,037,400	176,500		1,938,000		3,151,900
TOTAL	$ 1,622,500	$ 616,300		$ 2,817,600		$ 5,056,400
E. CHILD SUPPORT ENFORCEMENT:						
FROM:						
General Fund	$ 424,100	$ 269,700				$ 693,800
Federal Funds	3,281,500	1,902,300	$ 91,000			5,274,800
Other Funds	199,200	15,800	9,700			224,700
TOTAL	$ 3,904,800	$ 2,187,800	$ 100,700			$ 6,193,300
DIVISION TOTAL	$24,591,600	$12,324,300	$ 325,700	$239,823,100	$ 1,982,800	$279,047,500
IV. DIVISION OF FAMILY AND CHILDREN'S SERVICES:						
A. SOCIAL SERVICES:						
FROM:						
General Fund	$ 5,289,100	$ 1,307,200	$ 101,200	$ 1,320,200		$ 8,017,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
Federal Funds	7,528,000	2,589,100	402,100	693,700		11,212,900
Other Funds	146,300	44,100		754,900		945,300
TOTAL	$12,963,400	$ 3,940,400	$ 503,300	$ 2,768,800		$ 20,175,900
B. SUBSTANCE ABUSE:						
FROM:						
General Fund	$ 27,000	$ 24,000		$ 935,400		$ 986,400
Dedicated Funds	144,700	65,900	$ 11,000	1,496,200		1,717,800
Federal Funds	242,000	892,500	300	1,766,200		2,901,000
Other Funds				9,000		9,000
TOTAL	$ 413,700	$ 982,400	$ 11,300	$ 4,206,800		$ 5,614,200
C. STATE YOUTH SERVICES CENTER:						
FROM:						
General Fund					$ 4,352,700	$ 4,352,700
Dedicated Funds					706,000	706,000
Federal Funds					416,400	416,400
Other Funds					416,000	416,000
TOTAL					$ 5,891,100	$ 5,891,100
D. JUVENILE JUSTICE:						
FROM:						
General Fund	$ 1,147,600	$ 1,578,100		$ 2,494,200		$ 5,219,900
Federal Funds	18,600	41,200		2,416,100		2,475,900
Other Funds		85,400				85,400
TOTAL	$ 1,166,200	$ 1,704,700		$ 4,910,300		$ 7,781,200
DIVISION TOTAL	$14,543,300	$ 6,627,500	$ 514,600	$ 11,885,900	$ 5,891,100	$ 39,462,400
V. DIVISION OF ENVIRONMENT:						
A. AIR QUALITY:						
FROM:						
General Fund	$ 553,700	$ 160,500	$ 20,700			$ 734,900
Dedicated Funds		8,600	8,600			17,200
Federal Funds	534,700	227,100	1,000			762,800
Other Funds		3,000	900			3,900
TOTAL	$ 1,088,400	$ 399,200	$ 31,200			$ 1,518,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
B. WATER QUALITY:						
FROM:						
Dedicated Funds	$ 1,906,100	$ 1,226,800	$ 250,000	$ 11,035,600		$ 14,418,500
Federal Funds	2,899,700	1,665,800		90,400		4,655,900
Other Funds		18,900	7,400			26,300
TOTAL	$ 4,805,800	$ 2,911,500	$ 257,400	$ 11,126,000		$ 19,100,700
C. HAZARDOUS MATERIALS:						
FROM:						
Dedicated Funds	$ 1,047,200	$ 363,100	$ 56,500			$ 1,466,800
Federal Funds	582,200	1,450,700	16,000	$ 75,000		2,123,900
Other Funds		1,500				1,500
TOTAL	$ 1,629,400	$ 1,815,300	$ 72,500	$ 75,000		$ 3,592,200
D. IDAHO NATIONAL ENGINEERING LABORATORY OVERSIGHT:						
FROM:						
General Fund	$ 110,200	$ 56,800				$ 167,000
Dedicated Funds	183,600	17,600	$ 18,000			219,200
Federal Funds	943,600	363,700	35,000			1,342,300
TOTAL	$ 1,237,400	$ 438,100	$ 53,000			$ 1,728,500
DIVISION TOTAL	$ 8,761,000	$ 5,564,100	$ 414,100	$ 11,201,000		$ 25,940,200
VI. VETERANS SERVICES:						
FROM:						
General Fund					$ 886,100	$ 886,100
Dedicated Funds					415,800	415,800
Federal Funds					1,144,100	1,144,100
Other Funds					2,291,000	2,291,000
TOTAL					$ 4,737,000	$ 4,737,000
VII. DIVISION OF COMMUNITY REHABILITATION:						
A. COMMUNITY DEVELOPMENTAL DISABILITIES:						
FROM:						
General Fund	$ 4,846,800	$ 1,353,000	$ 167,200	$ 1,439,900	$ 300,000	$ 8,106,900
Federal Funds	293,800	168,000		1,577,300	700,000	2,739,100
Other Funds	1,469,700	24,900		31,400	150,000	1,676,000
TOTAL	$ 6,610,300	$ 1,545,900	$ 167,200	$ 3,048,600	$ 1,150,000	$ 12,522,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
B. IDAHO STATE SCHOOL AND HOSPITAL:						
FROM:						
General Fund					$ 5,298,500	$ 5,298,500
Dedicated Funds					3,500	3,500
Federal Funds					14,069,500	14,069,500
Other Funds					739,000	739,000
TOTAL					$20,110,500	$ 20,110,500
C. COMMUNITY MENTAL HEALTH SERVICES:						
FROM:						
General Fund	$ 5,095,400	$ 1,064,000	$ 60,000	$ 422,800	$ 300,000	$ 6,942,200
Federal Funds	360,800	651,000		24,900		1,036,700
Other Funds	2,902,400	379,600				3,282,000
TOTAL	$ 8,358,600	$ 2,094,600	$ 60,000	$ 447,700	$ 300,000	$ 11,260,900
D. STATE HOSPITAL NORTH:						
FROM:						
General Fund					$ 3,203,200	$ 3,203,200
Dedicated Funds					1,018,800	1,018,800
Federal Funds					75,000	75,000
Other Funds					389,100	389,100
TOTAL					$ 4,686,100	$ 4,686,100
E. STATE HOSPITAL SOUTH:						
FROM:						
General Fund					$ 7,614,000	$ 7,614,000
Dedicated Funds					1,126,100	1,126,100
Other Funds					927,400	927,400
TOTAL					$ 9,667,500	$ 9,667,500
F. STATE ECONOMIC OPPORTUNITY OFFICE:						
FROM:						
General Fund	$ 24,500	$ 6,400	$ 1,200			$ 32,100
Federal Funds	531,400	92,300	16,400	$ 10,022,800		10,662,900
TOTAL	$ 555,900	$ 98,700	$ 17,600	$ 10,022,800		$ 10,695,000
G. ADULT SERVICES:						
FROM:						

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
General Fund	$ 981,400	$ 159,200	$ 9,000	$ 430,500		$ 1,580,100
Federal Funds	191,900					191,900
Other Funds	188,300	18,000				206,300
TOTAL	$ 1,361,600	$ 177,200	$ 9,000	$ 430,500		$ 1,978,300
DIVISION TOTAL	$16,886,400	$ 3,916,400	$ 253,800	$ 13,949,600	$35,914,100	$ 70,920,300
VIII. INDEPENDENT COMMISSIONS AND COUNCILS:						
A. STATE EMERGENCY RESPONSE COMMISSION:						
FROM:						
Dedicated Funds	$ 110,000	$ 113,000	$ 2,700			$ 225,700
B. DOMESTIC VIOLENCE COUNCIL:						
FROM:						
General Fund		$ 15,000				$ 15,000
Dedicated Funds	$ 64,100	60,300		$ 227,000		351,400
Federal Funds		2,500		576,400		578,900
TOTAL	$ 64,100	$ 77,800		$ 803,400		$ 945,300
C. DEVELOPMENTAL DISABILITIES COUNCIL:						
FROM:						
General Fund	$ 8,400	$ 21,500	$ 3,900	$ 8,600		$ 42,400
Federal Funds	193,500	51,900		71,700		317,100
TOTAL	$ 201,900	$ 73,400	$ 3,900	$ 80,300		$ 359,500
D. COMMISSION ON ALCOHOL AND DRUG ABUSE:						
FROM:						
General Fund	$ 56,800	$ 41,000				$ 97,800
DIVISION TOTAL	$ 432,800	$ 305,200	$ 6,600	$ 883,700		$ 1,628,300
GRAND TOTAL	$79,085,500	$39,651,200	$1,905,600	$296,681,300	$48,525,000	$465,848,600

SECTION 3. In addition to the appropriation made by Section 2, Chapter 389, Laws of 1990, there is hereby appropriated to the Department of Health and Welfare the following amount to be expended for the named programs according to the designated expenditure 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
A. COMMUNITY DEVELOPMENTAL DISABILITIES SERVICES:				
FROM:				
Cooperative Welfare Account	$ 250,000			$ 250,000
B. COMMUNITY MENTAL HEALTH SERVICES:				
FROM:				
Cooperative Welfare Account	$1,688,400	$45,600	$66,000	$1,800,000
GRAND TOTAL	$1,938,400	$45,600	$66,000	$2,050,000

SECTION 4. It is legislative intent that 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 5. As appropriated in this act, the State Auditor shall make transfers of the General Account, the Water Pollution Control Account, and the Hazardous Waste Monitoring Account to the Cooperative Welfare Account, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners, not to exceed the amount provided herein.

SECTION 6. 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. 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 regional service providers.

SECTION 8. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances of the Cooperative Welfare Account moneys appropriated to the Department of Health and Welfare for the period July 1, 1990, through June 30, 1991, to be used for nonrecurring expenditures only, for the period July 1,

1991, through June 30, 1992.

SECTION 9. 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 passage and approval.

Approved April 4, 1991.

CHAPTER 258
(S.B. No. 1236)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 1992; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SUPERSEDING THE PROVISIONS OF SECTION 61-1008, IDAHO CODE.

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, 1991, through June 30, 1992:

FROM:	
General Account	$1,402,800
Public Utilities Commission Account	50,000
Federal Program Administration Account	422,700
TOTAL	$1,875,500

SECTION 2. There is hereby appropriated to the Office of the Governor the following amounts, to be expended for the designated programs according to the designated expense classes from the listed accounts, for the period July 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. GOVERNOR'S OFFICE ADMINISTRATION:					
FROM:					
General Account	$765,100	$309,600	$105,500		$1,180,200
II. GOVERNOR'S RESIDENCE:					
FROM:					
General Account		$ 6,200			$ 6,200
III. GOVERNOR'S EXPENSE ALLOWANCE: To be expended pursuant to Section 67-808d, Idaho Code:					
FROM:					
General Account		$ 7,000			$ 7,000
IV. SOCIAL SERVICES:					
Federal Program Administration Account		$ 3,900		$ 73,000	$ 76,900
V. COMMISSION ON CHILDREN AND YOUTH:					

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
General Account	$ 52,200	$ 7,200			$ 59,400
Federal Program Administration Account	50,300	84,200		199,200	333,700
TOTAL	$102,500	$ 91,400		$199,200	$ 393,100
VI. ENERGY:					
Federal Program Administration Account	$ 12,100				$ 12,100
VII. COLUMBIA BASIN/ENDANGERED SPECIES ISSUES:					
General Account				$150,000	$ 150,000
Public Utilities Commission Account				50,000	50,000
TOTAL				$200,000	$ 200,000
GRAND TOTAL	$879,700	$418,100	$105,500	$472,200	$1,875,500

SECTION 3. There is hereby reappropriated to the Office of the Governor any unexpended and unencumbered balances of the moneys appropriated in Section 2, Chapter 302, Laws of 1990, for the period July 1, 1991, through June 30, 1992.

SECTION 4. It is legislative intent that the appropriation of moneys from the Public Utilities Commission Account, in Section 2 of this act, specifically supersedes the provisions of Section 61-1008, Idaho Code.

Approved April 4, 1991.

CHAPTER 259
(S.B. No. 1237)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF REVENUE AND TAXATION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 5, CHAPTER 264, LAWS OF 1990; EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF REVENUE AND TAXATION FOR FISCAL YEAR 1992; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND DECLARING AN EMERGENCY FOR SECTION 1 OF THIS ACT.

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

SECTION 1. In addition to the appropriation made by Section 5, Chapter 264, Laws of 1990, there is hereby appropriated to the Department of Revenue and Taxation for the designated programs 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 OPERATING EXPENDITURES	TOTAL
A. AUDIT AND COLLECTIONS:		
FROM:		
General Account	$ 4,000	$ 4,000
Unclaimed Property Account	400	400
Highway Suspense Account	3,100	3,100
TOTAL	$ 7,500	$ 7,500
B. REVENUE OPERATIONS:		
FROM:		
General Account	$21,700	$21,700
Highway Suspense Account	1,000	1,000
TOTAL	$22,700	$22,700

SECTION 2. It is legislative intent that the expenditures for the Department of Revenue and Taxation not exceed the following amounts for the period July 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$11,486,300	$3,462,100	$1,143,500	$16,091,900
Interagency Billing and Receipts Account		98,900		98,900
Multi-State Tax Compact Account		148,300		148,300
Tax Commission Administration Account	149,500	107,400		256,900
Unclaimed Property Account	215,700	77,200	10,100	303,000
Highway Suspense Account	989,900	370,200	37,800	1,397,900
TOTAL	$12,841,400	$4,264,100	$1,191,400	$18,296,900

SECTION 3. There is hereby appropriated to the Department of Revenue and Taxation 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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. GENERAL SERVICES:				
FROM:				
General Account	$ 2,075,000	$ 994,200	$ 973,100	$ 4,042,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Tax Commission Administration Account		27,600		27,600
Highway Suspense Account	217,500	65,700	6,400	289,600
Interagency Billing and Receipts Account		54,600		54,600
TOTAL	$ 2,292,500	$1,142,100	$ 979,500	$ 4,414,100
B. AUDIT AND COLLECTIONS:				
FROM:				
General Account	$ 5,901,000	$ 997,500	$ 89,200	$ 6,987,700
Multi-State Tax Compact Account		148,300		148,300
Tax Commission Administration Account	149,500	54,400		203,900
Unclaimed Property Account	215,700	77,200	10,100	303,000
Highway Suspense Account	606,800	131,100	31,400	769,300
Interagency Billing and Receipts Account		4,000		4,000
TOTAL	$ 6,873,000	$1,412,500	$ 130,700	$ 8,416,200
C. COUNTY SUPPORT:				
FROM:				
General Account	$ 1,568,300	$ 442,600	$ 31,600	$ 2,042,500
Interagency Billing and Receipts Account		35,100		35,100
TOTAL	$ 1,568,300	$ 477,700	$ 31,600	$ 2,077,600
D. REVENUE OPERATIONS:				
FROM:				
General Account	$ 1,897,600	$1,015,100	$ 49,600	$ 2,962,300
Tax Commission Administration Account		25,400		25,400
Highway Suspense Account	165,600	173,400		339,000
Interagency Billing and Receipts				

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Account		5,200		5,200
TOTAL	$ 2,063,200	$1,219,100	$ 49,600	$ 3,331,900
E. BOARD OF TAX APPEALS:				
FROM:				
General Account	$ 44,400	$ 12,700		$ 57,100
GRAND TOTAL	$12,841,400	$4,264,100	$1,191,400	$18,296,900

SECTION 4. There is hereby reappropriated to the Department of Revenue and Taxation any unexpended and unencumbered balances of the General Account moneys appropriated in Section 5, Chapter 264, Laws of 1990, to be used for nonrecurring expenditures only, for the period July 1, 1991, through June 30, 1992.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 4, 1991.

CHAPTER 260
(S.B. No. 1238)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR VOCATIONAL EDUCATION FOR FISCAL YEAR 1992; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SUPERSEDING PROVISIONS OF SECTION 39-3606, IDAHO CODE.

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, 1991, through June 30, 1992:

FROM:	
General Account	$25,320,400
Carl Perkins Vocational Education Act Account	4,449,000
Interagency Billing and Receipts Account	219,800
Water Pollution Control Account	61,900
Displaced Homemaker Account	140,000
State Council on Vocational Education Account	127,500
TOTAL	$30,318,600

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION AND SUPERVISION:					
FROM:					
General Account	$1,354,800	$215,300	$26,000		$ 1,596,100
Carl Perkins Vocational Education Act Account	49,400	163,300			212,700
TOTAL	$1,404,200	$378,600	$26,000		$ 1,808,800
B. GENERAL PROGRAMS:					
FROM:					
General Account	$ 84,100	$ 30,800	$21,700	$ 4,735,700	$ 4,872,300
Water Pollution Control Account				61,900	61,900
Carl Perkins Vocational Education Act Account				3,715,000	3,715,000
Interagency Billing and Receipts Account				66,800	66,800
TOTAL	$ 84,100	$ 30,800	$21,700	$ 8,579,400	$ 8,716,000
C. POST-SECONDARY PROGRAMS:					
FROM:					
General Account				$18,822,000	$18,822,000
Carl Perkins Vocational Education Act Account				180,000	180,000
Interagency Billing and Receipts Account				153,000	153,000
TOTAL				$19,155,000	$19,155,000
D. DISPLACED HOMEMAKER PROGRAM:					
FROM:					
General Account				$ 30,000	$ 30,000
Displaced Homemaker Account		$ 5,000		135,000	140,000
Carl Perkins Vocational Education Act Account				341,300	341,300
TOTAL		$ 5,000		$ 506,300	$ 511,300
E. IDAHO STATE COUNCIL ON VOCATIONAL EDUCATION:					
FROM:					
State Council on Vocational Education Account	$ 80,300	$ 47,200			$ 127,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
GRAND TOTAL					$30,318,600

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 279, Laws of 1990, to be used for nonrecurring expenditures only for the period of July 1, 1991, through June 30, 1992.

SECTION 4. It is legislative intent that 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.

Approved April 4, 1991.

CHAPTER 261
(S.B. No. 1245)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE LEGISLATIVE ACCOUNT.

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

SECTION 1. There is hereby appropriated $290,000 from the General Account to the Legislative Account.

Approved April 4, 1991.

CHAPTER 262
(S.B. No. 1246)

AN ACT

RELATING TO ISSUANCE OF LICENSES TO CARRY CONCEALED WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO REVISE THE PROCEDURES FOR THE ISSUANCE OF LICENSES BY THE COUNTY SHERIFF TO CARRY WEAPONS, TO REVISE DISTRIBUTION OF FEES AND TO PROVIDE SEVERABILITY; AND AMENDING SECTION 18-3302C, IDAHO CODE, TO PROVIDE ADDITIONAL PROHIBITED CONDUCT, AND TO PROVIDE PENALTIES.

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 amended 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 who has been a resident of the state for a period of at least ninety (90) days utilizing the criteria contained in section 34-107, Idaho Code, for such determination, 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~~ formally charged with 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~~ adjudicated guilty 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~~ currently suffering or has been adjudicated as follows, based on substantial evidence:

(i) Lacking mental capacity as defined in section 18-210, Idaho Code; or

(ii) Mentally ill as defined in section 66-317(m), Idaho Code; or

(iii) Gravely disabled as defined in section 66-317(n), Idaho Code; or

(iv) An incapacitated person as defined in section 15-5-101(a), Idaho Code; 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~~ disposition 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~~ obtaining a concealed weapon license; 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~~ obtaining a concealed weapon license.

~~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 application 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, date of birth, social security number, 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~~ The license will be in a form substantially similar to that of the Idaho driver's license. It will bear the signature, name, address, date of birth, social security number and picture 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. Upon issuing a license under the provisions of this section, the sheriff will mail a copy to the director of the department of law enforcement.

(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. The sheriff may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state.

(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--t~~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 lawfully possessed shotgun or rifle.

(8) A county sheriff, deputy sheriff, or county employee 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, inside the limits or confines of any city or inside any mining, lumbering, logging or railroad camp a person shall not carry a concealed weapon on or about his person ~~or-in his-immediate-vicinity~~ without a ~~permit~~ license to carry a concealed weapon. This shall not apply to any pistol or revolver located in plain view whether it is loaded or unloaded. A firearm may be concealed legally in a motor vehicle so long as the weapon is disassembled 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 officers 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~~ city, 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 when on duty;

(c) Criminal investigators of the attorney general's office, criminal investigators of a prosecuting attorney's office, prosecutor's and their ~~assistants~~ deputies;

(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;

(f) Retired peace officers with at least ten (10) years of service with the state or a political subdivision as a peace officer and who have been certified by the peace officer standards and training council.

(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, provided the applicant may select which one:

(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.

(15) The sheriff of the county where the license was issued or the sheriff of the county where the person resides shall have the power to revoke a license subsequent to a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for any of the following reasons:

(a) Fraud or intentional misrepresentation in the obtaining of a license; or

(b) Misuse of a license, including lending or giving a license to another person, or duplicating a license, or using a license with the intent to unlawfully cause harm to a person or property; or

(c) The doing of an act or existence of a condition which would have been grounds for the denial of the license by the sheriff; or

(d) The violation of any of the terms of this section; or

(e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime which would have disqualified him from initially receiving a license.

(16) The provisions of this section are hereby declared to be severable and if any provision of this section 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 section.

SECTION 2. That Section 18-3302C, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302C. PROHIBITED CONDUCT. ~~No~~ Any person ~~subject to licensure~~ obtaining a license under the provisions of sections 18-3302, ~~18-3302A, and 18-3302B,~~ Idaho Code, ~~may~~ shall not:

(1) ~~C~~carry a concealed weapon in a courthouse, juvenile detention facility or jail, public or private school; or

(2) Provide information on the application for a permit to carry a concealed weapon knowing the same to be untrue. Any person violating the provisions of this section shall be guilty of a misdemeanor.

Approved April 4, 1991.

CHAPTER 263
(S.B. No. 1247)

AN ACT

RELATING TO WATER AND SEWER DISTRICTS; AMENDING CHAPTER 32, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-3238, IDAHO CODE, TO EXEMPT PROPERTIES SERVED BY A PRIVATE COMMUNITY SEWER SYSTEM FROM TAXATION BY ANY OTHER WATER, SEWER OR WATER AND SEWER DISTRICT.

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

SECTION 1. That Chapter 32, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-3238, Idaho Code, and to read as follows:

42-3238. PRIVATE COMMUNITY SEWER SYSTEM -- PROPERTIES EXEMPT FROM OTHER TAXATION. Notwithstanding any other provision of law, no water district, sewer district or water and sewer district shall levy or collect any tax, any fee or any other charge of any kind related in any way to the collection or treatment of sewage by such district against any property located in such district which property is served by a private community sewer system. Said properties shall be exempt from any such tax, fee or charge. A "private community sewer system" means a system which collects and processes sewage for ten (10) or more residences, commercial or industrial facilities. The exemption provided in this section shall not apply to residences, commercial or industrial facilities served by an individual septic system. Nothing contained herein shall prohibit a charge for the delivery or furnishing of water by such district.

Approved April 4, 1991.

CHAPTER 264
(S.B. No. 1250)

AN ACT

RELATING TO ADMINISTRATIVE RULES AND REGULATIONS; CONTINUING CERTAIN RULES IN FULL FORCE AND EFFECT UNTIL JULY 1, 1992; CONTINUING RULES APPROVED, MODIFIED OR AMENDED BY ADOPTION OF A CONCURRENT RESOLUTION OF THE FIRST REGULAR SESSION OF THE FIFTY-FIRST LEGISLATURE IN FULL FORCE AND EFFECT UNTIL JULY 1, 1992; PROVIDING THAT RULES REJECTED BY CONCURRENT RESOLUTION SHALL BE NULL, VOID AND OF NO FORCE AND EFFECT; AUTHORIZING AGENCIES TO AMEND CERTAIN RULES PURSUANT TO THE ADMINISTRATIVE PROCEDURE ACT AND DECLARING THE EFFECT OF THIS ACT UPON ADMINISTRATIVE RULES; AND PROVIDING SEVERABILITY.

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

SECTION 1. Except as provided in sections 2 and 3 of this act, every rule, as that term is defined in section 67-5201, Idaho Code, that would expire on July 1, 1991, pursuant to the provisions of subsections (1) and (2) of section 67-5219, Idaho Code, shall continue in full force and effect until July 1, 1992, at which time they shall expire as provided in section 67-5219, Idaho Code.

SECTION 2. All rules as that term is defined in section 67-5201, Idaho Code, which have been affirmatively approved, modified or amended by the adoption of a concurrent resolution by both the senate and house of representatives in the first regular session of the fifty-first legislature shall continue in full force and effect in

such approved, modified or amended language until July 1, 1992, at which time they shall expire as provided in section 67-5219, Idaho Code.

SECTION 3. All rules as that term is defined in section 67-5201, Idaho Code, which have been rejected by the adoption of a concurrent resolution by both the senate and the house of representatives in the first regular session of the fifty-first legislature shall be null, void and of no force and effect as provided in section 67-5218, Idaho Code.

SECTION 4. Nothing contained in this act shall be deemed to prohibit an agency as that term is defined in section 67-5201, Idaho Code, from amending rules which have been continued in full force and effect until July 1, 1992, pursuant to sections 1 and 2 of this act, according to the procedures contained in chapter 52, title 67, Idaho Code. Nothing contained in this act shall endow any administrative rule continued in full force and effect under this act with any more legal stature than that of an administrative rule. Nothing contained in this act shall be deemed to be a legislative approval of any rule whose force and effect has been extended by this act and nothing contained herein shall constitute a legislative finding that any of the rules whose force and effect has been extended hereunder are consistent with the legislative intent of the statute(s) pursuant to which they were promulgated.

SECTION 5. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

Approved April 4, 1991.

CHAPTER 265
(S.B. No. 1008, As Amended in the House)

AN ACT

RELATING TO PUBLIC LIBRARIES; AMENDING CHAPTER 26, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2617, IDAHO CODE, TO PROVIDE A PENALTY FOR FAILURE TO RETURN BORROWED MATERIAL.

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

SECTION 1. That Chapter 26, 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 33-2617, Idaho Code, and to read as follows:

33-2617. FAILURE TO RETURN BORROWED MATERIAL. Any person who borrows from a publicly funded lending facility any book, newspaper, mag-

azine, manuscript, pamphlet, publication, microform, recording, film, artifact, specimen, device, exhibit or other article belonging to, or in the care of, the facility, under any agreement to return the same within a specified time, and thereafter fails to return the book, newspaper, magazine, manuscript, pamphlet, publication, microform, recording, film, artifact, specimen, device, exhibit or other article, shall be given written notice, which shall bear upon its face a copy of this statute, mailed by a registered or certified letter with return receipt, or delivered in person to such person at his last known address, to return the borrowed article within fifteen (15) days; and in the event that the person shall thereafter wilfully and knowingly fail to return the borrowed article within thirty (30) days, or shall fail to reimburse the facility for the value of the borrowed article plus overdue fines and costs incurred, the person shall be guilty of a petit theft and punishable as provided in chapter 24, title 18, Idaho Code. For purposes of this section, a "publicly funded lending facility" includes any library, gallery, museum, collection or exhibit supported by public funds.

Approved April 4, 1991.

CHAPTER 266
(S.B. No. 1226)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 1992; 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; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; APPROPRIATING MONEYS TO THE SUPREME COURT IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 224, LAWS OF 1990; APPROPRIATING MONEYS FROM THE GUARDIAN AD LITEM ACCOUNT IN ADDITION TO THE APPROPRIATION MADE BY SECTION 4, CHAPTER 224, LAWS OF 1990; AND DECLARING AN EMERGENCY FOR SECTIONS 7 AND 8 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 Supreme Court not exceed the following amount for the period July 1, 1991, through June 30, 1992:

FROM:	
General Account	$14,516,900
Water Resources Adjudication Account	272,600
Interagency Billing and Receipts Account	103,900
TOTAL	$14,893,400

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. SUPREME COURT					
FROM:					
General Account	$ 1,956,700	$ 360,800	$ 10,100	$52,500	$ 2,380,100
Interagency Billing and Receipts Account		103,900			103,900
TOTAL	$ 1,956,700	$ 464,700	$ 10,100	$52,500	$ 2,484,000
B. LAW LIBRARY					
General Account	$ 267,700	$ 193,000	$ 66,500		$ 527,200
C. DISTRICT COURTS					
General Account	$ 4,634,000	$ 290,100			$ 4,924,100
Water Resources Adjudication Account	122,500	128,800	21,300		272,600
TOTAL	$ 4,756,500	$ 418,900	$ 21,300		$ 5,196,700
D. MAGISTRATES DIVISION					
General Account	$ 5,617,800	$ 256,800			$ 5,874,600
E. JUDICIAL COUNCIL					
General Account	$ 2,000	$ 61,100			$ 63,100
F. COURT OF APPEALS					
General Account	$ 646,600	$ 97,100	$ 4,100		$ 747,800
GRAND TOTAL	$13,247,300	$1,491,600	$102,000	$52,500	$14,893,400

SECTION 3. There is hereby appropriated from the General Account for deposit in the Guardian Ad Litem Account the sum of $291,600.

SECTION 4. There is hereby appropriated from the Guardian Ad Litem Account to the Supreme Court the sum of $291,600 to be expended according to Section 16-1636, Idaho Code, for the period July 1, 1991, through June 30, 1992.

SECTION 5. It is legislative intent that of the amount appropriated in Section 2, an amount not to exceed $5,000 may be used at the discretion of the Chief Justice, to assist in defraying expenses relating to or resulting from the discharge of the Supreme Court Justices' official duties and the official duties of the Supreme Court. Further, it is legislative intent that an amount, not to exceed $1,500 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 Court of Appeals Judges' official duties and the official duties of the Court

of Appeals. Such moneys shall be accounted for according to the 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, 1990, through June 30, 1991, to be used for nonrecurring expenditures only for the period July 1, 1991, through June 30, 1992.

SECTION 7. In addition to the appropriation made by Section 2, Chapter 224, Laws of 1990, there is hereby appropriated to the Supreme Court the following amount to be expended for the specified programs from the listed account for the period July 1, 1990, through June 30, 1991:

FOR:	
District Courts	$1,631,600
Judicial Council	13,000
TOTAL	$1,644,600
FROM:	
General Account	$1,644,600

SECTION 8. In addition to the appropriation made by Section 4, Chapter 224, Laws of 1990, there is hereby appropriated from the Guardian Ad Litem Account to the Supreme Court the sum of $10,000 to be expended according to Section 16-1636, Idaho Code, for the period July 1, 1990, through June 30, 1991.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Sections 7 and 8 of this act shall be in full force and effect on and after passage and approval.

Approved April 4, 1991.

CHAPTER 267
(S.B. No. 1251)

AN ACT

RELATING TO PRESCRIPTIVE OVERFLOW EASEMENTS; AMENDING SECTION 5-246, IDAHO CODE, AS ENACTED IN HOUSE BILL 346, FIRST REGULAR SESSION, FIFTY-FIRST IDAHO LEGISLATURE, TO ADD A CODE CITATION, AND TO PROTECT CERTAIN STATE PROPERTY RIGHTS.

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

SECTION 1. That Section 5-246, as enacted in H.B. No. 346, First Regular Session, Fifty-first Idaho Legislature, be, and the same is hereby amended to read as follows:

5-246. PRESCRIPTIVE OVERFLOW EASEMENTS. In conformity with the limitations of actions time period set forth in sections 5-203 through

5-206, Idaho Code, the owner of a dam shall be deemed to have obtained a nonexclusive prescriptive overflow easement over real property which has been inundated or overflowed by the operations of the dam for at least a part of a year for any consecutive five (5) year period prior to commencement of an action by the property owner seeking relief inconsistent with such nonexclusive prescriptive overflow easement. Said dam owner shall be deemed to have not forfeited said nonexclusive prescriptive overflow easement if the reason for the failure to exercise the easement is a lack of water caused by drought or acts of God.

It is further provided that if a dam has inundated or overflowed real property for at least a part of a year for the five (5) consecutive years prior to the enactment of this section, then the owner of the dam shall be deemed to have obtained a nonexclusive prescriptive overflow easement hereunder over said real property one (1) year after the enactment of this section, provided, no action seeking relief inconsistent with such nonexclusive prescriptive overflow easement has been commenced by the property owner within one (1) year of the enactment of this section. The provisions of this section shall not be construed to affect the riparian and littoral rights of property owners to have access to and use of waters in this state, or to restrict any use of the underlying property for any purpose otherwise consistent with ownership thereof, even if said use interferes with the storage of water on the property. Nothing herein shall be deemed to affect any prescriptive overflow easement that any dam owner may have previously acquired under common law. The provisions of this section shall not be construed to apply to the beds of navigable waters lying below the natural or ordinary high watermark as defined in subsection (c) of section 58-1302, Idaho Code, and subsection (9) of section 58-104, Idaho Code, or any other lands owned by the state of Idaho.

Approved April 4, 1991.

CHAPTER 268
(S.B. No. 1144)

AN ACT

RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2107, IDAHO CODE, TO REQUIRE REPORTS BY THE BOARD AND TO PROVIDE DUTIES OF NONRESIDENT LICENSES, PERMITTEES OR TAGHOLDERS.

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

SECTION 1. That Section 36-2107, Idaho Code, be, and the same is hereby amended to read as follows:

36-2107. POWERS AND DUTIES OF BOARD. The board which may by written agreement authorize the bureau of occupational licenses as agent to act in its interest, shall have the following duties and powers:

(a) To conduct examinations to ascertain the qualifications of applicants for outfitter's or guide's licenses, and to issue such licenses to qualified applicants, with such restrictions and limita-

tions thereon as the board may find reasonable.

(b) To prescribe and establish rules of procedure and regulations to carry into effect the provisions of this act~~,~~ including, but not limited to, regulations prescribing all requisite qualifications of training, experience, knowledge of rules and regulations of governmental bodies, condition and type of gear and equipment, examinations to be given applicants, whether oral, written or demonstrative, or a combination thereof.

(c) To conduct hearings and proceedings to suspend, revoke or restrict the licenses of outfitters or guides, and to suspend, revoke or restrict said licenses for due cause in the manner hereinafter provided.

(d) The board is expressly vested with the power and the authority to enforce the provisions of this chapter and make and enforce any and all reasonable rules and regulations which shall by it be deemed necessary and which are not in conflict with the provisions of this chapter, for the express purpose of safeguarding the health, safety, welfare and freedom from injury or danger of those persons utilizing the services of outfitters and guides, and for the conservation of wildlife and range resources.

(e) The board shall have the power to cooperate with the federal and state government through its appropriate agency or instrumentality in matters of mutual concern regarding the business of outfitting and guiding in Idaho.

(f) The board shall have the power throughout the state of Idaho to request the attendance of witnesses and the production of such books, records and papers as may be required at any hearing before it, and for that purpose the board may request a district court to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers. Subpoenas shall be directed to the sheriff of any county in the state of Idaho where such witness resides or may be found. Subpoenas shall be served and returned in the same manner as subpoenas in a criminal case. The fees and mileage of the sheriff and witnesses shall be the same as that allowed in district court criminal cases, which fees and mileage shall be paid from any funds in the state treasury available therefor in the same manner as other expenses of the board are paid. Disobedience of any subpoena issued by the district court or the refusal by any witness in failing to testify concerning any matter regarding which he may lawfully be interrogated, or the failure to produce any books, records or papers shall constitute a contempt of the district court of any county where such disobedience or refusal occurs, and said court, or any judge thereof, by proceedings for contempt in said court, may, if such contempt be found, punish said witness as in any other case of disobedience of a subpoena issued from such court or refusal to testify therein.

(g) The board shall have the power to appoint an executive director to serve at the pleasure of the board. The executive director shall be exempt from the provisions of chapter 53, title 67, Idaho Code, and shall receive a salary that is fixed by the board.

(h) The board shall have the power to hire enforcement agents in order to conduct investigations and enforce the provisions of this chapter. All enforcement agents appointed by the board who are certi-

fied by the Idaho peace officer standards and training advisory council, shall have the power of peace officers limited to:

1. Enforcement of the provisions of this chapter.

2. Responding to express requests from other law enforcement agencies for aid and assistance in enforcing other laws. For purposes of this section, such a request from a law enforcement agency shall mean only a request as to a particular and singular violation or suspicion of violation of law, and shall not constitute a continuous request for assistance outside the purview of enforcement of the provisions of this chapter.

(i) By August 1 of each year, the board shall provide to the director of the department of fish and game, in a manner and form prescribed by the director, the number of each species of big game taken in each management unit by clients of licensed outfitters between July 1 of the immediately preceding calendar year and June 30 of the current calendar year.

By January 15 of each year, each nonresident licensee, permittee or tagholder shall provide to the department of fish and game, in a manner and form provided by the director, the number of each species of big game taken by that person in each management unit in the previous calendar year. And, if such person was accompanied by or had in employ a licensed outfitter, the name and license number of such outfitter shall also be provided on such form.

Approved April 5, 1991.

CHAPTER 269
(H.B. No. 32, As Amended, As Amended in the Senate, As Amended in the Senate)

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTIONS 23-929 AND 23-1013, IDAHO CODE, TO PROVIDE FOR PROOF OF AGE; AMENDING 23-1024, IDAHO CODE, TO PROVIDE ADDITIONAL RESTRICTIONS ON SALES; AMENDING SECTION 23-1334, IDAHO CODE, TO PROVIDE ADDITIONAL RESTRICTIONS ON SALES; AND REPEALING SECTIONS 23-1025 AND 23-1026, IDAHO CODE.

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

SECTION 1. That Section 23-929, Idaho Code, be, and the same is hereby amended to read as follows:

23-929. RESTRICTION OF SALES BY LICENSEE. No licensee or his or its employed agents, servants or bartenders shall sell, deliver or give away, or cause or permit to be sold, delivered, or given away, any liquor to:

1. Any person under the age of twenty-one (21) years, proof of which~~, for every resident of this state,~~ shall be a validly issued state, district, territorial, possession, provincial, national or other equivalent government driver's license, identification card or military identification card ~~or an identification card issued by the~~

~~Idaho-transportation-department~~ bearing a photograph and date of birth, or a valid passport.

2. Any person actually, apparently or obviously intoxicated.

3. An habitual drunkard.

4. An interdicted person.

Any person under the age of twenty-one (21) years, or other person, who knowingly misrepresents his or her qualifications for the purpose of entering licensed premises or for obtaining ~~liquor~~ alcoholic beverages from such licensee shall be equally guilty with such licensee and shall, upon conviction thereof, be guilty of a misdemeanor.

SECTION 2. That Section 23-1013, Idaho Code, be, and the same is hereby amended to read as follows:

23-1013. RESTRICTIONS CONCERNING AGE. Any person who is nineteen (19) years of age or older may sell, serve, possess or dispense beer in the course of his employment, otherwise it shall be unlawful for any person to sell, serve or dispense beer to or by any person under twenty-one (21) years of age, proof of which, ~~for every resident of this state,~~ shall be a validly issued state, district, territorial, possession, provincial, national or other equivalent government driver's license, identification card or military identification card ~~or an identification card issued by the Idaho transportation department~~ bearing a photograph and date of birth, or a valid passport.

SECTION 3. That Section 23-1024, Idaho Code, be, and the same is hereby amended to read as follows:

23-1024. FALSE REPRESENTATION AS BEING TWENTY-ONE OR MORE YEARS OF AGE A MISDEMEANOR. Any person under the age of twenty-one (21) years who shall by any means represent to any person licensed to sell beer at retail or wholesale, or to any agent or employee of such retail or wholesale licensee, that he or she is twenty-one (21) or more years of age for the purpose of entering licensed premises or inducing such retail or wholesale licensee, his agent or employee, to sell, serve or dispense beer to him or her shall be guilty of a misdemeanor.

Any person who shall by any means represent to any such retail or wholesale licensee, his agent or employee, that any other person is twenty-one (21) or more years of age, when in fact such other person is under the age of twenty-one (21) years, for the purpose of entering licensed premises or inducing such retail or wholesale licensee, his agent or employee, to sell, serve or dispense beer to such other person, shall be guilty of a misdemeanor.

SECTION 4. That Section 23-1334, Idaho Code, be, and the same is hereby amended to read as follows:

23-1334. MINORS -- PURCHASE, CONSUMPTION, POSSESSION, SALE OR SERVICE BY PROHIBITED -- SALE, GIFT, OR DELIVERY TO PROHIBITED -- MISREPRESENTATION OF AGE PROHIBITED -- PENALTY. (a) No person under the age of twenty-one (21) years may sell, serve, dispense, purchase, con-

sume or possess wine provided that any person who is nineteen (19) years of age or older may sell, serve, possess or dispense wine in the course of his employment.

(b) No person shall give, sell, or deliver wine to any person under the age of twenty-one (21) years.

(c) Any person under the age of twenty-one (21) years who shall by any means represent to any retailer or distributor or to any agent or employee of such retailer or distributor that he or she is twenty-one (21) years or more of age for the purpose of entering licensed premises or inducing such retailer or distributor, or his agent or employee, to sell, serve or dispense wine to such person shall be guilty of a misdemeanor.

(d) Any person who shall, by any means, represent to any retailer or distributor or the agent or employee of such retailer or distributor, that any other person is twenty-one (21) years or more of age, when in fact such other person is under the age of twenty-one (21) years, for the purpose of entering licensed premises or inducing such retailer or distributor, or the agent or employee of such retailer or distributor, to sell, serve, or dispense wine to such other person shall be guilty of a misdemeanor.

SECTION 5. That Sections 23-1025 and 23-1026, Idaho Code, be, and the same are hereby repealed.

Approved April 4, 1991.

CHAPTER 270
(H.B. No. 110, As Amended, As Amended)

AN ACT

RELATING TO THE REGULATION OF SECURITIES; AMENDING SECTION 30-1402, IDAHO CODE, TO PROVIDE FOR REGULATION OF FINANCIAL PLANNERS AS INVESTMENT ADVISERS, AND TO PROVIDE A DEFINITION OF INVESTMENT ADVISER REPRESENTATIVE; AMENDING SECTION 30-1403, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 30-1404, IDAHO CODE, TO CLARIFY WHAT ACTIONS CONSTITUTE UNLAWFUL ACTS; AMENDING SECTION 30-1406, IDAHO CODE, TO PROVIDE FOR REGISTRATION OF INVESTMENT ADVISER REPRESENTATIVES AND TO DELETE SUPERFLUOUS LANGUAGE; AMENDING SECTION 30-1407, IDAHO CODE, TO MODIFY A REQUIREMENT FOR REGISTRATION; AMENDING SECTION 30-1410, IDAHO CODE, TO PROVIDE CONDITIONS OF REGISTRATION FOR INVESTMENT ADVISER REPRESENTATIVES; AMENDING SECTIONS 30-1411, 30-1413, 30-1414 AND 30-1415, IDAHO CODE, TO INCLUDE INVESTMENT ADVISER REPRESENTATIVES WITHIN THE REQUIREMENTS FOR REGISTRATION; AMENDING SECTION 30-1420, IDAHO CODE, TO MODIFY REQUIREMENTS FOR FILING REGISTRATION STATEMENTS; AMENDING SECTION 30-1431, IDAHO CODE, TO INCLUDE FOREIGN ORDERS AS AUTHORITY TO DENY, SUSPEND OR REVOKE A REGISTRATION STATEMENT; AMENDING SECTION 30-1434, IDAHO CODE, TO PROVIDE FOR NOTIFICATION OF PARTIES AND TO PROVIDE PROPER CODE REFERENCES; AMENDING SECTION 30-1435, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES; AMENDING SECTIONS 30-1436 AND 30-1437, IDAHO CODE, TO INCLUDE INVESTMENT

ADVISER REPRESENTATIVES WITHIN THE REQUIREMENTS FOR REGISTRATION; AMENDING SECTION 30-1438, IDAHO CODE, TO INCLUDE INVESTIGATION IN THE PROVISIONS OF THE SECTION; AMENDING SECTION 30-1442, IDAHO CODE, TO INCREASE THE AMOUNT OF CIVIL PENALTY THAT MAY BE ASSESSED FOR A VIOLATION; AND AMENDING SECTIONS 30-1449 AND 30-1450A, IDAHO CODE, TO INCLUDE INVESTMENT ADVISER REPRESENTATIVES WITHIN THE REQUIREMENTS FOR REGISTRATION.

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

SECTION 1. That Section 30-1402, Idaho Code, be, and the same is hereby amended to read as follows:

30-1402. DEFINITIONS. When used in this act, unless the context otherwise requires:

(1) "Director" means the director of the department of finance.

(2) "Salesman" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities, but "salesman" does not include an individual who represents an issuer in:

(a) effecting a transaction in a security exempted ~~by subsections~~ in paragraphs (~~1~~a), (~~2~~b), (~~3~~c), (~~6~~f), (~~9~~i), (~~10~~j) or (~~11~~k) of subsection (1) of section 30-1434, Idaho Code,

(b) effecting transactions exempted by section 30-1435, Idaho Code, or

(c) effecting transactions with existing employees, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state. A partner, officer or director of a broker-dealer or issuer is a "salesman" only if he otherwise comes within this definition.

(3) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include:

(a) a salesman, issuer, bank, savings institution, trust company, credit union or insurance company,

(b) a person who has no place of business in this state if he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts or other financial institutions or institutional buyers, whether acting for themselves or as trustee, or

(c) a person who has no place of business in this state if during any period of twelve (12) consecutive months he does not direct more than fifteen (15) offers to sell or to buy into this state in any manner to persons other than those specified in subsection (3)(b) of this section.

(4) "Guaranteed" means guaranteed as to payment of principal, interest or dividends.

(5) "Full business day" means all calendar days except Saturdays, Sundays and all legal holidays as defined by statute.

(6) "Investment adviser" means any person who, for compensation, engages in the business of advising others either directly or through publications or writings as to the value of securities or as to the advisability of investing in, purchasing or selling securities or, who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. Investment adviser also includes financial planners and other persons who, as an integral component of other financially related services, provide the foregoing investment advisory services to others for compensation and as a part of a business or who hold themselves out as providing the foregoing advisory services to others for compensation. "Investment adviser" does not include:

(a) a bank, savings institution, trust company, credit union or insurance company~~.~~;

(b) a certified public accountant or licensed public accountant who holds himself out to the public as a certified public accountant or licensed public accountant~~.~~;

(c) a lawyer, engineer or teacher whose performance of these services is solely incidental to the practice of his profession~~.~~;

(d) a broker-dealer~~.~~ or its agent whose performance of these services is solely incidental to the conduct of its business as a broker-dealer and who receives no special compensation for them;

(e) a publisher of any ~~bona-fide~~ newspaper, news column, newsletter, news magazine or business or financial publication ~~of general,--regular--and-paid-circulation.~~ or service, whether communicated in hard copy form, or by electronic means, or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client;

(f) a person whose advice, analyses or reports relate only to securities exempted by section 30-1434(1), Idaho Code~~.~~;

(g) ~~a-person-who-has-no-place-of-business-in-this-state-if~~

~~(1)--his--only--clients--in--this--state-are-other-investment advisers,-broker-dealers,-banks,-savings-institutions,--trust companies,---insurance--companies,--investment--companies--as defined-in-the-Investment-Company-Act--of--1940,--pension--or profit-sharing--trust--or--other--financial--institutions--or institutional--buyers--whether--acting--for--themselves-or-as trustees,-or~~

~~(2)--during-any-period-of-twelve-(12)-consecutive--months--he does--not--direct--business-communications-into-this-state-in any-manner-to-more-than-five-(5)-resident-clients-other--than those-specified-in-subsection-(6)(g)(1)-of-this-section,-or~~

~~(h)~~ such other persons not within the intent of this subsection as the director may by rule or order designate; or

(h) an investment adviser representative.

(7) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates or collateral-trust certificates or with respect to certificates of interest or shares in any unincorporated investment trust not having a board of directors or persons performing similar functions or of the fixed, restricted management or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions

of the trust or other agreement or instrument under which the security is issued.

(8) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(9) "Person," for the purpose of this act, means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government or a political subdivision of a government.

(10) "Sale" or "sell" includes every contract of sale or contract to sell or dispose of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt or offer to dispose of, and every solicitation of an offer to buy, a security or interest in a security for value.

Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of or the levying of an assessment on assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(11) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" mean the federal statutes identified by those names as amended before or after the effective date of this act.

(12) "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, or, in general, any interest or instrument commonly known as a "security" or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money, either in a lump sum, or periodically for life or some other specified period.

(13) "State" means any state, territory or possession of the United States, the District of Columbia and Puerto Rico.

(14) "Investment adviser representative or agent" means any partner, officer, director, or a person occupying a similar status or performing similar functions, or other individual employed by or associated with an investment adviser registered in this state, except clerical or ministerial personnel, who:

(a) makes any recommendation or otherwise renders advice regarding securities directly to Idaho advisory clients;

(b) manages accounts or portfolios of Idaho clients;
(c) determines which recommendation or advice regarding securities should be given to Idaho clients if such person is a member of the investment adviser's investment committee that determines general investment advice to be given to clients or, if the investment adviser has no investment committee, the person determines general client advice (if there are more than five (5) such persons, only the supervisors of such persons are deemed to be investment adviser representatives);
(d) solicits, offers or negotiates for the sale of or sells investment advisory services to Idaho clients; or
(e) immediately supervises employees in the performance of any of the foregoing.

"Investment adviser representative or agent" does not include a person whose performance of these services is solely incidental to the conduct of such person's business as a salesman for a broker-dealer and who does not share in an investment advisory fee paid by the investment adviser client.

SECTION 2. That Section 30-1403, Idaho Code, be, and the same is hereby amended to read as follows:

30-1403. UNLAWFUL OFFERS -- SALES -- PURCHASES. It is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly,

(1) to employ any ~~devise~~ device, scheme or artifice to defraud,

(2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading or

(3) to engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

SECTION 3. That Section 30-1404, Idaho Code, be, and the same is hereby amended to read as follows:

30-1404. UNLAWFUL ACTS OF PERSON ADVISING ANOTHER. It is unlawful for any person who receives, directly or indirectly, any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise,

(1) to employ any device, scheme or artifice to defraud such other person, or

(2) to engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon such other person.

SECTION 4. That Section 30-1406, Idaho Code, be, and the same is hereby amended to read as follows:

30-1406. REGISTRATION OF BROKER-DEALERS, -- SALESMEN, ~~----AND~~ INVESTMENT ADVISERS, INVESTMENT ADVISER REPRESENTATIVES REQUIRED. It is unlawful for any person to transact business in this state as a broker-dealer or salesman~~,-except-in-transactions-exempt-under-section~~

~~30-1435,~~ unless he is registered under this act, and it is unlawful for any broker-dealer or issuer to employ a salesman unless the salesman is registered under this act. It is unlawful for any person to transact business in this state as an investment adviser or as an investment adviser representative unless:

(1) he is so registered under this act, or

~~(2)--he-is-registered-as-a-broker-dealer-under-this-act,-or~~

~~(3)--his-only-clients-in-this-state-are--investment--companies--as defined--in-the-Investment-Company-Act-of-1940-or-insurance-companies:~~

(2) he has no place of business in this state and his only clients in this state are investment companies as defined in the Investment Company Act of 1940, other investment advisers, broker-dealers, banks, trust companies, savings and loan associations, insurance companies, employee benefit plan with assets of not less than one million dollars ($1,000,000), and governmental agencies or instrumentalities, whether acting for themselves or as trustees with investment control, or other institutional investors as are designated by rule or order of the director, or

(3) he has no place of business in this state and during any period of twelve (12) consecutive months does not direct business communications in this state in any manner to more than five (5) clients, other than those specified in subsection (2) of this section, whether or not he or any of the persons to whom the communications are directed is then present in this state.

Further, it is unlawful for any investment adviser required to be registered, to employ an investment adviser representative unless the investment adviser representative is registered under this act.

Any person who is registered as a salesman of a registered broker-dealer and as an investment adviser representative of such broker-dealer or affiliate thereof shall not be required to register additionally as an investment adviser representative of nonaffiliated investment advisers who perform investment advisory services for the clients of such investment adviser representative when those services are recommended by the broker-dealer or investment adviser affiliate.

SECTION 5. That Section 30-1407, Idaho Code, be, and the same is hereby amended to read as follows:

30-1407. APPLICATION FOR REGISTRATION -- ~~PHOTOGRAPH,~~ FINGERPRINTS, WRITTEN EXAMINATION, BOND, WAIVER, MINIMUM CAPITAL REQUIRED -- EFFECT OF BROKER-DEALER REGISTRATION ON PARTNERS' OFFICES. (1) A broker-dealer, salesman or investment adviser or investment adviser representative shall apply for registration by filing with the director or an organization which the director by rule designates an application in such form as the director shall prescribe and payment of the fee prescribed in section 30-1437, Idaho Code. Such application shall be accompanied by the fingerprints ~~and--a--photograph~~ of the applicant, unless waived by the director.

(2) (a) A registered broker-dealer or investment adviser shall file with the director a bond of a surety company duly authorized to transact business in this state, said bond to be in the sum of twenty-five thousand dollars ($25,000) and conditioned upon faith-

ful compliance with the provisions of this act by the broker-dealer or investment adviser, its salesmen and agents, such that upon failure to so comply by the broker-dealer or investment adviser, its salesmen and agents, the surety company shall be liable to any and all persons who may suffer loss by reason thereof.

(b) Any salesman acting as agent for an issuer or issuers shall file with the director a bond of a surety company duly authorized to transact business in this state, said bond to be in the sum of ten thousand dollars ($10,000) and conditioned upon faithful compliance with the provisions of this act by the salesman, such that upon failure to so comply by the salesman the surety company shall be liable to any and all persons who may suffer loss by reason thereof. Provided, however, that the obligation of the surety bond must be maintained at all times in the amount therein provided; and provided further, that a certificate of deposit issued by any bank in the state of Idaho and assigned to the director in an amount equal to the bond which would otherwise be required may be accepted by the director in lieu of a bond, if the certificate of deposit is maintained at all times in the amount and manner herein provided during the term for which the registration is effective and for three (3) years thereafter.

(c) Upon a proper showing, the director, in his discretion, may waive the surety bond requirement of an investment adviser or an investment adviser applicant who satisfies both of the following conditions:

(i) The investment adviser will not have custody of or discretionary authority over client funds or securities; and

(ii) The investment adviser includes a provision in all investment advisory contracts which states that the investment adviser will not have custody of or discretionary authority over client funds or securities, as required by section 30-1405(2), Idaho Code.

(3) The director may by rule require a minimum capital for registered broker-dealers and investment advisers or may prescribe a ratio between net capital and aggregate indebtedness by type or classification.

(4) The director shall require as a condition of registration that the applicant (and, if the applicant is a corporation or partnership, all officers, directors or partners doing securities business in this state) pass a written examination in such form as the director shall prescribe as evidence of knowledge of the securities business: Provided, that not more than two (2) officers of an issuer may be registered as salesmen for a particular original offering of the issuer's securities without being required to pass such written examination or file a salesman's bond as required by section 30-1407(2), Idaho Code; and provided further, that no such officer may again register within five (5) years as such salesman for this or any other issuer without passing the written examination. Such examination shall be given twice a year or at such more frequent intervals as the director shall direct.

(5) Any person who is licensed to sell securities or conduct a securities business in this state and (a) is a member or registered representative of a member of the New York Stock Exchange, the Ameri-

can Stock Exchange, the Midwest Stock Exchange, the Pacific Coast Stock Exchange, or the National Association of Securities Dealers or any other exchange registered with the Securities and Exchange Commission and approved by the director; or, (b) has successfully completed the general examination for nonmembers of the National Association of Securities Dealers, commonly known as the SECO examination, shall not be required to pass an examination given by the director as a condition of registration.

SECTION 6. That Section 30-1410, Idaho Code, be, and the same is hereby amended to read as follows:

30-1410. DURATION OF REGISTRATION -- NOTICE OF ASSOCIATION WITH ISSUER, BROKER-DEALER OR INVESTMENT ADVISER. Registration of a broker-dealer, salesman, ~~or~~ investment-adviser or investment adviser representative shall be effective until the thirty-first day of December next following such registration or as otherwise designated by rule and may be renewed as hereinafter provided. The registration of a salesman is not effective during any period when he is not associated with ~~an~~ a specified issuer or a ~~registered~~ specified broker-dealer ~~specified in his application~~ registered under this act. The registration of an investment adviser representative is not effective during any period when the investment adviser representative is not associated with a specified investment adviser registered under this act. When a salesman begins or terminates a connection with an issuer or registered broker-dealer, the salesman and the issuer or broker-dealer shall promptly notify the director. When an investment adviser representative begins or terminates an association with a registered investment adviser, the registered investment adviser shall promptly notify the director.

SECTION 7. That Section 30-1411, Idaho Code, be, and the same is hereby amended to read as follows:

30-1411. RENEWAL OF REGISTRATION -- FINANCIAL STATEMENT -- APPLICATION FOR A SUCCESSOR. Registration of a broker-dealer, salesman, ~~or~~ investment adviser or investment adviser representative may be renewed by filing with the director or an organization which the director by rule designates prior to the expiration thereof an application containing such information as the director may require to indicate any material change in the information contained in the original application or any renewal application for registration as a broker-dealer, salesman, ~~or~~ investment adviser or investment adviser representative filed with the director or an organization which the director by rule designates by the applicant, payment of the prescribed fee and, in the case of a broker-dealer, a financial statement showing the financial condition of such broker-dealer as of a date within ninety (90) calendar days. A registered broker-dealer or investment adviser may file an application for registration of a successor to become effective upon approval of the director.

SECTION 8. That Section 30-1413, Idaho Code, be, and the same is hereby amended to read as follows:

30-1413. DENIAL, SUSPENSION, REVOCATION OF REGISTRATION -- GROUNDS. The director may by order deny, suspend or revoke registration of any broker-dealer, salesman, ~~or~~ investment adviser or investment adviser representative or may impose an administrative penalty in an amount not to exceed ~~five~~ ten thousand dollars ($~~5~~10,000) for each violation if he finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer or director:

(1) has filed an application for registration under this section which, as of its effective date or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact,

(2) has wilfully violated or wilfully failed to comply with any provision of this act or a predecessor act or any rule or order under this act or a predecessor act,

(3) has been convicted of any misdemeanor involving a security or any aspect of the securities business or of any felony,

(4) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business,

(5) is the subject of an order of the director denying, suspending or revoking registration as a broker-dealer, salesman, ~~or~~ investment adviser or investment adviser representative,

(6) is the subject of an order entered within the past five (5) years by the securities administrator of any other state, ~~or by~~ the United States securities and exchange commission, or any foreign governmental agency or self-regulatory organization, denying or revoking registration as a broker-dealer or salesman, investment adviser, or investment adviser representative, or the substantial equivalent of those terms as defined in this act, or is the subject of an order of the United States securities and exchange commission suspending or expelling him from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or is the subject of a United States post-office fraud order, but

(a) The director may not institute a revocation or suspension proceeding under this subsection more than one (1) year from the date of the order relied on, and

(b) He may not enter any order under this subsection on the basis of any order unless that order was based on facts which would currently constitute a ground for an order under this section,

(7) has engaged in dishonest or unethical practices in the securities business,

(8) is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature, but the director may not enter an order against a broker-dealer or investment adviser under this subsection without a finding of insolvency as to the broker-dealer or investment adviser,

(9) has not complied with a condition imposed by the director under section 30-1412, Idaho Code, or is not qualified on the basis of such factors as training, experience or knowledge of the securities business, or

(10) has failed to pay the proper filing fee, but the director may enter only a denial order under this subsection and he shall vacate any such order when the deficiency has been corrected.

The director may by order summarily postpone or suspend registration pending final determination of any proceeding under this section.

SECTION 9. That Section 30-1414, Idaho Code, be, and the same is hereby amended to read as follows:

30-1414. ORDER -- REQUEST FOR NOTICE OF HEARING -- FINDINGS AND CONCLUSIONS. Upon the entry of the order under section 30-1413, Idaho Code, the director shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is a salesman, or investment adviser representative, that it has been entered and of the reasons therefor and that if requested by the applicant or registrants within twenty (20) days after the receipt of the director's notification the matter will be promptly set down for hearing. If no hearing is requested within twenty (20) days and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearing, may affirm, modify or vacate the order.

SECTION 10. That Section 30-1415, Idaho Code, be, and the same is hereby amended to read as follows:

30-1415. CANCELLATION OF REGISTRATION OR APPLICATION -- GROUNDS. If the director finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, investment adviser, ~~or~~ salesman~~,~~ or investment adviser representative, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator or guardian, or cannot be located after reasonable search, the director may by order cancel the registration or application.

SECTION 11. That Section 30-1420, Idaho Code, be, and the same is hereby amended to read as follows:

30-1420. REGISTRATION BY COORDINATION -- REQUIREMENTS -- STATEMENT OF CONTENTS. Any security for which a registration statement has been filed under the Securities Act of 1933 or any securities for which filings have been made pursuant to regulation A, regulation E or regulation F, and amendments thereto, of the general rules and regulations of the United States securities and exchange commission, adopted pursuant to subsection (b) of section 3 of said Securities Act of 1933 in connection with the same offering may be registered by coordination. A registration statement under this section shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in section 30-1437, Idaho Code:

(1) ~~three~~ one (~~3~~1) cop~~ies~~y of the prospectus or any offering circular and letter of notification filed under the Securities Act of 1933 or the general rules and regulations thereunder, together with

all amendments thereto,

(2) the amount of securities to be offered in this state,

(3) the states in which a registration statement or similar document in connection with the offering has been or is expected to be filed,

(4) any adverse order, judgment or decree previously entered in connection with the offering by any court or the United States securities and exchange commission,

(5) if the director by rule or otherwise requires, ~~a copy of the articles of incorporation and by laws, or their substantial equivalents, currently in effect,~~ a copy of any agreements with or among underwriters~~,~~ and a copy of any indenture or other instrument governing the issuance of the security to be registered~~, and a specimen or copy of the security~~,

(6) if the director requests, any other information or copies of any other documents, filed under the Securities Act of 1933,

(7) an undertaking to forward promptly all amendments to the federal registration statement or offering circular and letter of notification, other than an amendment which merely delays the effective date, and

(8) a consent to service of process meeting the requirements of section 30-1436, Idaho Code.

SECTION 12. That Section 30-1431, Idaho Code, be, and the same is hereby amended to read as follows:

30-1431. STOP ORDERS -- GROUNDS. The director may issue an order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if he finds that the order is in the public interest and that~~:~~:

(1) the registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact,

(2) any provision of this act or any rule, order or condition lawfully imposed under this act has been wilfully violated in connection with the offering by;

(a) The person filing the registration statement,

(b) The issuer, any partner, officer or director of the issuer, any person occupying a similar status or performing similar functions or any person directly or indirectly controlling or controlled by the issuer but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer, or

(c) Any underwriter,

(3) the issuer whose security is registered or sought to be registered is the subject of a temporary restraining order or temporary or permanent injunction of any court of competent jurisdiction entered under any other foreign, federal or state act; but

(a) the director may not institute a proceeding against an effective registration statement under this subsection more than one (1) year from the date of the injunction relied on and,

(b) he may not enter an order under this clause on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for an order under this section,

(4) the issuer's enterprise or method of business includes or would include activities which are illegal where performed,

(5) the offering has worked or tended to work a fraud upon purchasers or would so operate,

(6) when a security is sought to be registered by notification, it is not eligible for such registration,

(7) when a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by section 30-1420(7),

(8) the applicant or registrant has failed to pay the proper registration fee; but the director may enter only a denial order under this subsection and he shall vacate any such order when the deficiency has been corrected, or

(9) the offering has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions or other compensation or promoters' profits or participation or unreasonable amounts or kinds of options.

SECTION 13. That Section 30-1434, Idaho Code, be, and the same is hereby amended to read as follows:

30-1434. EXEMPT SECURITIES. (1) Sections 30-1416 through 30-1433 inclusive, Idaho Code, shall not apply to:

(~~1~~a) any security including a revenue obligation issued or guaranteed by the United States, any state, any political subdivision of a state or any agency or corporate or other instrumentality of one or more of the foregoing, or any certificate of deposit for any of the foregoing~~;~~,

(~~2~~b) any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing or any other foreign government with which the United States currently maintains diplomatic relations if the security is recognized as a valid obligation by the issuer or guarantor,

(~~3~~c) any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States or any bank, savings institution or trust company organized or chartered as such and under the jurisdiction and supervision of the superintendent of banks of any state,

(~~4~~d) any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association or any building and loan or similar association organized under the laws of any state and authorized to do business in this state,

(~~5~~e) any insurance or endowment policy or annuity contract or optional annuity contract, issued by a corporation subject to the supervision of the director of the department of insurance,

(~~6~~f) any security issued or guaranteed by any federal credit union or any credit union, industrial loan association or similar

association organized and supervised under the laws of this state,

(~~7~~g) any security issued or guaranteed by any railroad, other common carrier, public utility or holding company which is:

(~~a~~i) Subject to the jurisdiction of the interstate commerce commission,

(~~b~~ii) A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act,

(~~c~~iii) Regulated with respect to its rates and charges by a governmental authority of the United States or any state or municipality, or

(~~d~~iv) Regulated with respect to the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada or any Canadian province; also equipment trust certificates in respect to equipment conditionally sold or leased to a railroad or public utility, if other securities issued by such railroad or public utility would be exempt under this subsection,

(~~8~~h) any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange or any other stock exchange registered with the United States securities and exchange commission and approved by the director, any other security of the same issuer which is of senior or substantially equal rank, any security called for by subscription rights or warrants so listed or approved or any warrant or right to purchase or subscribe of the foregoing,

(~~9~~i) any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purposes, also any securities issued by a community-sponsored or owned industrial corporation or foundation organized for the purpose of promoting growth and/or economic development of the community,

(~~10~~j) any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transaction and which evidences an obligation to pay cash within nine (9) months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited or any guarantee of such paper or of any such renewal when such commercial paper is sold to the banks or insurance companies,

(~~11~~k) any investment contract issued in connection with an employee's stock purchase, savings, pension, profit-sharing or similar benefit plan,

(~~12~~l) any security issued by a nonprofit cooperative corporation organized pursuant to ~~section 30-117A or chapter 10, 30, Idaho Code~~, this title, if no expenditure is made by or on its behalf in connection with the issuance or sale of its securities other than the actual expenses of organization, calling or holding meetings of incorporators or shareholders, printing, mailing, and taxes,

(~~13~~m) any security issued by a domestic or foreign corporation, partnership, trust or association engaged in actual mining operations or the exploration and development of mining properties in

this state, whether or not sold through a broker-dealer, provided the following conditions are met:

(~~a~~i) The term "actual mining operations" within the meaning of this subsection does not include the development or production of gas or oil;

(~~b~~ii) The total amount of the securities to be offered and sold does not exceed one hundred thousand dollars ($100,000) in any twelve (12) month period;

(~~c~~iii) All sales brochures, pamphlets, advertisements and literatures are filed with the director prior to being used;

(~~d~~iv) At least eighty per cent (80%) of the gross amount paid by the purchasers of the securities is used in actual mining operations or for actual exploration and development expenses, including legal, accounting, engineering and geological expenses; and

(~~e~~v) The issuer shall file a report in a form prescribed by the director and at such times that the director by rule may provide, not to exceed once every three (3) months, stating the number of shares or amount of other securities sold, the number of purchasers, the amount of money obtained by the issuer from the sales, and the manner in which the moneys have been expended.

(2) Provided, that any person shall give notice in the form prescribed by the director of his intention to avail himself of the exemption afforded by ~~subsections~~ paragraphs (~~4~~d), (~~5~~e), (~~6~~f), (~~9~~i), (~~11~~k), (~~12~~l) or (~~13~~m) of ~~this~~ subsection (1) of this section thirty (30) days ~~after the effective date of this act~~ prior to the first offer or sale to be made thereunder. The director may by order deny or revoke the exemption specified in such subsections with respect to a specific security. Upon the entry of such an order the director shall promptly notify all ~~registered broker-dealers~~ interested parties that it has been entered and of the reasons therefor and that within twenty (20) days of the receipt of a written request the matter will be set for hearing. If no hearing is requested and none is ordered by the director the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered the director, after notice of an opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under said subsections may operate retroactively. No person may be considered to have violated this act by reason of any offer or sale effected after the entry of an order under said subsections if he sustains the burden of proof that he did not know, and in the exercise of reasonable care, could not have known of the order.

SECTION 14. That Section 30-1435, Idaho Code, be, and the same is hereby amended to read as follows:

30-1435. EXEMPT TRANSACTIONS. (1) Except as hereinafter in this section expressly provided, sections 30-14~~0~~16 through 30-1433, inclusive, Idaho Code, shall not apply to;

(~~1~~a) any isolated transaction, ~~or~~

(b) sales not involving a public offering, whether effected

through a broker-dealer or not,

(~~2~~c) any nonissuer distribution of an outstanding security by a registered broker-dealer if~~:~~:

(~~a~~i) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen (18) months and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or

(~~b~~ii) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three (3) preceding fiscal years or during the existence of the issuer and any predecessors, if less than three (3) years, in the payment of principal, interest or dividends on the security,

(~~3~~d) any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy, but the director may require that the customer acknowledge on a form prescribed by the director that the sale was unsolicited and the director may require that a signed copy of each such form be preserved by the broker-dealer for a specified period,

(~~4~~e) any transaction between the issuer or other person on whose behalf the offering is made and an underwriter or among underwriters,

(~~5~~f) any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian or conservator in the performance of his official duties as such,

(~~6~~g) any transaction executed by a bona fide pledgee without any purpose of evading this act,

(~~7~~h) any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust or other financial institution or institutional buyer or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity,

(~~8~~i) any transaction pursuant to an limited offer directed by the offerer to not more than ten (10) persons in this state other than those designated in paragraph (h) of subsection (~~7~~l) of this section during any period of twelve (12) consecutive months, whether or not the offerer or any of the offerees is then present in this state, if

(~~a~~i) the seller reasonably believes that all the buyers are purchasing for investment and,

(~~b~~ii) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer,

(~~9~~j) any offer or sale of a preorganization certificate or subscription, if

(~~a~~i) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber,

(~~b~~ii) the number of subscribers does not exceed ten (10) and

(~~c~~iii) no payment is made by any subscriber,

(~~10~~k) any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the

transaction are holders of convertible securities, nontransferable warrants or transferable warrants exercisable within not more than ninety (90) days of their issuance, if

(~~a~~i) no commission or other remuneration other than a standby commission is paid or given directly or indirectly for soliciting any security holder in this state, or

(~~b~~ii) the issuer files a notice in the form prescribed by the director not less than thirty (30) days before making the offer,

(~~11~~l) any offer, but not a sale, of a security for which registration statements have been filed under both this act and the Securities Act of 1933 if no stop order or denial order is in effect and no public proceeding or examination looking toward such an order is pending under either act,

(~~12~~m) the issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the distribution other than the surrender of a right to a cash dividend where the stockholder can elect to take a dividend in cash or stock,

(~~13~~n) any transaction incident to a right of conversion or a statutory or judicially approved reclassification, recapitalization, reorganization, quasi-reorganization, stock split, reverse stock split, merger, consolidation or sale of assets, if

(~~a~~i) no commission or other remuneration other than a standby commission is paid or given directly or indirectly for soliciting any security holder in this state, or

(~~b~~ii) the issuer files a notice in the form specified by the director not less than thirty (30) days before making the offer,

(~~14~~o) any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit.

(2) The director may by order deny or revoke the exemption specified in ~~subsections~~ paragraph (~~2~~c), (~~3~~d), (~~10~~k) or (~~13~~n) of subsection (1) of this section with respect to a specific security. Upon the entry of such an order the director shall promptly notify all ~~registered--broker-dealers~~ interested parties that it has been entered and of the reasons therefor and that within twenty (20) days of the receipt of a written request the matter will be set for hearing. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under said subsections may operate retroactively. No person may be considered to have violated this act by reason of any offer or sale effected after the entry of any order under said subsections if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known of the order.

SECTION 15. That Section 30-1436, Idaho Code, be, and the same is hereby amended to read as follows:

30-1436. CONSENT TO SERVICE OF PROCESS. Every applicant for registration as a broker-dealer or investment adviser, ~~or~~ salesman or investment adviser representative under this act and every issuer which proposes to register and offer a security in this state through any person acting on an agency basis in the common-law sense, shall file with the director or an organization which the director by rule designates, in such form as the director shall prescribe, an irrevocable consent appointing the director and his successors in office to be the attorney of the applicant to receive service of any lawful process in any civil suit, action or proceeding against the applicant or its or his successor, executor or administrator which arises under this act or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the director, but it is not effective unless;

(1) the plaintiff, who may be the director in a suit, action or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his last address on file with the director, and

(2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court may allow.

SECTION 16. That Section 30-1437, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

application for registration of securities is denied or withdrawn the director shall retain the fee.

(2) For filing an annual statement the fee shall not exceed ten dollars ($10.00).

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

(4) For registration of a salesman or investment adviser representative the fee shall not exceed twenty dollars ($20.00) for the original registration with each employer and twenty dollars ($20.00) for each annual renewal. When an application is denied or withdrawn the director shall retain the fee.

(5) For certified copies of any documents filed with the director the fee shall be the cost to the department as determined by the director.

(6) For each examination, exemption or opinion letter, the fee shall not exceed fifty dollars ($50.00), which fee shall not be refundable.

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

SECTION 17. That Section 30-1438, Idaho Code, be, and the same is hereby amended to read as follows:

30-1438. MISLEADING FILINGS PROHIBITED. It is unlawful for any person to knowingly make or cause to be made in any document filed with the director or in any proceeding or investigation under this act any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect.

SECTION 18. That Section 30-1442, Idaho Code, be, and the same is hereby amended to read as follows:

30-1442. INJUNCTIONS -- REMEDIES. (1) Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this act or any rule or order hereunder, he may in his discretion bring an action in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this act or any rule or order hereunder. Upon a showing that a person has engaged or is about to engage in an act or practice constituting a violation of this act or any rule hereunder, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The director shall not be required to furnish a bond.

(2) In addition to the foregoing, the director, in his discretion and upon a showing that a person has violated the provisions of this act or any rule or order thereunder, may be granted the following

additional remedies:

(a) An order restoring to any person in interest any consideration which may have been acquired or transferred in violation of this act,

(b) An order that the person violating the act, rules or an order thereunder pay a civil penalty to the department in an amount of not to exceed ~~five~~ ten thousand dollars ($~~5~~10,000) for each violation,

(c) An order allowing the director to recover costs, which in the discretion of the court may include an amount representing reasonable attorney fees and reimbursements for investigative efforts,

(d) An order that the person violating the provisions of this act, rules or order not claim the availability of, use, or offer or sell securities under any exemptions under the act without receiving prior written permission or confirmation from the director,

(e) An order granting other appropriate remedies upon a proper showing.

(3) Liability for sanctions, both civil and criminal, and personal jurisdiction shall extend to all persons who engaged in violations or who aided and abetted others in violations of this act and rules and orders thereunder. Officers and directors of corporations shall not be exempt from actions brought for violations, merely because of their capacity as officers or directors, if they have participated in acts making the violations possible or if they have actual or constructive knowledge of violations by the corporation while acting as an officer or director.

SECTION 19. That Section 30-1449, Idaho Code, be, and the same is hereby amended to read as follows:

30-1449. REIMBURSEMENT OF EXPENSES INCIDENT TO INVESTIGATION AND EXAMINATION. Any issuer, broker-dealer, investment adviser, investment adviser representative or salesman who is investigated or examined in connection with a registration under this act shall reimburse the director or any of his duly authorized agents, officers or employees for actual travel expenses, reasonable living expense and a per diem as compensation for examiners which are necessarily incurred in connection with such investigation or examination, all at reasonable rates customary therefor and pursuant to a schedule of charges established and adopted by the director upon the effective date of this act and annually thereafter, upon presentation of a detailed account of such charges and expenses by the director or pursuant to his written authorization. No person shall pay and no examiner shall accept any additional emolument on account of any such examination.

If any issuer, broker-dealer, investment adviser, investment adviser representative or salesman shall fail to pay the charges and expenses provided in this section the same shall be paid out of the funds of the director in the same manner as other disbursements of such funds. The amount so paid shall become a lien upon all of the assets and property in this state of such issuer, broker-dealer, investment adviser, investment adviser representative or salesman and such amount may be recovered by suit by the attorney general on behalf

of the state of Idaho and restored to the appropriate fund. Failure of such issuer, broker-dealer, investment adviser, investment adviser representative or salesman to pay such charges and expenses shall also work a forfeiture of his right to do business in this state under this act.

SECTION 20. That Section 30-1450A, Idaho Code, be, and the same is hereby amended to read as follows:

30-1450A. DISCLOSURE OF RELATIONSHIPS WITH LICENSED PERSONS OR QUALIFIED ORGANIZATIONS. (a) If the director or any employee of the department of finance, during the term of his employment, is directly or indirectly interested as a director, officer, shareholder, member (other than a member of an organization formed for religious purposes), partner, agent or employee of any person who, during the period of such employment with the department of finance, was licensed or applied for a license as a broker-dealer, agent, or investment adviser, investment adviser representative or applied for or secured a registration or an exemption from registration of the sale of securities, he shall disclose not less often than annually the nature of such interest as follows:

(1) If it be the director, to the governor, on a form prescribed by the governor and retained by the governor as a public document; or

(2) If it be an employee of the department of finance, to the director, on a form prescribed by the director and retained by the director as a public document.

(b) Except as provided in section 67-2701, Idaho Code, employees of the department of finance shall be permitted to hold or purchase any security in accordance with such rules as the director may adopt for the purpose of protecting the public interest and avoiding conflicts of interest with respect to such employees.

(c) Except as provided in section 67-2701, Idaho Code, the director shall be permitted to hold any security acquired by him prior to his appointment as director or purchase or sell any security during the term of his employment as director if:

(1) Such security is held, purchased, or sold through a management account or trust administered by a bank or trust company authorized to do business in this state which has sole investment discretion regarding the holding, purchase and sale of securities; and

(2) The director did not, directly or indirectly, advise, counsel, command or suggest the holding, purchase or sale of any such security or furnish any information relating to such security to such bank or trust company.

The director shall furnish to the governor not less often than annually a report from said management account or trust listing all holdings, purchases, and sales of securities, which report shall be retained by the governor as a public document.

Approved April 4, 1991.

CHAPTER 271
(H.B. No. 111)

AN ACT
RELATING TO INSURANCE; AMENDING SECTION 41-4605, IDAHO CODE, TO ALLOW A THIRTY DAY FREE LOOK PROVISION ON INDIVIDUAL LONG-TERM POLICIES AND TO CORRECT NUMBERING OF SUBSECTIONS.

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 for skilled nursing care in a facility only, and such policy shall also provide coverage for additional service including, but not limited to, personal care services, adult foster care, adult day care, in-home services and home-delivered meals.

(3) Preexisting condition:

(a) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in section 41-4603(4)(a), Idaho Code, shall use a definition of "preexisting condition" which is more restrictive than the following: Preexisting condition means a condition for which medical advice or treatment was recommended by, or received from a provider of health care services, within six (6) months preceding the effective date of coverage of an insured person.

(b) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in section 41-4603(4)(a), Idaho Code, may exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within six (6) months following the effective date of coverage of an insured person.

(c) The director may extend the limitation periods set forth in paragraphs (a) and (b) of this subsection as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

(d) The definition of "preexisting condition" does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in paragraph (b) of this subsection expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described 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 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)~~ thirty (30) 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)~~ thirty (30)

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 long-term care insurance at the time of 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:

(i) A description of the principal benefits and coverage provided in the policy;

(ii) A statement of the principal exclusions, reductions and limitations contained in the policy;

(iii) A statement of the 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 premium. Continuation or conversion provisions of group coverage shall be specifically described;

(iv) 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~~10~~) 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~~9~~) 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.

(11~~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 4, 1991.

CHAPTER 272
(H. B. No. 123, As Amended)

AN ACT

RELATING TO LICENSING OF MOTOR VEHICLE DEALERS AND SALESMEN; AMENDING SECTION 49-103, IDAHO CODE, TO REDEFINE "BROKER"; AMENDING SECTION 49-105, IDAHO CODE, TO REDEFINE "DEALER"; AMENDING SECTION 49-107, IDAHO CODE, TO REDEFINE "FULL-TIME SALESMAN"; AMENDING SECTION 49-117, IDAHO CODE, TO REDEFINE "PRINCIPAL PLACE OF BUSINESS"; AMENDING SECTION 49-123, IDAHO CODE, TO PROVIDE REFERENCES; AMENDING SECTION 49-1602, IDAHO CODE, TO PROVIDE PROPER REFERENCES AND TO PROVIDE THAT THE IDAHO TRANSPORTATION DEPARTMENT SHALL REFUSE TO ISSUE A LICENSE IF THE INFORMATION ON THE APPLICATION IS INCOMPLETE, INCORRECT OR FICTITIOUS; AMENDING SECTION 49-1603, IDAHO CODE, TO DELETE THE OFFICE OF ASSISTANT SECRETARY FROM THE DEALER ADVISORY BOARD; AMENDING SECTION 49-1606, IDAHO CODE, TO PROVIDE THAT ALL-TERRAIN VEHICLES AND SNOW MACHINES MAY BE SOLD OR EXCHANGED UNDER A DEALER'S LICENSE, TO DELETE THE NONEXPIRING PROVISIONS OF A SALESMAN'S LICENSE AND TO PROVIDE THAT UNDER CERTAIN CONDITIONS NONRESIDENT DEALERS ARE NOT SUBJECT TO LICENSURE UNDER THIS CHAPTER; AMENDING SECTION 49-1607, IDAHO CODE, TO PROVIDE FOR THE DEPOSIT OF LICENSE FEES, TO PROVIDE FOR DEALER'S AND SALESMAN'S LICENSES AND LICENSE RENEWALS, AND TO INCREASE SALESMAN'S LICENSE FEES AND FEES FOR IDENTIFICATION CARDS; AMENDING SECTION 49-1608, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-1609, IDAHO CODE, TO PROVIDE THAT THE NOTICE OF SALE OR TRANSFER OF A VEHICLE BY A MANUFACTURER OR DEALER SHALL CONTAIN INFORMATION ON LIENS AND AN ODOMETER READING; AMENDING SECTION 49-1610, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-1611, IDAHO CODE, TO PROVIDE FOR THE FORM OF DEALER'S AND SALESMAN'S LICENSES; AMENDING SECTION 49-1613, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-1618, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR SHALL ISSUE A WRITTEN ORDER FOLLOWING A HEARING FOR THE DENIAL OR REVOCATION OF A LICENSE AND TO PROVIDE FOR THE POSTING OF NOTICES UPON SUSPENSION OF A LICENSE; REPEALING SECTION 49-1631, IDAHO CODE, RELATING TO BROKERS; AMENDING CHAPTER 16, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1634, IDAHO CODE, TO REQUIRE A MINIMUM NUMBER OF VEHICLE SALES FOR RENEWAL OF A DEALER'S LICENSE; AMENDING CHAPTER 16, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1635, IDAHO CODE, TO REQUIRE A MINIMUM NUMBER OF VEHICLE SALES FOR RENEWAL OF A SALESMAN'S LICENSE; AND AMENDING CHAPTER 16, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1636, IDAHO CODE, TO PROVIDE FOR CONSIGNMENT SALES.

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

SECTION 1. That Section 49-103, Idaho Code, be, and the same is hereby amended to read as follows:

49-103. DEFINITIONS -- B.

(1) "Bicycle" means every vehicle propelled exclusively by human

power upon which any person may ride, having two (2) tandem wheels, and except scooters and similar devices.

(2) "Board" means the Idaho transportation board.

(3) "Boat transporter" means any vehicle combination designed and used specifically to transport assembled boats and boat hulls.

(4) "Broker" means a person who, for a fee, commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale, but not resale, of a new vehicle, and who is not:

(a) ~~A dealer, agent or employee of a dealer;~~

~~(b)~~ A representative or an agent or employee of a representative;

(~~c~~b) A distributor, agent or employee of a distributor; or

(~~d~~c) At any point in the transaction, the owner of the vehicle involved in the transaction.

(5) "Bus" means every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "bus" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

(6) "Business district." (See "District", section 49-105, Idaho Code)

(7) "Buy." (See "Sell", "sold", and "purchase", section 49-120, Idaho Code)

SECTION 2. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

49-105. DEFINITIONS -- D.

(1) "Dealer" means every person in the business of buying, selling or exchanging ~~three~~ five (~~3~~5) or more new or used vehicles, new or used motorcycles, snow machines or motorscooters, ~~manufactured--homes,~~ travel trailers, all-terrain vehicles 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 withdrawal by the department of commercial 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.

(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 operation of any combination of motor vehicles with a gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Recreational vehicles are exempted from this class of license. Persons holding a valid class A license may also operate vehicles requiring a class B, C, 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 requiring a class C license, with any appropriate endorsements, and vehicles 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 requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in 49-123, Idaho Code.

(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 commercial vehicles or 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 - Tank 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 3. That Section 49-107, Idaho Code, be, and the same is hereby amended to read as follows:

49-107. DEFINITIONS -- F.

(1) "Factory branch" means a branch office maintained by a person who manufactures or assembles vehicles for sale to distributors or to dealers, or for directing or supervising, in whole or in part, its representatives.

(2) "Factory representative" means any person and each officer and employee engaged as a representative of a manufacturer of vehicles or by a factory branch for the purpose of making or promoting a sale of their vehicles, or for supervising or contacting their dealers or prospective dealers.

(3) "Farm tractor" means every motor vehicle designed or adapted and used primarily as a farm implement power unit operated with or without other farm implements attached in any manner consistent with the structural design of that power unit.

(4) "Farm vehicle." (See "Vehicle", section 49-123, Idaho Code)

(5) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one (1) year.

(6) "Fifth wheel trailer." (See "Trailer", section 49-121, Idaho Code)

(7) "Financial institution" means any bank that is authorized to do business in the state of Idaho and any other financial institution that is registered with the department of finance.

(8) "Flammable liquid" means any liquid which has a flash point of 70 degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-cup test device.

(9) "Fleet" means one (1) or more apportionable vehicles.

(10) "Fold down camping trailer." (See "Trailer", section 49-121, Idaho Code)

(11) "Foreign vehicle." (See "Vehicle", section 49-123, Idaho Code)

(12) "Franchise" means a contract or agreement between a dealer and a manufacturer of new vehicles or its distributor or factory branch by which the dealer is authorized to engage in the business of selling any specified make or makes of new vehicles.

(13) "Full-time salesman" means any person employed as a vehicle salesman on behalf of a dealer for thirty (30) or more hours per week, and who sells, purchases, exchanges or negotiates for the sale, purchase or exchange of five (5) or more vehicles during each year in which his license is in effect.

SECTION 4. That Section 49-117, Idaho Code, be, and the same is hereby amended to read as follows:

49-117. DEFINITIONS -- P.

(1) "Park" or "parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(2) "Park trailer." (See "Trailer", section 49-121, Idaho Code)

(3) "Part-time salesman" means any person employed as a vehicle salesman on behalf of a dealer less than thirty (30) hours per week.

(4) "Peace officer." (See section 19-5101(d), Idaho Code)

(5) "Pedestrian" means any person afoot and any person operating a wheelchair or a motorized wheelchair.

(6) "Pedestrian path" means any path, sidewalk or way set aside and used exclusively by pedestrians.

(7) "Person" means every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors, political subdivision, state or federal governmental department, agency, or instrumentality, and for the purposes of chapter 22 of this title shall include a private, common or contract carrier operating a vehicle on any highway of this state.

(8) "Pneumatic tire." (See "Tires", section 49-121, Idaho Code)

(9) "Pole trailer." (See "Trailer", section 49-121, Idaho Code)

(10) "Possessory lien" means a lien dependent upon possession for compensation to which a person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the towing, storage, repair, or safekeeping of, any vehicle of a type subject to registration.

(11) "Possessory lien holder" means any person claiming a lien, that lien claimed to have accrued on a basis of services rendered to the vehicle which is the subject of the lien.

(12) "Preceding year" means, for the purposes of section 49-435, Idaho Code, a period of twelve (12) consecutive months fixed by the department, which period shall be within the eighteen (18) months immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department in fixing the period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(13) "Principal place of business" means an enclosed commercial structure located within the state, easily accessible and open to the public at all reasonable times, with an improved display area large enough to display five (5) or more vehicles of the type the dealer is licensed to sell, immediately adjoining the building, and at which the business of a dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land-use regulatory ordinances,

and in which building the public ~~may~~ shall be able to contact the dealer or his salesmen in person or by telephone at all reasonable times, and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business. The principal place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event shall a room or rooms in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this title unless the entire ground floor of that hotel, apartment house, or rooming house building or dwelling house be devoted principally to and occupied for commercial purposes, and the office or offices of the dealer be located on the ground floor. In no event shall premises devoted principally to the business of a gasoline service station be considered a "principal place ~~in~~ of business" within the terms and provisions of this title.

(14) "Private property open to the public" means real property not owned by the federal government or the state of Idaho or any of its political subdivisions, but is available for vehicular traffic or parking by the general public with the permission of the owner or agent of the real property.

(15) "Private road" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(16) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars ($25,000) because of bodily injury to or death of one (1) person in any one (1) accident, and, subject to the limit for one (1) person, in the amount of fifty thousand dollars ($50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of fifteen thousand dollars ($15,000) because of injury to or destruction of property of others in any one (1) accident.

(17) "Purchase." (See "Sell," "sold," and "buy," section 49-120, Idaho Code)

SECTION 5. 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 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:

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

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

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.

For the purposes of chapter 4 of this title (motor vehicle registration), 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.

(h) Noncommercial vehicle. For the purposes of chapter 4 of this title, (motor vehicle registration), a 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.

(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 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.

(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.

(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.

(1) 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. (See also "full-time salesman", section 49-107, Idaho Code, and "part-time salesman", section 49-117, Idaho Code)

(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 6. That Section 49-1602, Idaho Code, be, and the same is hereby amended to read as follows:

49-1602. ADMINISTRATION -- POWERS AND DUTIES. The department shall:

(1) Issue, and for reasonable cause shown, refuse to issue~~,~~ an applicant any license authorized under the provisions of this chapter. The department shall not refuse to issue to any applicant, other than a partnership or corporation, a license if the applicant has complied with the terms and provisions of this chapter and the rules and regulations of the board, unless the applicant has been convicted of a violation of any of the provisions of this chapter or chapter 5, title 49, or section 49-14108 or chapter 6, title 48, Idaho Code, or of ~~an applicable rule or regulation~~ any federal odometer law or regulation. Should the applicant be a partnership or a corporation, the department may refuse to issue a license to the applicant where it determines that one or more of the partners~~,~~ of a partnership, or one or more of the stockholders or officers of a corporation, was previously the holder of a license which was revoked or suspended, and the license revoked never reissued or the suspended license never reinstated, or that one or more of the partners, stockholders, or officers, though not previously the holder of a license, has violated any of the provisions of this chapter or of an applicable rule or regulation, or of federal motor vehicle safety standards.

(2) For just cause shown, revoke or suspend, on terms, conditions, and for a period of time as the department shall consider fair and just, any license or licenses issued pursuant to the provisions of this chapter. No license shall be revoked or suspended unless it shall

be shown that the licensee has violated a provision of this chapter or of an applicable rule or regulation, or of federal motor vehicle safety standards.

(3) On its own motion, upon the sworn complaint of any person, investigate any suspected or alleged violation by a licensee of any of the provisions of this chapter or of an applicable rule or regulation.

(4) Prescribe forms for applications for licenses and qualifications for an applicant for licensure. Every application for a license shall contain, in addition to other information required by the department, the following:

(a) The name and residence address of the applicant and the trade name, if any, under which he intends to conduct his business. If the applicant is a copartnership, the name and residence address of each member, whether a limited or general partner, and the name under which the partnership business is to be conducted. If the applicant is a corporation, the name of the corporation and the name and address of each of its principal officers and directors.

(b) A complete description, including the city with the street number, of the principal place of business and any other and additional places of business operated and maintained by the applicant in conjunction with the principal place of business.

(c) Copies of any letters of franchise for new vehicles that the applicant has been enfranchised to sell or exchange, and the name or names and addresses of the manufacturer or distributor who has enfranchised the applicant.

(d) Names and addresses of the persons who shall act as salesmen under the authority of the license, if issued.

(e) A copy of the certificate of assumed business name, if required, shall be filed with the county recorder in the county where the dealer's principal place of business is located.

(f) For a manufacturer's license, the name or names and addresses of each and every distributor, factory branch, and factory representative.

(g) For a salesman's license, certification by the dealer by whom the salesman will be employed, that he has examined the background of the applicant, and to the best of the dealer's knowledge, is ~~of good moral character~~ qualified to be licensed under the sponsorship of the licensed dealer.

(5) Refuse to issue any license under the provisions of this chapter if, upon investigation, the department finds that any information contained in the application is incomplete, incorrect or fictitious.

(6) Require that a dealer's principal place of business, and other locations operated and maintained by him in conjunction with his principal place of business, have erected or posted signs or devices providing information relating to the dealer's name, location and address of the principal place of business, and the number of the license held by the dealer.

(6~~7~~) Provide for regular meetings of the dealer advisory board, to be held not less frequently than semiannually. Notices of meetings of the advisory board shall be mailed to all members not less than five (5) days prior to the date on which the meeting is to be held.

(7~~8~~) Inspect, prior to licensing, the principal place of business

and other sites or locations as may be operated and maintained by the applicant.

(~~8~~9) Seek and consider the advisory board's recommendations and comments regarding proposed rules and regulations promulgated for the administration of the provisions of this chapter.

(~~9~~10) Require the attendance of not less than one or more than three (3) advisory board members at all hearings held relating to this chapter.

SECTION 7. That Section 49-1603, Idaho Code, be, and the same is hereby amended to read as follows:

49-1603. DEALER ADVISORY BOARD. (1) There shall be a dealer advisory board to consist of seven (7) members to assist and advise the department in the administration of the provisions of this chapter. Five (5) members shall be appointed from licensed dealers selling new vehicles and two (2) members appointed from licensed dealers selling used vehicles. The governor shall appoint the board with consideration to recommendations of the board of directors of the Idaho Automobile Dealers Association and recommendations of the Independent Dealer Association representing used vehicle dealers. The term of office of each member shall be three (3) years. Vacancies occurring on the board other than by expiration of the term shall be filled for the unexpired term only, and each member of the board shall serve until his successor is appointed and qualified. Members of the advisory board shall be compensated as provided by section 59-509(b), Idaho Code, and payments of compensation shall be paid from the state highway account as part of the expenses of administering the provisions of this chapter. A majority of the members of the advisory board shall constitute a quorum, the presence of which at any meeting duly called by the department shall have full and complete power to act upon and resolve in the name of the advisory board any matter, thing or question referred to it by the department, or which by reason of any provisions of this chapter, it has power to determine.

(2) The advisory board on the first day of each July, or as soon thereafter as practicable, shall elect a chairman, vice-chairman~~,~~ and secretary ~~and--assistant--secretary~~ from among its members, who shall hold office until their successors are elected. As soon as the board has elected its officers, the secretary shall certify the results of the election to the department. The chairman shall preside at all meetings of the advisory board and the secretary shall make a record of their proceedings. All members of the advisory board shall be entitled to vote on any question, matter, or thing which properly comes before it.

SECTION 8. That Section 49-1606, Idaho Code, be, and the same is hereby amended to read as follows:

49-1606. CLASSES OF LICENSES -- NONRESIDENT DEALERS. Licenses issued under the provisions of this chapter shall be as follows:

(1) A dealer's license shall permit the licensee to engage in the business of selling or exchanging new and used vehicles, new and used motorcycles and motor scooters, new and used ~~manufactured--homes~~ all-

terrain vehicles, snow machines and travel trailers, and new and used motor homes. This form of license shall permit licensees who ~~shall--be~~ are owners or part owners of the business of the licensee to act as vehicle salesmen.

(2) A vehicle salesman's license shall permit the licensee to engage in the activities of a vehicle salesman. ~~A-salesman's-license shall-be-nonexpiring,-providing-employment-remains-with-the-sponsoring dealership.~~

(3) A wholesale dealer's license shall permit the licensee to engage in the business of wholesaling used vehicles to Idaho vehicle dealers. The holder of this license must meet all the requirements for a principal place of business, except for the requirement of display area and adequate room to repair vehicles.

(4) A vehicle manufacturer's license shall permit the licensee to engage in the business of constructing or assembling vehicles, of the type subject to registration under this title at an established place of business within Idaho.

(5) A distributor, factory branch, or distributor branch license shall permit the licensee to engage in the business of selling and distributing vehicles, parts, and accessories to their franchised dealers.

(6) A representative (factory branch or distributor, etc.) license shall permit the licensee to engage in the business of contacting his respective authorized dealers, for the purpose of making or promoting the sale of his, its, or their vehicles, parts, and accessories.

(7) Pending the satisfaction of the department that the applicant has met the requirements for licensure, it may issue a temporary permit to any applicant for a license. A temporary permit shall not exceed a period of ninety (90) days while the department is completing its investigation and determination of facts relative to the qualifications of the applicant for a license. A temporary permit shall terminate when the applicant's license has been issued or refused.

(8) The department may issue a probationary vehicle salesman's license, subject to conditions to be observed in the exercise of the privilege granted either upon application for issuance of a license or upon application for renewal of a license. The conditions to be attached to the exercise of the privilege shall not appear on the face of the license but shall, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department.

(9) A nonresident dealer who is currently authorized to do business as, and has an established place of business as a vehicle dealer in another state, is not subject to licensure under the provisions of this chapter as long as the sales are limited to the exportation of vehicles for sale to, and the importation of vehicles purchased from, licensed Idaho vehicle dealers.

SECTION 9. That Section 49-1607, Idaho Code, be, and the same is hereby amended to read as follows:

49-1607. FEES -- FUNDS -- EXPENSES -- EXPIRATION OF LICENSES. (1) The department shall collect with each application for licensure, the

following fees:

(a) Dealer's, wholesale dealer's and vehicle manufacturer's license, initial application, one hundred twenty-five dollars ($125), ten dollars ($10.00) of which shall be deposited in the county current expense fund. Renewal application, one hundred dollars ($100).

(b) Vehicle salesman's license, twenty-five dollars ($25.00), ~~five~~ ten dollars ~~($5.00)~~ ($10.00) of which shall be deposited in the county current expense fund.

(c) Distributor-factory branch-distributor branch license, one hundred dollars ($100).

(d) Representative's license, twenty-five dollars ($25.00).

(e) To reissue a license, salesman and dealer identification cards or other licensing documents at a dealer's request, not resulting from an error by the department, a fee of ~~one~~ ten dollars ($10.00) per document.

(f) Supplemental lot license or relocated principal place of business, and temporary supplemental lot, twenty-five dollars ($25.00) for license issued to a single dealer. A fee of fifty dollars ($50.00) for a license issued to a group of dealers for a temporary supplemental lot.

(2) With the exception of salesman licenses, a~~A~~ny renewal application postmarked or delivered to the department after January 31 shall be processed as an initial application.

(3) All fees shall be paid over to the state treasurer for credit to the state highway account out of which shall be paid the expenses of the department and the expenses incurred in enforcing the provisions of this chapter.

(4) Dealer l~~L~~icenses, if not suspended or revoked, shall be in effect through December 31 next following the date of issuance. Upon expiration, unless by suspension or revocation, may be renewed from year to year upon the payment of the fees specified in this section to accompany applications, and renewals shall be made ~~from year to year as a matter of right~~ in accordance with the provisions of section 49-1634, Idaho Code.

(5) Salesman licenses, if not suspended or revoked, shall be valid for three (3) years from the date of issue provided that:

(a) Employment remains with the sponsoring dealership; and

(b) The sponsoring dealership has a valid license issued by the department.

Renewals shall be issued in accordance with the provisions of section 49-1635, Idaho Code.

SECTION 10. 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, all-terrain vehicles and snow machine sales, twenty thousand dollars ($20,000).

(b) A dealer exclusively in the business of motorcycle and motor scooter sales, all-terrain vehicles and snow machine 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.

SECTION 11. That Section 49-1609, Idaho Code, be, and the same is hereby amended to read as follows:

49-1609. MANUFACTURER OR DEALER TO GIVE NOTICE OF SALE OR TRANSFER. Every manufacturer or dealer, upon transferring a vehicle, whether by sale, lease or otherwise, to any person other than a manufacturer or dealer, shall within thirty (30) calendar days, give written notice of the transfer to the department or the assessor upon the official form provided by the department. Every notice shall contain the date of transfer, the time of transfer, the names and addresses of the transferor and transferee, any liens, a current odometer reading and a description of the vehicle as may be called for in the official form.

SECTION 12. That Section 49-1610, Idaho Code, be, and the same is hereby amended to read as follows:

49-1610. RIGHT OF ACTION FOR LOSS BY FRAUD -- PROCESS. (1) If any

person shall suffer any loss or damage by reason of any fraud practiced on him or fraudulent representation made to him by a licensed dealer or one (1) of the dealer's salesmen acting for the dealer, in his behalf or within the scope of the employment of salesman, or shall suffer any loss or damage by reason of the violation by the dealer or salesman of any of the provisions of this chapter, or chapter 5, title 49, Idaho Code, or section 49-1418, Idaho Code, or chapter 6, title 48, Idaho Code, or any applicable rule or regulation of the board, or federal odometer law or regulation, that person shall have a right of action against the dealer and his salesman.

(2) Notwithstanding the terms, provisions or conditions of any agreement or franchise, or other terms or provisions of any novation, waiver or other written instrument, any person who is or may be injured by a violation of a provision of this chapter, or any party to a franchise who is so injured in his business or property by a violation of a provision of this chapter relating to that franchise, or any person so injured because he refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of the provisions of this chapter, may bring an action for damages and equitable relief, including injunctive relief.

(3) A license or a renewal shall not be issued to any applicant unless and until the applicant shall file with the director a good and sufficient instrument in writing in which he shall appoint the director as the true and lawful agent of the applicant upon whom all process may be served in any action or actions which may subsequently be commenced against the applicant arising out of any claim for damages suffered by any person by reason of the violation of the applicant of any of the terms and provisions of this chapter or provisions of chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, or of federal motor vehicle safety standards, or federal odometer laws and regulations. The applicant shall stipulate and agree in the appointment that any process directed to the applicant in such a case which is served upon the director, or in his absence his designee, shall be of the same legal force and effect as if served upon the applicant personally. The applicant shall further stipulate and agree in writing that the agency created by the appointment shall continue for and during the period covered by any license that may be issued and so long thereafter as the applicant may be made to answer in damages for a violation of the provisions of this chapter. The instrument appointing the director as agent for the applicant for service of process shall be acknowledged by the applicant before an officer authorized to take and certify acknowledgments under the laws of this state. In any case wherein the licensee be served with process by service upon the director, two (2) copies of the process shall be left with the director. Not later than two (2) days after the service of the process upon him, the director shall mail one (1) copy to the licensee at his principal place of business, as the same appears of record in the office of the director, postpaid, by ~~registered~~ certified mail with request for return receipt. The remaining copy shall be retained on file with the director. The licensee shall then have and be allowed thirty (30) days from and after the service within which to answer any complaint or other pleading which may be filed in the cause. For the purpose of venue where the licensee is served with

process upon the director, the service shall be deemed to have been made upon the licensee in the county in which he has or last had his principal place of business.

(4) Whenever any person is awarded a final judgment in a court of competent jurisdiction in the state of Idaho for any loss or damage by reason of the violation by such dealer or salesman of any of the provisions of this chapter, chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, or any rule or regulation of the department in connection with the purchase of a vehicle, or federal motor vehicle safety standards, or in connection with the purchase of a vehicle if the loss or damage is a result of odometer tampering, or odometer fraud, the judgment creditor may file a verified claim with the corporate surety who has provided the dealer's surety bond, or with the chairman of the dealer advisory board where the dealer has deposited with the director a cash bond or certificate of deposit.

(a) The claim shall be filed no sooner than thirty (30) days and no later than one (1) year after the judgment has become final.

(b) The claim shall:

1. Be accompanied by a certified copy of the judgment;

2. State the amount of the claim if different from the judgment amount; and

3. State that demand has been made upon the dealer for payment of the judgment, and the dealer has failed to pay the judgment in full within thirty (30) days.

(5) Where a dealer has satisfied the bonding requirement with cash or a certificate of deposit, the chairman shall make written notification to the dealer against whom the judgment was obtained, that a claim has been made. The dealer may, within ten (10) days from the date of receipt of the notice, submit written objections to the dealer advisory board as to why the judgment should not be satisfied from the cash deposit or certificate of deposit.

(6) Within sixty (60) days from the date the claim was filed with the dealer advisory board, if it has found the claimant complied with the provisions of subsection (4) of this section, the board shall authorize the director to satisfy the judgment from the dealer's deposited funds in so far as he is able. Upon receipt of any payment, the claimant shall deliver a properly executed satisfaction of judgment or a partial satisfaction of judgment to the director. If additional claims have been filed prior to payment, or the chairman of the dealer advisory board has knowledge that additional claims are pending which may exceed the amount of the bond, the chairman may delay any payments until all claims are finalized. If the claims exceed the amount of the bond, the deposited funds shall be prorated among the claimants based on the amount of their judgments.

(7) A judgment against a dealer or salesman for violation of the provisions of this chapter, rules and regulations of the department, the provisions of chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, the federal motor vehicle safety standards or odometer fraud, shall be grounds for revocation of the dealer and the salesman's licenses.

(8) The Idaho transportation board is authorized to promulgate reasonable rules and regulations not inconsistent with this chapter for the purpose of carrying out the provisions of section 49-1610,

Idaho Code.

(9) Should a dealer's license be revoked, voluntarily surrendered or not renewed, leaving funds on deposit with the department, those funds shall be refunded within thirty (30) days after the expiration of a five (5) year period from the date of revocation, surrender, or nonrenewal of the license unless the dealer advisory board has been notified in writing that a claim or cause of action is pending. In that case, the refund, if any, will be made upon the resolution of the claim or claims. In no case shall the dealer advisory board, the department, the state of Idaho, or any of their employees or agents be liable to any claimant for any amounts other than the funds deposited by the dealer.

SECTION 13. That Section 49-1611, Idaho Code, be, and the same is hereby amended to read as follows:

49-1611. DISPLAY, FORM AND CUSTODY OF DEALER'S AND SALESMAN'S LICENSE. The department shall prescribe each form of the license. It shall be the duty of each dealer to display conspicuously his own license in his place of business. The director shall prepare and deliver a pocket card, which shall certify that the person whose name appears on the card is a licensed dealer or vehicle salesman, as the case may be, and each vehicle salesman's card shall also contain the name and address of the dealer employing him, a current photograph of the applicant and the date of expiration of the license. Each and every salesman shall, on request, display his card.

SECTION 14. That Section 49-1613, Idaho Code, be, and the same is hereby amended to read as follows:

49-1613. UNLAWFUL ACTS BY LICENSEE. (1) It shall be unlawful for the holder of any license issued under the provisions of this chapter to:

(a) Intentionally publish or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products sold or furnished by a licensed dealer;

(b) Violate any of the provisions of this chapter or any of the applicable rules and regulations;

(c) Knowingly purchase, sell or otherwise acquire or dispose of a stolen vehicle;

(d) Violate any law respecting commerce in vehicles or any lawful rule or regulation respecting commerce in vehicles promulgated by any licensing or regulating authority now existing or hereafter created by the laws of the state;

(e) Engage in the business for which the dealer is licensed without at all times maintaining a principal place of business;

(f) Engage in a type of business respecting the selling or exchanging of vehicles for which he is not licensed;

(g) Knowingly purchase a vehicle which has an altered or removed vehicle identification number plate or alter or remove a vehicle identification number plate;

(h) Violate any provision of this title or any rules and regula-

tions promulgated;

(i) Violate any provision of the federal motor vehicle safety standards, federal odometer laws or regulations; or

(j) Display for sale, exchange, or sell any vehicle for which the vehicle dealer does not hold title or consignment agreement.

(2) It shall be unlawful for any manufacturer licensed under this chapter to require, attempt to require, coerce, or attempt to coerce, any new vehicle dealer in this state to:

(a) Order or accept delivery of any new vehicle, part or accessory, equipment or any other commodity not required by law which shall not have been voluntarily ordered by the new vehicle dealer. This paragraph is not intended to modify or supersede any terms or provisions of a franchise requiring dealers to market a representative line of vehicles which the manufacturer or distributor is publicly advertising.

(b) Order or accept delivery of any new vehicle with special features, accessories or equipment not included in the list price of such vehicles as publicly advertised by the manufacturer or distributor.

(c) Participate monetarily in an advertising campaign or contest, or to purchase any promotional materials, training materials, showroom or other display decorations or materials at the expense of the dealer.

(d) Enter into any agreement with the manufacturer or to do any other act prejudicial to the dealer by threatening to terminate or cancel a franchise or any contractual agreement existing between the dealer and the manufacturer. This paragraph is not intended to preclude the manufacturer or distributor from insisting on compliance with reasonable terms or provisions of the franchise or other contractual agreement, and notice in good faith to any dealer of the dealer's violation of those terms or provisions shall not constitute a violation of the provisions of this chapter.

(e) Change the capital structure of the dealer or the means by or through which the dealer finances the operation of the dealership, provided that the dealer at all times meets any reasonable capital standards determined by the manufacturer in accordance with uniformly applied criteria. No change in the capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor. Consent shall not be unreasonably withheld.

(f) Refrain from participation in the management of, investment in, or the acquisition of any other line of new vehicle or related products. This paragraph does not apply unless the dealer maintains a reasonable line of credit for each make or line of new vehicle, and the dealer remains in compliance with any reasonable facilities requirements of the manufacturer, and no change is made in the principal management of the dealership.

(g) Prospectively assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability to be imposed by this chapter or to require any controversy between a dealer and a manufacturer, distributor, or representatives, to be referred to any person other than the duly constituted courts of the state or the United States, or to the direc-

tor, if that referral would be binding upon the dealer.

(h) Either establish or maintain exclusive facilities, personnel, or display space.

(i) Expand facilities without a written guarantee of a sufficient supply of new vehicles so as to justify an expansion, in light of the market and economic conditions.

(j) Make significant modifications to an existing dealership or to construct a new vehicle dealership facility without providing a written guarantee of a sufficient supply of new vehicles so as to justify modification or construction, in light of the market and economic conditions.

(3) It shall be unlawful for any manufacturer licensed under this chapter to:

(a) Delay, refuse, or fail to deliver new vehicles or new vehicle parts or accessories in a reasonable time, and in reasonable quantity relative to the dealer's facilities and sales potential in the dealer's relevant market area, after acceptance of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer, any new vehicle, parts or accessories to new vehicles as are covered by the franchise, if the vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. These provisions are not violated, however, if failure is caused by acts or causes beyond the control of the manufacturer.

(b) Refuse to disclose to any dealer handling the same line, the manner and mode of distribution of that line within the relevant market area.

(c) Obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to the dealer.

(d) Increase prices of new vehicles which the dealer had ordered for consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a consumer shall constitute evidence of each such order, provided that the vehicle is in fact delivered to that customer. In the event of manufacturer price reductions or cash rebates paid to the dealer, the amount of any reduction or rebate received by a dealer shall be passed on to the private retail consumer by the dealer. Price reductions shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series shall not be considered a price increase or price decrease. Price changes caused by the addition to a vehicle of required or optional equipment, or revaluation of the United States dollar, in the case of foreign-make vehicles or components, or an increase in transportation charges due to increased rates imposed by a carrier, shall not be subject to the provisions of this subsection.

(e) Release to any outside party, except under subpoena or as otherwise required by law or in an administrative, judicial or arbitration proceeding involving the manufacturer or dealer, any business, financial, or personal information which may be provided

from time to time by the dealer to the manufacturer without the express written consent of the dealer.

(f) Deny any dealer the right of free association with any other dealer for any lawful purpose.

(g) Unfairly compete with a dealer in the same line make, operating under an agreement or franchise from the aforementioned manufacturer, in the relevant market area. A manufacturer shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of that dealership on reasonable terms and conditions.

(h) Unfairly discriminate among its dealers with respect to warranty reimbursement.

(i) Unreasonably withhold consent to the sale, transfer, or exchange of the franchise to a qualified buyer capable of being licensed as a dealer in this state.

(j) Fail to respond in writing to a request for consent as specified in subsection (i) of this section within sixty (60) days of receipt of a written request on the forms, if any, generally utilized by the manufacturer or distributor for those purposes and containing the required information. Failure to respond shall be deemed to be consent to the request.

(k) Prevent or attempt to prevent, by contract or otherwise, any dealer from changing the executive management control of the dealership unless the manufacturer, having the burden of proof, can show that the change of executive management will result in executive management or control by a person or persons who are not of good moral character or who do not meet reasonable, preexisting and, with consideration given to the volume of sales and service of the dealership, uniformly applied minimum business experience standards. Where the manufacturer rejects a proposed change in executive management control, the manufacturer shall give written notice of his reasons to the dealer within sixty (60) days of notice to the manufacturer by the dealer of the proposed change; otherwise, the change in the executive management of the dealership shall be presumptively considered approved.

(l) Terminate, cancel or fail to renew any franchise solely because of the death or incapacity of an owner who is not listed in the franchise as one on whose expertise and abilities the manufacturer relied in the granting of the franchise.

(m) Prevent or attempt to prevent the dealer, by written instrument or otherwise, from either receiving the fair market value of the dealership in a sale transaction, or from transferring the dealership to a spouse or legal heir, as specified in this chapter.

(n) Engage in any predatory practice or discrimination against any dealer.

(o) Resort to or to use any false or misleading advertisement in the conducting of his business as a manufacturer or distributor in this state.

(p) Make any false or misleading statement, either directly or through any agent or employee, in order to induce any dealer to enter into any agreement or franchise, or to take any action which is prejudicial to that dealer or his business.

(4) It is unlawful for any manufacturer or any officer, agent or representative to coerce, or attempt to coerce, any dealer in this state to sell, assign or transfer any retail installment sales contract, obtained by the dealer in connection with the sale by him in this state of new vehicles, manufactured or sold by the manufacturer, to a specified finance company or class of such companies, or to any other specified person, by any of the acts or means set forth, namely by:

(a) Any statement, suggestion, promise or threat that the manufacturer will, in any manner, benefit or injure the dealer, whether the statement, suggestion, threat or promise is express or implied or made directly or indirectly;

(b) Any act that will benefit or injure the dealer;

(c) Any contract, or any express or implied offer of contract, made directly or indirectly to a dealer for handling new vehicles, on the condition that the dealer sell, assign or transfer his retail installment sales contract in this state to a specified finance company or class of such companies, or to any other specified person; or

(d) Any express or implied statement or representation made directly or indirectly that the dealer is under any obligation whatsoever to sell, assign or transfer any of his retail sales contracts, in this state, on new vehicles manufactured or sold by that manufacturer to a finance company or class of companies, or other specified person, because of any relationship or affiliation between the manufacturer and a finance company or companies, or a specified person or persons.

Any statement, threats, promises, acts, contracts or offers of contracts, when the effect may be to lessen or eliminate competition or tend to create a monopoly, are declared unfair trade practices and unfair methods of competition, against the policy of this state, and are unlawful.

(5) It is unlawful for any manufacturer or agent or employee of a manufacturer to use a written instrument, agreement, or waiver to attempt to nullify any of the provisions of this section, and such agreement, written instrument or waiver shall be null and void.

(6) It shall be unlawful, directly or indirectly, to impose unreasonable restrictions on the dealer relative to the sale, transfer, right to renew, termination discipline, noncompetition covenants, site control (whether by sublease, collateral pledge of lease, or otherwise), right of first refusal to purchase, option to purchase, compliance with subjective standards and assertion of legal or equitable rights.

(7) The provisions of this chapter shall apply to all written franchise agreements between a manufacturer and a dealer, including the franchise offering, the franchise agreement, sales of goods, services or advertising, leases or mortgages of real or personal property, promises to pay, security interests, pledges, insurance contract, advertising contract, construction or installation contract,

servicing contracts and all other agreements where the manufacturer has any direct or indirect interest.

SECTION 15. That Section 49-1618, Idaho Code, be, and the same is hereby amended to read as follows:

49-1618. DENIAL OR REVOCATION OF LICENSE REQUIRES HEARING. (1) Before the department shall refuse to issue to any applicant a license provided for in this chapter, and before revoking or suspending any license, it shall give the applicant or licensee written notice of the action which the department contemplates taking with respect to the application or license, which shall provide that on or before a day certain, not less than twenty (20) days from the date on which written notice shall be served, the applicant or licensee shall show cause, if any, in writing duly verified and filed with the department, why the contemplated action should not be taken. Upon receipt of the written showing, the department shall fix a day certain, not less than fifteen (15) days nor more than thirty (30) days from the date on which it received the showing, when it will hear evidence and argument in support of it. Written notice of the date and place of hearing shall be given to the applicant or licensee, not less than ten (10) days prior to the date fixed for hearing. All hearings shall be held in Ada County, Idaho. A record or tape or other recording device of all proceedings had at the hearing shall be made and preserved, pending final disposition of the matter.

(2) Notice to the applicant or licensee that the department contemplates refusing to issue the license applied for or contemplates revoking or suspending a license duly issued by it, shall have attached to it a complete statement of the facts upon which the department bases its contemplated action. In any proceeding under this section, the department shall have the burden of proving that the applicant is not qualified, or that the licensee has violated a provision of this chapter or a rule or regulation of the department.

(3) The notices provided to be given to an applicant or a licensee shall be served by the department or its employees delivering the notice to the applicant or licensee personally, or by the department mailing the notice by ~~registered~~ <u>certified</u> mail to:

(a) The applicant for a license at the residence address given in his application for license;

(b) A licensed dealer or at the last known address of the principal place of business of the dealer; and

(c) A licensed salesman at his last known residence address.

(4) The date on which the notice shall be considered to have been served for purposes of computing time shall be the date on which the notice is delivered to the applicant or licensee personally, or the date on which the notice is mailed.

(5) The director or his designee shall preside at all hearings and the department shall request the attendance of the advisory board at hearings. At the conclusion of the hearing, the hearing officer shall make written findings of fact and recommendations to the director. The findings of fact shall be conclusive unless clearly erroneous and unsupported by the record. <u>The director shall issue a written order which shall be the final administrative action of the depart-</u>

ment.

(6) If a dealer's license is suspended as a result of an order of the director, the department shall conspicuously post two (2) notices of such suspension at each licensed location. The notices shall remain posted for the duration of the suspension and removal of the notice prior to that time shall be deemed a violation of the provisions of this chapter.

SECTION 16. That Section 49-1631, Idaho Code, be, and the same is hereby repealed.

SECTION 17. That Chapter 16, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1634, Idaho Code, and to read as follows:

49-1634. DEALER SALES -- MINIMUM SALES REQUIRED FOR LICENSE RENEWAL. (1) A vehicle dealer shall certify upon application for renewal of his dealer's license that during the preceding calendar year he sold at least five (5) vehicles, either at retail or wholesale.

(2) Failure to sell or to verify the sale of a minimum of five (5) vehicles shall be grounds for the department to deny renewal of the dealer's license.

(3) Any vehicle dealer who has had his license denied or has failed to meet the requirement to sell a minimum of five (5) vehicles during the preceding calendar year is entitled to a hearing as provided in section 49-1618, Idaho Code.

SECTION 18. That Chapter 16, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1635, Idaho Code, and to read as follows:

49-1635. SALESMAN SALES -- MINIMUM SALES REQUIRED FOR LICENSE RENEWAL. (1) A full-time salesman shall certify upon application for renewal of his license that he sold at least five (5) vehicles, either at retail or wholesale, during each of the preceding years in which his license was in effect.

(2) Failure to sell or to verify the sale of a minimum of five (5) vehicles in each of the preceding years his license was in effect, shall be grounds for the department to deny renewal of the salesman's license.

(3) Any full-time salesman who has had his license denied or has failed to meet the minimum sales requirement is entitled to a hearing as provided in section 49-1618, Idaho Code.

SECTION 19. That Chapter 16, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1636, Idaho Code, and to read as follows:

49-1636. CONSIGNMENT SALES. (1) An owner who consigns a vehicle

to a vehicle dealer to be offered for sale or exchange on behalf of the owner to a third party purchaser, shall provide the dealer with either the certificate of title to the vehicle along with a power of attorney designating the dealer as an agent of the owner, or a duly executed consignment agreement between the dealer and the owner, along with a copy of the certificate of title of the vehicle being consigned.

(2) A consignment agreement shall contain at the least, the following:

(a) The name and current address of the owner of the vehicle as shown on the certificate of title;

(b) The name and current address of any person holding a lien on the vehicle;

(c) The name of the consignee;

(d) A description of the vehicle including the vehicle's make, model, vehicle identification number and odometer reading; and

(e) A statement that the owner has appointed the vehicle dealer as his agent for the purpose of offering the vehicle for sale.

Approved April 4, 1991.

CHAPTER 273
(H.B. No. 129)

AN ACT
RELATING TO AUTOMOBILE INSURANCE COVERAGE; AMENDING SECTION 41-2516, IDAHO CODE, TO CLARIFY THE PROCEDURE FOR SUSPENDING COVERAGE.

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

SECTION 1. That Section 41-2516, Idaho Code, be, and the same is hereby amended 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 insurer may allow 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~~. All requests for suspension of coverage shall be confirmed in writing by the insurer to the insured regardless of the method used by the insured to request suspension of coverage. 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 under such suspended coverages 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 April 4, 1991.

CHAPTER 274
(H.B. No. 153, As Amended in the Senate)

AN ACT

RELATING TO PROSECUTING ATTORNEYS; AMENDING SECTION 31-3113, IDAHO CODE, TO PROVIDE THAT THE PROSECUTING ATTORNEY IN BONNER COUNTY SHALL DEVOTE FULL TIME TO THE DISCHARGE OF HIS DUTIES.

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

SECTION 1. That Section 31-3113, Idaho Code, be, and the same is hereby amended to read as follows:

31-3113. CONTRACTED DUTIES OF PROSECUTING ATTORNEYS WITH CITIES. The prosecuting attorneys in the following counties are required to devote full time to the discharge of their duties: Bannock, Bonner, Bonneville, Canyon, Elmore, Kootenai, Latah~~,~~ and Twin Falls. With the unanimous approval of the board of county commissioners, and with the consent of the prosecuting attorney, the prosecuting attorney may contract with any city within the county to prosecute nonconflicting misdemeanors in those counties where the prosecuting attorneys are required to devote full time to the discharge of their duties.

Approved April 4, 1991.

CHAPTER 275
(H.B. No. 175, As Amended)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING CHAPTER 27, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-2737A, IDAHO CODE, TO PROVIDE THAT IT IS A FELONY TO MANUFACTURE OR DELIVER CON-

TROLLED SUBSTANCES ON PREMISES WHERE CHILDREN ARE PRESENT.

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 37-2737A, Idaho Code, and to read as follows:

37-2737A. MANUFACTURE OR DELIVERY OF CONTROLLED SUBSTANCE WHERE CHILDREN ARE PRESENT. (1) Except as authorized in this chapter, it is unlawful for any person to manufacture or deliver, or possess with the intent to manufacture or deliver, a controlled substance as defined in schedules I, II, III and IV in this chapter, upon the same premises where a child under the age of eighteen (18) years is present.

(2) As used in this section, "premises" means any:

(a) Motor vehicle or vessel;

(b) Dwelling or rental unit including, but not limited to, apartment, townhouse, condominium, mobile home, manufactured home, motel room or hotel room;

(c) Dwelling house, its curtilage and any other outbuildings.

(3) A person who violates the provisions of this section shall be guilty of a felony and upon conviction may be imprisoned for a term not to exceed five (5) years, fined not more than five thousand dollars ($5,000), or be both so imprisoned and fined. Any fine imposed under the provisions of this section shall be in addition to the fine imposed for any other offense, and any term of imprisonment shall be consecutive to any term imposed for any other offense, regardless of whether the violation of the provisions of this section and any of the other offenses have arisen from the same act or transaction.

Approved April 4, 1991.

CHAPTER 276
(H.B. No. 181)

AN ACT

RELATING TO INSURANCE; AMENDING CHAPTER 5, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-514, IDAHO CODE, TO ALLOW A CREDIT FOR REINSURANCE TO A DOMESTIC CEDING INSURER, TO PROVIDE FOR A REDUCTION FROM LIABILITY, TO DEFINE A QUALIFIED UNITED STATES FINANCIAL INSTITUTE, AND TO PROVIDE AN EFFECTIVE DATE; AND AMENDING SECTION 41-511, IDAHO CODE, TO DELETE CONFLICTING LANGUAGE AND TO PROVIDE PROPER REFERENCES.

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

SECTION 1. That Chapter 5, 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 41-514, Idaho Code, and to read as follows:

41-514. CREDIT FOR REINSURANCE. (1) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of paragraph (a) or (b) or (c) or (d) or (e) of this subsection. If meeting the requirements of paragraph (c) or (d) of this subsection, the requirements of paragraph (f) must also be met.

(a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in this state.

(b) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. An accredited reinsurer is one which:

(i) Files with the director evidence of its submission to this state's jurisdiction;

(ii) Submits to this state's authority to examine its books and records;

(iii) Is licensed to transact insurance or reinsurance in at least one (1) state, or in the case of United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one (1) state;

(iv) Files annually with the director a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and either

A. Maintains a surplus as regards policy holders in an amount which is not less than twenty million dollars ($20,000,000) and whose accreditation has not been denied by the director within ninety (90) days of its submission; or

B. Maintains a surplus as regards policy holders in an amount less than twenty million dollars ($20,000,000) and whose accreditation has been approved by the director.

No credit shall be allowed a domestic ceding insurer, if the assuming insurers' accreditation has been revoked by the director after notice and hearing.

(c) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(i) Maintains a surplus as regards policy holders in an amount not less than twenty million dollars ($20,000,000); and

(ii) Submits to the authority of this state to examine its books and records.

Provided, however, that the requirement of paragraph (c)(i) of this subsection does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same hold-

ing company system.

(d) (i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in subsection (3) of this section for the payment of the valid claims of its United States policy holders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the director information substantially the same as that required to be reported on the NAIC annual statement form by licensed insurers to enable the director to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars ($20,000,000). In the case of a group of individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusteed surplus of which one hundred million dollars ($100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group; and the group shall make available to the director an annual certification of the solvency of each underwriter by the groups domiciliary regulator and its independent public accountants.

(ii) In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in the previous paragraph, and which is under the supervision of the department of trade and industry of the United Kingdom and submits to this state's authority to examine its books and records and bears the expense of the examination, and which has aggregate policy holders' surplus of ten billion dollars ($10,000,000,000); the trust shall be in an amount equal to the group's several liabilities attributable to business written in the United States plus the group shall maintain a joint trusteed surplus of which one hundred million dollars ($100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group, and each member of the group shall make available to the director an annual certification of the member's solvency by the member's domiciliary regulator and its independent public account.

(iii) Such trust shall be established in a form approved by the director of insurance. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policy holders and ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the director. The trust

described herein must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.

(iv) No later than February 28 of each year the trustees of the trust shall report to the director in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(e) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), (b), (c) or (d) of this section but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction.

(f) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted in paragraphs (c) and (d) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(i) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or of any appellate court in the event of an appeal; and

(ii) To designate the director or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company.

(2) A reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements in subsection (1) of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer and such reduction shall be in the amount of funds held by or on behalf of the ceding insurer; including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if such security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or, in the case of a trust, held in a qualified United States financial institution, as defined in subsection (4) of this section. This security may be in the form of:

(a) Cash.

(b) Securities listed by the securities valuation office of the national association of insurance commissioners and qualifying as admitted assets.

(c) Clean, irrevocable, unconditional letters of credit, as defined in subsection (3)(a) of this section, issued or confirmed by a qualified United States institution no later than December 31 in respect of the year for which filing is being made, and in the

possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the date of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment whichever first occurs.

(d) Any other form of security acceptable to the director.

(3) For purposes of subsection (2)(c) of this section a "qualified United States financial institution" means an institution that:

(a) Is organized or (in the case of a United States office of a foreign banking organization) licensed, under the laws of the United States or any state thereof;

(b) Is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(c) Has been determined by either the director or the securities valuation office of the national association of insurance commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the director.

(4) A "qualified United States financial institution" means, for purposes of the provisions of this statute specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(a) Is an organization, or (in the case of a United States branch or agency office of a foreign banking organization) licensed, under the laws of the United States or any thereof and has been granted authority to operate with fiduciary powers; and

(b) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

(5) The provisions of this section shall apply to all cessions after the effective date of this act under reinsurance agreements which have had an inception, anniversary, or renewal date not less than six (6) months after the effective date of this act.

SECTION 2. That Section 41-511, Idaho Code, be, and the same is hereby amended to read as follows:

41-511. AUTHORIZED REINSURANCE. (1) An insurer may accept reinsurance only of such risks, and retain risk thereon within such limits, as it is otherwise authorized to insure.

(2) Except as provided in sections 41-512, 41-2856 (mergers and consolidations of stock insurers) and 41-2858, Idaho Code (bulk reinsurance, mutual insurers), an insurer may reinsure all or any part of any particular Idaho risk with an insurer authorized to transact such insurance in this state, or in any other solvent insurer approved or accepted by the director for the purpose of such reinsurance. The director shall not so approve or accept any such reinsurance by a ced-

ing domestic insurer in an unauthorized insurer which he finds for good cause would be contrary to the interests of the policy holders or stockholders of such domestic insurer. The director shall not so approve any foreign reinsurer that possesses surplus as to policy holders in an amount less than ~~the paid in capital stock~~ that required under section 41-313, Idaho Code, of a foreign stock insurer authorized to transact in this state the same kind or kinds of insurance as that ceded.

(3) ~~No credit shall be allowed, as an asset or as a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer.~~

~~(4)~~ Upon request of the director, a ceding insurer shall promptly inform the director in writing of the cancellation or any other material change of any of its reinsurance treaties or arrangements.

(~~5~~4) This section does not apply to marine and transportation insurance.

Approved April 4, 1991.

CHAPTER 277
(H.B. No. 182)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-335, IDAHO CODE, TO REQUIRE ANNUAL STATEMENTS BE FILED IN ACCORDANCE WITH THE ANNUAL STATEMENT INSTRUCTIONS AND THE ACCOUNTING PROCEDURE MANUAL ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, TO PROVIDE A PENALTY FOR FAILURE TO FILE IN THE TIME PRESCRIBED BY STATUTE AN INSURANCE COMPANY'S ANNUAL STATEMENT OR SUPPLEMENTARY SUMMARY STATEMENT REQUESTED BY THE DIRECTOR, TO REQUIRE DOMESTIC INSURERS DOING BUSINESS IN THE STATE OF IDAHO TO ANNUALLY FILE THEIR FINANCIAL STATEMENT WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, AND TO PROVIDE THAT THE INSURER SHALL PAY A FILING FEE AS PRESCRIBED BY REGULATION OF THE DEPARTMENT OF INSURANCE; AMENDING SECTION 41-336, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR MAY REQUIRE AN INSURER TO FILE SUPPLEMENTAL SUMMARY FINANCIAL STATEMENTS AND TO FURTHER ALLOW THE DIRECTOR TO REQUIRE THAT THE ANNUAL FINANCIAL STATEMENT BE CERTIFIED BY AN INDEPENDENT ACTUARY DEEMED COMPETENT BY THE DIRECTOR OR BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT; AND AMENDING SECTION 41-324, IDAHO CODE, TO REQUIRE THAT A CONTINUATION FEE FOR A CERTIFICATE OF AUTHORITY BE PAID AS REQUIRED BY REGULATION OF THE DEPARTMENT OF INSURANCE.

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

SECTION 1. That Section 41-335, Idaho Code, be, and the same is hereby amended to read as follows:

41-335. ANNUAL STATEMENT. (1) Each authorized insurer shall annu-

ally on or before March 1, or within any extension of time therefor, not to exceed thirty (30) days, which the director for good cause may have granted, file with the director a full and true statement of its financial condition, transactions and affairs as of the preceding December 31 preceding. ~~The-statement-shall-be-in-such-general-form-and context,--and--provide--the--information-as-called-for-by,-the-form-of annual-statement-as-currently-in-general--and--customary--use--in--the United--States-with-any-useful-or-necessary-modification-or-adaptation thereof-required,-approved,-or-accepted-by-the-director-for--the--type of--insurer-and-kinds-of-insurance-to-be-reported-upon,-and-as-supplemented-by-additional-information--required--by--the--director.~~ Unless otherwise required by the director, the statement is to be prepared in accordance with the annual statement instructions and the accounting and procedures manual adopted by the national association of insurance commissioners (NAIC). At the seasonable request of a domestic insurer the director shall furnish to the insurer the blank form of annual statement to be used by it. The statement shall be verified by the oath of the insurer's president or vice-president, and secretary or actuary as applicable, or if a reciprocal insurer, by the oath of the attorney in fact or its like officers if a corporation.

(2) The statement of an alien insurer shall be verified by its United States manager or other officer duly authorized, and shall relate only to the insurer's transactions and affairs in the United States unless the director requires otherwise. If the director requires a statement as to the insurer's affairs throughout the world, the insurer shall file such statement with the director as soon as reasonably possible.

(3) An insurer which is subject to section 41-337, Idaho Code, (resident agent, countersignature law) shall attach to its annual statement the affidavit required under section 41-339, Idaho Code.

(4) ~~The--director-may-refuse-to-accept-fee-for-continuance-of-the insurer's-certificate-of-authority,-as-provided-in-section-41-324,--or may--in--his-discretion-suspend-or-revoke-the-certificate-of-authority of-any-insurer-failing-to-file-its--annual--statement--when--due.~~ Any insurance company licensed to do business in this state which neglects to file or fails to file in the time prescribed by statute its annual statement or supplemental summary statement requested by the director shall be subject to a penalty of twenty-five dollars ($25.00) per day for each day in default. This penalty will be in addition to any administrative penalty which may be assessed pursuant to sections 41-327 and 41-324, Idaho Code.

(5) Each domestic insurer authorized to do business in this state shall annually, on or before March 1 of each year, file with NAIC its annual financial statement in a form prescribed by the director along with any additional filings prescribed by the director for the preceding year. The information filed with NAIC shall be in the same format and scope as that required by this code. Any amendments or addenda to the annual statement shall also be filed with NAIC.

(~~5~~6) At time of filing, the insurer shall pay to the director the fee for filing its statement as prescribed ~~in--section--41-401--(fee schedule)~~ by regulation of the department of insurance.

SECTION 2. That Section 41-336, Idaho Code, be, and the same is

hereby amended to read as follows:

41-336. REVIEW OF ANNUAL STATEMENT -- ADDITIONAL INFORMATION. (1) As soon as reasonably possible after the insurer has filed its annual statement with him, the director shall review the same and require correction of such errors or omissions in the statement as appear from such review.

(2) Any company transacting business in this state may be required by the director, when he considers such action to be necessary for the protection of policyholders, creditors, shareholders or claimants, to file a supplementary summary financial statement in a format prescribed by the director. Supplementary summary financial statements shall be due within sixty (60) days after notice is mailed to the company by the director requesting such statement. No company shall be required to file more than four (4) supplementary summary statements during any consecutive twelve (12) month period. The director may, at his discretion, require the annual statement be certified by an independent actuary deemed competent by the director or by an independent certified public accountant.

(3) In addition to information called for and furnished in connection with its annual statement, an insurer shall promptly furnish to the director such other or further information with respect to any of its transactions or affairs as the director may from time to time request in writing.

SECTION 3. That Section 41-324, Idaho Code, be, and the same is hereby amended to read as follows:

41-324. CONTINUANCE, EXPIRATION, OR REINSTATEMENT OF CERTIFICATE OF AUTHORITY. (1) A certificate of authority shall continue in force as long as the insurer is entitled thereto under this code and until suspended or revoked by the director, or terminated at the request of the insurer; subject, however, to continuance of the certificate by the insurer each year by:

(a) Payment prior to March 1 of the continuation fee ~~provided in section 41-401 (fee schedule)~~ as required by regulation of the department of insurance; and

(b) Due filing by the insurer of its annual statement for the calendar year preceding as required under section 41-335, Idaho Code; and

(c) Payment by the insurer of premium taxes with respect to the preceding calendar year as required by sections 41-402 and 41-403, Idaho Code.

(2) If not so continued by the insurer, its certificate of authority shall expire as at midnight on the March 31 next following such failure of the insurer to continue it in force. The director shall promptly notify the insurer of the occurrence of any failure resulting in impending expiration of its certificate of authority.

(3) The director may, in his discretion, upon the insurer's request made within three (3) months after expiration, reinstate a certificate of authority which the insurer has inadvertently permitted to expire, after the insurer has fully cured all its failures which resulted in the expiration, and upon payment by the insurer of the fee

for reinstatement specified in section 41-401, Idaho Code (fee schedule). Otherwise the insurer shall be granted another certificate of authority only after filing application therefor and meeting all other requirements as for an original certificate of authority in this state.

Approved April 4, 1991.

CHAPTER 278
(H.B. No. 190)

AN ACT

RELATING TO CREDIT TRANSACTIONS; AMENDING SECTION 28-42-201, IDAHO CODE, TO DELETE OBSOLETE PROVISIONS REGARDING THE CALCULATION OF FINANCE CHARGES AND THE COMMENCEMENT AND CALCULATION OF THE TERM OF CREDIT TRANSACTIONS.

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

SECTION 1. That Section 28-42-201, Idaho Code, be, and the same is hereby amended to read as follows:

28-42-201. MAXIMUM FINANCE CHARGE. (1) With respect to a loan or credit sale, the rate of finance charge shall be that which is agreed upon between the parties to the transaction. In addition to the finance charge permitted herein, a creditor may contract for and receive any other charge unless expressly prohibited or limited by this act.

(2) This section does not limit or restrict the manner of calculating the finance charge, whether by way of add-on, discount, single annual percentage rate, or otherwise. ~~The finance charge may be contracted for and earned at the single annual percentage rate that would earn the same finance charge as the graduated rates when the debt is according to the agreed terms and the calculations are made according to the actuarial method.~~ If the credit transaction is precomputed:

(a) The finance charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) The effect of prepayment is governed by the provisions on rebate upon prepayment, section 28-42-308~~7~~, Idaho Code.

(3) Except as provided in subsection (5~~4~~) of this section, the term of a credit transaction for purposes of this section commences on the day the credit transaction is made. ~~Any month may be counted as 1/12th of a year, but a day is counted as 1/360th of a year. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.~~ The administrator may adopt rules with respect to treating as regular ~~other~~ minor irregularities in amount or time.

(4) ~~Subject--to--classifications--and-differentiations-the-lender may-reasonably-establish,-he-may-make-the-same-finance-charge--on--all amounts-financed-within-a-specified-range-if,-when-applied-to-the-low-est--amount--within--each-range,-it-does-not-produce-a-rate-of-finance charge-exceeding-the-rate-calculated-by-more-than-eight--percent--(8%) of-the-rate-disclosed.~~

~~(5)~~ With respect to an insurance premium loan, the term of the loan commences on the earliest inception date of a policy or contract of insurance, payment of the premium on which is financed by the loan.

Approved April 4, 1991.

CHAPTER 279
(H.B. No. 239)

AN ACT

RELATING TO BEER; AMENDING SECTION 23-1007, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE LIMITATION ON SALES OF BEER BY DEALERS AND WHOLESALERS ONLY TO LICENSED DEALERS, WHOLESALERS AND RETAILERS; AND AMENDING CHAPTER 10, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1007A, IDAHO CODE, TO PROVIDE FOR THE SALE OR DONATION OF BEER FOR BENEVOLENT, CHARITABLE OR PUBLIC PURPOSE EVENTS TO UNLICENSED PERSONS OR ENTITIES TO WHOM A PERMIT HAS BEEN ISSUED BY THE DIRECTOR, TO PROVIDE FOR THE SUSPENSION, CANCELLATION OR DENIAL OF A PERMIT AND TO PROVIDE THAT A LICENSED RETAILER MAY PERFORM CERTAIN FUNCTIONS ON BEHALF OF THE PERMITTEE.

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

SECTION 1. That Section 23-1007, Idaho Code, be, and the same is hereby amended to read as follows:

23-1007. SALES BY DEALERS AND WHOLESALERS -- PROHIBITED UNLESS OBTAINED FROM LICENSEES -- CONSUMPTION ON PREMISES PROHIBITED -- MINIMUM SALE ON LICENSED PREMISES OF UNBROKEN PACKAGES OR KEGS. Except as provided in section 23-1007A, Idaho Code, ~~it~~ shall be unlawful for any dealer or wholesaler to sell~~, or dispose~~ for use~~,~~ within the state of Idaho any unbroken packages or kegs of beer produced, manufactured, imported or bought by such dealer except to licensed dealers, wholesalers, retailers to whom a license has been issued by the director, or to ~~his~~ employees of the wholesaler or dealer; nor shall any dealer or wholesaler allow for a consideration such beer to be consumed upon the premises of such dealer or wholesaler; provided, however, that any dealer or wholesaler shall be allowed to make sales of beer in kegs of not less than seven and three-quarters (7 3/4) gallons to a consumer at his licensed premises. Licensed brewers may sell at retail only as provided in section 23-1003(d) and (e), Idaho Code.

SECTION 2. That Chapter 10, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 23-1007A, Idaho Code, and to read as follows:

23-1007A. BEER SOLD OR DONATED FOR BENEVOLENT, CHARITABLE OR PUBLIC PURPOSES -- PERMIT REQUIRED. (1) Notwithstanding the provisions of section 23-1007, Idaho Code, to the contrary, nothing shall prevent any licensed dealer, wholesaler or retailer from selling or donating unbroken packages of beer or kegs of beer to a person which has not been issued any license for the sale of alcoholic beverages in this state, for benevolent, charitable or public purposes if a permit has been issued to the person or nonprofit entity as provided in subsection (2) of this section.

(2) Upon application to the director of the department of law enforcement, the director may issue a permit authorizing the sale or dispensing of beer by a person if the director is satisfied that the proceeds, after deducting reasonable expenses incurred, will be donated for a benevolent, charitable or public purpose. The director shall prescribe the form of the application which may require:

(a) Disclosure of names of sponsors;

(b) Quantities and types of beer products to be used at the event;

(c) Names of the dealer or wholesaler from whom the beer is to be received;

(d) The retailer, if any, designated by such person or nonprofit entity to receive, store or dispense beer on behalf of the permittee;

(e) Dates and hours during which the permit is to be effective, not to exceed three (3) consecutive days;

(f) That the applicant submit a report to the director subsequent to the benevolent, charitable or public purpose event showing the disposition of funds from the event; and

(g) Such other information directly related to the event and the applicant that the director may require.

The director shall collect a twenty dollar ($20.00) fee for each permit issued.

(3) Should the director determine that an applicant, permittee or its representative is violating or has in the past violated any law pertaining to the dispensing or sale of beer by a licensed retailer relating to hours of sale, relating to restrictions concerning age provided in section 23-1013, Idaho Code, or has failed in the past to submit such information as may have been requested by the director, such permit may be summarily suspended by the director prior to hearing, or may be denied or cancelled pending a hearing.

(4) A licensed retailer may, on behalf of the permittee, receive or store beer to be used at the event and may dispense such beer to attendees of the benevolent, charitable or public purpose event for which the permit was issued.

Approved April 4, 1991.

CHAPTER 280
(H.B. No. 276, As Amended)

AN ACT
RELATING TO THE LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT; AMENDING SECTION 41-4303, IDAHO CODE, TO SPECIFY THE ACT SHALL NOT APPLY TO UNALLOCATED ANNUITY CONTRACTS; AND AMENDING SECTION 41-4305, IDAHO CODE, TO DEFINE "UNALLOCATED ANNUITY CONTRACT."

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

SECTION 1. That Section 41-4303, Idaho Code, be, and the same is hereby amended to read as follows:

41-4303. APPLICATION OF ACT. (1) This act shall apply to direct life insurance policies, disability insurance policies, annuity contracts, and contracts supplemental to life and disability insurance policies, annuity contracts, and contracts supplemental to life and disability insurance policies and annuity contracts issued by persons licensed to transact insurance in this state at any time.

(2) This act shall not apply to:

(a) That portion or part of a variable life insurance or variable annuity contract not guaranteed by an insurer;

(b) That portion or part of any policy or contract under which the risk is borne by the ~~policy-holder~~ policyholder;

(c) Any policy or contract or part thereof assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued; ~~or~~

(d) Any such policy or contract issued by a reciprocal insurer, mutual benefit association, fraternal benefit society, hospital and medical service corporation, health maintenance organization, or self-funded health care plan; or

(e) Any unallocated annuity contract.

SECTION 2. That Section 41-4305, Idaho Code, be, and the same is hereby amended to read as follows:

41-4305. DEFINITIONS. As used in this act:

(1) "Account" means either of the three (3) accounts created under section 41-4306, Idaho Code.

(2) "Association" means the Idaho life and health insurance guaranty association created under section 41-4306, Idaho Code.

(3) "Director" means director of the department of insurance of this state.

(4) "Contractual obligation" means any obligation under covered policies.

(5) "Covered policy" means any policy or contract within the scope of this act under section 41-4303, Idaho Code.

(6) "Impaired insurer" means a member insurer deemed by the director after the effective date of this act to be potentially unable to fulfill its contractual obligations and not an insolvent insurer.

(7) "Insolvent insurer" means a member insurer which after the effective date of this act, becomes insolvent and is placed under a final order of liquidation, rehabilitation or conservation by a court of competent jurisdiction.

(8) "Member insurer" means any person licensed to transact in this state any kind of insurance to which this act applies under section 41-4303, Idaho Code.

(9) "Premiums" means direct gross insurance premiums and annuity considerations received on covered policies, less return premiums and considerations thereon and dividends paid or credited to ~~policy-holders~~ policyholders on such direct business. "Premiums" do not include premiums and considerations on contracts between insurers and reinsurers.

(10) "Person" means any individual, corporation, partnership, association or voluntary organization.

(11) "Resident" means any person who resides in this state at the time a member insurer is determined to be an impaired or insolvent insurer and to whom contractual obligations are owed.

(12) "Unallocated annuity contract" means any annuity contract which is not issued to and owned by an individual.

Approved April 4, 1991.

CHAPTER 281
(H.B. No. 280, As Amended)

AN ACT

RELATING TO BONDS OF OFFICERS AND PUBLIC EMPLOYEES; AMENDING SECTION 59-802, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 59-804, IDAHO CODE, TO PROVIDE FOR ADDITIONAL TYPES OF BONDS FOR PUBLIC OFFICIALS AND PUBLIC EMPLOYEES OF STATE AGENCIES AND POLITICAL SUBDIVISIONS; AMENDING SECTION 59-805, IDAHO CODE, TO PROVIDE FOR COVERAGE UNDER THE TERMS OF THIS CHAPTER; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 59-802, Idaho Code, be, and the same is hereby amended to read as follows:

59-802. DEFINITIONS. (1) "Administrator" means the administrator of the division of insurance management in the department of administration, as provided by section 67-5760, Idaho Code.

(~~3~~2) "Agency" means each department, institution, board, bureau, commission or committee of the government of the state, including state educational institutions, the ~~S~~supreme ~~C~~court and district courts, but does not include any political subdivisions of the state.

(3) "Blanket surety bond" means a schedule or blanket corporate surety covering all or any group of public officials or employees of the state or of an individual political subdivision. Any blanket or schedule bond provided, issued in lieu of individual surety bonds,

shall contain all terms and conditions required for an individual surety bond as herein provided.

(4) "Crime insurance" means insurance which indemnifies the assured public entity against losses from employee dishonesty, losses inside and outside the premises, losses from money orders and counterfeit paper currency, losses from depositors' forgery, and/or generally assures the fidelity and faithful performance of public officials or employees holding positions of public trust. Any crime insurance issued to the state or any of its political subdivisions, in order to be considered equivalent to the requirements contained in this chapter for surety bonds, must include stipulation by the insurer that such crime insurance coverage is deemed to provide coverage for the terms and responsibilities of public officials and employees as outlined in chapter 8, title 59, Idaho Code.

(5) "Political subdivision" means any county, city, municipal corporation, health district, school district, irrigation district, special improvement or taxing district, or any other political subdivision or public corporation, or as currently defined in section 6-902(2), Idaho Code. As used in this chapter, the terms "county" and "city" also mean state licensed hospitals and attached nursing homes established by counties pursuant to chapter 36, title 31, Idaho Code, or jointly by cities and counties pursuant to chapter 37, title 31, Idaho Code.

(~~2~~6) "Public official or e~~E~~mployee" means each elected or appointed officer of the state or a political subdivision of the state and each officer and employee of an agency~~;-and~~ or a political subdivision.

(7) "Surety bond" means a bond or surety issued by a corporate surety company authorized to do business in this state in an amount fixed by the administrator or governing body of a political subdivision to an individual public official or employee, which shall be payable to the state or a political subdivision, and whenever possible, conditioned on honesty and the faithful performance of his duties during the employment or term of office and until his successor is elected or appointed and is qualified, and that he will properly account for all money and property received in his official capacity as a public official or as an employee. The bond may contain other terms and conditions deemed appropriate by the administrator or governing body of the political subdivision to protect the state or political subdivision from loss.

SECTION 2. That Section 59-804, Idaho Code, be, and the same is hereby amended to read as follows:

59-804. SURETY BONDS -- BLANKET SURETY BOND -- CRIME INSURANCE TERMS AND CONDITIONS. (1) Each official surety bond, blanket surety bond or suitable crime insurance policy of a public official or an employee shall be payable to the state or appropriate political subdivision, and ~~whenever-possible,-conditioned-on-honesty-and-the-faithful performance-of-his-duties-during-the-employment-or-term-of-office--and until-his-successor-is-elected-or-appointed-and-is-qualified,-and-that he--will--properly--account-for-all-money-and-property-received-in-his official-capacity-as-an-employee.-The-bond-may-contain-other-terms-and~~

~~conditions-deemed-appropriate-by--the--administrator--to--protect--the state-from-loss~~ shall be in the appropriate form as defined in section 59-802, Idaho Code. The surety bond, blanket surety bond, or suitable crime insurance shall be executed by a corporate surety company authorized to do business in this state in the amount fixed by the administrator, or by the governing body of the political subdivision.

(2) In lieu of individual bonds, the administrator or the governing body of a political subdivision may elect to provide a schedule or blanket corporate surety bond, or suitable crime insurance covering all or any group of public officials or employees whenever the premiums would be less than the aggregate of premiums chargeable under individual coverage. Any blanket or schedule bond or crime insurance provided shall contain all terms and conditions required in subsection (1) of this section or as defined in section 59-802, Idaho Code.

(3) All official bonds of employees of the state and its agencies shall be approved by the governor and shall be approved as to form and legal sufficiency by the attorney general and shall be filed with the secretary of state without cost, except that the bond of the secretary of state or a certified copy of any master, blanket or schedule bond including the secretary of state shall be filed with the state auditor.

(4) All official surety bonds, blanket surety bonds, or suitable crime insurance coverage of public officials or employees of a political subdivision shall be approved by the governing body of the political subdivision. After the governing body approves the form and legal sufficiency, the bonds or policies shall be filed with the clerk or secretary of the political subdivision.

SECTION 3. That Section 59-805, Idaho Code, be, and the same is hereby amended to read as follows:

59-805. BOND REQUIRED UNDER OTHER LAWS. Whenever a public official or an employee is required by another law to post bond or surety as a prerequisite to entering employment or assuming office, the requirement is met when bond coverage or suitable crime insurance coverage is provided for the office or position under provisions of the Surety Bond Act.

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 passage and approval, and retroactively to January 1, 1991.

Approved April 4, 1991.

CHAPTER 282
(H.B. No. 284)

AN ACT

RELATING TO PUBLIC WORKS CONTRACTORS; AMENDING SECTION 54-1901, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING CHAPTER 19,

TITLE 54, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 54-1904B, 54-1904C, 54-1904D AND 54-1904E, IDAHO CODE, TO PROVIDE FOR RELIEF FROM BIDS FOR MISTAKES, TO PROVIDE GROUNDS FOR RELIEF, TO PROHIBIT FURTHER BIDDING ON THE SAME PROJECT, AND TO PROVIDE FOR AWARD OF THE CONTRACT TO THE SECOND OR NEXT LOWEST BIDDER.

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

SECTION 1. That Section 54-1901, Idaho Code, be, and the same is hereby amended to read as follows:

54-1901. DEFINITIONS. For the interpretation of this act, unless the context indicates a different meaning:

(a) "Person" includes any individual, firm, copartnership, corporation, association or other organization, or any combination thereof acting as a unit.

(b) "Public works contractor," which term is synonymous with the term "builder," "sub-contractor" and "specialty contractor," and in this act referred to as "contractor" or "licensee," includes any person who, in any capacity, undertakes, or offers to undertake, or purports to have the capacity to undertake any construction, repair or reconstruction of any public work, or submits a proposal to, or enters into a contract with, the state of Idaho, or any county, city, town, village, school district, irrigation district, drainage district, sewer district, fire district, or any other taxing subdivision or district of any public or quasi-public corporation of the state, or with any agency of any thereof, or with any other public board, body, commission, department or agency, or officer or representative thereof, authorized to let or award contracts for the construction, repair or reconstruction of any public work.

(c) "Public works construction" includes any or all of the following branches:

(1) Heavy construction, which is defined as constructing substantially in its entirety any fixed works and structures (not including "building construction"), without limitation, for any or all of the following divisions of subjects: irrigation, drainage, sanitation, sewerage, water power, water supply, reservoirs, flood control, reclamation, inland waterways, railroads, grade separations, subways, track elevation, elevated highways, hydro-electric developments, aqueducts, transmission lines, duct lines, pipelines, locks, dams, dykes, levees, revetments, channels, channel cutoffs, intakes, drainage, excavation and disposal of earth and rocks, foundations, piers, abutments, retaining walls, viaducts, shafts, tunnels, airports, air bases and airways, and other facilities incidental to the same;

(2) Highway construction, which is defined as all work included in highway construction contracts, including, without limitation, highways, roads, streets, bridges, tunnels, sewer and street grading, street paving, curb setting, surfacing and other facilities incidental to any of the same;

(3) Building construction, which is defined as all work in connection with any structure now built, being built, or hereafter built, for the support, shelter and inclosure of persons, chat-

tels, personal and movable property of any kind, requiring in its construction the use of more than two (2) unrelated building trades or crafts.

(4) Specialty construction, which is defined as any work in connection with any public works construction, requiring special skill and the use of specially skilled trades or crafts.

(d) "Board" means the board created by this act under the name of "public works contractors state license board."

(e) "Registrar" means the person appointed as such under this act.

(f) "Year" means the fiscal year ending June 30, each year.

(g) "Federal aid funds" mean a direct grant in aid, matching funds, or loan from an agency of the federal government and designated for a specific public works project. Revenue sharing funds, federal impact funds, timber stumpage fees, and similar indirect allowances and subsidies not designated for a specific public works project shall not be regarded as "federal aid funds" within the meaning of this section.

(h) "Government obligation" means a public debt obligation of the United States government or the state of Idaho and an obligation whose principal and interest is unconditionally guaranteed by the United States government or the state of Idaho.

(i) "Public entity" means the state of Idaho, or any county, city, school district, sewer district, fire district, or any other taxing subdivision or district of any public or quasi-public corporation of the state, or any agency thereof, or with any other public board, body, commission, department or agency, or officer or representative thereof.

(j) "Bid" or "bidder" means any proposal submitted by a public works contractor to a public entity in competitive bidding for the construction, alteration, repair or improvement of any public works construction.

SECTION 2. That Chapter 19, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 54-1904B, 54-1904C, 54-1904D and 54-1904E, Idaho Code, and to read as follows:

54-1904B. RELIEF FROM BIDS. (a) If an awarding authority for the public entity determines that a bidder is entitled to relief from a bid because of mistake, the authority shall prepare a report in writing to document the facts establishing the existence of each element required in section 54-1904C, Idaho Code. The report shall be available for inspection as a public record and shall be filed with the public entity soliciting bids.

(b) A bidder claiming a mistake satisfying all the conditions of section 54-1904C, Idaho Code, shall be entitled to relief from the bid and have any bid security returned by the public entity. Bidders not satisfying the conditions found in section 54-1904C, Idaho Code, shall forfeit any bid security. Bidders failing to execute a contract and not satisfying the conditions of a mistake shall also forfeit any bid security.

54-1904C. GROUNDS FOR RELIEF. The bidder shall establish to the satisfaction of the public entity that:

(a) A clerical or mathematical mistake was made;

(b) The bidder gave the public entity written notice within five (5) calendar days after the opening of the bids of the mistake, specifying in the notice in detail how the mistake occurred; and

(c) The mistake was material.

54-1904D. PROHIBITION AGAINST FURTHER BIDDING. A bidder who claims a mistake or who forfeits his bid security shall be prohibited from participating in any rebidding of that project on which the mistake was claimed or security forfeited.

54-1904E. AWARD OF CONTRACT TO SECOND OR NEXT LOWEST BIDDER. If the public entity deems it is for its best interest, it may, on refusal or failure of the successful bidder to execute the contract, award it to the second lowest responsible bidder.

If the second lowest responsible bidder fails or refuses to execute the contract, the public entity may likewise award it to the next lowest responsible bidders.

On the failure or refusal of the second or next lowest responsible bidders to execute a contract, his bidder's security shall be likewise forfeited. A public entity may determine it is in its best interests to cancel and rebid the public works project and retain any forfeited bid security.

Approved April 4, 1991.

CHAPTER 283
(H.B. No. 286)

AN ACT

RELATING TO LIQUOR BY THE DRINK LICENSES; AMENDING SECTION 23-908, IDAHO CODE, TO PROVIDE THAT NO PERSON SHALL BE GRANTED MORE THAN ONE LICENSE IN ANY CITY WITH A POPULATION OF LESS THAN SIXTEEN THOUSAND.

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

SECTION 1. That Section 23-908, Idaho Code, be, and the same is hereby amended to read as follows:

23-908. FORM OF LICENSE -- AUTHORITY -- EXPIRATION -- LIMITATIONS. (1) Every license issued under the provisions of this ~~act~~ chapter shall set forth the name of the person to whom issued, the location by street and number, or other definite designation, of the premises, and such other information as the director shall deem necessary. If issued to a partnership, the names of the persons constituting such partnership shall be set forth. If issued to a corporation or association, the names of the principal officers and the governing board shall be set forth. Such license shall be signed by the licensee

and prominently displayed in the place of business at all times. Every license issued under the provisions of this ~~act~~ chapter is separate and distinct and no person except the licensee therein named except as herein otherwise provided, shall exercise any of the privileges granted thereunder. All licenses shall expire at 1:00 o'clock A.M. on January 1st of the following year and shall be subject to renewal upon proper application. Renewal applications for liquor by the drink licenses accompanied by the required fee must be filed with the director on or before January 1st of the following year, provided, however, any licensee holding a valid license who fails to file an application for renewal of his current license on or before January 1st of the following year shall have a grace period of an additional thirty-one (31) days in which to file an application for renewal of his license and during which time he shall not be permitted to sell and dispense liquor by the drink at retail. In any city of less than sixteen thousand (16,000) population, as established in the last preceding census or any subsequent special census conducted by the United States bureau of the census, n~~N~~o person shall be granted more than one (1) license in any city for any one (1) year; and no partnership, association or corporation in such city of less than sixteen thousand (16,000) population holding a license under the provisions of this ~~act~~ chapter shall have as a member, officer or stockholder any person who has any financial interest of any kind in, or is a member of, another partnership or association or an officer of another corporation holding a license in the same city for the same year; provided that this section shall not prevent any person, firm or corporation, owning two (2) or more buildings on connected property in a city from making application for and receiving licenses permitting the sale of liquor by the drink in such building.

(2) An application to transfer any license issued pursuant to chapter 9, title 23, Idaho Code, shall be made to the director. Upon receipt of such an application, the director shall make the same investigation and determinations with respect to the transferee as are required by section 23-907, Idaho Code, and if the director shall determine that all of the conditions required of a licensee under chapter 9, title 23, Idaho Code, have been met by the proposed transferee, then the license shall be indorsed over to the proposed transferee by said licensee for the remainder of the period for which such license has been issued and the director shall note his approval thereof upon such license.

(3) Each new license issued on or after July 1, 1980, shall be placed into actual use by the original licensee at the time of issuance and remain in use for at least six (6) consecutive months or be forfeited to the state and be eligible for issue to another person by the director after compliance with the provisions of section 23-907, Idaho Code. Such license shall not be transferrable for a period of two (2) years from the date of original issuance, except as provided by subsections (4)(a), (b), (c), (d) or (e) of this section.

(4) The fee for transferring a liquor license shall be ten per cent (10%) of the purchase price of the liquor license or the cost of good will, whichever is greater; except no fee shall be collected in the following events:

(a) The transfer of a license between husband and wife in the

event of a property division; or

(b) The transfer of a license to a receiver, trustee in bankruptcy or similar person or officer; or

(c) The transfer of a license to the heirs or personal representative of the estate in the event of the death of the licensee; or

(d) The transfer of a license arising out of the dissolution of a partnership where the license is transferred to one or more of the partners; or

(e) The transfer of a license within a family whether an individual, partnership or corporation.

(5) The fee for transferring a liquor license for other than a sale shall be fifty per cent (50%) of the per annum license fee set forth in section 23-904, Idaho Code; except no fee shall be collected for transfers as outlined in section 23-908, subsection (4)(a), (b), (c), (d), or (e), Idaho Code.

(6) The controlling interest in the stock ownership of a corporate licensee shall not be, directly or indirectly, sold, transferred, or hypothecated unless the licensee be a corporation, the stock of which is listed on a stock exchange in Idaho, or in the city of New York, state of New York, or which is required by law to file periodic reports with the securities and exchange commission. Provided, however, that in the event of the transfer of more than twenty-five per cent (25%) of the authorized and issued stock of the corporation, it shall create a rebuttable presumption that such transfer constitutes a transfer of the controlling interest of such corporation.

Approved April 4, 1991.

CHAPTER 284
(H.B. No. 297)

AN ACT

RELATING TO MOTOR VEHICLE EQUIPMENT; AMENDING SECTION 49-909, IDAHO CODE, TO PROVIDE THAT THE CONNECTING TONGUE OF A TRAILER SHALL BE EQUIPPED WITH TWO REFLECTORS.

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

SECTION 1. That Section 49-909, Idaho Code, be, and the same is hereby amended to read as follows:

49-909. ADDITIONAL EQUIPMENT REQUIRED ON CERTAIN VEHICLES. In addition to other equipment required in this chapter, the following vehicles shall be equipped as follows:

(1) On every bus or truck, whatever its size, there shall be:

(a) On each side, one (1) reflector, at or near the rear; and

(b) On the rear, two (2) reflectors, one (1) at each side, and one (1) stoplight.

(2) On every bus or truck eighty (80) inches or more in over-all width and less than thirty (30) feet in over-all length, in addition to the requirements in subsection (1):

(a) On the front, two (2) clearance lamps, one (1) at each side; and

(b) On the rear, two (2) clearance lamps, one (1) at each side.

(3) On every bus or truck thirty (30) feet or more in over-all length, regardless of its width, in addition to the requirements in subsection (1), clearance lamps required in subsection (2), plus:

(a) On each side, two (2) side marker lamps, one (1) at or near the front and one (1) at or near the rear; and

(b) On each side, one (1) reflector at or near the front.

(4) On every truck tractor, the cab of which is as wide as or wider than any vehicle being drawn:

(a) On the front, two (2) clearance lamps, one (1) at each side; and

(b) On each side, one (1) side marker lamp at or near the front.

(5) On every trailer or semitrailer having a gross weight in excess of three thousand (3,000) pounds, if wider than the truck or the cab of the truck tractor drawing it, the following:

(a) On the front, two (2) clearance lamps, one (1) at each side;

(b) On each side, two (2) side marker lamps, one (1) at or near the front and one (1) at or near the rear;

(c) On each side, two (2) reflectors, one (1) at or near the front and one (1) at or near the rear; and

(d) On the rear, two (2) clearance lamps, one (1) at each side, also two (2) reflectors, one (1) at each side, and one (1) stoplight.

(6) On every trailer or semitrailer having a gross weight in excess of three thousand (3,000) pounds if of the same width or less than the truck or the cab of the truck drawing it, the following:

(a) On each side, one (1) side marker lamp near the rear;

(b) On each side, two (2) reflectors, one (1) at or near the front and one (1) at or near the rear;

(c) On the rear, two (2) clearance lamps, one (1) at each side; and

(d) On the rear, two (2) reflectors, one (1) at each side and one (1) stoplight.

(7) On every pole trailer in excess of three thousand (3,000) pounds gross weight:

(a) On each side, one (1) side marker lamp and one (1) clearance lamp which may be in combination, to show the front, side and rear; and

(b) On the rear of the pole trailer or load, two (2) reflectors, one (1) at each side.

(8) On every trailer, semitrailer and pole trailer weighing three thousand (3,000) pounds gross or less on the rear, two (2) reflectors, one (1) on each side.

(9) If any trailer or semitrailer is so loaded or is of dimensions which obscure the stoplight on the towing vehicle, then the drawn vehicle shall also be equipped with one (1) stoplight.

(10) Reflectors shall be mounted at a height no less than twenty-four (24) inches and not higher than sixty (60) inches above the ground on which the vehicle stands. If the highest part of the permanent structure of the vehicle is less than twenty-four (24) inches, the reflector at that point shall be mounted as high as that part of

the permanent structure will permit. Rear reflectors on a pole trailer may be mounted on each side of the bolster or load. Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but the reflector shall meet all the other reflector requirements of this chapter.

(11) Clearance lamps shall be mounted on the permanent structure of the vehicle in a manner to indicate its extreme width and as near the top as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as prescribed for both.

(12) Lighting devices required shall be mounted, so far as practicable, in a manner to reduce the hazard of their being obscured by mud or dust thrown by the vehicle's wheels.

(13) On every trailer where the connecting tongue is fifteen (15) feet or more in length two (2) amber-colored reflectors shall be mounted on the connecting tongue, one (1) on each side near the center of the connecting tongue.

Approved April 4, 1991.

CHAPTER 285
(H.B. No. 300)

AN ACT

RELATING TO VOTER-APPROVED MOTOR VEHICLE REGISTRATION FEES; AMENDING SECTION 40-827, IDAHO CODE, TO PROVIDE THAT THE REGISTRATION FEE SHALL NOT BE REMITTED TO THE STATE TREASURER; AMENDING SECTION 40-1416, IDAHO CODE, TO PROVIDE THAT THE REGISTRATION FEE SHALL NOT BE REMITTED TO THE STATE TREASURER; AMENDING SECTION 49-441, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO PROVIDE THAT THE FEE SHALL BE PAID DIRECTLY TO THE HIGHWAY JURISDICTION; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 40-827, Idaho Code, be, and the same is hereby amended to read as follows:

40-827. AUTHORIZATION FOR VOTERS TO APPROVE VEHICLE REGISTRATION FEE. (1) Notwithstanding the provisions of section 49-207, Idaho Code, the voters of any county may authorize the board of county commissioners to adopt an ordinance by majority vote of the board of county commissioners to implement and collect a motor vehicle registration fee not to exceed two (2) times the amount established in section 49-402, Idaho Code. The authorization to adopt, implement, and collect a vehicle registration fee may be made by the registered voters of the county only at a general election and a simple majority of the votes cast on the question shall be necessary to authorize the fee.

(2) In any election, the ordinance submitted to the county voters shall: (a) state the exact rate of the fee; and (b) state the duration of the fee.

No rate shall be increased and no duration shall be extended without the approval of the voters, by a simple majority of the votes cast.

An election to approve or disapprove the adoption of a vehicle registration fee increase may be called for by the adoption of an ordinance by majority vote of the board of county commissioners or shall be called upon a request in writing from ten per cent (10%) or more of the qualified voters residing in each county commissioner subdistrict.

(3) Any county adopting an ordinance for a vehicle registration fee increase shall contract with the department for the collection, distribution, and administration of the fee in a like manner, and under the definitions, rules, and regulations for the collection and administration of other registration fees as set forth in chapter 4, title 49, Idaho Code. Each month, following receipt by the department of revenues from the implementation of a vehicle registration fee increase, the department shall remit the same to the county implementing such fee, less a deduction for such amount for the department's actual costs for collection and administration of the fee, but not to exceed one and one-half ~~percent~~ per cent (1 1/2%). The increased vehicle registration fee shall not ~~be remitted to the state treasurer--nor~~ become part of the state highway account or the state highway distribution account.

(4) The local governmental units, with highway jurisdictions, in the county shall use the funds generated by the increased vehicle registration fee exclusively for the construction, repair, maintenance, and traffic supervision of the highways within their respective jurisdictions and the payment of interest and principal of obligations incurred for said purposes.

(5) Sections 49-404, 49-405, 49-408, 49-409, 49-410, 49-414, 49-415 and 49-416, Idaho Code, shall be subject to the provisions of this code section.

(6) Such funds generated from the optional vehicle registration fee increase shall be distributed as follows:

(a) Thirty per cent (30%) shall be apportioned among the cities, incorporated and specially chartered, in the county, in the same proportion as the population of the city bears to the total population of all the cities in the county, as shown by the last regular or special federal census.

(b) Seventy per cent (70%) shall be apportioned as follows:

(i) Twenty per cent (20%) shall be divided equally between the county highway department, where applicable, and each highway district in the county, where applicable;

(ii) Eighty per cent (80%) shall be divided between the county highway department where applicable, and each highway district in the county, where applicable, in the proportion that the number of miles of improved highways in each highway system of the county bears to the total number of improved miles of highways in the county.

SECTION 2. That Section 40-1416, Idaho Code, be, and the same is hereby amended to read as follows:

40-1416. AUTHORIZATION FOR VOTERS TO APPROVE VEHICLE REGISTRATION FEE. (1) Notwithstanding the provisions of section 49-207, Idaho Code, the voters of any county in which a county-wide highway district is organized pursuant to chapter 14, title 40, Idaho Code, may authorize the county-wide highway district to adopt a resolution by a majority vote of the county-wide highway district commissioners to implement and collect a motor vehicle registration fee not to exceed two (2) times the amount established in section 49-402, Idaho Code. The authorization to adopt, implement, and collect a vehicle registration fee may be made by the registered voters of the county only at a general election held in even-numbered years, and a simple majority of the votes cast on the question shall be necessary to authorize the fee.

(2) In any election, the resolution submitted to the county voters shall:

(a) State the exact rate of the fee; and

(b) State the duration of the fee.

No rate shall be increased and no duration shall be extended without the approval of the voters, by the same simple majority of the votes cast.

An election to approve or disapprove the adoption of a vehicle registration fee may be called for by the adoption of a resolution by a majority vote of the county-wide highway district commissioners. Any costs incurred to conduct the election for the district shall be a charge against the district, and shall be paid by the district.

(3) Any county-wide highway district authorized to adopt a resolution for a vehicle registration fee shall contract with the department for the collection, distribution, and administration of the fee in like manner, and under the definitions, rules, and regulations for the collection and administration of other registration fees as set forth in chapter 4, title 49, Idaho Code. Monthly, following receipt by the department of revenues from the implementation of a vehicle registration fee, the department shall remit the same to the county-wide highway district implementing such fee, less a deduction for such amount as may be agreed upon between the department and the commissioners of the county-wide highway district, for the department's actual costs for collection and administration of the fee. The vehicle registration fee shall not ~~be--remitted--to--the--state--treasury--nor~~ become part of the state highway account or state highway distribution account.

(4) The county-wide highway district must use the funds generated by a vehicle registration fee exclusively for the construction, repair, maintenance, and traffic supervision of the highways within its jurisdiction, and the payment of interest and principal of obligations incurred for said purposes.

(5) Sections 49-405, 49-408, 49-416, 49-404, 49-409, 49-415, and 49-410, Idaho Code, shall be subject to the provisions of this code section.

SECTION 3. That Section 49-441, Idaho Code, be, and the same is hereby amended to read as follows:

49-441. OWNER TO SECURE REGISTRATION FROM A COUNTY ASSESSOR OR FROM BOARD. (1) Every owner of a motor vehicle, trailer or semitrailer

who intends to operate the vehicle upon any highway in this state shall before the same is so operated, apply to a county assessor and obtain registration thereof, except the owner of any vehicle which is exempted as specified in section 49-426(2), Idaho Code, and excepting, also, when an owner is permitted to operate a vehicle under the special provisions relating to lien holders, dealers, and vehicles registered in a foreign country, state, territory, or federal district, as specified in sections 49-431 and 49-432, Idaho Code, provided that the registration for commercial vehicles or commercial combinations and noncommercial vehicles or noncommercial combinations shall be procured from, and the operating fees for them paid to the department, except as hereinafter provided. Every owner of a vehicle registered by a county assessor shall give his principal residence or domicile address to the assessor so that the proper county can be entered upon the registration. Failure to do so shall be unlawful. The department shall then attribute the registration, and all fees to be apportioned to the highway distribution account, to the county of residence regardless of the county in which the registration occurred. Fees imposed under the provisions of section 40-827 and section 40-1416, Idaho Code, shall be separately identified and accounted for, and ~~transmitted--by--the department-directly~~ paid to the highway district for which collected.

(2) The following motor vehicles shall be registered for the appropriate gross weight scale with the assessor of the county in which the owner resides:

(a) Motor vehicles equipped primarily to haul passengers on a commercial basis, doing strictly an intrastate business, and having gross weights of twenty-four thousand (24,000) pounds or less.

(b) Any farm vehicle or combination of vehicles where each vehicle or combination of vehicles shall not exceed a gross weight of sixty thousand (60,000) pounds.

(3) Nonresident vehicles or combination of vehicles owned by transient labor used in hauling unprocessed agricultural products for hire and not exceeding sixty thousand (60,000) pounds gross weight shall register their vehicle for the appropriate gross weight scale for the annual fee if registered on or before June 30, and for one-half (1/2) the annual fee if not registered until on or after July 1 of any year, with the assessor of the county in which the owner resides.

(4) Commercial, farm and noncommercial vehicles of any weight doing strictly an intrastate business may be registered by the county assessor by mutual agreement between the department and the county.

(5) For the purposes of vehicle registration, a person is an actual and permanent resident of the county in which he has his principal residence or domicile. A principal residence or domicile shall not be a person's workplace, vacation, or part-time residence.

(6) A violation of the provisions of this section shall be an infraction.

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, 1991.

Approved April 4, 1991.

CHAPTER 286
(H.B. No. 303)

AN ACT

RELATING TO COMMERCIAL VEHICLE INSTRUCTION PERMITS; AMENDING SECTION 49-305, IDAHO CODE, TO PROVIDE THAT A PERMITTEE MAY OPERATE A VEHICLE UNACCOMPANIED BY AN INSTRUCTOR WHEN THERE IS COMMUNICATION BETWEEN THE PERMITTEE AND THE INSTRUCTOR USING REMOTE ELECTRONIC DEVICES ACCORDING TO SPECIFIED CONDITIONS, AND TO PROVIDE FOR FEDERAL REGULATION OF INSTRUCTION AFTER APRIL 1, 1992; AND DECLARING AN EMERGENCY.

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

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

49-305. INSTRUCTION PERMITS, TEMPORARY AND SPECIAL LICENSES. (1) Upon passage of a knowledge test for the license class type, the 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. Except when operating a motorcycle, that person must be accompanied by an adult licensed driver 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.

(c) Until April 1, 1992, direct, uninterrupted audio or audiovisual electronic communication between the holder of a class A, B or C instruction permit and a driver instructor may be substituted for the driver instructor's physical presence in the vehicle if:

(i) The driver instructor holds the same or higher class of driver's license; and

(ii) The behind-the-wheel instruction is administered pursuant to a driver training program that is formally recognized and operated within the state according to state standards for such programs; and

(iii) The behind-the-wheel instruction occurs solely within the boundaries of the state and within the radius of uninterrupted electronic communication between the permit holder and the driver instructor as long as the distance between the two (2) parties does not exceed one (1) mile; and

(iv) The behind-the-wheel training occurs while the vehicle is used for training purposes exclusively and not for purposes of transporting passengers or property; and

(v) The vehicle being driven is not of a type whose operator would require an endorsement on his driver's license for double/triple trailers, tank vehicles or hazardous material.

(d) On and after April 1, 1992, federal highway administration

rules and regulations concerning instruction permits, as specified in 49 CFR part 383, will be in effect for commercial motor vehicles.

(2) The department may, in its discretion, issue a temporary class D driver's 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 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 class D license to any person who:

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

(b) Whose parent(s) or guardian(s) and employer have certified on a form furnished by the department that a special 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 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.

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

Approved April 4, 1991.

CHAPTER 287
(H.B. No. 394)

AN ACT

RELATING TO REQUIREMENTS FOR INSTRUCTION; AMENDING SECTION 33-1602, IDAHO CODE, TO REQUIRE INSTRUCTION IN THE PROPER DISPLAY, HISTORY AND RESPECT FOR THE AMERICAN FLAG.

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

SECTION 1. That Section 33-1602, Idaho Code, be, and the same is hereby amended to read as follows:

33-1602. UNITED STATES CONSTITUTION -- NATIONAL FLAG AND COLORS

-- NATIONAL ANTHEM -- "AMERICA." a. Instruction in the Constitution of the United States shall be given in all elementary and secondary schools. The state board of education shall ~~prepare and~~ adopt such materials as may be deemed necessary for said purpose, and shall also determine the grades in which such instruction shall be given;

b. Instruction in the proper use, display and history of and respect for the American flag and the national colors shall be given in all elementary and secondary schools. Such instruction shall include the pledge of allegiance to the flag, the words and music of the national anthem, and of "America."

Approved April 4, 1991.

CHAPTER 288
(H.B. No. 411)

AN ACT

RELATING TO PEACE OFFICER STATUS FOR EMPLOYEES OF THE IDAHO TRANSPORTATION DEPARTMENT; AMENDING SECTION 49-102, IDAHO CODE, TO PROVIDE A DEFINITION FOR "AUTHORIZED TRANSPORTATION DEPARTMENT EMPLOYEE"; AMENDING SECTION 49-123, IDAHO CODE, TO INCLUDE VEHICLES AUTHORIZED BY THE IDAHO TRANSPORTATION BOARD TO ENFORCE LAWS SPECIFIED IN SECTION 40-510, IDAHO CODE, WITHIN THE DEFINITION OF AUTHORIZED EMERGENCY VEHICLE; AMENDING SECTION 49-205, IDAHO CODE, TO UPDATE A REFERENCE; AMENDING SECTION 49-910A, IDAHO CODE, TO PROVIDE FOR THE USE OF RED LIGHTS ON VEHICLES AUTHORIZED BY THE TRANSPORTATION BOARD FOR USE IN ENFORCING VEHICLE LAWS SPECIFIED IN SECTION 40-510, IDAHO CODE; AMENDING SECTION 49-1418, IDAHO CODE, TO PROVIDE THAT THE AUTHORITY TO SEIZE VESSELS AND MOTOR VEHICLES IS EXTENDED TO AUTHORIZED TRANSPORTATION DEPARTMENT EMPLOYEES; AMENDING SECTION 67-2926, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO ALLOW THE TRANSPORTATION BOARD TO EXTEND PEACE OFFICER AUTHORITY TO EMPLOYEES APPOINTED BY THE BOARD FOR THE ENFORCEMENT OF SPECIFIED MOTOR VEHICLE RELATED LAWS; AMENDING SECTION 67-2927, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THAT AUTHORIZED TRANSPORTATION DEPARTMENT EMPLOYEES MAY STOP VEHICLES OVER TEN THOUSAND POUNDS GROSS WEIGHT WHICH HAVE BYPASSED A WEIGHING OR INSPECTION STATION, MAY DIRECT THE VEHICLE TO RETURN TO THE STATION AND MAY ISSUE A CITATION FOR FAILURE TO STOP AT THE STATION; AND AMENDING SECTION 67-2928, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO UPDATE A CODE REFERENCE.

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

SECTION 1. That Section 49-102, Idaho Code, be, and the same is hereby amended to read as follows:

49-102. DEFINITIONS -- A.

(1) "Abandon" means to leave a vehicle on private property without the permission of the person having rights to the possession of the property, or on a highway or other property open to the public for

the purposes of vehicular traffic or parking, or upon or within the right-of-way of any highway, for twenty-four (24) hours or longer.

(2) "Abandoned vehicle" means any vehicle observed by an authorized officer or reported by a member of the public to have been left within the limits of any highway or upon the property of another without the consent of the property owner for a period of twenty-four (24) hours or longer, except that a vehicle shall not be considered abandoned if its owner-operator is unable to remove it from the place where it is located and has notified a law enforcement agency and requested assistance.

(3) "Accident" means any event that results in an unintended injury or property damage attributable directly or indirectly to the motion of a motor vehicle or its load, a snowmobile or special mobile equipment.

(4) "Actual physical control" means being in the driver's position of a motor vehicle with the motor running or the vehicle moving.

(5) "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)

(12) "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.

(13) "Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a driver's license.

(14) "Approved driver training course" means a training course from a school licensed under the provisions of chapter 21 of this title.

(15) "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.

(16) "Armed forces" mean the army, navy, marine corps, coast guard and the air force of the United States.

(17) "Authorized emergency vehicle." (See "Vehicle", section 49-123, Idaho Code)

(18) "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.

(19) "Authorized transportation department employee" means any employee appointed by the board to perform duties relating to enforcement of vehicle laws as have been specifically defined and approved by order of the board (see section 40-510, Idaho Code).

(20) "Auto transporter" means a vehicle combination constructed for the purpose of transporting motor vehicles.

SECTION 2. That Section 49-123, Idaho Code, be, and the same is hereby amended to read as follows:

49-123. DEFINITIONS -- V.

(1) "Vehicle" means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, 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 or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand

(10,000) pounds or greater.

(c) Commercial vehicle 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:

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

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

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.

For the purposes of chapter 4 of this title (motor vehicle registration), 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.

(h) Noncommercial vehicle. For the purposes of chapter 4 of this title, (motor vehicle registration), a 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.

(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 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.

(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.

(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.

(l) Total loss vehicle. Every vehicle that is deemed to be uneco-

nomical 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 3. That Section 49-205, Idaho Code, be, and the same is hereby amended to read as follows:

49-205. DUTIES OF LOCAL OFFICERS. (1) The assessors of the various counties of the state shall be agents of the department and shall perform duties prescribed in this title.

(2) The county assessors shall receive and file in their respective offices all instruments required by chapter 5 of this title to be filed with the county assessors, and shall maintain in their respective offices indices for certificates of title issued by the department which shall be kept alphabetically by the name of the owner.

(3) It shall be the duty of peace officers within the state of Idaho to enforce and make arrests for the violation of the provisions of this title without the necessity of procuring a warrant. It shall be the duty of authorized employees of the department to enforce compliance with the laws in accordance with section ~~67-2927~~ <u>40-511,</u> Idaho Code.

SECTION 4. That Section 49-910A, Idaho Code, be, and the same is hereby amended to read as follows:

49-910A. COLOR OF LAMPS AND GLOBES LIMITED TO CERTAIN VEHICLE CLASSES. For the purposes of this chapter lighting devices utilizing various colors of lighted globes approved by the director of law enforcement for use on vehicles shall be restricted to the following class of vehicles:

(1) Police vehicles. Only police vehicles shall display blue lights, lenses or globes.

(2) Designated emergency vehicles. Fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, ambulances, sheriff's search and rescue vehicles which are under the immediate supervision of the

county sheriff, and wreckers, as defined in section 49-124, Idaho Code, which are engaged in motor vehicle recovery operations and are blocking part or all of one or more lanes of traffic, are designated emergency vehicles. With the exception of school buses as provided in section 49-915, Idaho Code, only fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, ambulances, ~~and~~ designated emergency vehicles described herein, vehicles authorized by the Idaho transportation board for use in the enforcement of vehicle laws specified in section 40-510, Idaho Code, and other emergency vehicles designated by the director of the department of law enforcement may display red flashing lights or red lenses or globes which are visible from the front of the vehicle.

(3) All vehicles. Any motor vehicle may have attached to it a flashing amber light to warn motorists of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing the vehicle displaying such lighting. The driver of an approaching vehicle shall yield the right-of-way to any stationary vehicle displaying a flashing amber light.

SECTION 5. That Section 49-1418, Idaho Code, be, and the same is hereby amended to read as follows:

49-1418. AUTHORIZING SEIZURE OF VESSELS, MOTOR AND OTHER VEHICLES -- PROHIBITING DEFACING, ALTERING OR OBLITERATING NUMBERS -- SALES PROHIBITED. (1) Any peace officer or authorized transportation department employee ~~commissioned by the department of law enforcement~~, with or without a warrant, may seize and take possession of any vehicle, trailer, semitrailer, vessel, vessel motor or implement of husbandry, or any part or parts thereof, which the peace officer or ~~commissioned~~ authorized employee has probable cause to believe is stolen, or on which any motor number, manufacturer's number, or identification number has been defaced, altered, removed, covered, destroyed or obliterated. Any peace officer or authorized transportation department employee so seizing a vehicle, vessel, equipment or parts thereof immediately shall notify the department and shall make every reasonable effort to determine ownership of the vehicle, vessel or equipment and to notify the rightful owner that the vehicle has been seized.

(2) It shall be unlawful for any person owning, conducting, managing or operating a service station, public garage, paint shop, or other repair shop for vehicles, vessels, or equipment described in subsection (1) of this section, to fail to notify local law enforcement agencies or the department, of any vehicle, vessel, equipment or parts thereof on which any numbers described in subsection (1) of this section, have been defaced, altered, removed, covered, destroyed or obliterated.

(3) Any person who shall deface, alter, remove, cover, destroy or obliterate the motor number, manufacturer's number, or identification number of any vehicle, vessel, equipment or parts thereof described in subsection (1) of this section, or places or stamps any serial number, engine number, or any other number upon a vehicle, vessel, equipment or parts thereof unless the number is assigned by the department is guilty of a felony and is punishable as provided by section 18-112,

Idaho Code.

(4) Any person who knowingly disposes of, sells or offers for sale any vehicle, engine or parts removed from a vehicle, vessel, equipment or parts thereof described in subsection (1) of this section from which the manufacturer's number, motor number, identification number or any assigned or replacement number issued by the department has been defaced, altered, removed, covered, destroyed or obliterated is guilty of a felony.

SECTION 6. That Section 67-2926, Idaho Code, be, and the same is hereby amended to read as follows:

~~67-2926~~40-510. PORTS OF ENTRY OR CHECKING STATIONS ESTABLISHED -- ~~MOTOR VEHICLE INVE~~STIGATOR ACTIVITIES -- AUTHORITY OF THE BOARD TO EMPLOY INDIVIDUALS. To augment and help make more efficient and effective the enforcement of certain laws of the state of Idaho, the Idaho transportation department is hereby authorized and directed to establish from time to time temporary or permanent ports of entry or checking stations upon any highways in the state of Idaho, at such places as the Idaho transportation department shall deem necessary and advisable.

(2) The board is authorized to appoint and employ individuals who shall have limited peace officer authority for the enforcement of such motor vehicle related laws as are herein specified:

(a) Sections 18-3906 and 18-8001, Idaho Code;

(b) Sections 25-1105 and 25-1182(2), Idaho Code;

(c) Sections 40-510 through 40-514, Idaho Code;

(d) Chapters 1 through 5, 9, 10, 11, 15 through 19, 22 and 24, title 49, sections 49-619, 49-660, 49-1407, 49-1418 and 49-1427 through 49-1430, Idaho Code;

(e) Chapter 8, title 61, Idaho Code; and

(f) Sections 63-2438, 63-2440, 63-2441 and 63-2443, Idaho Code.

(3) Motor vehicle investigators shall have the authority to access confidential vehicle identification number information.

(4) Any employee so appointed shall have the authority to issue misdemeanor traffic citations in accordance with the provisions of section 49-1409, Idaho Code, and infraction citations in accordance with the provisions of chapter 15, title 49, Idaho Code.

(5) No employee of the department shall carry or use a firearm of any type in the performance of his duties unless specifically authorized in writing by the director of the department of law enforcement to do so.

(6) The board is authorized to extend the authority as provided in this section to authorized employees of contiguous states upon approval of a bilateral agreement according to the provisions of section 40-317, Idaho Code.

SECTION 7. That Section 67-2927, Idaho Code, be, and the same is hereby amended to read as follows:

~~67-2927~~40-511. STOPPING AND INSPECTION. Wherever by the laws of the state of Idaho any vehicle with a maximum gross weight of ten thousand (10,000) pounds or more is used to transport any merchandise,

product or commodity ~~being transported~~ within the state, within the state to without the state, or from without the state to within the state, ~~is subject to the payment of a license or tax, a weight limitation, or is subject to inspection or grading by any department or agency of the state of Idaho,~~ the owner or operator of either the motor vehicle or trailer, as defined in chapter 1, title 49, Idaho Code, ~~transporting~~ used to transport such merchandise, product or commodity is hereby required to stop at such ports of entry or checking stations established by the Idaho transportation department and submit to inspection, grading or weighing, for compliance with the laws of the state of Idaho. It shall be the duty of ~~the~~ such owner or operator of every motor vehicle or trailer ~~within the provisions of this act~~ to drive the motor vehicle or trailer upon any state owned stationary or portable scale or private scale, certified by the state of Idaho when requested to do so by any peace officer, excepting fish and game officers, or authorized employees of the Idaho transportation department. Authorized employees of the transportation department may stop any vehicle with a maximum gross weight of ten thousand (10,000) pounds or more by displaying a flashing red light if the authorized employee has probable cause to believe the vehicle bypassed a weighing or inspection station. Authorized employees may direct a vehicle which has bypassed a weighing or inspection station to return to the bypassed inspection or weighing station and may issue a citation for failure to stop as required in this section. The operator of a vehicle shall bring the vehicle to a stop, pulling off the traveled portion of the highway when directed to do so by an authorized employee of the transportation department by use of emergency lights or siren.

SECTION 8. That Section 67-2928, Idaho Code, be, and the same is hereby amended to read as follows:

~~67-2928~~40-512. PENALTIES. Any person failing to stop at any port of entry or checking station when so required by the provisions of section ~~67-2927~~ 40-511, Idaho Code, or, failing to submit to the inspection, grading or weighing required by any law of the state of Idaho, shall be guilty of a misdemeanor.

Approved April 4, 1991.

CHAPTER 289
(H.B. No. 25, As Amended)

AN ACT

RELATING TO THE SALE AND PURCHASE OF WILDLIFE; AMENDING SECTION 36-501, IDAHO CODE, TO PROVIDE THAT THE SALE OF WILDLIFE LEGALLY RAISED OR HARVESTED COMMERCIALLY BY PROPERLY LICENSED COMMERCIAL OPERATIONS IS LAWFUL UNLESS PROHIBITED BY COMMISSION REGULATION.

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

SECTION 1. That Section 36-501, Idaho Code, be, and the same is

hereby amended to read as follows:

36-501. SALE AND PURCHASE OF WILDLIFE -- RESTRICTIONS -- EXCEPTIONS. It is a misdemeanor for any person to sell or buy any species of wildlife or parts thereof except as hereinafter provided.

(a) Sale of Unprotected Wildlife. The sale of legally taken species of wildlife classified as unprotected by law shall be lawful.

(b) Sale of Game Animals. The sale of legally taken hides, horns, or heads of game animals, when detached from the carcass, and mounted wildlife, where sale is not specifically prohibited by federal or state statutes or regulations, shall be lawful only when the wildlife to be sold is accompanied by a statement showing that the animals were lawfully taken.

(c) Sale of Furbearers. The sale of pelts and parts of furbearers when legally taken shall be lawful.

(d) Sale of Seized Wildlife. The sale and purchase of court confiscated, abandoned, or unclaimed wildlife shall be lawful when made in accordance with the provisions of section 36-1304, Idaho Code.

(e) Sale of Commercially Raised or Harvested Wildlife. The sale of wildlife legally raised or harvested commercially by properly licensed commercial operations, if required to be licensed, shall be lawful except as provided by regulations promulgated pursuant to section 36-104(b)6., Idaho Code. The provisions of this section shall not apply to domestic fur-bearing animals as defined in chapter 30, title 25, Idaho Code.

(f) Sale of Steelhead Trout. 1. Any person holding a wholesale steelhead trout buyer's license may purchase or sell steelhead trout in the state of Idaho that have been taken by Indian fishermen lawfully exercising fishing rights reserved by federal statute, treaty or executive order. A wholesale license is necessary to purchase steelhead trout directly from Indian fishermen or from any other seller whose principal place of business is located outside of the state of Idaho.

2. Any person holding a retail steelhead trout buyer's license may purchase steelhead trout in the state of Idaho from an Idaho licensed wholesale steelhead trout buyer, or from any Indian fisherman lawfully exercising fishing rights authorized by federal statute, treaty, or executive order. A licensed retail steelhead trout buyer may sell steelhead trout directly to the consumer or to an establishment that prepares steelhead trout for consumption.

3. Establishments that prepare steelhead trout for consumption must possess a wholesale or retail steelhead trout buyer's license; however, these licensed establishments may purchase steelhead trout from either wholesale or retail licensed steelhead trout buyers.

4. The fee for a wholesale license shall be fifty dollars ($50.00) per year. The fee for a retail license shall be ten dollars ($10.00) per year. All fees collected pursuant to this subsection shall be deposited in the fish and game account created pursuant to section 36-107, Idaho Code. These licenses shall expire December 31 of the year for which they are valid.

5. No license is required for any person purchasing steelhead trout for personal consumption from a licensed wholesale or retail steelhead trout buyer or from an Indian fisherman lawfully exercising

fishing rights authorized by federal statute, treaty, executive order, or tribal code or regulation.

6. Purchases or sales under this section shall be made under conditions and reporting requirements prescribed by commission regulation, provided that said conditions and reporting requirements are limited to those necessary to identify the source of steelhead purchased.

Any person violating the provisions of this subsection shall be guilty of a misdemeanor and upon pleading guilty or being found guilty is punishable by a fine of not less than twenty-five dollars ($25.00) nor more than three hundred dollars ($300) or imprisonment for a period not in excess of six (6) months or by both such fine and imprisonment.

(g) Commission May Permit Sales. The commission may, by regulation, permit the sale of other parts of wildlife when such sale will not injuriously affect the species permitted.

(h) Any person who pleads guilty to or is found guilty of two (2) or more violations of the provisions of this section, occurring within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony if the violations consisted of sales not permitted by regulation, or any other violation of the provisions of this section, involving bighorn sheep, mountain goat, moose, elk, deer, pronghorn antelope, wild turkey, whistling swan, sturgeon or chinook salmon or parts of any of the aforementioned animals, birds or fish.

Approved April 4, 1991.

CHAPTER 290
(H.B. No. 35)

AN ACT

RELATING TO GAME TAGS; AMENDING SECTION 36-409, IDAHO CODE, TO PROVIDE THAT ANY PERSON WHO USES A DOG FOR THE PURPOSE OF HUNTING OR FOR TAKING BIG GAME OR FURBEARING ANIMALS MUST HAVE IN HIS POSSESSION A HOUND HUNTER PERMIT, AND ESTABLISHING A FEE THEREFORE.

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	15.00	250.00
Deer	9.00	125.00
Antelope	26.50	90.00
Mountain Lion	25.00	125.00
Bear	6.00	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 seven dollars and fifty cents ($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 designated as a muzzleloader hunt must have in his possession a muzzleloader permit which may be purchased at a fee of seven dollars and fifty cents ($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 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) Hound Hunter Permit. Any person using a dog for the purpose of hunting or for taking, as defined in section 36-202, Idaho Code, big game or furbearing animals must have in his possession a valid hound hunter permit which may be purchased for a fee of ten dollars ($10.00).

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

Approved April 4, 1991.

CHAPTER 291
(H.B. No. 42, As Amended)

AN ACT

RELATING TO THE SMALL CLAIMS DEPARTMENT OF THE MAGISTRATES DIVISION OF THE DISTRICT COURT; AMENDING SECTION 1-2308, IDAHO CODE, TO PROVIDE THAT NO ATTORNEY-AT-LAW, COLLECTION AGENCY OR ANY OTHER PERSON EXCEPT AN AUTHORIZED NONATTORNEY AGENT OR EMPLOYEE SHALL REPRESENT A PARTY AT ANY TRIAL IN THE SMALL CLAIMS DEPARTMENT OF THE MAGISTRATES DIVISION OF THE DISTRICT COURT.

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

SECTION 1. That Section 1-2308, Idaho Code, be, and the same is hereby amended to read as follows:

1-2308. USE OF COUNSEL PROHIBITED -- WITNESSES AND EVIDENCE -- JUDGMENT. No attorney-at-law, collection agency or any other person ~~than the plaintiff and defendant shall concern himself or in any manner interfere with the prosecution or defense of such litigation,~~ except an authorized nonattorney agent or employee shall represent a party at any trial in said department, nor shall it be necessary to summon witnesses, but the plaintiff and defendant in any claim shall have the privilege of offering evidence in their behalf, themselves and witnesses appearing at such hearing, and being duly sworn as in other cases, and the magistrate shall render and enter judgment as in other cases.

Approved April 4, 1991.

CHAPTER 292
(H.B. No. 122, As Amended, As Amended in the Senate)

AN ACT

RELATING TO THE SALE AND DISPOSAL OF BATTERIES; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 70, TITLE 39, IDAHO CODE, TO DEFINE LEAD ACID BATTERY, TO PROVIDE FOR THE DISPOSAL OF LEAD ACID BATTERIES, TO REQUIRE THE ACCEPTANCE OF USED LEAD ACID BATTERIES BY SELLERS, TO PROVIDE FEES, TO PROVIDE APPLICATION, AND TO PROVIDE PENALTIES.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 70, Title 39, Idaho Code, and to read as follows:

CHAPTER 70
SALE AND DISPOSAL OF BATTERIES

39-7001. DEFINITION OF LEAD ACID BATTERY. For the purpose of this chapter, "lead acid battery" means a battery with a core of elemental lead and a capacity of six (6) or more volts which is suitable for use in farm equipment, construction equipment, a motor vehicle or a boat. Batteries only suitable for motor cycles, off-road recreation vehicles or lawn and garden equipment are exempt from the fees in this chapter.

39-7002. DISPOSAL OF LEAD ACID BATTERIES. (1) The disposal of lead acid batteries in landfills and the incineration of those batteries is prohibited. An owner or operator of a solid waste disposal facility shall not knowingly accept a lead acid battery for disposal unless the owner or operator is removing lead acid batteries from the waste stream for recycling. A lead acid battery shall be discarded or disposed of only as follows:

(a) A lead acid battery retailer or wholesaler may deliver a lead acid battery to any one (1) of the following:

(i) A permitted secondary lead smelter.

(ii) A battery manufacturer.

(iii) A collection or recycling facility authorized by the federal environmental protection agency or division of environmental quality.

(iv) In the case of battery retailers only, an agent of a battery wholesaler.

(v) A landfill operator who offers collection services for recycling lead acid batteries.

(2) A person other than a lead acid battery retailer or wholesaler may deliver a lead acid battery to any of the following:

(a) A lead acid battery retailer or wholesaler.

(b) A permitted secondary lead smelter.

(c) A collection or recycling facility authorized by the federal environmental protection agency or the division of environmental quality.

(d) A landfill operator who offers collection services for recycling lead acid batteries.

39-7003. SALE OF LEAD ACID BATTERIES -- FEE -- NOTICE. (1) A lead acid battery seller shall accept from customers at the point of transfer used lead acid batteries of the type and quantity sold at that point of transfer and may accept additional batteries. A lead acid battery seller shall post a written notice which is clearly visible in the public sales area of the establishment and which contains the following language:

> "It is unlawful to dispose of a motor vehicle battery or other lead acid battery in a landfill or any unauthorized site.
> Recycle all used batteries."

The seller is required by law to accept used lead acid batteries. When any new lead acid battery is purchased, an additional fee of five dollars ($5.00) will be charged unless a used battery is returned for refund within thirty (30) days.

(2) Each person who purchases a new lead acid battery shall be assessed a fee of five dollars ($5.00) per battery by the seller. A seller shall refund the five dollar ($5.00) fee to any person who presents a used lead acid battery to the seller with a receipt for the purchase of a new battery from that seller within the thirty (30) day period immediately following the purchase. A seller may keep any lead acid battery fee moneys which are not properly claimed within thirty (30) days after the date of sale.

(3) All lead acid batteries sold after July 1, 1992, shall bear a universally accepted recycling symbol.

(4) An advertisement or other printed promotional material related to the sale of lead acid batteries shall contain the following notice in bold print:

> "A fee is imposed on the purchase of each new lead acid battery unless a used battery is returned where applicable."

(5) The provisions of this section do not apply to a person whose sales of batteries are not in the ordinary course of business.

(6) A wholesale seller of lead acid batteries who sells batteries to this state, to a political subdivision of this state or to a private entity which resells the batteries is not subject to the fees in this chapter.

(7) A person or entity who manufactures or sells equipment or vehicles, the final product of which includes a lead acid battery as a component part, is not subject to the fees in this chapter as long as the lead acid battery is attached to and is a component part of said equipment or vehicle.

39-7004. PENALTIES. (1) A person who improperly disposes of a battery in violation of the provisions of this chapter is subject to a civil penalty of not more than five hundred dollars ($500) per violation and is subject to the penalty provisions of the environmental protection and health act contained in chapter 1, title 39, Idaho Code. Each battery which is so disposed of improperly constitutes a separate violation.

(2) A person who knowingly violates any provision of this chapter other than as described in subparagraph (1) of this section is subject to a civil penalty of not more than one hundred dollars ($100) per violation.

Approved April 4, 1991.

CHAPTER 293
(H.B. No. 187, As Amended in the Senate)

AN ACT

RELATING TO INSURANCE; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 15, TITLE 41, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR THE LICENSING OF MANAGING GENERAL AGENTS, TO PROVIDE REQUIRED CONTRACT PROVISIONS BE ENTERED INTO BETWEEN A MANAGING GENERAL AGENT AND AN INSURER, TO PROVIDE DUTIES OF INSURERS WITH REFERENCE TO MANAGING GENERAL AGENTS, TO PROVIDE EXAMINATION AUTHORITY, AND TO PROVIDE PENALTIES AND LIABILITIES FOR A VIOLATION OF THE CODE PROVISIONS; AMENDING SECTION 41-901, IDAHO CODE, TO PROVIDE FOR EXCEPTION TO THE THIRD PARTY ADMINISTRATOR LICENSING REQUIREMENTS FOR AN INDIVIDUAL OR ENTITY WHICH MEETS THE DEFINITION OF A MANAGING GENERAL AGENT AS PROVIDED IN CHAPTER 15, TITLE 41, IDAHO CODE; REPEALING SECTION 41-1026, IDAHO CODE; AND PROVIDING SEVERABILITY.

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 15, Title 41, Idaho Code, and to read as follows:

CHAPTER 15
MANAGING GENERAL AGENTS ACT

41-1501. SHORT TITLE. This chapter will be known and may be cited as the "Managing General Agents Act."

41-1502. DEFINITIONS. For the purposes of this chapter:

(1) "Actuary" means a person who is a member in good standing of the American academy of actuaries.

(2) "Insurer" means any person, firm, association or corporation duly licensed in this state as an insurance company pursuant to and acting consistent with the definitions provided in sections 41-103 and 41-112, Idaho Code.

(3) "Managing general agent" (MGA) means any person, firm, association or corporation who negotiates and binds ceding reinsurance contracts on behalf of an insurer or manages all or part of the insurance business of an insurer (including the management of a separate division, department or underwriting office) and acts as an agent for such insurer whether known as a managing general agent, manager or

other similar term, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or more than five per cent (5%) of the policyholder surplus as reported in the last annual statement of the insurer in any one (1) quarter or year together with one (1) or more of the following:

(a) Adjusts or pays claims in excess of an amount determined by the director, or

(b) Negotiates reinsurance on behalf of the insurer.

(4) Notwithstanding the above definition of MGA, the following persons shall not be considered as MGAs for the purposes of this chapter:

(a) An employee of the insurer;

(b) An United States manager of the United States branch of an alien insurer;

(c) An underwriting manager which, pursuant to contract, manages the insurance operations of the insurer, is under common control with the insurer, subject to the holding company regulatory act, and whose compensation is not based on the volume of premiums written;

(d) The attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or interinsurance exchange under powers of attorney.

(5) "Underwrite" means the authority to accept or reject risks on behalf of the insurer.

41-1503. LICENSURE. (1) No person, firm, association or corporation shall act in the capacity of a MGA with respect to risks located in this state for an insurer licensed in this state unless such person is a licensed agent in this state pursuant to the provisions of chapter 10, title 41, Idaho Code.

(2) No person, firm, association or corporation shall act in the capacity of a MGA representing an insurer domiciled in this state with respect to risks located outside this state unless such person is licensed as an agent in this state pursuant to the provisions of chapter 10, title 41, Idaho Code.

(3) Every MGA as defined in section 41-1502(3), Idaho Code, shall be required to be bonded. The bond shall be in favor of the state to be held in trust for the benefit and protection of insureds and insurers whose money the MGA handles. The amount of the bond shall not be less than ten per cent (10%) of the amount of total funds handled, except that in no case shall such bond be less than five thousand dollars ($5,000). For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the total funds handled by the MGA in the preceding year, or if no funds were handled during the preceding year, the amount of funds reasonably estimated to be handled during the current calendar year by the MGA. Only one (1) such bond shall be required of the MGA for all insurers which utilize the services of the MGA, unless provided otherwise in the written agreement between the insurer and the MGA or otherwise required by the director.

(4) The director may require the MGA to maintain an errors and omissions policy.

41-1504. REQUIRED CONTRACT PROVISIONS. No person, firm, association or corporation acting in the capacity of a MGA shall place business with an insurer unless there is in force a written contract between the parties which sets forth the responsibilities of each party and where both parties share responsibility for a particular function, specifies the division of such responsibilities, and which contains the following minimum provisions:

(1) The insurer may terminate the contract for cause upon written notice to the MGA. The insurer may suspend the underwriting authority of the MGA during the pendency of any dispute regarding the cause for termination.

(2) The MGA will render accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis.

(3) All funds collected for the account of an insurer will be held by the MGA in a fiduciary capacity in a bank which is a member of the federal reserve system. This account shall be used for all payments on behalf of the insurer. The MGA may retain no more than three (3) months estimated claims payments and allocated loss adjustment expenses.

(4) Separate records of business written by the MGA will be maintained. The insurer shall have access and right to copy all accounts and records related to its business in a form usable by the insurer and the director shall have access to all books, bank accounts and records of the MGA in a form usable to the director. Such records shall be retained for a minimum period of six (6) years.

(5) The contract may not be assigned in whole or part by the MGA.

(6) Appropriate underwriting guidelines including:

(a) The maximum annual premium volume;

(b) The basis of the rates to be charged;

(c) The types of risks which may be written;

(d) Maximum limits of liability;

(e) Applicable exclusions;

(f) Territorial limitations;

(g) Policy cancellation provisions; and

(h) The maximum policy period.

Any cancellation or nonrenewal of any policy of insurance is subject to all applicable laws and regulations concerning the cancellation and nonrenewal of insurance policies.

(7) If the contract permits the MGA to settle claims on behalf of the insurer:

(a) All claims must be reported to the company in a timely manner.

(b) A copy of the claim file will be sent to the insurer at its request or as soon as it becomes known that the claim:

(i) Has the potential to exceed an amount determined by the director or exceeds the limit set by the company, whichever is less;

(ii) Involves a coverage dispute;

(iii) May exceed the MGA's claims-settlement authority;

(iv) Is open for more than six (6) months; or

(v) Is closed by payment of an amount set by the director or an amount set by the company, whichever is less.

(c) All claims files will be the joint property of the insurer and MGA. However, upon an order of liquidation of the insurer such files shall become the sole property of the insurer or its estates. The MGA shall have reasonable access to and the right to copy the files on a timely basis.

(d) Any settlement authority granted to the MGA may be terminated for cause upon the insurer's written notice to the MGA or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of any dispute regarding the cause for termination.

(8) Where electronic claims files are in existence, the contract must address the timely transmission of the data.

(9) If the contract provides for a sharing of interim profits by the MGA, and the MGA has the authority to determine the amount of the interim profits by establishing loss reserves or controlling claim payments, or in any other manner, interim profits will not be paid to the MGA until one (1) year after they are earned for property insurance business and five (5) years after they are earned on casualty business and not until the profits have been verified pursuant to section 41-1505, Idaho Code.

(10) The MGA shall not:

(a) Bind reinsurance or retrocessions on behalf of the insurer, except that the MGA may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with whom such automatic agreements are in effect, the coverages and amounts of percentages that may be reinsured and commission schedules;

(b) Commit the insurer to participate in insurance or reinsurance syndicates;

(c) Appoint any producer without assuring that the producer is lawfully licensed to transact the type of insurance for which he is appointed;

(d) Without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which shall not exceed one percent (1%) of the insurer's policyholders surplus as of December 31 of the last completed calendar year;

(e) Collect any payment from a reinsurer or commit the insurer to any claims settlement with a reinsurer without prior approval of the insurer. If prior approval is given, a report must be promptly forwarded to the insurer;

(f) Permit its subagent to serve on the insurer's board of directors;

(g) Jointly employ an individual who is employed with the insurer; or

(h) Appoint a sub-MGA.

41-1505. DUTIES OF INSURERS. (1) The insurer shall have on file an independent financial examination, in a form acceptable to the director, of each MGA with whom it has done business.

(2) If a MGA establishes loss reserves, the insurer shall annu-

ally obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the MGA. This is in addition to any other required loss reserve certification.

(3) The insurer shall conduct an on-site review of the underwriting and claims processing operations of the MGA on a semiannual or more frequent basis.

(4) Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer, who shall not be affiliated with the MGA.

(5) Within thirty (30) days of entering into or termination of a contract with a MGA, the insurer shall provide written notification of such appointment or termination to the director. Notices of appointment of a MGA shall include:

(a) A statement of duties which the applicant is expected to perform on behalf of the insurer;

(b) The lines of insurance for which the applicant is to be authorized to act; and

(c) Any other information the director may request.

(6) An insurer shall review its books and records each quarter to determine if any agent has become, by operation of the provisions of section 41-1502(3) and (4), Idaho Code, a MGA as defined in that section. If the insurer determines that an agent has become a MGA pursuant to the above, the insurer shall promptly notify the agent and the director of such determination and the insurer and agent must fully comply with the provisions of this chapter within thirty (30) days.

(7) An insurer shall not appoint to its board of directors an officer, director, employee, agent or controlling shareholder of its MGA. The provisions of this subsection shall not apply to relationships governed by chapter 38, title 41, Idaho Code.

41-1506. EXAMINATION AUTHORITY. The acts of the MGA are considered to be the acts of the insurer on whose behalf it is acting. A MGA may be examined pursuant to the insurance statutes and regulations as if it were the insurer.

41-1507. PENALTIES AND LIABILITIES. (1) If the director finds, after a hearing conducted in accordance with the insurance code and the regulations and procedures adopted by the Idaho department of insurance, that any person, firm, association or corporation has violated any provision of this chapter, the director may order:

(a) For each separate violation, a penalty in an amount not to exceed ten thousand dollars ($10,000);

(b) Revocation or suspension of the agent's license; and

(c) The MGA to reimburse the insurer, the rehabilitator or liquidator of the insurer for any losses incurred by the insurer caused by a violation of the provisions of this chapter committed by the MGA.

(2) Nothing contained in this section shall affect the right of the director to impose any other penalties provided for in the insurance statutes.

(3) Nothing contained in this chapter is intended to or shall in any manner limit or restrict the rights of policyholders, claimants

and auditors.

SECTION 2. That Section 41-901, Idaho Code, be, and the same is hereby amended to read as follows:

41-901. DEFINITION. In this ~~code~~ chapter, unless the context otherwise requires, "administrator" means any person who collects charges or premiums from, or who adjusts or settles claims on, residents of this state in connection with life or health insurance coverage or annuities other than any of the following:

(1) An employer on behalf of such employer's employees or the employees of one or more subsidiary or affiliated corporations of such employer.

(2) A union on behalf of its members.

(3) An insurance company which is either authorized to transact insurance in this state or acting as an insurer with respect to a policy lawfully issued and delivered by such company in and pursuant to the laws of a state in which the insurer was authorized to transact an insurance business, or a hospital, medical, dental or optometric service corporation or a health care service organization, including their sales representatives, possessing a valid certificate of authority in this state when engaged in the performance of their duties.

(4) A life or disability agent or broker licensed in this state, whose activities are limited exclusively to the sale of insurance.

(5) A creditor on behalf of such creditor's debtors with respect to insurance covering a debt between the creditor and its debtors.

(6) A trust, its trustees, agents and employees acting pursuant to such trust, established in conformity with 29 U.S.C. 186.

(7) A trust exempt from taxation under section 501(a) of the internal revenue code, its trustees, and employees acting pursuant to such trust, or a custodian, its agents and employees acting pursuant to a custodian account which meets the requirements of section 401(f) of the internal revenue code.

(8) A financial institution which is subject to supervision or examination by federal or state banking authorities.

(9) A credit card issuing company which advances for and collects premiums or charges from its credit card holders who have authorized such collection, if such company does not adjust or settle claims.

(10) A person who adjusts or settles claims in the normal course of such person's practice or employment as an attorney-at-law, and who does not collect charges or premiums in connection with life or health insurance coverage or annuities.

(11) A person, firm, association or corporation acting in the capacity of a managing general agent pursuant to the definition provided in section 41-1502(3) and (4), Idaho Code.

SECTION 3. That Section 41-1026, Idaho Code, be, and the same is hereby repealed.

SECTION 4. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining

portions of this act.

Approved April 4, 1991.

CHAPTER 294
(H.B. No. 197, As Amended)

AN ACT

RELATING TO LICENSURE OF PERSONS PROVIDING RESPIRATORY CARE; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 43, TITLE 54, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO REQUIRE A LICENSE OR TEMPORARY PERMIT, TO PROVIDE AN EFFECTIVE DATE AND TO PROVIDE FOR LICENSES OR TEMPORARY PERMITS BEGINNING IN 1992, TO PROVIDE REQUIREMENTS FOR LICENSURE, TO PROVIDE FOR A TEMPORARY PERMIT, TO PROVIDE EXEMPTIONS, TO PROVIDE FOR ISSUANCE OF LICENSE OR TEMPORARY PERMIT, TO PROVIDE FOR RENEWAL OF A LICENSE OR TEMPORARY PERMIT, TO PROVIDE FOR FEES, TO PROVIDE FOR SUSPENSION OR REVOCATION OF A LICENSE OR TEMPORARY PERMIT AND FOR REFUSAL TO RENEW A LICENSE OR TEMPORARY PERMIT, TO ESTABLISH THE RESPIRATORY CARE LICENSURE BOARD AND TO PROVIDE COMPENSATION, TO PROVIDE POWERS AND DUTIES OF THE BOARD OF MEDICINE AND LICENSURE BOARD, TO PROVIDE ADMINISTRATIVE PROVISIONS OF THE BOARD OF MEDICINE, TO PROVIDE FOR PROMULGATION OF RULES AND REGULATIONS, TO PROVIDE FOR CONTRACTS FOR VERIFICATION, TO PROVIDE FOR USE OR DISPLAY OF PROFESSIONAL DESIGNATIONS OR CREDENTIALS, TO PROVIDE CIVIL REMEDIES, TO PROVIDE PENALTIES, AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 43, Title 54, Idaho Code, and to read as follows:

CHAPTER 43
RESPIRATORY CARE PRACTICE ACT

54-4301. SHORT TITLE. The provisions of this chapter shall be known and may be cited as the "Respiratory Care Practice Act of 1991."

54-4302. LEGISLATIVE INTENT. In order to promote the public health, safety, and welfare; to promote the highest degree of professional conduct on the part of persons providing respiratory care to the public; and to assure the availability of respiratory care services of high quality to persons in need of such services, it is the purpose of the provisions of this chapter to provide for the licensure and regulation of persons offering respiratory care services to the public.

54-4303. DEFINITIONS. As used in this chapter:

(1) "Act" means the respiratory care practice act of 1991, chap-

ter 43, title 54, Idaho Code.

(2) "Applicant" means a person who applies for a license or a temporary permit pursuant to this chapter.

(3) "Board" means the Idaho state board of medicine established by and constituted pursuant to section 54-1805, Idaho Code, or any successor section or statute.

(4) "Certified pulmonary function technologist" (CPFT) means the professional designation earned by a person who has successfully completed the entry level pulmonary function certification examination administered by the national board for respiratory care, inc.

(5) "Certified respiratory therapy technician" (CRTT) means the professional designation earned by a person who has successfully completed the entry level examination administered by the national board for respiratory care, inc.

(6) "Entry level examination" means the certification examination for entry level respiratory therapy practitioners administered by the national board for respiratory care, inc., the successful completion of which entitles a person to the professional designation of "certified respiratory therapy technician" (CRTT).

(7) "Licensure" means the issuance of a license to an applicant under the provisions of this chapter entitling such person to hold himself out as a respiratory care practitioner and entitling him to practice or perform respiratory care in the state.

(8) "Licensure board" means the licensure board established by this chapter to accept applications under this chapter, to make recommendations and consult with the board and to perform such other duties as may be required or authorized in this chapter or by the board.

(9) "National board for respiratory care, inc." means the nationally recognized private testing, examining and credentialing body for the respiratory care profession.

(10) "Performance of respiratory care" means respiratory care practiced or performed in accordance with the written, telephonic or verbal prescription of a licensed physician and includes, but is not limited to, the diagnostic and therapeutic use of the following: administration of medical gases, (except for the purpose of anesthesia), aerosols and humidification; environmental control mechanisms and hyperbaric therapy; pharmacologic agents related to respiratory care protocols; mechanical or physiological ventilatory support; bronchopulmonary hygiene; cardiopulmonary resuscitation; maintenance of the natural airway; insertion and maintenance of artificial airways; specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures and flows, collection, reporting and analysis of specimens of blood and blood gases, arterial punctures, insertion and maintenance of arterial lines, expired and inspired gas samples, respiratory secretions, and pulmonary function testing; and hemodynamic and other related physiologic measurements of the cardiopulmonary system; observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing and determination of whether such signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics; implementation based on observed abnormali-

ties of appropriate reporting or referral of respiratory care or changes in treatment regimen, pursuant to a prescription by a physician or the initiation of emergency procedures.

(11) "Person" means an individual.

(12) "Practice of respiratory care" means, but shall not be limited to, the provision of respiratory and inhalation therapy which shall include, but not be limited to: therapeutic and diagnostic use of medical gases, humidity and aerosols including the maintenance of associated apparatus; administration of drugs and medications to the cardiorespiratory system; provision of ventilatory assistance and ventilatory control; postural drainage, percussion, breathing exercises and other respiratory rehabilitation procedures; cardiopulmonary resuscitation and maintenance of natural airways, the insertion and maintenance of artificial airways; and the transcription and implementation of a physician's written, telephonic or verbal orders pertaining to the practice of respiratory care. It also includes testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment and research. This shall be understood to include, but not be limited to, measurement of ventilatory volumes, pressures and flows, specimen collection of blood and other materials, pulmonary function testing and hemodynamic and other related physiological monitoring of the cardiopulmonary system. The practice of respiratory care is not limited to the hospital setting but shall be performed under the general supervision of a licensed physician.

(13) "Respiratory care" means the allied health profession responsible for the treatment, management, diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system, under the general supervision of a licensed physician.

(14) "Respiratory care practitioner" means a person who has been issued a license by the board under the provisions of this chapter.

(15) "Respiratory care protocols" mean policies, procedures or protocols developed or instituted by health care facilities or institutions, through collaboration when appropriate or necessary with administrators, physicians, registered nurses, physical therapists, respiratory care practitioners and other licensed, certified or registered health care practitioners.

(16) "Registered pulmonary function technologist" (RPFT) means the professional designation earned by a person who has successfully completed the advanced pulmonary function certification examination administered by the national board for respiratory care, inc.

(17) "Registered respiratory therapist" (RRT) means the professional designation earned by a person who has successfully completed the written registry and clinical simulation examinations administered by the national board for respiratory care, inc.

(18) "Respiratory therapist" means a person who practices or provides respiratory care.

(19) "Respiratory therapy" means the practice or performance of respiratory care as defined in this chapter including, but not limited to, inhalation therapy.

(20) "Written registry and clinical simulation examinations" mean the certification examinations administered by the national board for respiratory care, inc., the successful completion of which entitles a

person the professional designation of "registered respiratory therapist" (RRT).

54-4304. LICENSE OR TEMPORARY PERMIT REQUIRED. Except as otherwise provided in this chapter, it shall be unlawful for any person to practice or perform or to offer to practice or perform respiratory care or for a person or entity to represent a person to be a respiratory therapist or respiratory care practitioner unless such person is licensed as a respiratory care practitioner, holds a valid temporary permit or is exempt from the requirements of this chapter. Only an individual may be licensed or granted a temporary permit under this chapter.

54-4305. EFFECTIVE DATE -- LICENSURE OR TEMPORARY PERMIT REQUIRED BEGINNING 1992. The effective date of this chapter is July 1, 1991. The first year for which a license or a temporary permit shall be required for the practice or performance of respiratory care shall be calendar year 1992. All applications for initial licenses or temporary permits and for renewal of licenses or temporary permits under this chapter shall be made to the board upon a form provided by the board and all such applications shall be in accordance with the rules and regulations promulgated by the board under the provisions of this chapter.

54-4306. REQUIREMENTS FOR LICENSURE. (1) A person practicing or performing respiratory care and who meets the requirements for licensure under the provisions of this section and who is not exempt from the requirements of this chapter pursuant to section 54-4308, Idaho Code, shall apply to the licensure board for the issuance of a license. The application shall be upon a form provided by the board.

(2) The board, upon recommendation of the licensure board, shall issue a license to an applicant if the applicant makes a satisfactory showing to the licensure board that:

(a) the applicant is, on or before the date of the issuance of the license, eighteen (18) years of age or older; and

(b) has not been convicted of a crime which would have a direct and adverse bearing on the applicant's ability to practice or perform respiratory care competently and in the best interests of the consuming public; and

(c) is a high school graduate or has earned a general educational development certificate; and

(d) has not been subjected to disciplinary action in any state or territory of the United States or in any foreign country arising from a showing of gross negligence or intentional misconduct directly related to the practice or provision of respiratory care; and

(e) The applicant:

(i) has successfully completed the entry level examination and is a certified respiratory therapy technician and/or has successfully completed the written registry and clinical simulation examinations and is a registered respiratory therapist; or

(ii) is licensed as a respiratory care practitioner, or the

equivalent in the discretion of the board, in another state, the District of Columbia, or in a territory of the United States; or

(iii) has, during the three (3) calendar years immediately preceding the effective date of this chapter, practiced respiratory care or provided respiratory care in this state under the supervision of licensed physicians for not fewer than three thousand (3,000) hours.

54-4307. TEMPORARY PERMIT. Any person who desires to practice or perform respiratory care but who does not meet the requirements for licensure under the provisions of this chapter and who is not exempt from the requirements of this chapter pursuant to section 54-4308, Idaho Code, shall apply for a temporary permit issued by the board. Upon issuance of a temporary permit such person shall be authorized to practice and perform respiratory care in the state under the supervision of a respiratory care practitioner or a licensed physician for a period of one (1) year from the date of issuance of the temporary permit. Temporary permits may be renewed one (1) time for a period of one (1) additional year upon application to the board.

The application for a temporary permit shall be on a form provided by the board and the applicant shall demonstrate to the satisfaction of the board that the applicant meets the requirements of subsection (2)(a), (b), (c) and (d) of section 54-4306, Idaho Code.

54-4308. EXEMPTIONS. (1) Nothing in this chapter shall be construed as preventing or restricting the practice or performance of respiratory care or requiring licensure or a temporary permit pursuant to this chapter:

(a) Of any person authorized in this state under any other law who carries out only those professional duties and functions for which such person has been specifically trained and for which professional designations are conferred; or

(b) Of certified pulmonary function technologists and registered pulmonary function technologists who carry out only those professional duties and functions for which such persons have been specifically trained and for which such professional designations are conferred; or

(c) Of any person employed as a respiratory therapist by the government of the United States or any agency thereof, if such person practices or provides respiratory care solely under the direction or control of the organization by which such person is employed; or

(d) Of any person actively pursuing in good faith a full-time supervised course of study leading to a degree or certificate in respiratory care in an American medical association accredited or approved educational program, or the equivalent as determined by the board, where the practice or provision of respiratory care by such person is supervised by a respiratory care practitioner or by a licensed physician; or

(e) For purposes of continuing education, consulting, and/or training, any person performing respiratory care in the state, if these services are performed for no more than thirty (30) days in

a calendar year in association with a respiratory care practitioner licensed under this act or in association with a licensed physician, if:

(i) The person is licensed as a respiratory care practitioner or the equivalent, as determined by the board, in good standing in another state or the District of Columbia, or in a territory of the United States; or

(ii) The person is a certified respiratory therapy technician (CRTT) or registered respiratory therapist (RRT).

(f) Of any person who administers cardiopulmonary resuscitation (CPR) in an emergency situation.

(2) A person claiming an exemption under subsection (1)(c) or (1)(e) of this section shall apply for a license or a temporary permit as provided for in this chapter in the event the facts upon which such claim for exemption is based change or cease to exist eliminating the grounds for such claim for exemption. Such application shall be filed with the board as soon as possible after the loss of the claim to exemption but no later than thirty (30) calendar days after the right to the exemption ceases. Such person may practice or perform respiratory care after the loss of such exemption and prior to application for and/or issuance by the board of a license or temporary permit only under the direct supervision of a respiratory care practitioner or a licensed physician.

(3) A person claiming exemption under the provisions of subsection (1)(d) of this section shall cease to be eligible for such exemption if such person ceases to actively pursue the required course of study for a period of time in excess of one hundred twenty (120) consecutive calendar days and immediately upon receipt of the degree or certificate for which such person pursued the course of study.

(4) The burden of proving the existence of facts entitling a person to an exemption under this section shall be upon the person claiming the exemption.

(5) The provisions of this act shall not prohibit hospitals from employing individuals to provide respiratory care services who are exempt from the licensing requirements of this chapter. The provisions of this chapter shall not prohibit any hospital from training qualified personnel to provide respiratory care if the trainee would be exempt under subsection 1(a) or 1(d) of 54-4308, Idaho Code, provided, that said training and respiratory care services are done under the supervision of a licensed physician or a respiratory care practitioner.

54-4309. ISSUANCE OF LICENSE OR TEMPORARY PERMIT. The board based upon recommendation of the licensure board shall issue a license or temporary permit to any person who meets the requirements of this chapter upon payment of the prescribed license or temporary permit fees. The board may, in its discretion, by rule or regulation, provide for the proration of fees charged in conjunction with the initial application by a person for a license or temporary permit if such license or temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in section 54-4310, Idaho Code.

54-4310. RENEWAL OF LICENSE OR TEMPORARY PERMIT. (1) Any license or temporary permit issued under this chapter shall be subject to annual renewal and shall expire annually unless renewed in the manner prescribed by the rules of the board. The board may reinstate a license or temporary permit cancelled for failure to renew upon compliance with requirements of the board for renewal of licenses or temporary permits.

(2) Upon application, the board shall grant inactive status to the holder of a license who does not practice or provide respiratory care.

(3) Each individual applicant for renewal of an active license shall, on or before the expiration of the license, submit satisfactory proof to the licensing board of successful completion of not less than twelve (12) classroom hours of approved course work in addition to any other requirements for renewal. The licensing board may substitute all or a portion of the course work required in this section when a licensee shows evidence of passing an approved challenge exam or of completing equivalent education determined by the licensing board to be in full compliance with the education requirements of this section.

54-4311. FEES. The board shall adopt rules and regulations establishing reasonable fees for the following:

(1) Initial license fee which may be prorated pursuant to section 54-4309, Idaho Code;

(2) Renewal of license fee;

(3) Inactive license fee;

(4) Initial temporary permit fee which may be prorated pursuant to section 54-4309, Idaho Code; and

(5) Temporary permit renewal fee.

Each applicant shall be responsible for the payment of any fee charged by the national board for respiratory care, inc., for the entry level examination and the written registry and clinical simulation examinations. Fees authorized under this chapter shall be used solely to carry out the purposes of this chapter including the provisions of section 54-4317, Idaho Code.

54-4312. SUSPENSION AND REVOCATION OF LICENSE OR TEMPORARY PERMIT -- REFUSAL TO RENEW. (1) Subject to the provisions of chapter 52, title 67, Idaho Code, the board, upon recommendation of the licensure board, may deny a license or temporary permit or refuse to renew a license or temporary permit, or may suspend or revoke a license or temporary permit or may impose probationary conditions if the holder of a license or temporary permit or applicant for license or temporary permit has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct includes, but is not limited to:

(a) obtaining a license or temporary permit by means of fraud, misrepresentation, or concealment of material facts;

(b) being guilty of unprofessional conduct as defined by the rules established by the board, or violating the code of ethics adopted and published by the board;

(c) being convicted of a crime which would have a direct and

adverse bearing on the licensee's or temporary permit holder's ability to practice or perform respiratory care competently;

(d) the unauthorized practice of medicine;

(e) violating any provisions of this chapter or any of the rules and regulations promulgated by the board under the authority of this chapter;

(f) being found mentally incompetent by a court of competent jurisdiction or being found mentally incompetent or unfit by the board to provide respiratory care.

(2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license or temporary permit may be ordered by the board after a hearing in the manner provided by the rules adopted by the board. An application for reinstatement may be made to the board one (1) year from the date of the revocation of a license or temporary permit. The board shall hold a hearing to consider such reinstatement.

54-4313. LICENSURE BOARD. (1) The licensure board shall consist of five (5) members appointed by the board, three (3) of whom shall be certified respiratory care practitioners and all of whom shall be residents of Idaho at the time of their appointment and for their term of service. The persons appointed to the licensure board who are required to be licensed under this chapter shall have been engaged in rendering respiratory care services to the public, in teaching, or in research in respiratory care for at least five (5) years immediately preceding their appointments. These members shall at all times be holders of valid licenses for the practice of respiratory care in Idaho, except for the members of the first board, all of whom shall, at the time of appointment, hold the designation of certified respiratory therapy technician or registered respiratory therapist conferred by the national board for respiratory care, inc. and all of whom meet the requirements for licensure under the provisions of this chapter. The remaining two (2) members of the licensure board shall be members of health professions or members of the public with an interest in the rights of the consumers of health services.

(2) The board, within sixty (60) days following the effective date of this chapter, shall appoint two (2) licensure board members for a term of one (1) year; two (2) for a term of two (2) years; and one (1) for a term of three (3) years. Appointments made thereafter shall be for three (3) year terms, but no person shall be appointed to serve more than two (2) consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed in this section.

(3) The licensure board shall within sixty (60) days after the effective date of this chapter, and annually thereafter, hold a meeting and elect a chairman who shall preside at meetings of the licensure board. In the event the chairman is not present at any licensure board meeting, the licensure board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the licensure board shall constitute a quorum. Other meetings may be con-

vened at the call of the chairman or the written request of any two (2) licensure board members.

(4) Each member of the licensure board shall be compensated as provided in section 59-509(h), Idaho Code.

54-4314. BOARD OF MEDICINE AND LICENSURE BOARD -- POWERS AND DUTIES. (1) The board shall administer, coordinate and enforce the provisions of this chapter, evaluate the qualifications, and may issue subpoenas, examine witnesses, and administer oaths, and may investigate practices which are alleged to violate the provisions of this chapter. The licensure board shall review the applications of all applicants for licensure or temporary permits and make recommendations to and consult with the board concerning issuance of licenses or temporary permits, revocation of licenses or temporary permits and rules and regulations to be promulgated under this chapter.

(2) The licensure board shall hold meetings, conduct hearings and keep records and minutes as are necessary to carry out its functions.

54-4315. BOARD OF MEDICINE -- ADMINISTRATIVE PROVISIONS. (1) The executive director of the Idaho state board of medicine shall serve as executive director of, but shall not be a member of, the licensure board.

(2) All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the state board of medicine account created in section 54-1809, Idaho Code, and all costs and expenses incurred by the board and licensure board under the provisions of this chapter shall be a charge against and paid from said account for such purposes, and the funds collected hereunder shall be immediately available for the administration of this chapter. In no instance shall the state board of medicine account be obligated to pay any claims which in aggregate with claims already allowed exceed the income to the state board of medicine account which has been derived from the application of this chapter.

(3) Money paid into the state board of medicine account pursuant to this chapter is hereby continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and licensure board in carrying out and enforcing the provisions of this chapter.

54-4316. RULES AND REGULATIONS. The board shall, upon recommendation by the licensure board, adopt and promulgate rules and regulations necessary to carry out the provisions of this chapter, pursuant to chapter 52, title 67, Idaho Code.

54-4317. CONTRACTS FOR VERIFICATION. The board is authorized to enter into such contracts with the national board for respiratory care, inc. as may be necessary or advisable to provide for or to facilitate verification of any applicant's claim that such applicant has successfully completed the entry level examination and/or the written registry and clinical simulation examinations.

54-4318. USE OR DISPLAY OF PROFESSIONAL DESIGNATIONS OR CREDENTIALS. Nothing contained in this chapter shall preclude a respiratory

care practitioner, a respiratory therapist exempt from licensure under this chapter or the holder of a temporary permit from using or displaying earned professional designations or credentials including, but not limited to, CRTT, RRT, CPFT and RPFT. A respiratory care practitioner may use and display the designation respiratory care practitioner or RCP in conjunction with the use or display of any such other earned professional designations or credentials.

A respiratory care practitioner who has earned the designation certified respiratory therapy technician or CRTT may also use or display the designation of certified respiratory care practitioner or CRCP.

A respiratory care practitioner who has earned the designation registered respiratory therapist or RRT may also use or display the designation of registered respiratory care practitioner or RRCP.

The holder of a temporary permit shall not use or display the designation certified respiratory care practitioner, CRCP; registered respiratory care practitioner, RRCP; or respiratory care practitioner, RCP; but may use or display any earned professional designations or credentials.

54-4319. MISREPRESENTATION -- CONSUMER PROTECTION ACT. (1) The board may bring any action in the district court for a temporary restraining order, preliminary injunction or permanent injunction against any person who violates the provisions of this chapter or who falsely holds himself out as a respiratory care practitioner or against any person who practices or provides respiratory care in violation of this chapter.

(2) Any person who falsely holds himself out as a respiratory care practitioner shall be guilty of using a method, act or practice which is declared to be unlawful under chapter 6, title 48, Idaho Code, the Idaho consumer protection act.

54-4320. PENALTIES. Any person who violates any provision of this chapter shall, upon conviction, be guilty of a misdemeanor.

54-4321. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

Approved April 4, 1991.

CHAPTER 295
(H.B. No. 221)

AN ACT

RELATING TO VEHICLE FEES, REPORTS, AND WEIGHT; AMENDING SECTION 49-402, IDAHO CODE, TO CLARIFY THAT THE REGISTRATION FEES FOR MOTOR HOMES SHALL BE THE SAME AS THOSE PROVIDED FOR PASSENGER VEHICLES; AMENDING SECTION 49-434, IDAHO CODE, TO CLARIFY THAT

VEHICLES TRANSPORTING REDUCIBLE LOADS HAVING A MAXIMUM REGISTERED GROSS WEIGHT IN EXCESS OF EIGHTY THOUSAND POUNDS ARE REQUIRED TO PAY A USE FEE, TO PROVIDE FOR REPORTING AND PAYING THE USE FEE AND DECLARING THAT THE OWNER SHALL REGISTER THE MOTOR VEHICLE IN A COMBINATION AT ITS HIGHEST MAXIMUM GROSS WEIGHT; AMENDING SECTION 49-435, IDAHO CODE, TO CLARIFY THAT PROPORTIONALLY REGISTERED VEHICLES HAVING A MAXIMUM GROSS WEIGHT IN EXCESS OF SIXTY THOUSAND POUNDS SHALL PAY THE APPLICABLE USE FEE SPECIFIED IN SECTION 49-434, IDAHO CODE; AMENDING SECTION 49-436, IDAHO CODE, TO PROVIDE THAT OWNERS ELECTING MULTIPLE WEIGHT REPORTING SHALL INCLUDE THE CONFIGURATION OF THE COMBINATION OF VEHICLES FOR ALL MILES TRAVELED IN THE MILEAGE RECORD, TO PROVIDE THAT OWNERS OF CERTAIN COMMERCIAL AND FARM VEHICLES ARE SUBJECT TO AUDIT TO DETERMINE IF THE CORRECT SCHEDULES ARE BEING USED, TO PROVIDE FOR SUSPENSION OF REGISTRATION FOR WILLFUL FAILURE TO MAINTAIN RECORDS TO SUBSTANTIATE THE SCHEDULES USED, TO PROVIDE FOR SUSPENSION OR REVOCATION OF VEHICLE REGISTRATIONS FOR FAILURE TO FILE REPORTS OR PAY FEES AND TO PROVIDE FOR A REINSTATEMENT FEE IF A SUSPENSION IS LIFTED; AMENDING SECTION 49-438, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE, TO PROVIDE THAT EXCEEDING MAXIMUM GROSS WEIGHT LIMITATIONS SHALL BE AN INFRACTION AND TO DELETE PROGRESSIVE PENALTY PROVISIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. ANNUAL REGISTRATION. (1) The annual fee for operating each pickup truck and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds, designed for the purpose of carrying passengers and not used for hire shall be:

Vehicles one (1) and two (2) years old $36.48
Vehicles three (3) and four (4) years old 33.48
Vehicles five (5) and six (6) years old 26.28
Vehicles seven (7) and eight (8) years old 22.68
Vehicles over eight (8) years old 16.08

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers ending in 1, and proceeding consecutively through December for holders of validation registration stickers ending in 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the 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 nine dollars ($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) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(7) 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~~8) A financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 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 2. 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 or semitrailer in a combination of vehicles in the amount of fifteen dollars ($15.00). 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 fifteen dollars ($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 five (5) years. The license plate shall become void if the owner's interest in the trailer, rental utility trailer or semitrailer changes during the five (5) year period. If the owner fails to enter the licensed trailer, rental utility trailer or semitrailer on the annual renewal application during the five (5) year period, the registration 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, which hauls reducible loads is authorized under the provisions of ~~section 49-1011~~ chapter 10, title 49, 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~~ maximum registered gross weight of the vehicle.

(6) Any owner operating vehicle combinations may apply to the department for authority to report multiple weights and pay use fees based upon the maximum gross weight of each configuration in the combination being operated. The owner shall declare a maximum gross weight for each configuration being operated but not more than three (3) maximum gross weights for a vehicle combination may be declared. Any owner who receives authority to report and pay use fees at multiple maximum gross weights shall register the motor vehicle in a combination at the highest maximum gross weight of the vehicle.

(7) 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) cal-

endar 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 3. That Section 49-435, Idaho Code, be, and the same is hereby amended to read as follows:

49-435. PROPORTIONAL REGISTRATION OF COMMERCIAL VEHICLES. (1) Any owner engaged in operating one or more fleets may, in lieu of the registration fees imposed by section 49-434, Idaho Code, register each fleet for operation in this state by filing an application with the department which shall contain the following information and such other information pertinent to vehicle registration as the department may require:

(a) Total fleet miles. This shall be the total number of miles operated in all jurisdictions during the preceding year by the motor vehicles in a fleet during the year.

(b) In-state miles. This shall be the total number of miles operated in this state during the preceding year by motor vehicles in the fleets during the year.

(c) A description and identification of each vehicle of the fleet which is to be operated in this state during the registration year for which proportional fleet registration is requested, and, as determined by the department, the vehicle unit number of each fleet vehicle as assigned by the owner.

(2) The application for each fleet shall, at the time and in the manner required by the department, be supported by a fee payment computed as follows:

(a) Divide in-state miles by total fleet miles.

(b) Determine the total amount necessary to register each and every vehicle in the fleet for which registration is required based on the regular annual fees prescribed by section 49-434, Idaho Code.

(c) Multiply the sum obtained under subsection (2)(b) of this section, by the quotient obtained under subsection (2)(a) of this section.

(3) The applicant for proportional registration of any fleet, the motor vehicles of which are operated by him in jurisdictions in addition to those in which the applicant's fleet motor vehicles are operated, may state those motor vehicles separately in his application and compute and pay the fees in accordance with the separate statement, as to which "total miles" shall be the total miles of highway operation determined from miles of power units, whether prorated or not, operated in combination with prorated trailers in all jurisdictions during the preceding year.

(4) The department shall register the vehicle so described and identified and may issue license plates or distinctive sticker or other suitable identification device for each vehicle listed in the application upon payment of the fees required under subsection (2) and an additional identification charge of two dollars ($2.00) per vehi-

cle. A registration card shall be issued for each proportionally registered vehicle appropriately identifying it which shall be carried in or upon the vehicle identified at all times but which, in the case of vehicle combinations, may be carried in the vehicle supplying the motive power.

(5) Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type of movement or operation, except that, in those instances in which a grant of authority is required for intrastate movement or operation, no vehicle shall be operated in intrastate commerce in this state unless the owner has been granted intrastate authority or rights by the public utilities commission and unless the vehicle is being operated in conformity with such authority or rights.

(6) The right to the privilege and benefits of proportional registration of fleet vehicles extended by this section, or by any contract, agreement, arrangement or declaration made under the authority provided in section 49-201, Idaho Code, shall be subject to the condition that each fleet vehicle proportionally registered shall also be proportionally or otherwise properly registered in at least one other jurisdiction during the period for which it is proportionally registered in this state.

(7) Vehicles acquired by the owner after the commencement of the registration year and subsequently added to a proportionally registered fleet shall be proportionally registered by applying the mileage percentage used in the original application for the fleet for that registration period to the annual registration fees due with respect to those vehicles for the remainder of the registration year.

(8) If any vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered, the owner of the fleet shall so notify the department on appropriate forms to be prescribed by the department. The department may require the owner to surrender proportional registration cards and other identification devices which have been issued with respect to the vehicle as the department may deem advisable.

(9) The initial application for proportional registration of a fleet shall state the mileage data with respect to the fleet for the preceding year in this and other jurisdictions. If no operations were conducted with the fleet during the preceding year, the application shall contain a full statement of the proposed method of operation and estimates of annual mileage in this state and other jurisdictions. The department shall determine the in-state and total fleet miles to be used in computing the fee payment for the fleet. The department may evaluate and adjust the estimate in the application if it is not satisfied as to the correctness submitted.

(10) The department may refuse to accept proportional registration applications for the registration of vehicles based in another jurisdiction if it shall find that the other jurisdiction does not grant similar registration privileges to fleet vehicles based in or owned by residents of this state.

(11) Any owner whose application for proportional registration has been accepted shall preserve the records on which the application is based for a period of four (4) years following the year of application. The owner shall agree to make his records accessible to the

department for audit as to accuracy of computations, payments and assessments of deficiencies or allowances for credit. The department shall make arrangements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any owner or exchange of audit information. No assessment for deficiency or claim for credit may be made for any period for which records are no longer required. Any sums found to be due and owing upon audit shall bear interest of six per cent (6%) from the date when they should have been paid until the date of actual payment. If the audit discloses a deliberate and willful intent to evade the requirements of appropriate payment under subsection (2)(b) of this section, an additional penalty of ten per cent (10%) shall also be assessed.

(12) No provision of this section relating to proportional registration of fleet vehicles shall be construed as requiring any vehicle to be proportionally registered if it is otherwise registered in this state for the operation in which it is engaged including regular registration or temporary trip permit.

(13) Proportionally registered vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds shall pay a use fee in accordance with section 49-434(3), ~~or~~ (4), (5) and (6), Idaho Code, as applicable.

SECTION 4. 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 last day of April, and on the 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 if the owner is reporting the use fee at multiple weights, the records shall include the configuration of the combination of vehicles for all miles traveled, 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.

(3) Owners of commercial and farm vehicles using the registration fee schedules in section 49-434(1), Idaho Code, are subject to audit to determine if the proper schedule is being used. If the weight classification being used is found to be understated, the difference

between the registration fees paid and the registration fees due will become due and payable. If the vehicles are found to be operating in excess of sixty thousand (60,000) pounds gross weight, the difference between the registration fees paid under section 49-434(1), Idaho Code, and the amount that would have been due under the use fee schedule in section 49-434(3) or (4), Idaho Code, will be determined and the balance due, if any, will be collected.

(4) An owner who wilfully fails to maintain records and purchase documents to substantiate and justify the mileage reported, the registration fee schedule used, or the configuration of the vehicle combination if reporting at multiple weights, shall have the registration of all vehicles registered under sections 49-434 and 49-435, Idaho Code, ~~cancelled~~ suspended until such time as adequate records are provided.

(5) An owner who fails to file any reports or pay any fees or penalties due is subject to suspension or revocation of their vehicle registrations. An order suspending the vehicle registrations shall be mailed to the owner upon discovery of the deficiency by the department. The suspension shall be lifted if the reports are filed and the payments due are made, along with a reinstatement fee of forty dollars ($40.00) per carrier within fifteen (15) days after receipt of the suspension order. The owner shall have the right to appeal the suspension by petitioning the department for a hearing within ten (10) days after receipt of the suspension order. If the suspension is set aside the reinstatement fee shall not be due.

(6) If the owner fails to file required reports, pay any fees or penalties due, or file an appeal within the time limit specified, the department shall revoke the registrations. No further registrations shall be permitted on the owners' vehicles until the owner complies by filing the required reports and paying the fees and penalties due, including the reinstatement fee provided in subsection (5) of this section.

(~~3~~7) 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~~8) (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~~ to reinstate 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 per-

son 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~~9) 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.

SECTION 5. That Section 49-438, Idaho Code, be, and the same is

hereby amended to read as follows:

49-438. PENALTIES FOR EXCEEDING MAXIMUM GROSS WEIGHT. Any person who shall operate or cause, permit, or suffer to be operated upon any highway of this state a vehicle with a maximum gross weight in excess of the maximum gross weight for which the vehicle has been registered shall be deemed to have set a new maximum gross weight and shall, in addition to any penalties specified in this title, be required to pay the additional fees for the new maximum gross weight. ~~If the combined gross weight of a combination of vehicles shall not exceed the maximum gross weight for which the combination of vehicles was registered then it shall be lawful for the maximum gross weight on any one (1) unit of the combination of units to exceed the maximum gross weight for which the vehicle was registered by ten percent (10%) of the registered maximum gross weight.~~ Any person who shall operate, cause, permit, or suffer to be operated upon any highway any vehicle or combination of vehicles with a maximum gross weight in excess of the maximum registered gross weight of the vehicle specified in this title, without having paid the additional registration and use fees required, shall ~~be guilty of a misdemeanor. Upon first conviction the fine shall be not less than ten dollars ($10.00) nor more than twenty five dollars ($25.00). Upon a second conviction the fine shall be not less than twenty five dollars ($25.00) nor more than fifty dollars ($50.00); and upon a third conviction the fine shall be not less than fifty dollars ($50.00) nor more than one hundred dollars ($100)~~ have committed an infraction.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 4, 1991.

CHAPTER 296
(H.B. No. 233, As Amended in the Senate)

AN ACT

RELATING TO THE REGULATION OF HOTELS; REPEALING SECTIONS 39-1801 THROUGH 39-1813 AND SECTIONS 39-1816 THROUGH 39-1828, IDAHO CODE; AND AMENDING CHAPTER 18, TITLE 39, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 39-1801 THROUGH 39-1808, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FOR THE POSTING OF ROOM RATES AND OTHER INFORMATION, TO REQUIRE REGISTRIES, TO PROVIDE FOR HOTELKEEPER LIABILITY, TO PROVIDE FOR GUEST EVICTION, TO PROVIDE A HOTELKEEPER'S LIEN AND DISPOSITION OF PROPERTY TO SATISFY A LIEN, AND TO PROVIDE FOR THE DISPOSITION OF GUEST PROPERTY.

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

SECTION 1. That Sections 39-1801 through 39-1813 and Sections 39-1816 through 39-1828, Idaho Code, be, and the same are hereby

repealed.

SECTION 2. That Chapter 18, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 39-1801 through 39-1808, Idaho Code, and to read as follows:

39-1801. DEFINITIONS. As used in this chapter:

(1) "Guest" means any person who is registered in a hotel, or who is in the hotel and intends to register, and each person in such hotel who is present in the hotel with the registrant at the registrant's invitation.

(2) "Hotel" means every building or structure kept, used, maintained or advertised as an inn, hotel or public lodging house, or place where sleeping accommodations are furnished for hire to transient guests, whether with or without meals, in which more than ten (10) rooms are used for the accommodation of such guests.

(3) "Hotel day" means a period which commences at three o'clock in the afternoon of each day and which concludes at three o'clock the following afternoon or at the posted checkout time of the following day in the event the guest is checking out, whichever occurs first. Rates per day for furnished rooms shall mean for such period, or any part thereof, following the time of acceptance of a room by the guest.

(4) "Hotelkeeper" means the owner, operator, management company, proprietor, keeper, manager or lessee of a hotel.

39-1802. POSTING OF INFORMATION. (1) In each hotel there shall be posted in a plainly legible fashion, in a conspicuous place in each sleeping room, the following information:

(a) The maximum rates at which such room is rented;

(b) A copy of section 18-2405, Idaho Code; and

(c) A copy of section 39-1804, Idaho Code.

(2) In each hotel there shall be posted a copy of this chapter in a plainly legible fashion, in at least two (2) conspicuous places.

39-1803. REGISTER. Every hotel shall keep a record of the arrival and departure of its guests in such a manner that the record will be permanent for at least one (1) year from the date of departure.

39-1804. LIABILITY FOR PROPERTY OF GUESTS. (1) The hotelkeeper is under no obligation to accept for safekeeping any moneys, securities, jewelry, or precious stones of any kind belonging to any guest, and, if such are accepted for safekeeping, he shall not be liable for the loss thereof unless such loss is the proximate result of fault or negligence of the hotelkeeper. The liability, if any, of the hotelkeeper to a guest shall be limited to one thousand dollars ($1,000) for such loss, or such higher amount as the hotelkeeper may agree in writing to assume, if the hotel has given a receipt for the property to the guest, stating the value of the property accepted for safekeeping, on a form which states, in type large enough to be clearly noticeable, that the hotel is not liable for any loss exceeding one thousand dollars ($1,000), or such higher amount as the hotelkeeper may agree in writing to assume, and is only liable for that amount if the loss is

the proximate result of fault or negligence of the hotelkeeper.

(2) The hotelkeeper shall not be liable or responsible to any guest for the loss of wearing apparel, goods, or other property, except as provided in subsection (1) of this section, unless such loss occurred as the proximate result of fault or negligence of such hotelkeeper. In case of such fault or negligence, the hotelkeeper shall not be liable for a sum greater than five hundred dollars ($500) unless prior to the loss or damage the guest files with the hotelkeeper an inventory of his effects and the value thereof and the hotelkeeper is given the opportunity to inspect such effects and check them against such inventory. The hotelkeeper shall not be liable or responsible to any guest for the loss of effects listed in such inventory in a total amount exceeding one thousand dollars ($1,000) or such higher amount as the hotelkeeper may agree in writing to assume.

39-1805. EVICTION FOR NONPAYMENT. A hotelkeeper shall have the right to evict a guest who has failed to pay his hotel bill when due. Before such eviction may occur, demand for the bill must be made and the guest requested to leave if the bill is not paid. If the guest fails to pay the bill after such demand, the hotelkeeper may evict such guest by locking the door to his room, removing said guest's baggage and other personal property, or by any other peaceful means. The hotel shall have the right to hold said baggage and other properties as hereinafter provided.

39-1806. HOTELKEEPER'S LIEN. A hotelkeeper has a lien upon and may retain all baggage and other personal property in possession of a guest for the proper charges due to the hotel from the guest for his food, board, room rent, lodging and accommodations and for any other charges incurred by the guest and for all money and credit paid for or furnished to him and for the costs of enforcing such lien including court costs and reasonable attorney's fees. The hotelkeeper shall have the right to retain and hold possession of such baggage and other personal property until the amount of such charges and money be fully paid, and to sell such baggage and other personal property for payment of such lien, charges and costs, including court costs and reasonable attorney's fees in the manner provided in section 39-1807, Idaho Code. Such baggage and other personal property shall not be subject to attachment or execution until such lien and storage charge and costs of satisfying such lien are fully satisfied.

39-1807. DISPOSITION OF PROPERTY TO SATISFY LIEN. The hotelkeeper shall retain such baggage and other property upon which he has a lien as provided in section 39-1806, Idaho Code, for a period of thirty (30) days. At the expiration of such time if such lien is not fully satisfied he may proceed to sell such baggage and other personal property or a part thereof at public auction after posting notice of the sale as provided by law upon execution, and by mailing a notice fifteen (15) days prior to the sale by registered mail of the time and place of such sale to such guest at the address given by the guest on the hotel register. The proceeds of the sale shall be applied first to cost of the sale and attorney's fees and then to the discharge of the lien. The remainder, if any, must be paid to the guest. Provided, how-

ever, if the hotelkeeper knew that the property brought upon his premises was not, when brought, legally in possession of such guest, or had written notice that such property was not then the property of such guest, at the time when such charges or indebtedness were incurred, such property shall not be subject to the lien or sale as hereinbefore provided.

39-1808. DISPOSITION OF UNCLAIMED PROPERTY. When any baggage or other personal property is received by a hotel and left unclaimed, or left unclaimed by a guest in a hotel, the hotelkeeper may hold and store the same, until all just and reasonable storage and other charges are paid, and if no guest calls for his baggage or other personal property left in a hotel for a period of sixty (60) days or more, the hotelkeeper may sell such property at public auction to the highest bidder, having given fifteen (15) days prior notice, by registered mail, of the time and place of such sale to such guest at the address given by the guest on the hotel register, and by posting notice of such sale as provided by law upon execution. If any surplus be left after paying storage, freight, cost of advertising, and other reasonable charges, the same must be paid to the owner of such property, when known, at any time thereafter, upon demand being made therefor within thirty (30) days after the sale.

Approved April 4, 1991.

CHAPTER 297
(H.B. No. 246, As Amended)

AN ACT

RELATING TO UNDERGROUND STORAGE TANK TECHNICIANS; AMENDING SECTION 41-281, IDAHO CODE, TO PROVIDE THAT AN APPLICANT FOR CERTIFICATION OR HIS EMPLOYER HAVE GENERAL LIABILITY INSURANCE, A SURETY BOND OR LIQUID ASSETS REPRESENTING A VALUE OF FIVE HUNDRED THOUSAND DOLLARS, TO PROVIDE FOR A WAIVER OF THE INSURANCE REQUIREMENT, TO REQUIRE THAT CERTIFIED TANK TECHNICIANS USE TESTING EQUIPMENT MEETING THE STANDARDS OF THE ENVIRONMENTAL PROTECTION AGENCY AND TO ALLOW CERTIFICATION OF TANK TECHNICIANS BY COMITY.

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

SECTION 1. That Section 41-281, Idaho Code, be, and the same is hereby amended 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~~ general liability insurance, or 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. If the board finds that liability insurance is not generally available at a reasonable cost it may, by rule, waive the insurance requirement for all applicants.

(e) The applicant has access to and will use testing equipment meeting all standards for testing equipment adopted by the environmental protection agency.

(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 by comity of underground storage tank technicians who have successfully completed examinations and are 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.

Approved April 4, 1991.

CHAPTER 298
(H.B. No. 260)

AN ACT

RELATING TO THE FUND BALANCE OF COUNTY VESSEL FUNDS; AMENDING SECTION 67-7013, IDAHO CODE, TO PROVIDE FOR REMITTANCE OF EXCESSIVE FUND BALANCES, TO PROVIDE EXCEPTIONS AND TO PROVIDE FOR DISTRIBUTION OF INTEREST; AND PROVIDING AN EFFECTIVE DATE.

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 ded-

icated 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 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.

(8) Within sixty (60) calendar days of the end of each county fiscal year, the county clerk shall calculate the ending fund balance of the county vessel fund for that fiscal year. If the ending fund balance is higher than the amount of revenues deposited in the county vessel fund from the state vessel account during that fiscal year, then the difference shall be remitted to the state vessel account within thirty (30) calendar days of that calculation. Moneys remitted to the state vessel account, in accordance with the provisions of this section, 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 county fiscal year bears to the total amounts received during that prior county fiscal year by all eligible counties. The provisions of this subsection shall not apply to specific sums of money in county vessel accounts, for which the county commissioners have given written notice, to the department of parks and recreation of an intention to retain those funds for a specific purpose. The notice shall specify the amount of the funds to be held, indicate the purpose for which the funds shall be utilized and provide the date when the funds will be expended. If an amended notice is not submitted by the county commissioners, moneys

not expended or contractually committed by the date stated in the original notice of the board of county commissioners shall revert to the state vessel account for distribution as provided in this subsection. All interest earned on moneys invested from a county vessel fund shall return to the county vessel fund.

SECTION 2. This act shall be in full force and effect on and after October 1, 1992.

Approved April 4, 1991.

CHAPTER 299
(H.B. No. 263)

AN ACT

RELATING TO EXTRACTION OF SAND AND GRAVEL; AMENDING CHAPTER 15, TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 47-1519, IDAHO CODE, TO PROVIDE FOR APPLICATION OF THE SURFACE MINING ACT TO SAND AND GRAVEL EXTRACTION FOR CERTAIN HIGHWAY PURPOSES.

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

SECTION 1. That Chapter 15, Title 47, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 47-1519, Idaho Code, and to read as follows:

47-1519. APPLICATION OF CHAPTER TO MINERAL EXTRACTION FOR PUBLIC HIGHWAY PURPOSES. Notwithstanding any other provision of law to the contrary, the bonding provisions of this chapter shall not apply to any surface mining operations conducted by a public or governmental agency for maintenance, repair, or construction of a public highway. Surface mining operations conducted by a public or governmental agency for maintenance, repair, or construction of a public highway which disturb two (2) or more acres shall comply with the provisions of section 47-1506, Idaho Code, as though all minerals were mined for the purpose of immediate or ultimate sale. Surface mining operations conducted by a public or governmental agency for maintenance, repair or construction of a public highway which disturb less than two (2) acres are exempt from the provisions of section 47-1506, Idaho Code. The extraction of minerals from within the right-of-way of a public highway by a public or governmental agency for maintenance, repair or construction of a public highway shall not be deemed surface mining operations under this chapter, provided that the affected land is an integral part of the public highway.

Approved April 4, 1991.

CHAPTER 300
(H.B. No. 272, As Amended)

AN ACT

RELATING TO DOMESTIC VIOLENCE CRIME PREVENTION; AMENDING SECTION 39-6306, IDAHO CODE, TO INCREASE THE TERM FOR RENEWAL OF A PROTECTION ORDER FROM THREE MONTHS TO ONE YEAR; AND AMENDING SECTION 39-6311, IDAHO CODE, TO PROVIDE THAT A PROTECTION ORDER SHALL REMAIN IN EFFECT FOR THE TERM SET BY THE COURT AND THAT A PROTECTION ORDER MAY BE RENEWED FOR AN ADDITIONAL TERM NOT TO EXCEED ONE YEAR.

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 reim-

burse 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~~ one (1) year 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 39-6311, 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.

(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.

(4) A protection order shall remain in effect for ~~three--(3) months--from--date--of-entry~~ the term set by the court or until terminated by the court. A protection order may, upon motion, be renewed for an additional ~~three-(3)-months~~ term not to exceed one (1) year 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 4, 1991.

CHAPTER 301
(H.B. No. 287, As Amended in the Senate)

AN ACT

RELATING TO UNDERGROUND CONVERSION OF UTILITIES; AMENDING SECTION 50-2502, IDAHO CODE, TO PROVIDE AND ALPHABETIZE DEFINITIONS; AMENDING SECTION 50-2503, IDAHO CODE, TO PROVIDE THAT COUNTIES AND CITIES SHALL HAVE THE POWER TO CREATE LOCAL IMPROVEMENT DISTRICTS FOR THE PURPOSE OF CONSTRUCTING ELECTRIC AND COMMUNICATION FACILITIES; AMENDING SECTION 50-2504, IDAHO CODE, TO PROVIDE FOR COST AND FEASIBILITY REPORTS; AMENDING SECTION 50-2505, IDAHO CODE, TO PROVIDE FOR PAYMENT OF EXPENSES; AMENDING SECTION 50-2506, IDAHO CODE, TO PROVIDE FOR THE CONTENTS OF THE COST REPORT; AMENDING SECTION 50-2512, IDAHO CODE, TO PROVIDE FOR GRANTING OF EASEMENTS; AMENDING SECTION 50-2515, IDAHO CODE, TO PROVIDE A METHOD FOR DETERMINING COSTS OF EXTENSION OR CONVERSION; AMENDING SECTION 50-2516, IDAHO CODE, TO GRANT TITLE TO EXTENDED OR CONVERTED UTILITIES; AMENDING SECTION 50-2517, IDAHO CODE, TO PROVIDE THAT CREATION OF A DISTRICT SHALL BE TAKEN AS CONSENT AND GRANT OF AN EASEMENT; AND AMENDING SECTION 50-2518, IDAHO CODE, TO PROVIDE FOR REFUNDS.

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

SECTION 1. That Section 50-2502, Idaho Code, be, and the same is hereby amended to read as follows:

50-2502. DEFINITIONS. As used in this chapter, the following words and phrases and any variations thereof shall have the following meaning:

(1) "Communication service" means the transmission of intelligence by electrical means, including, but not limited to telephone, telegraph, messenger-call, clock, police, fire alarm and traffic control circuits or the transmission of standard television or radio signals.

~~"Electric-service"-means-the-distribution-of-electricity-for-heat, cooling,-light-or-power.~~

(2) "Convert" or "conversion" means the removal of all or any part of any existing overhead electric or communications facilities and the replacement thereof with underground electric or communication facilities constructed at the same or different locations.

(3) "Electric or communication facilities" means any works or improvements used or useful in providing electric or communication service, including, but not limited to, poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cut-outs, switches, capacitors, meters, communication circuits, appliances, attachments, and appurtenances. ~~"Electric--facilities"--shall--not include-any-facilities-used-or-intended-to-be-used-for--the--transmission-of-electric-energy-at-nominal-voltages-in-excess-of-fifteen-thousand--(15,000)--volts.~~ "Communication facilities" shall not include facilities used for the transmission of intelligence by microwave or radio, apparatus cabinets or outdoor public telephones.

(4) "Extension" or "extending" means any continuation, either overhead or underground, of existing distribution or transmission facilities or the construction of new electric or communication facilities which are reasonably required by prudent electrical or communication practices.

(5) "Governing body" means the board of county commissioners or mayor and council or board of directors as may be appropriate depending on whether the improvement district is located in a county or within a city.

(6) "Ordinance" shall be construed to mean resolution where the governing body properly acts by resolution and vice versa.

(7) "Overhead electric or communication facilities" means electric or communication facilities located, in whole or in part, above the surface of the ground.

(8) "Public utility" means any one or more, public or private persons or corporations that provide electric or communication service to the public by means of electric or communication facilities and shall include any city, special district, or public corporation that provides electric or communication service to the public by means of electric or communication facilities.

(9) "Underground electric or communication facilities" means electric or communication facilities located, in whole or in part, ~~beneath~~ the surface of the ground.

(10) A "lot" or "parcel" of land means a single tract or parcel of land containing five (5) acres or less. No single tract or parcel of property containing more than five (5) acres may be included in any district organized under this chapter, unless located within an incorporated city, without the consent of the owner or owners thereof.

Definitions in section 50-1702, Idaho Code, shall be applicable to any sections of chapter 17, title 50, Idaho Code, incorporated in this

chapter by reference.

SECTION 2. That Section 50-2503, Idaho Code, be, and the same is hereby amended to read as follows:

50-2503. POWERS CONFERRED. The governing body of every county is hereby authorized and empowered to create local improvement districts under this chapter within the unincorporated portion of such county, and the governing body of every city is hereby authorized and empowered to create local improvement districts under this chapter within its territorial limits: to provide for the extension of distribution or transmission facilities or the conversion of existing overhead electric and communication facilities to underground locations and the construction, reconstruction or relocation of any other electric or communication facilities which may be incidental thereto, pursuant to the provisions of this chapter.

SECTION 3. That Section 50-2504, Idaho Code, be, and the same is hereby amended to read as follows:

50-2504. BASIS OF ASSESSMENTS. Whenever any improvement authorized to be made by any governing body by the terms of this chapter is ordered, the governing body shall provide for the apportionment of the cost and expenses thereof as in their judgment may be fair and equitable in consideration of the benefits accruing to the abutting, adjoining, contiguous and adjacent lots and land and to the lots and lands otherwise benefited and included within the improvement district formed. Each lot and parcel of the land shall be separately assessed for the cost and expenses thereof in proportion to the number of square feet, number of front feet, or other equitable basis, of such lands and lots abutting, adjoining, contiguous and adjacent thereto or included in the improvement district, and in proportion to the benefits accruing to such property by said improvements. The entire cost of the improvement may be assessed against the benefited property as herein provided or if money for paying part of such cost is available from any other source, the money so available may be so applied and the remaining cost so assessed against the benefited property. The cost and expenses to be assessed as herein provided for shall include the cost of the improvement, the public utility cost and feasibility report, engineering and clerical service, advertising, inspection, collecting assessments, easements, interest upon bonds if issued, and for legal services for preparing proceedings and advising in regard thereto. Fee lands and property of public entities, such as the federal government, state of Idaho or any county, city or town, shall not be considered as lands or property benefited by any improvements district, unless such public entity within the boundaries of any improvement district consents in writing, filed before the governing body adopts the ordinance provided for in section 50-2510, Idaho Code. The lands and property of such public entity shall not be subject to assessment for the payment of any of the cost or expense of such improvement, unless said consent is filed.

SECTION 4. That Section 50-2505, Idaho Code, be, and the same is

hereby amended to read as follows:

50-2505. RESOLUTION FOR COST AND FEASIBILITY STUDY. Any governing body may on its own initiative, or upon a petition signed by at least sixty per cent (60%) of the resident owners of property subject to assessment within such proposed improvement district requesting the creation of an improvement district as provided for in this chapter, pass a resolution by the affirmative vote of three-fourths (3/4) of all members of the governing body at any regular or special meeting declaring that it finds that the improvement district is in the public interest. It must be determined that the formation of the local improvement district for ~~the~~ a purposes set out in this chapter will promote the public convenience, necessity, and welfare. The resolution must state ~~the~~ that costs and expenses will be levied and assessed upon the property benefited and further request that ~~each~~ the appropriate public utility serving such area by overhead electric or communication facilities shall, within one hundred twenty (120) days after the receipt of the resolution, make a study of the cost of extension or conversion of its facilities ~~in-such-area-to-underground-service.~~ The resolution shall provide for payment of the public utility's costs and expenses associated with preparing the costs and feasibility report in the event the improvement district is not created. The report of said study shall be provided to the governing body and made available in its office to all owners of land within the proposed improvement district. The resolution of the governing body shall require that the public utility be provided with the name and address of the owner of each parcel or lot within the proposed improvement district, if known, and if not known, the description of the property and such other matters as may be required by the public utility in order to perform the work involved in the cost study. The study shall further list each lot or parcel within the proposed ~~conversion-service~~ improvement impact area. ~~Each~~ The appropriate public utility serving such improvement district area ~~by-overhead-electric-or-communication facilities~~ shall, within one hundred twenty (120) days after receipt of the resolution, make a study of the costs of extension or of conversion ~~of-its-facilities-in-such-district-to-underground-service~~, and shall ~~together~~ provide the governing body and make available at its office a joint report of the results of the study.

SECTION 5. That Section 50-2506, Idaho Code, be, and the same is hereby amended to read as follows:

50-2506. COSTS AND FEASIBILITY REPORT. The public utility or utilities report shall set forth an estimate of the total ~~underground conversion-costs-and-shall-also-indicate-the-costs-of-underground-conversion-of-facilities--of--the--public--utility--corporations--located within--the--boundaries--of-the-various-parcels-or-lots-then-receiving service~~ costs of extension or conversion. The report shall also contain the public utility's recommendations concerning the feasibility of the project for the district proposed insofar as the physical characteristics of the district are concerned. The report shall make recommendations by the public utility concerning inclusion or exclusion of areas within the district or immediately adjacent to the district.

The governing body shall give careful consideration to the public utility's recommendations concerning feasibility, recognizing their expertise in this area, and may amend the boundaries of the proposed improvement district provided that the costs and feasibility report of the public utility contains a cost figure on the district as amended, or it may request a new costs and feasibility report from the public utilities concerned on the basis of the amended district. The cost estimate contained in the report shall not be considered binding on the public utility if construction is not commenced within six (6) months of the submission of the estimate for reasons not within the control of the utility. Should such a delay result in a significant increase in the conversion cost, new hearings shall be held on the creation of the district. In the event that a ten per cent (10%) or less increase results, only the hearing on the assessments need be held again.

SECTION 6. That Section 50-2512, Idaho Code, be, and the same is hereby amended to read as follows:

50-2512. NOTICE OF HEARING ON OBJECTIONS TO PROPOSED ASSESSMENTS. After the preparation of the aforesaid ordinance, notice of a hearing on objections to the proposed assessments shall be given. Such notice shall be given in the same manner as provided under section 50-17~~2~~13, Idaho Code.

Each notice shall state the time at which the governing body will hear and consider all objections to the assessment roll by the parties aggrieved by such assessments. Such notice shall further state that the owner or owners of any property which is assessed in such assessment roll may file with the clerk of the governing body his written objections to said assessments and to the amount levied on any particular lot or parcel in relation to the benefits accruing thereon and in relation to the proper proportionate share of the total cost of the improvement. ~~Such notice shall further state that the owner or owners of any such property must file a written objection pursuant to section 50-2517 if such owner or owners wish to do the trenching and backfilling on their own property and thereby not be obligated to pay utility therefor. Also,~~ ~~f~~Failure to file a written objection pursuant to section 50-2517, Idaho Code, shall constitute the grant of an easement for extension or conversion purposes to the district as provided in said section. The district after obtaining all easements required for the extension or conversion project shall, prior to commencement of construction, convey these easements to the utility. The time within which such objections shall be filed shall be specified in the notice but in no case shall it be less than fifteen (15) days from the date of the first publication of such notice.

The notice shall further state where a copy of the ordinance proposed to be adopted levying the assessments against all real property in the district will be on file for public inspection, and that subject to such changes and corrections therein as may be made by the governing body, it is proposed to adopt the ordinance at the conclusion of the hearing.

The published notice shall describe the boundaries or area of the district with sufficient particularity to permit each owner of real

property therein to ascertain that his property lies in the district. The mailed notice may refer to the district by name and date of creation and shall state the amount of the assessment proposed to be levied against the real property of the person to whom the notice is mailed. In the absence of fraud, the failure to mail any notice does not invalidate any assessment or any proceeding under this chapter.

SECTION 7. That Section 50-2515, Idaho Code, be, and the same is hereby amended to read as follows:

50-2515. ~~CONVERSION~~ COSTS. ~~In-determining--the--conversion--costs included--in--the--costs--and--feasibility--report-required-by-section 50-2506-the-public-utility-corporations-shall-be-entitled--to--amounts sufficient--to-repay-them-for-the-following,-as-computed-and-reflected by-the-uniform-system-of-accounts-approved-by-the-Idaho-public--utilities--commission-or-federal-communications-commission-or-federal-power commission,-or-in-the-event-the-public-utility-is-not-subject-to-regulation-by-either-of-the-above-governmental-agencies,--by--the--utility corporation's--system--of--accounts-then-in-use-and-in-accordance-with standard-accounting-procedures-of-said-utility-corporation:~~

~~(1)--The-recorded-original-cost-less-depreciation-taken-as-of--the date-of-the-assessment-ordinance-of-the-existing-overhead-electric-and communication-facilities-to-be-removed;~~

~~(2)--The--estimated--costs--of-removing-such-overhead-electric-and communication-facilities,-less-the-salvage--value--of--the--facilities removed;~~

~~(3)--If--the-estimated-cost-of-constructing-underground-facilities exceeds-the-recorded-original-cost-of-constructing-aerial--facilities, then-the-cost-difference-between-the-two;~~

~~(4)--The-cost-of-obtaining-new-easements,-including-all-reasonable acquisition--costs,--when--technical-considerations-make-it-reasonably necessary-to-utilize-easements-for-the-underground-facilities--different--from--those--used--for-above-ground-facilities,-or-where-the-preexisting-easements-are-insufficient-for-the-underground-facilities.~~

~~However,-in-the-event-that-conversion-costs-are-included--in--tariffs,-rates-or-regulations-filed-with-or-promulgated-by-the-Idaho-public--utilities--commission,--such--conversion--costs-shall-be-the-cost included-in-the-costs-and-feasibility-report.~~

In determining costs for an extension or conversion included in the cost and feasibility report required by section 50-2506, Idaho Code, the public utility shall be entitled to amounts included in applicable tariffs, rules or regulations filed with or promulgated by the Idaho public utilities commission or federal communications commission or federal energy regulatory commission. In the event tariffs, rules and regulations do not apply, the public utility shall be entitled to amounts sufficient to repay them for the following, computed according to the uniform system of accounts approved by the Idaho public utilities commission or other appropriate regulating agency, and in the event the public utility is not subject to regulation by governmental agencies, by the utility corporation's system of accounts then in use and in accordance with the accounting procedures of said public utility:

(1) Any and all costs including, without limitation, reasonable

acquisition costs associated with obtaining new or expanded easements reasonably necessary to construct the extension or conversion. This shall include new or expanded easements to replace existing easements in those instances where technical considerations or the new facilities require new or expanded easements;

(2) If the estimated cost of constructing a conversion exceeds the recorded original cost of constructing the facilities being replaced, then the cost difference between the two (2);

(3) For extensions, the full cost of the facilities required less depreciation taken as of the date of installation;

(4) For removals, the estimated cost of removing the facilities being replaced less the salvage value of the facilities removed.

SECTION 8. That Section 50-2516, Idaho Code, be, and the same is hereby amended to read as follows:

50-2516. CONSTRUCTION OF AND TITLE TO EXTENDED OR CONVERTED FACILITIES. The public utility concerned shall be responsible for all construction work and may contract out such of the construction work as it deems desirable. Title to the extended or converted facilities shall be at all times solely and exclusively in the public utility involved ~~as--the--public--is--only-purchasing-the-intangible-benefits which-come-from-converted-facilities,-that-is-the-removal-of-the-overhead-facilities-and-replacement-by-underground-facilities.~~

SECTION 9. That Section 50-2517, Idaho Code, be, and the same is hereby amended to read as follows:

50-2517. UNDERGROUND DISTRIBUTION EXTENSION OR CONVERSION COSTS AND SERVICE CONNECTIONS. The public utility performing the underground distribution extension or conversion shall, at the expense of the property owner, convert to underground all electric and communication service facilities located upon any lot or parcel of land within the improvement district and not within the easement for distribution. ~~This--shall--include-the-digging-and-the-back-filling-of-a-trench-upon such-lot-or-parcel-unless-the-owner-shall-execute-a-written--objection thereto--and--file--the--same-with-the-clerk-of-the-governing-body-not later-than-the-date-set-for-hearing-objections-to-the-improvement-district-assessment-as-provided-by-law.--Failure--to--file--such--written objection~~ Creation of a district for the purpose of underground distribution extension or conversion shall be taken as a consent and grant of easement to the utility and shall be construed as express authority to the public utility and their respective officers, agents and employees to enter upon such lot or parcel for such purpose~~,-and through-failure-to-object,--any--right--of--protest--or--objection--in respect--of--the--doing-of-such-work-shall-be-waived.-If-an-owner-does file-such-written-objection,-he-shall-then-be-responsible-for--providing-a-trench-which-is-in-accordance-with-applicable-rules,-regulations or--tariffs-from-the-owner's-service-entrance-to-a-point-designated-by the-public-utility-and-for-back-filling-a-trench--following--installation-of-the-underground-service-by-the-public-utility-involved.~~

~~In-any-event-the-cost-of-any-work-done-by-the-public-utility-shall be--included--in--the-assessment-to-be-levied-upon-such-lot-or-parcel.~~

~~Should a written objection be filed as provided in the above paragraph, the owner involved shall be obligated for and the public utility involved shall be entitled to payment for the actual cost for such work accomplished upon the owner's property by the public utility.~~

The owner shall, at his expense, make all necessary changes in the service entrance equipment to accept underground service.

SECTION 10. That Section 50-2518, Idaho Code, be, and the same is hereby amended to read as follows:

50-2518. PAYMENT TO PUBLIC UTILITY -- REFUNDS. Upon completion of the extension or conversion contemplated by this chapter, the public utility shall present the governing body with its verified bill for extension or conversion costs as computed pursuant to section 50-2515, Idaho Code, but based upon the actual cost of ~~constructing the underground facility~~ construction rather than the estimated cost of the facility. In no event shall the bill for extension or conversion costs presented by the public utility exceed the amount of estimated extension or conversion costs by the public utility. In the event the extension or conversion costs are less than the estimated extension or conversion costs, each owner within the improvement district shall receive the benefit, prorated in such form and at such times as the governing body may determine. The bill of the public utility corporation shall be paid within thirty (30) days by the governing body from the improvement district funds or such other source as is properly designated by the governing body. In determining the actual cost of constructing the ~~underground~~ facility the public utility shall use its standard accounting procedures, such as the uniform system of accounts as defined by the ~~federal communications commission~~ state or federal regulatory commission and as is in use at the time of the extension or conversion by the public utility involved. All rules and regulations of the utility pertaining to refund provisions for line extensions will also be applicable to an improvement district.

Approved April 4, 1991.

CHAPTER 302
(H.B. No. 292, As Amended in the Senate)

AN ACT

RELATING TO THE DISPOSAL OF COUNTY PROPERTY; AMENDING CHAPTER 8, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-808B, IDAHO CODE, TO ALLOW THE BOARD OF COUNTY COMMISSIONERS TO DECLARE CERTAIN LANDS EXCESS AND ESTABLISHING A PROCESS FOR SALE OF THOSE LANDS.

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

SECTION 1. That Chapter 8, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 31-808B, Idaho Code, and to read as follows:

31-808B. DECLARATION AND SALE OF EXCESS COUNTY PROPERTY. The board of county commissioners may, by resolution, declare certain odd lot parcels of property owned by the county, all or portions of which are not needed for public purposes, as excess to county needs. Odd lot parcels declared excess may be sold to adjacent property owners for fair market value, as determined by a consensus of three (3) disinterested parties knowledgeable about property values in the county. If, after thirty (30) days' written notice, the adjoining property owner or owners do not desire to purchase the excess property, the board of county commissioners may sell the property to any other interested party for not less than fair market value. When such a sale is agreed to by both parties, a public advertisement of the pending sale shall be published in one (1) edition of the county newspaper and the public has fifteen (15) days from the date of publication to object to the sale. The board of county commissioners shall make the final determination regarding the sale of the property in open meeting.

Approved April 4, 1991.

CHAPTER 303
(H.B. No. 299)

AN ACT

RELATING TO VETERAN'S PREFERENCE IN PUBLIC EMPLOYMENT; AMENDING SECTION 65-502, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 65-504, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, AND TO INCLUDE DISABLED VETERANS; AMENDING SECTION 65-510, IDAHO CODE, TO PROVIDE AN ADDITIONAL DEFINITION; AND AMENDING SECTION 65-511, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, AND TO CONFORM WITH FEDERAL REQUIREMENTS.

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

SECTION 1. That Section 65-502, Idaho Code, be, and the same is hereby amended to read as follows:

65-502. PREFERENCE TO BE GIVEN VETERANS BY PUBLIC EMPLOYERS. In all employment of any kind or character, excluding confidential secretarial positions, in all state, county, and municipal governments and departments and in all political subdivisions thereof, the official or person in charge of such unit of government shall give preference to the employment of ~~war~~ veterans who served on ~~active~~ military duty in the armed forces of the United States for a period of more than one hundred eighty (180) days or whose discharge or release from ~~active~~ military duty was for a disability incurred or aggravated in line of duty, who are discharged under honorable conditions, and who are resi-

dents of the state of Idaho when the application for work or employment is made.

An application for an examination for appointment to a position in said public employment will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing hospitalization of no more than one (1) year following discharge during any period in which the examination was open. The application must be submitted within one hundred twenty (120) days of his or her separation from the armed forces or hospitalization and prior to the expiration of any register established as a result of the examination. A disabled veteran may file an application at any time for any position for which a register is then maintained, or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made.

SECTION 2. That Section 65-504, Idaho Code, be, and the same is hereby amended to read as follows:

65-504. OFFICIALS TO OBSERVE PREFERENCE -- EXCEPTIONS. All elective officers, department heads, boards, commissions and/or other public officials of all state, county or municipal governments and departments and all political subdivisions thereof, who may be authorized to select or hire employees, are hereby required to strictly observe this preference for war veterans <u>and disabled veterans,</u> when filling vacancies or selecting new employees, provided that this act shall not apply to confidential secretarial positions. This preference shall be granted without regard to political affiliation or indorsements to war veterans <u>and disabled veterans</u> who are qualified for the position or positions to be filled. In the event of an emergency which may endanger the health, safety, and public welfare, the provisions of this act may be dispensed with temporarily, but in no event shall persons who were employed to meet such emergencies be permitted to work for a period of time exceeding ten (10) days, except such employees who meet all the requirements provided for in the act.

SECTION 3. That Section 65-510, Idaho Code, be, and the same is hereby amended to read as follows:

65-510. DEFINITIONS. When used in this act, (a) The term "public employee" means any person holding a position in public employment.

(b) The term "public employment" means employment of the government of this state, or of any county, municipality, or other political subdivision thereof, including any department or agency thereof.

(c) The term "public employer" means any government, department, or agency mentioned in subsection (b) of this section employing a public employee in a position.

(d) The term "position" means employment held by a public employee at the time of entrance into military duty, but shall not include temporary or casual employment or an office filled by election.

(~~f~~e) The term "military duty" means training and service performed by an inductee, enlistee, or reservist or any entrant into a component of the armed forces of the United States: Provided, that "military duty" shall not include active duty training as a reservist in the armed forces of the United States or as a member of the national guard of the United States where the call is for training only.

(f) The term "armed forces" means the army, navy, marine corps, coast guard, air force, and their auxiliaries.

SECTION 4. That Section 65-511, Idaho Code, be, and the same is hereby amended to read as follows:

65-511. REEMPLOYMENT RIGHTS OF PUBLIC EMPLOYEES CALLED FOR MILITARY DUTY. (a) Any public employee who leaves a position while this act is in effect, or who left such position prior to such effective date ~~but-not-earlier-than-June-27,-1950~~, whether voluntarily or involuntarily, in order to perform military duty, ~~or--who--was--performing military-duty-on-June-27,-1950,~~ and who is relieved or discharged from such duty under honorable conditions ~~other-than-dishonorable~~, and if the total of such person's service performed did not exceed four (4) years and the total of any service performed, additional or otherwise, does not exceed five (5) years, and if the service in excess of four (4) years is at the request and for the convenience of the federal government (plus in each case any period of additional service imposed pursuant to law), and if such person makes application for reemployment within ninety (90) days after he is relieved from military duty, or from hospitalization continuing after discharge for a period of not more than one (1) year, shall:

(1) if still physically qualified to perform the duties of such position, be restored to such position if it exists and is not held by a person with greater seniority, otherwise to a position of like seniority, status and pay;

(2) if not qualified to perform the duties of such position by reason of disability sustained during such service, such public employee shall be placed in such other position the duties of which he is qualified to perform as will provide him like seniority, status and pay, or the nearest approximation thereof consistent with the circumstances of his case.

(b) In the case of any person who is entitled to be restored to a position in accordance with the provisions of this act, if the board of examiners find that the department or agency with which such person was employed immediately prior to his entry upon training and service aforesaid:

(1) is no longer in existence and its functions have not been transferred to any other agency; or

(2) for any reason it is not feasible for such person to be restored to such department or agency; the board shall determine whether or not there is a position in any other department or agency of the same public employer for which such person is qualified and which is either vacant or held by a person having a temporary appointment thereto. In any case in which the board determines that there is such a position, such person shall be restored

to such position by the department or agency in which such position exists.

Approved April 4, 1991.

CHAPTER 304
(H.B. No. 318, As Amended in the Senate)

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING CHAPTER 1, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-112A, IDAHO CODE, TO DEFINE CERTAIN PROPERTY USED FOR CONSERVATION OF WILDLIFE OR WILDLIFE HABITAT AS AGRICULTURAL PROPERTY FOR PURPOSES OF TAXATION.

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

SECTION 1. That Chapter 1, 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 63-112A, Idaho Code, and to read as follows:

63-112A. LAND USED TO PROTECT WILDLIFE AND WILDLIFE HABITAT. Land which is owned and used for wildlife habitat by a private, nonprofit corporation which corporation has a recognized tax exempt status under section 501(C)(3) of the internal revenue code, and which corporation qualifies for exemption status under section 63-105C, Idaho Code, and which corporation is dedicated to the conservation of wildlife or wildlife habitat, shall be eligible for appraisal, assessment and taxation as agricultural property.

Approved April 4, 1991.

CHAPTER 305
(H.B. No. 331, As Amended in the Senate)

AN ACT

RELATING TO THE USE OF A PUBLIC OFFICE FOR PERSONAL GAIN; AMENDING SECTION 18-1359, IDAHO CODE, TO PROHIBIT A PUBLIC SERVANT FROM USING PUBLIC FUNDS OR PROPERTY TO OBTAIN A PECUNIARY BENEFIT FOR HIMSELF WITHOUT THE SPECIFIC AUTHORIZATION OF THE GOVERNMENTAL ENTITY FOR WHICH HE SERVES, AND TO PROHIBIT NEPOTISM WITHIN THE LEGISLATIVE BRANCH OF GOVERNMENT, CITIES AND COUNTIES.

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

SECTION 1. That Section 18-1359, Idaho Code, be, and the same is hereby amended 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~~ for himself.

(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) No person related to any member of the legislature by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty within the legislative branch of government or otherwise be employed by the legislative branch of government when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.

(3) No person related to a mayor or member of a city council by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty with the mayor's or city council's city when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.

(4) No person related to a county commissioner by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty with the commissioner's county

when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.

(5) The prohibitions contained within this section shall not include conduct defined by the provisions of section 59-703(4), Idaho Code.

(~~3~~6) 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.

Approved April 4, 1991.

CHAPTER 306
(H.B. No. 336)

AN ACT

RELATING TO AIRCRAFT FUEL TAXES; AMENDING SECTION 63-2401, IDAHO CODE, TO REDEFINE AIRCRAFT ENGINE FUEL; AND AMENDING SECTION 63-2408, IDAHO CODE, TO INCREASE THE FUEL TAX ON AVIATION GASOLINE TO FIVE AND ONE-HALF CENTS PER GALLON, TO PROVIDE FOR A TAX OF FOUR AND ONE-HALF CENTS PER GALLON ON JET FUEL AND TO PROVIDE FOR A REFUND OF GASOLINE TAX ON GASOLINE USED IN AIRCRAFT ENGINES.

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

SECTION 1. That Section 63-2401, Idaho Code, be, and the same is hereby amended to read as follows:

63-2401. DEFINITIONS. In this chapter:

(1) "Aircraft engine fuel" means ~~any substance, the primary use of which is fuel for the propulsion of aircraft:~~

(a) Aviation gasoline, defined as a mixture of volatile hydrocarbons blended specifically for use in aircraft reciprocating engines; and

(b) Jet fuel, defined as a mixture of volatile hydrocarbons blended specifically for use in aircraft turbojet and turboprop engines.

(2) "Bond" means:

(a) A surety bond, in an amount required by this chapter, duly executed by a surety company licensed and authorized to do business in this state conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties and other obligations arising out of the provisions of this chapter; or

(b) A deposit with the commission by any person required to be licensed pursuant to this chapter under terms and conditions as the commission may prescribe, of a like amount of lawful money of

the United States or bonds or other obligations of the United States, the state of Idaho, or any county of the state.

(3) "Bulk storage tank" means a tank with a capacity of fifty-five (55) gallons capacity or more which meets any of the following criteria:

(a) It is physically attached to the real property of a purchaser of special fuels which are delivered into the tank.

(b) It is primarily used to store special fuels which are used by the purchaser of the special fuels for purposes other than propelling a motor vehicle on a highway.

(4) "Commercial motor boat" means any boat, equipped with a motor, which is wholly or partly used in a profit-making enterprise or in an enterprise conducted with the intent of making a profit.

(5) "Commission" means the state tax commission of the state of Idaho.

(6) "Distributor" means any person who receives gasoline and/or aircraft fuel in this state.

(7) "Gasohol" means a motor fuel containing a mixture of at least ten percent (10%) blend anhydrous ethanol manufactured in the state of Idaho from agricultural or forest products grown in the state of Idaho or wastes of those products. "Gasohol" also means a motor fuel containing a mixture of at least ten percent (10%) blend anhydrous ethanol manufactured in another state from agricultural or forest products or wastes of those products, provided that the other state extends a tax exemption, credit or preferential rate of taxation for the sale in that state of gasohol manufactured in the state of Idaho from agricultural or forest products grown in the state of Idaho or wastes of those products.

(8) "Gasoline" means a mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. "Gasoline" also means aircraft engine fuel when used for propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels.

(9) "Highways" mean every place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel which is maintained by the state of Idaho or an agency or taxing subdivision or unit thereof or the federal government or an agency or instrumentality thereof. Provided, however, if the cost of maintaining a roadway is primarily borne by a special fuel user who is registered under section 63-2438, Idaho Code, pursuant to a written contract during any period of time that a special fuel tax liability accrues to the user, such a roadway shall not be considered a "highway" for any purpose related to calculating that user's special fuel's tax liability or refund.

(10) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2409, Idaho Code.

(11) "Licensed special fuels dealer" means any special fuels dealer licensed under the provisions of section 63-2419, Idaho Code.

(12) "Motor fuel" means all fuel subject to tax under this chapter.

(13) "Motor vehicle" means every self-propelled vehicle designed for operation or required to be licensed for operation upon a highway.

(14) "Person" means any individual, firm, fiduciary, copartnership, association, corporation, governmental instrumentality including the state and all of its agencies and political subdivisions, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means the partners or members, and as applied to corporations, the officers.

(15) "Qualified one-way rental truck" means a motor vehicle registered in Idaho at a gross weight of twenty-six thousand (26,000) pounds or under having two (2) axles and a straight body which is exclusively used by the owner in the business of renting such vehicle without driver to the general public. It does not include a "truck tractor" as defined in section 49-121, Idaho Code. To be a qualified one-way rental truck the vehicle must display clearly identifiable commercial or other markings which identify the vehicle as part of a specific one-way rental fleet.

(16) "Recreational vehicle" means a snowmobile as defined in section 67-7101, Idaho Code; a motor driven cycle or motorcycle as defined in section 49-114, Idaho Code; and any vehicular type unit either as an integral part of, or required for the movement of, units defined in section 39-4105(15), Idaho Code.

(17) "Retail dealer" means any person engaged in the retail sale of gasoline and/or aircraft engine fuel to the public or for use in the state.

(18) "Special fuels" mean all fuel suitable as fuel for diesel engines, or a compressed or liquified gas obtained as a byproduct in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures, and includes natural gas, either liquid or gas, and hydrogen, used for the generation of power for propulsion of motor vehicles. It does not include fuels for off-road agricultural use, domestic heating or other nonhighway use, nor does it include fuels used in motor vehicles over sixteen thousand (16,000) pounds maximum gross weight owned or leased and operated by an instrumentality of the federal government or of the state of Idaho including the state and all of its political subdivisions.

(19) "Special fuels dealer" means any person in the business of handling special fuels and <u>who</u> delivers any part thereof into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him.

(20) "Special fuels user" means any person who consumes special fuels for the propulsion of motor vehicles owned or controlled by him upon the highways of this state.

(21) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed distributor or a special fuels dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while the vehicle is within this state; or

(b) The consumption of fuels in propulsion of a motor vehicle on the highways of this state.

SECTION 2. That Section 63-2408, Idaho Code, be, and the same is hereby amended to read as follows:

63-2408. AIRCRAFT ENGINE FUEL TAX. (1) An excise tax is hereby imposed on all aircraft engine fuel sold in this state. The tax is to be paid by the distributor, and measured by the total number of gallons sold by him, at the rate of ~~three~~ five and one-half cents (~~3~~5 1/2¢) per gallon of aviation gasoline, and four and one-half cents (4 1/2¢) per gallon of jet fuel. The tax, together with any penalty and/or interest due, shall be remitted with the monthly distributor's report required in section 63-2406, Idaho Code.

(2) For gasoline, other than aircraft engine fuel, used in aircraft engines, the refund of gasoline tax provided in section 63-2410, Idaho Code, shall be the amount of gasoline tax paid less the aviation gasoline fuel tax required in this section.

Approved April 4, 1991.

CHAPTER 307
(H.B. No. 340)

AN ACT
RELATING TO GASOHOL; AMENDING SECTION 63-2401, IDAHO CODE, TO REVISE THE DEFINITION OF GASOHOL; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-2401, Idaho Code, be, and the same is hereby amended to read as follows:

63-2401. DEFINITIONS. In this chapter:

(1) "Aircraft engine fuel" means any substance, the primary use of which is fuel for the propulsion of aircraft.

(2) "Bond" means:

(a) A surety bond, in an amount required by this chapter, duly executed by a surety company licensed and authorized to do business in this state conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties and other obligations arising out of the provisions of this chapter; or

(b) A deposit with the commission by any person required to be licensed pursuant to this chapter under terms and conditions as the commission may prescribe, of a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Idaho, or any county of the state.

(3) "Bulk storage tank" means a tank with a capacity of fifty-five (55) gallons capacity or more which meets any of the following criteria:

(a) It is physically attached to the real property of a purchaser of special fuels which are delivered into the tank.

(b) It is primarily used to store special fuels which are used by

the purchaser of the special fuels for purposes other than propelling a motor vehicle on a highway.

(4) "Commercial motor boat" means any boat, equipped with a motor, which is wholly or partly used in a profit-making enterprise or in an enterprise conducted with the intent of making a profit.

(5) "Commission" means the state tax commission of the state of Idaho.

(6) "Distributor" means any person who receives gasoline and/or aircraft fuel in this state.

(7) "Gasohol" means a motor fuel containing a mixture of at least ten percent (10%) blend anhydrous ethanol ~~manufactured-in-the-state-of-Idaho-from-agricultural-or-forest-products-grown-in-the-state-of-Idaho or--wastes--of--those-products.-"Gasohol"-also-means-a-motor-fuel-containing-a-mixture-of-at-least-ten-percent-(10%)-blend-anhydrous--ethanol-manufactured-in-another-state-from-agricultural-or-forest-products or--wastes--of-those-products,-provided-that-the-other-state-extends-a tax-exemption,-credit-or-preferential-rate-of-taxation-for-the-sale-in that-state-of-gasohol-manufactured-in-the-state-of-Idaho-from-agricultural-or-forest-products-grown-in-the-state--of--Idaho--or--wastes--of those-products.~~

(8) "Gasoline" means a mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. "Gasoline" also means aircraft engine fuel when used for propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels.

(9) "Highways" mean every place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel which is maintained by the state of Idaho or an agency or taxing subdivision or unit thereof or the federal government or an agency or instrumentality thereof. Provided, however, if the cost of maintaining a roadway is primarily borne by a special fuel user who is registered under section 63-2438, Idaho Code, pursuant to a written contract during any period of time that a special fuel tax liability accrues to the user, such a roadway shall not be considered a "highway" for any purpose related to calculating that user's special fuel's tax liability or refund.

(10) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2409, Idaho Code.

(11) "Licensed special fuels dealer" means any special fuels dealer licensed under the provisions of section 63-2419, Idaho Code.

(12) "Motor fuel" means all fuel subject to tax under this chapter.

(13) "Motor vehicle" means every self-propelled vehicle designed for operation or required to be licensed for operation upon a highway.

(14) "Person" means any individual, firm, fiduciary, copartnership, association, corporation, governmental instrumentality including the state and all of its agencies and political subdivisions, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means the partners or members, and as

applied to corporations, the officers.

(15) "Qualified one-way rental truck" means a motor vehicle registered in Idaho at a gross weight of twenty-six thousand (26,000) pounds or under having two (2) axles and a straight body which is exclusively used by the owner in the business of renting such vehicle without driver to the general public. It does not include a "truck tractor" as defined in section 49-121, Idaho Code. To be a qualified one-way rental truck the vehicle must display clearly identifiable commercial or other markings which identify the vehicle as part of a specific one-way rental fleet.

(16) "Recreational vehicle" means a snowmobile as defined in section 67-7101, Idaho Code; a motor driven cycle or motorcycle as defined in section 49-114, Idaho Code; and any vehicular type unit either as an integral part of, or required for the movement of, units defined in section 39-4105(15), Idaho Code.

(17) "Retail dealer" means any person engaged in the retail sale of gasoline and/or aircraft engine fuel to the public or for use in the state.

(18) "Special fuels" mean all fuel suitable as fuel for diesel engines, or a compressed or liquified gas obtained as a byproduct in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures, and includes natural gas, either liquid or gas, and hydrogen, used for the generation of power for propulsion of motor vehicles. It does not include fuels for off-road agricultural use, domestic heating or other nonhighway use, nor does it include fuels used in motor vehicles over sixteen thousand (16,000) pounds maximum gross weight owned or leased and operated by an instrumentality of the federal government or of the state of Idaho including the state and all of its political subdivisions.

(19) "Special fuels dealer" means any person in the business of handling special fuels and who delivers any part thereof into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him.

(20) "Special fuels user" means any person who consumes special fuels for the propulsion of motor vehicles owned or controlled by him upon the highways of this state.

(21) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed distributor or a special fuels dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while the vehicle is within this state; or

(b) The consumption of fuels in propulsion of a motor vehicle on the highways of this state.

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

Approved April 4, 1991.

CHAPTER 308
(H.B. No. 352)

AN ACT

RELATING TO DISPOSAL OF WASTE TIRES; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 65, TITLE 39, IDAHO CODE, TO DEFINE TERMS, TO REQUIRE RETAIL SELLERS OF TIRES TO ACCEPT WASTE TIRES, TO PROVIDE FOR WASTE TIRE COLLECTION SITES, TO PROVIDE FOR DISPOSAL OF WASTE TIRES, TO PROVIDE FOR A WASTE TIRE GRANT ACCOUNT, TO PROVIDE FOR RULES AND REGULATIONS, TO PROVIDE PENALTIES; REPEALING SECTIONS 39-6502 AND 39-6505, IDAHO CODE; TO PROVIDE EFFECTIVE DATES AND TO PROVIDE FOR THE DISTRIBUTION OF UNEXPENDED AND UNENCUMBERED FUNDS IN THE WASTE TIRE GRANT ACCOUNT TO THE STATE HIGHWAY ACCOUNT ON A DATE CERTAIN.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 65, Title 39, Idaho Code, and to read as follows:

CHAPTER 65
WASTE TIRE DISPOSAL

39-6501. DEFINITIONS. As used in this chapter:

(1) "Motor vehicle" means any automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination or other vehicle operated on the roads of this state, used to transport persons or property and propelled by power other than muscular power, but motor vehicle does not include bicycles.

(2) "Retail seller of motor vehicle tires" and "wholesale seller of motor vehicle tires" include those persons who sell or lease motor vehicles to others in the ordinary course of business.

(3) "Tire" shall have the meaning contained in section 49-121, Idaho Code.

(4) "Waste tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

(5) "Waste tire collection site" means a site where waste tires are collected before being offered for recycling or reuse and where more than one thousand five hundred (1,500) tires are kept on site on any day.

39-6502. SALE OF TIRES -- FEES -- ACCEPTANCE OF WASTE TIRES -- NOTICE -- DEFINITION. (1) A retail seller of motor vehicle tires shall collect a fee of one dollar ($1.00) per tire for each tire sold.

(2) A wholesale seller of motor vehicle tires who sells tires to this state or a political subdivision of this state or who sells tires to a private entity which does not resell the tires shall collect a fee which shall be the same as provided in subsection (1) of this section and shall be listed separately on any invoice.

(3) The fee imposed in this section shall be paid to the division of environmental quality for deposit on a quarterly basis in the waste

tire grant account established pursuant to section 39-6505, Idaho Code.

(4) A retail seller of motor vehicle tires or a wholesale seller of motor vehicle tires shall accept waste tires from the retailer's customers at the point of transfer pursuant to this subsection. A seller shall accept up to the number of tires sold at that point of transfer annually and may accept additional tires. The seller shall accept tires from a seller's customer if the customer presents a receipt within thirty (30) days of the date of purchase.

(5) A seller of motor vehicle tires who is subject to the provisions of subsection (4) of this section shall post a written notice which is clearly visible in the public sales area of the establishment and which contains the following language:

> "It is unlawful to throw away a motor vehicle tire.
> Recycle all used tires.
> This retailer is required to accept scrap tires if any new or retreaded tires are purchased here. When any tire is purchased, an additional fee will be charged."

(6) A credit of ten cents ($.10) per tire is allowed against the fee imposed under the provisions of this section for expenses incurred by the payer of the fee for accounting for and reporting the fees.

(7) The provisions of this section do not apply to a person whose retail sales of motor vehicles' tires are not in the ordinary course of business.

39-6503. WASTE TIRE COLLECTION SITES. An owner or operator of a waste tire collection site, within six (6) months of the effective date of this section, shall register with the division of environmental quality and provide the division of environmental quality with information concerning the site's location and size and the approximate number of waste tires which are stored at the site and shall initiate steps to comply with the provisions of this chapter.

39-6504. DISPOSAL OF WASTE TIRES. (1) The disposal of waste tires in landfills and the incineration of those tires is prohibited, except as provided in subsection (3) of this section or in accordance with rules and regulations of the department of health and welfare. An owner and operator of a solid waste disposal site shall not knowingly accept waste tires for disposal.

(2) Beginning on January 1, 1993, a person shall not dispose of waste tires unless the waste tires are disposed of at a waste tire collection site or as provided in subsection (3) of this section in accordance with rules and regulations of the division of environmental quality of the department of health and welfare.

(3) The following are permissible methods of waste tire disposal:

(a) Retreading.

(b) Constructing collision barriers.

(c) Controlling soil erosion or for flood control only if used in accordance with approved engineering practices.

(d) Chopping or shredding.

(e) Grinding for use in asphalt and as a raw material for other products.

(f) Using as playground equipment.

(g) Incinerating or using as a fuel or pyrolysis if permitted by law, regulations or ordinances relating to burning of fuel.

(h) Hauling to out-of-state collection or processing sites.

(4) The department of health and welfare, by rule and regulation, may authorize other methods of disposal of waste tires.

39-6505. WASTE TIRE GRANT ACCOUNT. (1) There is hereby created in the dedicated fund of the state treasury, the waste tire grant account. Moneys in the account shall be administered by the division of environmental quality and are hereby perpetually appropriated to carry out the provisions of this chapter. No more than five per cent (5%) of the account may be used for the collection of fees and administration of the provisions of this chapter.

(2) Any person or entity who purchases waste tires generated in Idaho or tire chips or similar materials from waste tires generated in Idaho and who uses the tires or chips or similar material for energy recovery or other appropriate uses enumerated in subsection (3) of section 39-6504, Idaho Code, may apply to the division for partial reimbursement of the cost of purchasing the tires or chips or similar materials. Any person who uses, but does not purchase, waste tires or chips or similar materials, for energy recovery or another appropriate use enumerated in subsection (3) of section 39-6504, Idaho Code, may also apply for a reimbursement of part of the cost of such use. The intent of the partial reimbursement of costs under this subsection is to promote the use of waste tires by enhancing markets for waste tires or chips or similar materials. The division shall limit or eliminate reimbursements if the division finds they are not necessary to promote the use of waste tires. The division shall reimburse eligible persons or entities at the rate of twenty dollars ($20.00) per ton for purchase or use of eligible waste tires or tire chips or similar materials from waste tires generated in Idaho and one dollar ($1.00) per tire for passenger and light truck tires to be used for retreading operations in Idaho upon presentation of documentation deemed necessary by the division. Any costs reimbursed pursuant to this subsection shall not exceed the amount in the waste tire grant account and shall be paid from the waste tire grant account.

(3) By July 1, 1992, the division of environmental quality shall establish a program to make grants to counties or contracts with private entities to do any of the following, either individually or collectively:

(a) Contract for a waste tire processing facility service.

(b) Remove or contract for the removal of waste tires from county landfills or removal of other existing unlawful tire piles in the state.

(c) Establish waste tire collection centers at solid waste disposal facilities or waste tire processing facilities.

(4) Beginning October 1, 1992, each county shall establish a program pursuant to this section to address waste tire disposal.

(5) The division of environmental quality shall provide an annual report to the legislature on the grant program. The annual report shall examine the fee imposed by this chapter and determine if it is providing sufficient funding.

39-6506. RULES AND REGULATIONS. The board of health and welfare shall promulgate rules and regulations to carry out the provisions of this chapter.

39-6507. PENALTIES. (1) A person who improperly disposes of a tire in violation of the provisions of this chapter is subject to a civil penalty of not more than five hundred dollars ($500) per violation and is subject to the penalty provisions of the environmental protection and health act contained in chapter 1, title 39, Idaho Code. Each tire so disposed of improperly constitutes a separate violation.

(2) A person who knowingly violates any provision of this chapter other than as described in subparagraph (1) of this section, is subject to a civil penalty of not more than one hundred dollars ($100) per violation.

SECTION 2. That Sections 39-6502 and 39-6505, Idaho Code, be, and the same are hereby repealed.

SECTION 3. Section 1 of this act shall be in full force and effect on and after July 1, 1991. Section 2 of this act shall be in full force and effect on and after July 1, 1995. Any moneys in the Waste Tire Grant Account which are unexpended or unencumbered on June 30, 1995, shall be transmitted to the State Highway Account.

Approved April 4, 1991.

CHAPTER 309
(H.B. No. 360, As Amended in the Senate)

AN ACT

RELATING TO THE APPROPRIATION FOR PUBLIC SCHOOL SUPPORT FOR FISCAL YEAR 1992, AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO EXPENDITURES FROM STATE SOURCES; APPROPRIATING GENERAL ACCOUNT 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; PROVIDING THAT CERTAIN MONEYS APPROPRIATED FOR FISCAL YEAR 1991 ARE A PART OF THE ONGOING BUDGET BASE FOR THE SCHOOL DISTRICTS; PROVIDING FOR ONE ADDITIONAL PAYMENT TO THE SCHOOL DISTRICTS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO EXPENDITURES FOR CERTIFICATED STAFF SALARY IMPROVEMENTS, FOR ONGOING AND ONE-TIME SCHOOL IMPROVEMENTS, FOR DISTRIBUTION OF CERTAIN ONE-TIME MONEYS AND REQUIRING SCHOOL DISTRICTS TO REPORT CERTAIN EXPENDITURES AND/OR PLANNED EXPENDITURES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO ONE-TIME EXPENDITURES FOR SCHOOL INNOVATION PILOT PROJECTS AND STATEWIDE EDUCATION IMPROVEMENT INITIATIVES; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO CONTINUE THE EDUCATION MENTOR PROGRAM; AND SETTING ASIDE AN AMOUNT FOR THE PURPOSE OF MAKING GRANTS TO SCHOOL DIS-

TRICTS.

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, 1991, through June 30, 1992:

FROM:		
General Account		$487,539,000
Dedicated Accounts:		
Endowment Fund Income	$21,800,000	
Department of Lands	4,160,000	
Liquor Account	1,200,000	
Miscellaneous Receipts	5,326,500	
Subtotal	$32,486,500	32,486,500
TOTAL		$520,025,500

SECTION 2. There is hereby appropriated from the General Account for Public School Support the following amount for deposit in the Public School Income Fund for the period July 1, 1991, through June 30, 1992:

FROM:	
General Account	$487,539,000

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, 1991, through June 30, 1992.

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, 1991, through June 30, 1992.

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 the social security taxes for public school district employees, according to Section 59-1115, Idaho Code, for the period July 1, 1991, through June 30, 1992.

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 $520,025,500 of the moneys which may accrue to such fund for the period July 1, 1991, through June 30, 1992.

SECTION 7. Moneys appropriated by Section 2, Chapter 136, Laws of 1990, and designated in Section 7 of the same chapter to be expended for class size reduction, including any moneys expended pursuant to exceptions granted by the Superintendent of Public Instruction, shall become a part of the ongoing budget base for the school districts and need not be applied for in fiscal year 1992, and subsequent fiscal years.

SECTION 8. Notwithstanding the provisions of Section 33-1009, Idaho Code, for fiscal year 1992, the State Board of Education shall make one additional payment of $9,279,100, to the school districts. The additional payment shall be made as soon after July 1, 1991, as possible and shall include $1,800,000 of dedicated funds.

SECTION 9. (1) It is legislative intent that $23,250,000 of the moneys appropriated in Section 2 of this act shall be expended as follows:

(a) $3,000,000 for certificated staff salary improvements; and

(b) $20,250,000 for school improvements.

(2) To the extent possible, of the amount designated to be used for school improvements, $6,200,000 shall be for ongoing expenditures in any of the following categories:

(a) Class size reduction in grades K-3.

(b) Guidance and counseling services.

(c) Graduation rate.

(d) Curriculum and instruction.

(e) Drug education programs.

(f) School calendars.

(g) Programs for minority populations.

(3) Of the amount designated for school improvements, $1,800,000 shall be set aside for the purpose of the Superintendent of Public Instruction making grants to school districts for the following categories of one-time acquisitions:

(a) Science equipment - $1,000,000.

(b) Telecommunications/technology - $800,000.

The school districts shall make application for the money provided in this subsection (3). The Superintendent of Public Instruction shall approve applications within the total amount of moneys available. The Superintendent of Public Instruction may expend an amount not to exceed five percent of the $1,800,000 for administrative costs.

(4) Of the amount designated for school improvements, $12,250,000 shall be for the following one-time acquisitions or purposes:

(a) Textbooks.

(b) Library materials.

(c) Education technology.

(d) Supplies and materials.

(e) Staff development and training to advance the utilization of education technology.

(f) Minor remodeling, renovation, rent, lease or purchase of classrooms to accomplish class-size reduction in grades K-3.

(5) The $12,250,000 for one-time expenditures shall be distributed as follows: 50% ($6,125,000) outside the education support program on a fall enrollment basis; and 50% ($6,125,000) through the education support program formula.

(6) School districts shall report the expenditure and/or planned expenditure of funds in each of the designated categories for one-time acquisitions or purposes, to the Superintendent of Public Instruction not later than December 1, 1991, who in turn will report such expenditures to the legislature in the 1992 session.

SECTION 10. It is legislative intent that an amount not to exceed

$950,000 of the moneys appropriated in Section 2 of this act shall be expended on a one-time basis by the Superintendent of Public Instruction, upon approval of the State Board of Education, to begin implementation of the recommendations of the Idaho Education Project report and the Task Force on the Future of Education in Idaho report. The funds shall be expended for school innovation pilot projects in selected schools and statewide education improvement initiatives, such as: Schools of the Future; leadership training for school administrators and trustees; site-based management/shared decision-making; cooperative services, assistance to rural schools; statewide goals and assessment; and, children ready for school.

SECTION 11. 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 12. 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 the 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.

Approved April 4, 1991.

CHAPTER 310
(H.B. No. 366, As Amended, As Amended in the Senate)

AN ACT

RELATING TO AD VALOREM TAX BUDGETS OF TAXING DISTRICTS; REPEALING SECTION 63-2220, IDAHO CODE; AMENDING CHAPTER 22, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2224, IDAHO CODE, TO REQUIRE ADVERTISEMENT OF PROPOSED AD VALOREM BUDGET INCREASES OR PROPOSED AD VALOREM TAX RATE INCREASES; AMENDING CHAPTER 22, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2225, IDAHO CODE, TO REQUIRE THE ADOPTION OF A RESOLUTION PROPOSING A BUDGET INCREASE OR A RATE INCREASE, TO PROVIDE REQUIREMENTS FOR ADVERTISING, AND TO PROVIDE FOR BUDGET HEARINGS; AMENDING CHAPTER 22, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2226, IDAHO CODE, TO PROVIDE FOR FORWARDING THE RESOLUTION AND BUDGET REQUEST TO THE STATE TAX COMMISSION, AND TO PROVIDE DUTIES FOR THE STATE TAX COMMISSION; AMENDING SECTION 63-923, IDAHO CODE, TO PROVIDE A PROPER CODE REFERENCE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-2220, Idaho Code, be, and the same is hereby repealed.

SECTION 2. 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 63-2224, Idaho Code, and to read as follows:

63-2224. ADVERTISEMENT OF PROPOSED BUDGET OR TAX INCREASES. No taxing district may request an amount of ad valorem tax revenues for its annual budget that would cause the ad valorem tax rate to increase from the rate in effect during the previous year, unless it advertises its intention to do so at the same time that it advertises its intention to fix its budget for the forthcoming fiscal year, as provided in section 63-2225, Idaho Code.

For the purposes of this section and related sections, the term "annual ad valorem tax rate increase" does not include revenues from non-ad valorem tax sources, and does not include amounts or levies that are voter approved for bonds, override levies, or supplemental levies, or for levies applicable to newly annexed property, or for newly created taxing districts.

SECTION 3. 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 63-2225, Idaho Code, and to read as follows:

63-2225. RESOLUTION PROPOSING TAX OR BUDGET INCREASES. (1) No request for an ad valorem tax rate increase may be certified to the board of county commissioners or to the state tax commission until a resolution has been adopted by the governing body of a taxing district, or by the board of county commissioners in the case of county levies and functions, in accordance with the following procedures:

(a) The taxing district shall advertise its intent to exceed the amount of its previous year's tax rate in at least the newspaper of largest paid circulation that is published in the county, or if more than one (1) newspaper is published in the county, then in a newspaper published within the district where the advertisement is required to be published or, if no newspaper is published within the district, then in a newspaper published nearest to the district where the advertisement is required to be published. For purposes of this section, the definition of "newspaper" shall be as established in sections 60-106 and 60-107, Idaho Code; provided further, that the newspaper of largest circulation shall be established by the statement of average annual paid weekday circulation listed on the newspaper's sworn annual statement of ownership that was filed with the United States post office on a date most recently preceding the date on which the advertisement required in this section is to be published. The advertisement shall be no less than one-quarter (1/4) standard ad unit full page in size and the type used shall be no smaller than 18 point, and surrounded by a one-quarter (1/4) inch border. The advertisement shall be requested to be run in the newspaper's main news section, far forward and the rate to be paid for advertising placed under this section shall be no more than the current rate card rate posted by the newspaper for similar forms of advertising, in volume and fre-

quency to that which is ordered, in order to meet the requirements of this section; provided further, that the rates and type requirements provided in section 60-105, Idaho Code, for public agency advertisements shall not apply to advertisements published under the requirements of this section. The advertisement shall be run once each week for the two (2) weeks preceding the adoption of the final budget. The advertisement shall state that the taxing district will meet on a certain day, time and place fixed in the advertisement, which shall be not less than seven (7) days after the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(b) The form and content of the notice shall be substantially as follows:

"NOTICE OF TAX INCREASE

The (name of the taxing district) has proposed to increase its ad valorem property tax rate by (percentage of increase) percent which will (increase/decrease) its property tax revenue by (percentage of increase) percent and (increase/decrease) its total budget by (percentage of increase/decrease) percent.

The following schedule is an estimate of what this change may mean to a taxpayer:

	Last year's taxable value	This year's estimated taxable value	Last year's actual taxes	This year's estimated taxes
For a typical home of $50,000 taxable value last year	(amount)	(amount)	(amount)	(amount)
For a typical farm of $100,000 taxable value last year	(amount)	(amount)	(amount)	(amount)
For a typical business of $200,000 taxable value last year	(amount)	(amount)	(amount)	(amount)

All citizens are invited to attend a public hearing on the increased budget request or increased tax rates.

CAUTION TO TAXPAYER: The amounts shown in this schedule do NOT reflect tax charges that are made because of voter approved bond levies, override levies, supplemental levies, or levies applicable to newly annexed property, or levies applicable to newly created taxing districts."

(2) After the hearing has been held in accordance with the above procedures, the governing body of the taxing district may adopt a resolution to increase the tax rate in excess of that certified for the previous year. If the resolution is not adopted on the day of the public hearing, the scheduled time and place for consideration and adoption of the resolution shall be announced at the public hearing. If the resolution is to be considered at a day and time that is more than two (2) weeks after the public hearing, the governing body shall advertise the date of the proposed adoption of the resolution in the same manner as provided under subsection (1) of this section.

(3) All hearings shall be open to the public. The governing body of the taxing district shall permit all interested parties desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(4) Each taxing district shall notify the board of county commissioners by March 1 of each year of the date, time, and place of its public hearing. No taxing district may schedule its hearing at the same time as another overlapping taxing district in the same county, but all taxing districts in which the power to fix a tax levy, or to request a tax levy, is vested in the same governing board may consolidate the required hearings into one (1) hearing. The board of county commissioners shall resolve any conflicts in hearing dates and times after consultation with each affected taxing district.

(5) For all county functions for which a budget is required, the public hearing shall be held on the Tuesday following the first Monday of September.

SECTION 4. 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 63-2226, Idaho Code, and to read as follows:

63-2226. RESOLUTION AND BUDGET REQUEST TO BE FORWARDED TO TAX COMMISSION. The resolution approved in the manner provided under section 63-2225, Idaho Code, shall be forwarded to the state tax commission at the same time as the budget request of the taxing district. The tax commission shall not authorize or approve any tax levy that would increase the levy over the previous year's budget or levy, unless the resolution accompanies the actual budget request. A board of county commissioners cannot make any levy without the approval of the tax commission.

If no resolution is received with the actual budget request of a taxing district, the tax commission shall authorize and approve a levy that produces the lesser of:

(1) The dollar amount produced by applying the previous year's levy to the current year's estimated taxable value; or

(2) The dollar amount of the previous year's certified tax charges.

SECTION 5. That Section 63-923, Idaho Code, be, and the same is hereby amended to read as follows:

63-923. LIMITATION ON AD VALOREM TAXES -- VALUE OF REAL AND PERSONAL PROPERTY -- SPECIAL TAX LEVIES. (1) (a) Except as provided in section 63-222~~0~~4, Idaho Code, during any one tax year, the maximum amount of all ad valorem taxes from all sources on any property subject to appraisal, assessment, and taxation within the state of Idaho shall not exceed one percent (1%) of the market value for assessment purposes of such property, including the current market values of all residential improvements, notwithstanding any exemption of a portion of such values from ad valorem taxation.

(b) The limitation provided for in paragraph (a) of this subsection shall not apply to ad valorem taxes or special assessments to pay

the principal of and the interest and redemption charges on any indebtedness incurred prior to the time this section becomes effective, nor shall the limitation provided for in paragraph (a) apply to ad valorem taxes to pay the principal of and the interest and redemption charges on any indebtedness incurred on or after November 7, 1978, as prescribed by the constitution of the state of Idaho, nor shall the limitation provided for in paragraph (a) apply to special assessments levied on or after November 7, 1978, as provided by law.

(2) The market value for assessment purposes of real and personal property subject to appraisal by the county assessor shall be determined by the county assessor according to the rules and regulations prescribed by the state tax commission, as provided in section 63-202, Idaho Code, but where real property is concerned it shall be the actual and functional use of the real property. All taxable property shall be annually appraised or indexed to reflect that valuation.

(3) If any section, part, clause or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect.

SECTION 6. This act shall be in full force and effect on and after January 1, 1992.

Approved April 4, 1991.

CHAPTER 311
(H.B. No. 371)

AN ACT
RELATING TO CITY REVENUE BONDS; AMENDING SECTION 50-1029, IDAHO CODE, TO REDEFINE "WORKS" AND TO DEFINE "DRAINAGE SYSTEM."

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

SECTION 1. That Section 50-1029, Idaho Code, be, and the same is hereby amended to read as follows:

50-1029. DEFINITIONS. For the purpose of this act, unless a different meaning clearly appears from the context, the following terms shall be ascribed the following meanings:

(a) The term "works" shall include water systems, <u>drainage systems,</u> sewerage systems, recreation facilities, off-street parking facilities, air-navigation facilities or any of them as herein defined;

(b) The term "water system" shall include reservoirs, storage facilities, water mains, conduits, aqueducts, pipelines, pumping stations, filtration plants, and all appurtenances and machinery necessary or useful for obtaining, storing, treating, purifying or transporting water for domestic uses or purposes. The term "domestic uses or purposes" includes by way of example but not by way of limitation the use of water at any temperature for space heating or cooling, culinary, sanitary, recreational or therapeutic purposes;

(c) The term "sewerage system" shall include intercepting sewers, outfall sewers, force mains, collecting sewers, pumping stations, ejector stations, treatment plants, structures, buildings, machinery, equipment, connections and all other appurtenances necessary, useful or convenient for the collection, transportation, treatment, purification, and disposal of the sewage of any city or any part of territory included within the territorial limits of any city;

(d) The term "off-street parking" shall include all machinery, equipment and appurtenances, including lands, easements, rights-of-way and buildings required, necessary or useful for the parking of motor vehicles on lands or places other than public highways;

(e) The term "airport facilities and air-navigation facilities" shall include land acquisition, construction costs, buildings, equipment, and other necessary appurtenances, either wholly or partly within or without the corporate limits of such city, or wholly or partly within or without the state of Idaho;

(f) The term "rehabilitate existing electrical generating facilities" shall include the reconstruction, replacement, and betterment of existing generation facilities, properties and other related structures, together with all necessary equipment and appurtenances related thereto, used in or useful for the generation of electricity, including power plants, turbine generators, dams, penstocks, step-up transformers, electrical equipment and other facilities related to hydroelectric production plants, and related facilities for flood control, environmental, public recreation and fish and wildlife mitigation and enhancement purposes made necessary in order to comply with applicable state and federal requirements, but does not include transmission and distribution lines and their related structures, equipment and appurtenances.

(g) The term "drainage system" shall include ditches, channels, creeks, ponds, intake structures, diversion structures, levies, storm sewers, pump stations, force mains, buildings, easements, machinery, equipment, connections and all other appurtenances necessary, useful or convenient for the collection, treatment and disposal of any surface water, nuisance ground or subsurface water or stormwater of any city.

Approved April 4, 1991.

CHAPTER 312
(H.B. No. 373)

AN ACT

RELATING TO CASUALTY INSURANCE CONTRACTS; AMENDING SECTION 41-2511, IDAHO CODE, TO PROVIDE FOR A DEDUCTIBLE NOT TO EXCEED ONE HUNDRED FIFTY DOLLARS FOR COMPREHENSIVE COVERAGE AND A DEDUCTIBLE NOT TO EXCEED THREE HUNDRED DOLLARS FOR COLLISION COVERAGE AS A CONDITION FOR RENEWAL OF AN AUTOMOBILE INSURANCE POLICY.

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

SECTION 1. That Section 41-2511, Idaho Code, be, and the same is hereby amended to read as follows:

41-2511. DEDUCTIBLE -- PERMISSIVE. Nothing in sections 41-2506 through 41-2512 ~~of--this-act~~, Idaho Code, shall prohibit, or be construed to prohibit, an insurer from requiring a provision for a reasonable deductible not exceeding one hundred fifty dollars ($1050) in amount as to comprehensive coverage and not exceeding three hundred dollars ($300) in amount as to collision or physical damage ~~and-comprehensive~~ coverages of the policy, as a condition to renewal of an automobile insurance policy.

Approved April 4, 1991.

CHAPTER 313
(H.B. No. 374)

AN ACT

RELATING TO SCHOOL DISTRICT LEVIES; AMENDING SECTION 33-802, IDAHO CODE, TO PROVIDE THAT CERTAIN SCHOOL DISTRICTS MAY WITH VOTER APPROVAL AUTHORIZE AN INDEFINITE TERM SUPPLEMENTAL LEVY FOR MAINTENANCE AND OPERATION OF THE DISTRICT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-802, Idaho Code, be, and the same is hereby amended to read as follows:

33-802. SCHOOL LEVIES. Any tax levied for school purposes shall be a lien on the property against which the tax is levied. The board of trustees shall determine the levies upon each dollar of taxable property in the district for the ensuing fiscal year as follows:

1. Bond, Interest and Judgment Obligation Levies. Such levies as shall be required to satisfy all maturing bond, bond interest, and judgment obligations, which levies shall be exempt from the limitation imposed by section 63-923(1), Idaho Code.

2. Maximum School Maintenance and Operation Levies. Such levies for maintaining and operating the schools of the district and for the payment of tuition and transportation, that do not exceed an amount equal to four-tenths of one percent (.4%) applied to the actual or adjusted market value for assessment purposes of the district as such valuation existed on December 31 of the previous year, but allowances necessary as a credit for prepaid taxes, as provided in section 63-1607, Idaho Code, shall not be included in such four-tenths of one percent (.4%).

3. Authorized School Maintenance and Operation Levies. Such levies for maintaining and operating the schools of the district and for the payment of tuition and transportation that do not exceed one hundred eleven percent (111%) of the local district's contribution authorized in subsection 2 of section 33-1002, Idaho Code. Implementation of the provisions of this subsection shall be authorized only

after approval by a majority of the district's electors voting on the question; if so authorized, all levies made thereafter under this subsection shall be exempt from the provisions of section 63-2220, Idaho Code. Levies otherwise authorized by law shall not require an election.

4. Supplemental Maintenance and Operation Levies. No levy in excess of the levy permitted by subsection 2 or 3 of this section shall be made by a noncharter school district unless such a supplemental levy in a specified amount and for a specified time not to exceed two (2) years be first authorized through an election held pursuant to chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election, which supplemental levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, and from the provisions of section 63-2220, Idaho Code. A levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees in the second year.

5. Charter District Supplemental Maintenance and Operation. The privilege of a charter notwithstanding, all charter districts shall limit the ad valorem portion of the budget request for operating purposes to the limitation required by section 63-2220, Idaho Code, unless levies pursuant to the respective charter of any such charter district are first authorized through an election held pursuant to chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election. If so authorized, and if not in conflict with any provision of its charter, all levies made thereafter by such charter district in excess of the levies authorized in subsection 2 of this section shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, and from the provisions of section 63-2220, Idaho Code.

6. General School Maintenance and Operation Limitations. All noncharter school districts shall limit the budget request for operating purposes to the limitation required by section 63-2220, Idaho Code, subject to the provisions of this section.

7. The Local District Contribution. The local school district contribution levy is the amount utilized for calculating local district participation in the educational foundation program, which is applied to the adjusted market value for assessment purposes, as such valuation existed on December 31 of the previous year. The contribution levy and the authorized levy provided in subsection 3 of this section shall be exempt from the limitation imposed in section 63-923(1), Idaho Code, and from the provisions of section 63-2220, Idaho Code.

8. The board of trustees of any school district that has, for at least seven (7) consecutive years, been authorized through an election held pursuant to chapter 4, title 33, Idaho Code, to certify a supplemental levy that has annually been equal to or greater than twenty percent (20%) of the total general maintenance and operation fund, may submit the question of an indefinite term supplemental levy to the electors of the school district. Such question shall clearly state the dollar amount that will be certified annually and that the levy will be for an indefinite number of years. The question must be approved by a majority of the district electors voting on the question in an election held pursuant to chapter 4, title 33, Idaho Code, which supple-

mental 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. The levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees during any fiscal year.

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

Approved April 4, 1991.

CHAPTER 314
(H.B. No. 383)

AN ACT

RELATING TO THE LEGISLATIVE AUDITOR; AMENDING SECTION 67-442, IDAHO CODE, TO PROVIDE A TERM OF OFFICE FOR THE LEGISLATIVE AUDITOR; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 67-442, Idaho Code, be, and the same is hereby amended to read as follows:

67-442. TERM OF OFFICE -- REMOVAL FOR CAUSE. The legislative auditor shall be appointed for a term of ~~six (6)~~ two (2) years. He may be removed from office for cause at any time by the joint finance-appropriations committee.

SECTION 2. This act shall be in full force and effect on and after July 31, 1991.

Approved April 4, 1991.

CHAPTER 315
(H.B. No. 388)

AN ACT

RELATING TO GYMNASIUM AND GROUNDS LEVIES OF COMMUNITY COLLEGES; AMENDING SECTION 33-2112, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO CHANGE MILLS TO PERCENTAGE OF ASSESSED VALUE AND TO EXEMPT THE GYMNASIUM AND GROUNDS LEVY OF COMMUNITY COLLEGE DISTRICTS FROM THE PROVISIONS OF THE ONE PERCENT TAX LIMITATION.

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

SECTION 1. That Section 33-2112, Idaho Code, be, and the same is hereby amended to read as follows:

33-2112. ADDITIONAL TAX LEVY FOR GYMNASIUM AND GROUNDS. The board of trustees of any ~~junior~~ community college district may levy a tax not exceeding one-~~half-(1/2)-mill~~ one-hundredth percent (.01%) on each dollar of the assessed value of the taxable property within the district for the maintenance and care of the gymnasium and college grounds of the district, in addition to other taxes authorized by law for the maintenance and support of the ~~junior~~ community college. Such levy shall be exempt from the limitation imposed in 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.

Approved April 4, 1991.

CHAPTER 316
(H.B. No. 395)

AN ACT

RELATING TO THE SALARIES FOR MEMBERS OF THE STATE TAX COMMISSION; AMENDING SECTION 63-508, IDAHO CODE, TO SET THE SALARIES FOR MEMBERS OF THE STATE TAX COMMISSION.

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 forty-~~three~~eight thousand ~~seven~~ four hundred and ~~twenty~~eighty-five dollars ($~~43,725~~48,485) notwithstanding the provisions of section 59-510, Idaho Code.

Approved April 4, 1991.

CHAPTER 317
(H.B. No. 398)

AN ACT

APPROPRIATING MONEYS FOR THE OFFICE ON AGING FOR FISCAL YEAR 1992; 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 Office on Aging the following amount, to be expended according to the designated expense classes from the listed accounts, for the period July 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$252,700	$126,400	$10,200	$1,514,500	$1,903,800
Office on Aging Non-Federal Account		16,000			16,000
Office on Aging Federal Account	316,200	65,500		4,491,600	4,873,300
TOTAL	$568,900	$207,900	$10,200	$6,006,100	$6,793,100

SECTION 2. It is legislative intent that, of those moneys appropriated in Section 1 of this act for the Hearing Impaired Task Force, the Office on Aging contract for assistance in planning and program development.

Approved April 4, 1991.

CHAPTER 318
(H.B. No. 403)

AN ACT

RELATING TO INCOME TAX CREDITS; PROVIDING A STATEMENT OF LEGISLATIVE FINDINGS; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029G, IDAHO CODE, TO PROVIDE AN INCOME TAX CREDIT DURING TAXABLE YEARS 1991 AND 1992 FOR COSTS INCURRED IN A FEASIBILITY STUDY; AMENDING SECTION 63-3022, IDAHO CODE, TO PROVIDE APPLICATION OF THIS CREDIT; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. FINDINGS. The legislature finds and declares that:

(1) Among the many forms of brain cancer, Glioblastoma Multiforme is the most aggressive resulting in death in almost one hundred percent (100%) of the cases diagnosed, and affects such small numbers of individuals residing in Idaho and the United States that it is considered rare and has been designated an "orphan disease" by the federal food and drug administration;

(2) Adequate drugs, treatment and treatment facilities for Glioblastoma Multiforme have not been developed in Idaho, the United States or the world;

(3) Drugs and devices for treatment of orphan diseases are commonly referred to as "orphan drugs and devices";

(4) Because so few individuals are affected by Glioblastoma Multiforme, a private company which develops and tests an orphan drug or device for treating Glioblastoma Multiforme may reasonably expect

the drug or device to generate relatively small revenues in comparison to the cost of developing and testing the drug or device, and consequently could incur a financial loss;

(5) Private industry in Idaho, including small local businesses, would not be able to establish a nuclear medical research and brain tumor treatment facility without financial incentives similar to those offered by the federal government for research conducted on orphan drugs and devices;

(6) It is in the public interest to provide such incentives for the establishment of a nuclear medical research and brain tumor treatment facility in Idaho;

(7) Technology advancement is a key component to growth of the state of Idaho and of the growth of the United State's industrial economy; and

(8) The Idaho National Engineering Laboratory (INEL), Eastern Idaho Regional Medical Center, Mountain States Tumor Institute (MSTI), Idaho State University and other universities and colleges located in Idaho have outstanding capabilities representing such disciplines as neurology, oncology, radiology, pharmacology, hospital administration, science, and nuclear engineering, and these institutions could contribute substantially, in cooperation with other segments of the private sector, in developing a nuclear medical research and brain tumor treatment facility in Idaho.

SECTION 2. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3029G, Idaho Code, and to read as follows:

63-3029G. TAX CREDITS FOR A FEASIBILITY STUDY CONCERNING THE ESTABLISHMENT OF A NUCLEAR MEDICAL RESEARCH AND BRAIN TUMOR TREATMENT FACILITY. (1) At the election of the taxpayer, there shall be allowed during taxable years 1991 and 1992 only, subject to the limitations provided herein, as a credit as limited by paragraph 4 of this section against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of contributions made by such taxpayer for a study demonstrating the feasibility of establishing a nuclear medical research and brain treatment facility located within the state of Idaho.

(2) Allowable costs include reasonable costs to determine the extent of private sector funding available for establishing the facility contemplated in this section and to determine the economic effect on state and local units of government, small businesses and the colleges and universities located in Idaho.

(3) Prior to May 1, 1991, Idaho state university shall select one (1) private sector for profit entity to conduct or contract for the necessary research for this study and at least twenty-five percent (25%) of the cost of such study shall include research conducted by the universities and colleges located in Idaho. The entity selected shall have the responsibility to secure the necessary private sector funding to support this feasibility study.

(4) Prior to December 31, 1992, copies of the completed study shall be deposited with the senate and house of representatives of the

state of Idaho, the governor, Idaho state university, the department of commerce, the east-central Idaho planning and development association, INEL, and with the office of the United States secretary of energy. In order for the credit to be available to a taxpayer, a copy of the study shall also be filed with the state tax commission and shall identify the nature and amounts received from each taxpayer. The total amount received from all taxpayers shall not exceed two hundred thousand dollars ($200,000).

(5) The amount claimed as a credit under a partnership or subchapter S corporation shall be separately stated for each partner and shareholder.

SECTION 3. 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.

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

(1) a. The standard deduction as defined by section 63, Internal Revenue Code, plus contributions made to the state of Idaho for credit to the medical assistance account, if such contributions were not previously subtracted in arriving at taxable income, plus

b. Itemized expenditures of not to exceed one thousand dollars ($1,000) per cared for member incurred in providing personal care services to or for an immediate member of the taxpayer's family; such services may be provided either in the taxpayer's home or the family member's home; personal care services shall be as defined in chapter 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 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 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 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 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.

(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.

(q) Add the amount claimed as a credit under section 63-3029G, Idaho Code, if previously deducted in arriving at taxable income.

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, 1991.

Approved April 4, 1991.

CHAPTER 319
(H.B. No. 409)

AN ACT

RELATING TO THE GRAPE GROWERS AND WINE PRODUCERS COMMISSION; AMENDING SECTION 54-3603, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 54-3604, IDAHO CODE, TO DELETE THE REQUIREMENTS THAT MEMBERS BE FROM DISTRICTS AND TO PROVIDE A NEW APPOINTMENT PROCEDURE;

AMENDING SECTION 54-3607, IDAHO CODE, TO ALLOW THE COMMISSION TO ACCEPT TAX RECEIPTS; AND REPEALING SECTIONS 54-3610 AND 54-3611, IDAHO CODE.

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

SECTION 1. That Section 54-3603, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

~~(5)--"District-no.-3"-shall-consist-of-Gem,--Payette,--Washington,-Adams,--Idaho,-Lewis,-Nez-Perce,-Clearwater,-Latah,-Benewah,-Shoshone,-Kootenai,-Bonner-and-Boundary-counties.~~

(6~~3~~) "Grower" means any person who owns, operates or plants a native vineyard of ~~two-(2)~~ four (4) or more acres.

(7~~4~~) "Native vineyard" means acreages planted in vinifera and/or other grapes cultivated primarily for the purpose of vinification.

(8~~5~~) "Person" means any partnership, association, corporation, cooperative or other business unit or device.

(9~~6~~) "Producer" means any person who owns, operates or conducts a bonded winery within this state where at least ~~one-thousand-(1,000)~~ five hundred (500) cases of wine per year, are vinified in whole or in part for sale.

(~~10~~7) "Winery" means a place, premise and/or establishment within the state of Idaho for the manufacture and/or bottling of wine for sale.

SECTION 2. That Section 54-3604, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(a) Prior to July 1, the growers of ~~each-district~~ the state shall convene for the purpose of nominating grower commission members. The growers of ~~each--district~~ the state shall nominate at least

~~one--(1)~~ three (3) and no more than ~~three-(3)~~ six (6) growers and submit the names to the governor.

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

Initial commission members shall commence their terms, August 1, 198~~4~~91. Terms of commission members thereafter shall be for three (3) years.

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

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

SECTION 3. That Section 54-3607, Idaho Code, be, and the same is hereby amended to read as follows:

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

SECTION 4. That Sections 54-3610 and 54-3611, Idaho Code, be, and the same are hereby repealed.

Approved April 4, 1991.

CHAPTER 320
(H.B. No. 414)

AN ACT

RELATING TO SCHOOL DISTRICTS; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1002A, IDAHO CODE, TO PROVIDE FOR A RECOMPUTATION OF STATE AID TO CERTAIN SCHOOL DISTRICTS WHICH HAVE REAL PROPERTY WITHIN THE DISTRICT WHOSE OWNERS OF THE REAL PROPERTY HAVE FILED A BANKRUPTCY PETITION, TO PROVIDE PROCEDURES AND TO PROVIDE REPAYMENT IF CERTAIN EVENTS OCCUR; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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 33-1002A, Idaho Code, and to read as follows:

33-1002A. LOCAL DISTRICT CONTRIBUTION REDUCTION. (1) Notwithstanding any other provision of law to the contrary, for the fiscal year which commences on July 1, 1991, and for each succeeding fiscal year, in any school district in which a petition in bankruptcy is filed which results in the failure of payment of ad valorem taxes on more than five per cent (5%) of the current market value of the real property in the district, the state department of education shall eliminate that portion of market value used in the calculation of adjusted market valuation for the local district's contribution for the purpose of the educational support program contained in section 33-1002, Idaho Code.

(2) For the purpose of the provisions of this section, at the request of a school district made before May 1 of each year, the treasurer of the county or counties in which the school district is located shall, on or before May 1, 1991, and for each succeeding fiscal year, certify to the state department of education, the value of that property subject to a petition in bankruptcy filed in federal bankruptcy court, that exceeds five per cent (5%) of the market value of taxable property located within the boundaries of the school district.

(3) In the event that a school district which has received a reduction herein recaptures any of the ad valorem taxes that have been assessed and not paid at a later date, the school district shall reimburse these funds to the public school income fund for distribution in the subsequent year subject to appropriation to the extent that the moneys received by the school district pursuant to chapter 10, title 33, Idaho Code, exceeded that which would have been recovered but for the reduction contained herein.

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, 1991.

Approved April 4, 1991.

CHAPTER 321
(H.B. No. 415)

AN ACT

RELATING TO THE SALES TAX; AMENDING SECTION 63-3602, IDAHO CODE, TO PROVIDE DEFINITIONS USED IN THE SALES TAX ACT APPLY EXCEPT AS THE CONTEXT OR OTHER PROVISIONS OF THIS CHAPTER MAY REQUIRE; AMENDING SECTION 63-3615, IDAHO CODE, TO CORRECT A CODE REFERENCE; AMENDING SECTION 63-3622D, IDAHO CODE, TO PROVIDE DEFINITIONS, TO EXCLUDE CERTAIN REPAIRS FROM THE EXEMPTION AND STATE THE NATURE OF PROP-

ERTY INCLUDED AND EXCLUDED FROM THE EXEMPTION; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3602, Idaho Code, be, and the same is hereby amended to read as follows:

63-3602. DEFINITIONS. When used in this ~~act~~ chapter, the terms defined in ~~the following~~ sections 63-3603 --through 63-3618, ~~inclusive~~ Idaho Code, shall have the meanings respectively ascribed to them, except as the context or other provisions of this chapter may require.

SECTION 2. That Section 63-3615, Idaho Code, be, and the same is hereby amended to read as follows:

63-3615. STORAGE -- USE. (a) The term "storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer.

(b) The term "use" includes the exercise of any right or power over tangible personal property incident to the ownership or the leasing of that property or the exercise of any right or power over tangible personal property by any person in the performance of a contract, or to fulfill contract or subcontract obligations, whether the title of such property be in the subcontractor, contractor, contractee, subcontractee, or any other person, or whether the titleholder of such property would be subject to the sales or use tax, unless such property would be exempt to the titleholder under section 63-3622~~(d)~~D, Idaho Code, except that the term "use" does not include the sale of that property in the regular course of business.

(c) "Storage" and "use" do not include the keeping, retaining, or exercising of any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside the state, and thereafter used solely outside the state.

SECTION 3. 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)~~(a) The sale at retail, storage, use or other consumption in this state of:

(1) 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~~.

(2) Tangible personal property primarily and directly used or consumed in or during ~~such~~ a manufacturing, processing, mining, farming, or fabricating operations ~~by a business or segment of a~~

~~business--which--is--primarily-devoted-to-such-operation-or-operations~~, including, but not limited to, repair parts, lubricants, hydraulic oil, and coolants, which become a component part of such tangible personal property; provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation.

(~~2~~3) Chemicals, catalysts, and other materials which are used for the purpose of producing or inducing a chemical or physical change in the product or for removing impurities from the product or otherwise placing ~~a~~ the product in a more marketable condition~~, including~~ as part of an operation described in subsection (a)(2) of this section, and chemicals and equipment used in clean-in-place systems in the food processing and food manufacturing industries~~,-are-included-within-the-exemption-allowed-by-subsection-(1)-above,-as-are-other-articles-of-tangible-personal-property-used-in-the-actual-manufacturing,-processing,-mining,-farming-or-fabricating-operations~~.

(4) Safety equipment and supplies required to meet a safety standard of a state or federal agency when such safety equipment and supplies are used as part of an operation described in subsection (a)(2) of this section.

(5) Plants to be used as part of a farming operation.

(b) The exemptions allowed in subsections (a)(1), (2), (3) and (4) of this section are available only to a business or separately operated segment of a business which is primarily devoted to producing tangible personal property which that business will sell and which is intended for ultimate sale at retail within or without this state. An independent contractor providing services to a business entitled to an exemption under this section is not exempt as to any property owned, leased, rented or used by it unless, as a result of the terms of the contract, the use of the property is exempt under section 63-3615(b), Idaho Code.

(c) As used in this section, the term "directly used or consumed in or during" a farming operation means the performance of a function reasonably necessary to the operation of the total farming business, including, the planting, growing, harvesting and initial storage of crops and other agricultural products and movement of crops and produce from the place of harvest to the place of initial storage. It includes disinfectants used in the dairy industry to clean cow udders or to clean pipes, vats or other milking equipment.

(~~3~~d) The exemptions allowed ~~by-subsections-(1)-and-(2)-above~~ in this section does not include machinery, equipment, materials and supplies used in a manner that is incidental to the manufacturing, processing, mining, farming or fabricating operations such as maintenance and janitorial equipment and supplies ~~except-disinfectants-used-in-the-dairy-industry-to-clean-cow-udders-or-to-clean-pipes,--vats--or--other-milking-equipment;-nor-does-it-include~~.

(e) Without regard to the use of such property, this section does not exempt:

(1) ~~H~~hand tools with a unit purchase price not in excess of one hundred dollars ($100)~~;-nor-does-it-include~~. A hand tool is an instrument used or worked by hand.

(2) ~~T~~tangible personal property used in any activities other than

the actual manufacturing, processing, mining, farming or fabricating operations such as office equipment and supplies, and equipment and supplies used in selling or distributing activities~~,~~.

(3) Property used in research~~,~~ or development.

(4) Property used in transportation activities~~;--nor--shall--this exemption-include~~.

(5) Machinery, equipment, tools or other property used to make repairs. This subsection does not include repair parts that become a component part of tangible property exempt from tax under this section or lubricants, hydraulic oil, or coolants used in the operation of tangible personal property exempt under this section.

(6) Machinery, equipment, tools or other property used to manufacture, fabricate, assemble or install tangible personal property which is:

(i) Not held for resale in the regular course of business; and

(ii) Owned by the manufacturer, processor, miner, farmer or fabricator;

provided, however, this subsection does not prevent exemption of machinery, equipment, tools or other property exempted from tax under subsection (a)(2) or (a)(3) of this section.

(7) Any improvement to real property or fixture thereto or any tangible personal property which becomes or is intended to become a component of any real property or any improvement or fixture thereto.

(8) M~~m~~otor 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~~ or another state or any aircraft.

(9) T~~t~~angible personal property used or consumed in processing, producing or fabricating tangible personal property exempted from tax under this ~~act--by~~ chapter in sections 63-3622F, 63-3622G, 63-3622I and 63-3622M, Idaho Code.

(10) Tangible personal property described in section 63-3622HH, Idaho Code.

(f) Any tangible personal property exempt under this section which ceases to qualify for this exemption, and does not qualify for any other exemption or exclusion of the taxes imposed by this chapter, shall be subject to use tax based upon its value at the time it ceases to qualify for exemption. Any tangible personal property taxed under this chapter which later qualifies for this exemption shall not entitle the owner of it to any claim for refund.

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 December 11, 1990.

Approved April 4, 1991.

CHAPTER 322
(H.B. No. 416)

AN ACT
RELATING TO MUSEUM DISTRICTS; AMENDING SECTION 31-4701, IDAHO CODE, TO PROVIDE ELECTION DATES FOR FORMATION OF MUSEUM DISTRICTS.

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

SECTION 1. That Section 31-4701, Idaho Code, be, and the same is hereby amended to read as follows:

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 require-

ments, 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~~ on the first Tuesday succeeding the first Monday of November in any year, and 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.

Approved April 4, 1991.

CHAPTER 323
(H.B. No. 420)

AN ACT

RELATING TO EDUCATION OF EXCEPTIONAL CHILDREN; AMENDING THE CHAPTER HEADING OF CHAPTER 20, TITLE 33, IDAHO CODE; REPEALING SECTIONS 33-2002 AND 33-2003, IDAHO CODE; AMENDING SECTION 33-2002A, IDAHO CODE, TO REDESIGNATE THE SECTION, TO DELETE SPECIAL SERVICES FOR EXCEPTIONAL CHILDREN, AND TO PROVIDE DEFINITIONS; AMENDING SECTION 33-2001, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE SPECIAL EDUCATION AND SERVICES FOR CHILDREN WITH DISABILITIES AGES THREE YEARS TO TWENTY-ONE YEARS; AMENDING CHAPTER 20, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2003, IDAHO CODE, TO PROVIDE THAT SCHOOL DISTRICTS SHALL BE RESPONSIBLE FOR THE SPECIAL EDUCATION OF GIFTED/TALENTED CHILDREN AND TO PROVIDE ELIGIBILITY AND CRITERIA FOR THAT EDUCATION; AMENDING SECTION 33-2005, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AND AMENDING SECTION 33-2005A, IDAHO CODE, TO DELETE THE REQUIREMENT THAT SCHOOL DISTRICTS SHALL BE REIMBURSED QUARTERLY FOR THE FUNDING OF ANCILLARY PERSONNEL SERVICES; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That the heading of Chapter 20, Title 33, Idaho Code, be, and the same is hereby amended to read as follows:

EDUCATION OF ~~THE--HANDICAPPED--OR-OTHERS-UNABLE-TO-ATTEND-SCHOOL~~ EXCEPTIONAL CHILDREN

SECTION 2. That Sections 33-2002 and 33-2003, Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Section 33-2002A, Idaho Code, be, and the same is hereby amended to read as follows:

33-200~~2A~~1. ~~SPECIAL-SERVICES-TO-BE-PROVIDED~~ DEFINITIONS. ~~Special services--for-exceptional-children-may-include-those-services-provided by-certified-ancillary-personnel-which-includes-certified-special-education-teachers-and-certified--consulting--teachers--for--students--in approved--special--education--programs,-certified-personnel-serving-as visiting-teachers-for-homebound-students,-speech--therapists,--hearing therapists,--school-social-workers,-psychological-examiners-and-school psychologists.-Supervisors-of-special-education-programs-and-directors of-special-education-programs-whose-major-responsibilities-are-in--the supervision--and--administration--of-special-education-programs-may-be considered-as-providing-services--under--this--act.--Approved--teacher aides-may-also-be-considered-as-providing-services-under-this-act.~~

1. "Ancillary personnel" ~~are~~ means those persons who render special services to exceptional children in regular or in addition to regular or special class instruction as defined by the state board of education.

2. "Exceptional children" mean both children with disabilities

and gifted/talented children with regard to funding for school districts.

3. "Children with disabilities" mean those children with mental retardation, hearing impairments, deafness, speech or language impairments, visual impairments, blindness, deaf-blindness, serious emotional disturbance, orthopedic impairments, severe or multiple disabilities, autism, traumatic brain injury, developmental delay or specific learning disabilities, and who by reason of the qualifying disability requires special education and related services.

4. "Gifted/talented children" mean those students who are identified as possessing demonstrated or potential abilities that give evidence of high performing capabilities in intellectual, creative, specific academic or leadership areas, or ability in the performing or visual arts and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

5. "Special education" or "special instructional service" means specially designed instruction or a related service at no cost to the parents, to meet the unique needs of an exceptional child.

SECTION 4. That Section 33-2001, Idaho Code, be, and the same is hereby amended to read as follows:

33-200~~1~~2. RESPONSIBILITY OF SCHOOL DISTRICTS FOR EDUCATION OF ~~EXCEPTIONAL~~ CHILDREN WITH DISABILITIES. Each public school district is responsible for and shall provide for the special education and ~~training~~ related services of ~~exceptional pupils resident~~ children with disabilities enrolled therein.

Every public school district in the state ~~may~~ shall provide instruction and training for persons ~~to~~ between the ages of three (3) years and twenty-one (21) years who are ~~exceptional~~ children with disabilities as defined in this ~~act~~ chapter and by the state board of education. The state board of education shall through its department of education determine eligibility criteria for ~~the exceptional~~ children with disabilities, qualifications of special teachers and special personnel, programs of instruction and minimum standards for classrooms and equipment to be used in administering the provisions of this act.

SECTION 5. That Chapter 20, 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 33-2003, Idaho Code, and to read as follows:

33-2003. RESPONSIBILITY OF SCHOOL DISTRICTS FOR EDUCATION OF GIFTED/TALENTED CHILDREN. Each public school district is responsible for and shall provide for the special instructional needs of gifted/talented children enrolled therein.

Public school districts in the state shall provide instruction and training for children between the ages of five (5) years and eighteen (18) years who are gifted/talented as defined in this chapter and by the state board of education. The state board of education shall, through its department of education, determine eligibility criteria and special personnel, programs of instruction and minimum standards

for classrooms and equipment to be used in administering the provisions of this chapter.

SECTION 6. That Section 33-2005, Idaho Code, be, and the same is hereby amended to read as follows:

33-2005. ANCILLARY PERSONNEL -- REIMBURSEMENT. Special instructional or educational services may be rendered by any school district or school districts for enrolled exceptional children, through contract for services or by the employment of full-time or part-time ancillary personnel in accordance with the regulations and standards prescribed by the state board of education. Whenever a school district or school districts provide such services and employ such personnel each district or designated district shall be reimbursed as provided in section 33-1007, Idaho Code.

SECTION 7. That Section 33-2005A, Idaho Code, be, and the same is hereby amended to read as follows:

33-2005A. ANCILLARY PERSONNEL -- FUNDING. Any school district, or combination of districts, which contracts for the services of ancillary personnel, shall be reimbursed during the current year of employment for such services. ~~Such reimbursement shall be payable quarterly.~~ Payment shall be conditioned upon prior receipt of such records and reports as the state board of education shall require in order to substantiate claims for such services. Total payments shall be in amounts up to and including eighty per cent (80%) of the salaries of such personnel as determined by appropriate placement on the regular teacher salary schedule of the district.

SECTION 8. Section 5 of this act shall be in full force and effect on and after July 1, 1993. The remaining sections of this act shall be in full force and effect on and after July 1, 1991.

Approved April 4, 1991.

CHAPTER 324
(H.B. No. 429)

AN ACT

RELATING TO RESTITUTION FOR CRIME VICTIMS; AMENDING SECTION 19-5304, IDAHO CODE, TO CLARIFY PROCEDURES FOR RESTITUTION TO VICTIMS OF CRIMES, AND TO CORRECT A CODE CITATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 19-5304, Idaho Code, be, and the same is hereby amended to read as follows:

19-5304. RESTITUTION FOR CRIME VICTIMS -- ORDERS TO BE SEPARATE

-- WHEN RESTITUTION IS NOT APPROPRIATE -- OTHER REMEDIES -- EVIDENTIARY HEARINGS -- DEFINITIONS. (1) As used in this chapter:

(a) "Economic loss" includes, but is not limited to, the value of property taken, destroyed, broken, or otherwise harmed, lost wages, and direct out-of-pocket losses or expenses, such as medical expenses resulting from the criminal conduct, but does not include less tangible damage such as pain and suffering, wrongful death or emotional distress.

(b) "Found guilty of any crime" shall mean a finding by a court that a defendant has committed a criminal act and shall include an entry of a plea of guilty, an order withholding judgment, suspending sentence, or entry of judgment of conviction for a misdemeanor or felony.

(c) "Value" shall be as defined in section 18-24~~0~~24(11), Idaho Code.

(d) "Property" shall be as defined in section 18-2402(8), Idaho Code.

(e) "Victim" shall mean a person or entity, named in the complaint, information or indictment, who suffers economic loss or injury as the result of the defendant's criminal conduct and shall also include the immediate family of a minor and the immediate family of the actual victim in homicide cases. Victim shall also mean any health care provider who has provided medical treatment to a victim if such treatment is for an injury resulting from the defendant's criminal conduct, and who has not been otherwise compensated for such treatment by the injured victim.

(2) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order a defendant found guilty of any crime which results in an economic loss to the victim to make restitution to the victim. An order of restitution shall be a separate written order in addition to any other sentence the court may impose, including incarceration, and may be complete, partial, or nominal. The court may also include restitution as a term and condition of judgment of conviction; however, if a court orders restitution in the judgment of conviction and in a separate written order, a defendant shall not be required to make restitution in an amount beyond that authorized by this chapter. Restitution shall be ordered for any economic loss which the victim actually suffers. The existence of a policy of insurance covering the victim's loss shall not absolve the defendant of the obligation to pay restitution.

(3) If the court determines that restitution is inappropriate or undesirable or if only partial or nominal restitution is ordered, it shall enter an order articulating the reasons therefor on the record.

(4) If a separate written order of restitution is issued, an order of restitution shall be for an amount certain and shall be due and owing at the time of sentencing or at the date the amount of restitution is determined, whichever is later. An order of restitution may provide for interest from the date of the economic loss or injury.

(5) The court may order the defendant to pay restitution to the victim in any case, regardless of whether the defendant is incarcerated or placed on probation. The court may order the defendant to pay all or a part of the restitution ordered to the court to be distributed by the court to the victims in a manner the court deems just.

(6) Restitution orders shall be entered by the court at the time of sentencing or such later date as deemed necessary by the court. Economic loss shall be based upon the preponderance of evidence submitted to the court by the prosecutor, defendant, victim or presentence investigator. Each party shall have the right to present such evidence as may be relevant to the issue of restitution, and the court may consider such hearsay as may be contained in the presentence report, victim impact statement or otherwise provided to the court.

(7) The court, in determining whether to order restitution and the amount of such restitution, shall consider the amount of economic loss sustained by the victim as a result of the offense, the financial resources, needs and earning ability of the defendant, and such other factors as the court deems appropriate. The immediate inability to pay restitution by a defendant shall not be, in and of itself, a reason to not order restitution.

(8) In determining restitution, where it appears that more than one (1) person is responsible for a crime that results in economic loss to a victim, and one or more of the suspects or defendants are not found, apprehended, charged, convicted or ordered to pay restitution, the court may require the remaining defendant or defendants, who are convicted of or plead guilty to the crime, to be joint and severally responsible for the entire economic loss to the victim.

(9) The court may, with the consent of the parties, order restitution to victims, and/or any other person or entity, for economic loss or injury for crimes ~~in cases or counts of criminal complaints~~ which are not adjudicated or ~~to victims who~~ are not before the court.

(10) A defendant, against whom a restitution order has been entered, may, within forty-two (42) days of the entry of the order of restitution, request relief from the restitution order in accordance with the Idaho rules of civil procedure relating to relief from final orders.

(11) An order of restitution shall not preclude the victim from seeking any other legal remedy.

(12) Every presentence report shall include a full statement of economic loss suffered by the victim or victims of the defendant's crime or crimes.

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

Approved April 4, 1991.

CHAPTER 325
(H.B. No. 430)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR THE IDAHO STATE POLICE PROGRAM FOR FISCAL YEAR 1992.

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

SECTION 1. There is hereby appropriated to the Department of Law Enforcement for the Idaho State Police Program the following amount, to be expended according to the designated expense classes from the listed accounts for the period July 1, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$ 1,460,000	$ 67,500			$ 1,527,500
Idaho Law Enforcement Account	7,253,300	2,262,100	$1,282,400		10,797,800
Hazardous Material/Waste Enforcement Account	126,200	61,900		$60,000	248,100
Federal Motor Carrier Safety Account	873,500	332,800			1,206,300
Federal Highway Safety/DOE Account	361,300	166,900		25,000	553,200
TOTAL	$10,074,300	$2,891,200	$1,282,400	$85,000	$14,332,900

Approved April 4, 1991.

CHAPTER 326
(H.B. No. 431)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE PAROLE COMMISSION FOR FISCAL YEAR 1992.

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

SECTION 1. There is hereby appropriated to the Department of Correction for the Parole Commission the following amount, to be expended according to the designated expense class from the listed account for the period July 1, 1991, through June 30, 1992:

FOR:	
Personnel Costs	$6,000
FROM:	
General Account	$6,000

Approved April 4, 1991.

CHAPTER 327
(H.B. No. 432)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 1992.

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

SECTION 1. There is hereby appropriated to the Idaho Transportation Department the following amounts, to be expended for the designated purposes from the listed accounts for the period July 1, 1991, through June 30, 1992:

A. FOR:	
State construction and maintenance	$12,000,000
Miscellaneous program support	468,000
TOTAL	$12,468,000
FROM:	
State Highway Account	$12,468,000
B. FOR:	
Aeronautics Division	$ 280,000
FROM:	
State Aeronautics Account	$ 280,000

Approved April 4, 1991.

CHAPTER 328
(H.B. No. 346)

AN ACT

RELATING TO LIMITATIONS OF ACTIONS; AMENDING CHAPTER 2, TITLE 5, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 5-246, IDAHO CODE, TO PROVIDE FOR PRESCRIPTIVE EASEMENTS FOR DAM OPERATIONS, TO PROVIDE TIME LIMITS FOR ACTIONS SIMILAR TO THOSE FOR OTHER PRESCRIPTIVE EASEMENTS, TO PROVIDE SAID EASEMENT MAY NOT BE SUBJECT TO FORFEITURE IF THE FAILURE TO EXERCISE IS CAUSED BY LACK OF WATER, TO PROVIDE ONE YEAR FOR PROPERTY OWNERS TO INITIATE ACTIONS RELATED TO OVERFLOW OF LANDS BY DAM OPERATIONS OCCURRING IN THE PREVIOUS FIVE YEARS, TO PROTECT CERTAIN PRIVATE AND STATE PROPERTY RIGHTS, AND TO PROVIDE THE EFFECT ON PRESCRIPTIVE OVERFLOW EASEMENTS PREVIOUSLY ACQUIRED UNDER COMMON LAW.

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

SECTION 1. That Chapter 2, Title 5, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 5-246, Idaho Code, and to read as follows:

5-246. PRESCRIPTIVE OVERFLOW EASEMENTS. In conformity with the limitations of actions time period set forth in sections 5-203 through 5-206, Idaho Code, the owner of a dam shall be deemed to have obtained a nonexclusive prescriptive overflow easement over real property which has been inundated or overflowed by the operations of the dam for at least a part of a year for any consecutive five (5) year period prior to commencement of an action by the property owner seeking relief inconsistent with such nonexclusive prescriptive overflow easement. Said dam owner shall be deemed to have not forfeited said nonexclusive prescriptive overflow easement if the reason for the failure to exercise the easement is a lack of water caused by drought or acts of God.

It is further provided that if a dam has inundated or overflowed real property for at least a part of a year for the five (5) consecutive years prior to the enactment of this section, then the owner of the dam shall be deemed to have obtained a nonexclusive prescriptive overflow easement hereunder over said real property one (1) year after the enactment of this section, provided, no action seeking relief inconsistent with such nonexclusive prescriptive overflow easement has been commenced by the property owner within one (1) year of the enactment of this section. The provisions of this section shall not be construed to affect the riparian and littoral rights of property owners to have access to and use of waters in this state, or to restrict any use of the underlying property for any purpose otherwise consistent with ownership thereof, even if said use interferes with the storage of water on the property. Nothing herein shall be deemed to affect any prescriptive overflow easement that any dam owner may have previously acquired under common law. The provisions of this section shall not be construed to apply to the beds of navigable waters lying below the natural or ordinary high watermark as defined in subsection (9) of section 58-104, Idaho Code.

Approved April 4, 1991.

CHAPTER 329
(S.B. No. 1068, As Amended, As Amended in the House)

AN ACT

RELATING TO ABUSE, NEGLECT AND EXPLOITATION OF VULNERABLE ADULTS; PROVIDING A STATEMENT OF LEGISLATIVE INTENT; AMENDING SECTION 39-5201, IDAHO CODE, AS ENACTED IN CHAPTER 286, LAWS OF 1982, TO REDESIGNATE AND TO PROVIDE A SHORT TITLE; AMENDING SECTION 39-5202, IDAHO CODE, AS ENACTED IN CHAPTER 286, LAWS OF 1982, TO REDESIGNATE AND TO PROVIDE DEFINITIONS; AMENDING SECTION 39-5303, IDAHO CODE, AS AMENDED IN SECTION 46, CHAPTER 213, LAWS OF 1990, TO PROVIDE FOR REPORTING CASES OF ABUSE, NEGLECT OR EXPLOITATION OF VULNERABLE ADULTS; AMENDING CHAPTER 53, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-5304, IDAHO CODE, TO PROVIDE REPORTING REQUIREMENTS; AMENDING CHAPTER 53, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-5305, IDAHO CODE, TO PROVIDE FOR INSPECTIONS AND RIGHT OF ENTRY; REPEALING SECTION 39-5206, IDAHO CODE, AS ENACTED IN CHAPTER 286, LAWS OF 1982; AMENDING SEC-

TION 39-5204, IDAHO CODE, AS ENACTED IN CHAPTER 286, LAWS OF 1982, TO REDESIGNATE, TO PROVIDE FOR SUPPORTIVE SERVICES, AND TO PROVIDE FOR THE APPOINTMENT OF A GUARDIAN OR A CONSERVATOR; AMENDING SECTION 39-5305, IDAHO CODE, AS AMENDED IN SECTION 47, CHAPTER 213, LAWS OF 1990, TO REDESIGNATE AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 39-5207, IDAHO CODE, AS ENACTED IN CHAPTER 286, LAWS OF 1982, TO REDESIGNATE; REPEALING SECTIONS 39-5209 AND 39-5210, IDAHO CODE, AS ENACTED IN CHAPTER 286, LAWS OF 1982; AMENDING SECTION 39-5208, IDAHO CODE, AS ENACTED IN CHAPTER 286, LAWS OF 1982, TO REDESIGNATE AND TO PROVIDE PROPER NOMENCLATURE; AMENDING CHAPTER 53, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-5310, IDAHO CODE, TO PROVIDE FOR REPORTS TO LAW ENFORCEMENT AGENCIES; AMENDING SECTION 39-5211, IDAHO CODE, AS ENACTED IN CHAPTER 286, LAWS OF 1982, TO REDESIGNATE AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 39-5212, IDAHO CODE, AS ENACTED IN CHAPTER 286, LAWS OF 1982, TO REDESIGNATE; AMENDING SECTION 111, CHAPTER 213, LAWS OF 1990, TO PROVIDE EFFECTIVE DATES FOR CERTAIN SECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. The intent of this legislation is to ensure that the adult population (eighteen (18) years of age and older) in the state of Idaho is protected from abuse, neglect and exploitation through the joint efforts of the Idaho department of health and welfare and law enforcement services. A secondary purpose is to ensure that these protective services are provided in the least restrictive environment to assure maximum independence of the individuals served. Nothing in this act shall be construed to authorize or obligate the department to act or intervene in situations more appropriately addressed in the domestic violence act.

SECTION 2. That Section 39-5201, Idaho Code, as enacted in Chapter 286, Laws of 1982, be, and the same is hereby amended to read as follows:

39-5~~2~~301. SHORT TITLE. This chapter shall be known and may be cited as the "~~Elderly~~ Adult Abuse, Neglect and Exploitation~~,--Neglect and Abandonment Reporting~~ Act."

SECTION 3. That Section 39-5202, Idaho Code, as enacted in Chapter 286, Laws of 1982, be, and the same is hereby amended to read as follows:

39-5~~2~~302. DEFINITIONS. For the purposes of this chapter:

~~(1)--"Abandonment"--means the desertion or willful forsaking of an elderly person by any individual, institution,--or--entity--which--has assumed responsibility for the care of any elderly person by contract, receipt--of--payment--for care, any relationship arising from blood or marriage wherein the--elderly--person--has--become--the--dependent--of another,--or--by order of a court of competent jurisdiction; provided, that "abandonment" shall not be construed to mean the--termination--of services--to--an--elderly person by a physician licensed under chapter~~

~~10,-title-54,-Idaho-Code,-or--anyone--under--his--direct--supervision, where--the-physician-determines,-in-the-exercise-of-his-or-her-professional-judgment,-that-termination-of-such--services--is--in--the--best interests-of-the-patient.~~

(~~2~~1) "Abuse" means ~~any--conduct-as-a-result-of-which-an-elderly person-suffers-skin-bruising,-bleeding,-malnutrition,-sexual--molestation,--burns,--fracture--of--any--bone,-subdural-hematoma,-soft-tissue swelling,-failure-to-thrive-or-death,-or-mental-injury,-and-such--condition--or--death--is--not-justifiably-explained,-or-where-the-history given-concerning-such-condition-or--death--is--at--variance--with--the degree--or-type-of-such-condition-or-death,-or-the-circumstances-indicate-that-such-condition-or-death-may-not-be-the-product-of--an--accidental--occurrence~~ the nonaccidental infliction of physical pain, injury or mental injury.

(2) "Caretaker" means any individual or institution that is responsible by relationship, contract, or court order to provide food, shelter or clothing, medical or other life-sustaining necessities to a vulnerable adult.

(3) "Department" means the Idaho department of health and welfare.

(4) ~~"Elderly-person"-means-any-resident-of-the-state-of-Idaho-who is-sixty-(60)-years-of-age-or-older.~~ "Emergency" means a situation in which a vulnerable adult's health and safety is placed in imminent danger. Imminent danger is when death or severe bodily injury could reasonably be expected to occur without intervention.

(5) "Exploitation" means ~~the--act--or--process--of--using--the resources-of-an-elderly--person--for--monetary--or--personal--benefit, profit--or-gain-by-use-of-threat,-undue-influence,-harassment,-duress, deception,-false-representation-or-false-pretenses~~ an action which may include, but is not limited to, the misuse of a vulnerable adult's funds, property, or resources by another person for profit or advantage.

~~(6)--"Goods-or-services-reasonably-necessary-to-sustain--the--life and--health--of--any--elderly--person"-mean-those-goods-or-services-an ordinarily-prudent-person-of-similar-age-and-circumstance--would--seek to--avoid--harm.-Such-goods-or-services-shall-be-determined-on-a-case-by-case-basis-and-may-include-the-provision-of-medical-care-for-physical-and-mental-health-needs;-medical-and-nursing-care;--adequate--food and--clothing;--suitable-and-safe-shelter;-noninstitutional-assistance in-nutrition,-hygiene,-and-homemaking;-transportation-to-obtain-necessary-goods-and-services;-and-such-other-goods-and-services-as--may--be made--available--to--eligible--elderly--persons,-from-whatever-source, designed-to-assist-in-achieving-the-purposes-of-this-chapter.~~

~~(7)--"Mental-injury"-means-a-substantial-impairment-in-the--intellectual--or--psychological--ability--of--an-elderly-person-to-function within-a-normal-range-of-performance--and/or--behavior.--The--list--of injuries--and--conditions-set-forth-in-this-subsection-is-illustrative only-and-shall-not-be-construed-to-exclude-any-other-injury-or--condition--which--is--not--listed-and-which-may-constitute-abuse-under-this chapter.~~

(~~8~~6) "Neglect" means ~~the-negligent~~ failure of a caretaker to provide ~~those-goods-or-services-which-are~~ food, clothing, shelter or medical care reasonably necessary to sustain the life and health of ~~an~~

~~elderly--person~~ a vulnerable adult, or the failure of a vulnerable adult to provide those services for himself.

(~~9~~7) "Supportive services" mean ~~that-array--of~~ noninvestigatory~~,~~ ~~preventive,--sustaining,-or-surrogate~~ remedial, social, legal, health, educational, mental health and referral services ~~authorized--by--the laws--of--the-United-States-or-the-state-of-Idaho-for-which-an-elderly person-is-eligible,-which-may-be-made-available-by-any-authorized-federal,-state,-local-or-other-authorized-agency,--subject--to--available resources,--to--prevent,-alleviate,-or-correct-conditions-arising-from abuse,-abandonment,-exploitation,-or-neglect~~ provided to a vulnerable adult.

(8) "Vulnerable adult" means a person eighteen (18) years of age or older who is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment which affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make or communicate or implement decisions regarding his person.

Nothing in this ~~act~~ chapter shall be construed to mean a person is abused, neglected, ~~abandoned,~~ or exploited~~,-or-in-need--of--supportive services--for--the-sole-reason-he-is-being-furnished-or-relies~~ for the sole reason he is relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination; nor shall ~~anything-in~~ the provisions of this ~~act~~ chapter be construed to ~~authorize,--permit,--or~~ require any medical care or treatment in contravention of the stated or implied objection of such a person.

SECTION 4. That Section 39-5303, Idaho Code, as amended in Section 46, Chapter 286, Laws of 1990, be, and the same is hereby amended to read as follows:

39-5303. DUTY TO REPORT~~ING~~ CASES OF ABUSE, NEGLECT OR EXPLOITATION ~~OR-NEGLECT-OF-THE-ELDERLY~~ OF VULNERABLE ADULTS. (1) Any ~~person having~~ physician, nurse, employee of a public or private health facility, or a state licensed or certified residential facility serving vulnerable adults, medical examiner, dentist, ombudsman for the elderly, osteopath, optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker who has reasonable cause to believe that ~~an-elderly-person~~ vulnerable adult is being or 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 immediately report ~~or-cause to-be-reported-within-twenty-four-(24)-hours~~ such ~~conditions--or--circumstances~~ information to the department. Failure to report as provided under this section is a misdemeanor subject to punishment as provided in section 18-113, Idaho Code.

(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 5. That Chapter 53, 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 39-5304, Idaho Code, and to read as follows:

39-5304. REPORTING REQUIREMENTS, INVESTIGATION, EMERGENCY ACCESS. (1) When a report is required pursuant to this chapter, such report shall be made immediately to the department. If known, the report shall contain the name and address of the vulnerable adult; the caretaker; the alleged perpetrator; the nature and extent of suspected abuse, neglect or exploitation; and any other information that will be of assistance in the investigation.

(2) If the allegations in the report indicate that an emergency exists, the department must initiate an investigation immediately, and initiate contact with the alleged vulnerable adult within twenty-four (24) hours. All other investigations must be initiated within seventy-two (72) hours.

(3) The department's investigation shall include a determination of the nature, extent and cause of the abuse, neglect, or exploitation, examination of evidence and consultation with persons thought to have knowledge of the circumstances and identification, if possible, of the person alleged to be responsible for the abuse, neglect or exploitation of the vulnerable adult.

(4) The investigation shall include an interview with the vulnerable adult, if possible. The department shall conduct the interview, preferably, by means of a personal visit with the vulnerable adult in the adult's dwelling. If that is not possible, the interview may occur

in the local office of the department, or by telephone conversation, or by any other means available to the department.

(5) Upon completion of an investigation, the department shall prepare a written report of the investigation. The name of the person making the original report or any person mentioned in the report shall not be disclosed unless those persons specifically request such disclosure or unless the disclosure is made pursuant to a request to law enforcement for emergency access, a court order or hearing.

If the abuse, neglect, or exploitation is substantiated to have occurred in a state certified or licensed facility, a copy of the findings shall be sent to the licensing and certification office of the department.

If the department determines that a report is unsubstantiated and that no other law has been violated, all records related to the report shall be expunged no later than three (3) years following the completion of the investigation.

SECTION 6. That Chapter 53, 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 39-5305, Idaho Code, and to read as follows:

39-5305. INSPECTIONS -- RIGHT OF ENTRY. (1) Upon receiving information that a vulnerable adult is alleged to be abused, neglected, or exploited, the department shall cause such investigation to be made in accordance with the provisions of this chapter as is appropriate. In making the investigation, the department shall use its own resources and may enlist the cooperation of peace officers. In an emergency any authorized department employee shall enlist the cooperation of a peace officer to ensure the safety of the vulnerable adult, and they shall receive the peace officer's assistance.

(2) For the purposes of implementing or enforcing any provision of this chapter or any rule or regulation authorized under the provisions of this chapter, any duly authorized state employee or representative may, upon presentation of appropriate credentials at any reasonable time, with consent or in an emergency, enter upon any private or public property where a vulnerable adult allegedly is subject to abuse, neglect, or exploitation.

(3) All inspections and searches conducted under the provisions 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 in this chapter, conduct warrantless administrative searches of private property except with consent, or in an emergency.

(4) If consent to entry is not given, a department representative with the assistance of the county prosecutor may obtain, and any magistrate or district judge is authorized to isue a search warrant upon showing that probable cause exists to believe a vulnerable adult is subject to abuse, neglect or exploitation. Upon request of a department representative, a peace officer shall serve the search warrant.

SECTION 7. That Section 39-5206, Idaho Code, as enacted in Chapter 286, Laws of 1982, be, and the same is hereby repealed.

SECTION 8. That Section 39-5204, Idaho Code, as enacted in Chapter 286, Laws of 1982, be, and the same is hereby amended to read as follows:

39-5~~2~~3046. SUPPORTIVE SERVICES AND DISCLOSURE. (1) If there is substantiated abuse, neglect, or exploitation of a vulnerable adult, the department has the responsibility to assist the adult in obtaining available services.

(2) If the department develops a plan of supportive services for the vulnerable adult, the plan shall provide for appropriate supportive services available to the vulnerable adult that are least restrictive for the personal freedom and shall provide encouragement for client self-determination and continuity of care.

(3) If the vulnerable adult does not consent to the receipt of reasonable and necessary supportive services, or if the vulnerable adult withdraws consent, services shall not be provided or continued.

(4) ~~Upon--evaluation--of-a-report-filed-pursuant-to-this-chapter, if-the-director-of~~ If the department determines that ~~an-elderly-person-who-is-a-victim-of-abuse,-abandonment,-exploitation,-or-neglect~~ vulnerable adult is an incapacitated person, as defined in section 15-5-101(a), Idaho Code, mentally ill as defined in section 66-317, Idaho Code, or developmentally disabled as defined in section 66-402, Idaho Code, the ~~director-is-authorized-to~~ department may petition the court for protective proceedings, appointment of a guardian or conservator and such other relief as may be provided by chapter 5, title 15, Idaho Code, ~~which-he-deems-necessary-to-protect-the-person,-property, and-affairs-of-such-elderly-person;-provided,-that-in--no--case--shall the--court--appoint-the-director-or-employees-or-agents-of-the-department-to-be-the-guardian-or-conservator--of--such--elderly--person~~ and chapters 3 and 4, title 66, Idaho Code.

(5) An employee of the department shall not be appointed the guardian or conservator of a vulnerable adult unless the department employee has a spousal or familial relationship with the vulnerable adult.

SECTION 9. That Section 39-5305, as amended in Section 47, Chapter 213, Laws of 1990, be, and the same is hereby amended to read as follows:

39-530~~5~~7. 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, 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~~ the vulnerable adult or his legal representative. No medical records of any ~~elderly--person~~ vulnerable adult may be divulged for any purpose without the express written consent of such person or his ~~or-her-court-appointed-guardian-or-conservator~~ legal representative, or pursuant to other proper judicial process.

SECTION 10. That Section 39-5207, Idaho Code, as enacted in Chapter 286, Laws of 1982, be, and the same is hereby amended to read as follows:

39-5~~207~~308. INTERAGENCY COOPERATION. In performing the duties set forth in this chapter, the department may request the assistance of the staffs and resources of all appropriate state departments, agencies and commissions and local health directors, and may utilize any other public or private agencies, groups or individuals who are appropriate and who may be available.

SECTION 11. That Sections 39-5209 and 39-5210, Idaho Code, as enacted in Chapter 286, Laws of 1982, be, and the same are hereby repealed.

SECTION 12. That Section 39-5208, Idaho Code, as enacted in Chapter 286, Laws of 1982, be, and the same is hereby amended to read as follows:

39-5~~2~~309. COORDINATION OF SERVICES. Subsequent to the authorization for the provision of reasonable and necessary emergency and support services, the department shall initiate a review of each case at reasonable intervals over a reasonable period of time as the department deems necessary based upon the circumstances in each individual case to determine whether continuation or modification of the services provided is warranted. A decision to continue the provision of such services should be made in concert with appropriate personnel from ~~other involved~~ state ~~and local groups,~~ agencies, ~~and~~ departments, service providers and others, and shall comply with the consent provisions of this chapter.

SECTION 13. That Chapter 53, 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 39-5310, Idaho Code, and to read as follows:

39-5310. REPORT TO LAW ENFORCEMENT -- PROSECUTION. If, as the result of any investigation initiated under the provisions of this chapter, it appears that the abuse, neglect, or exploitation has caused injury or a serious imposition on the rights of the vulnerable adult, the department shall immediately notify the appropriate law enforcement agency which shall initiate an investigation and shall determine whether criminal proceedings should be initiated against the caretaker or other persons in accordance with applicable state law.

SECTION 14. That Section 39-5211, Idaho Code, as enacted in Chapter 286, Laws of 1982, be, and the same is hereby amended to read as follows:

39-5~~2~~311. EFFECT OF ACTIONS TAKEN PURSUANT TO THE NATURAL DEATH ACT. Any action taken by a physician or health facility pursuant to an agreement with ~~an elderly person executed~~ vulnerable adult in accordance with the provisions of chapter 45, title 39, Idaho Code, shall

not be construed to constitute abuse, ~~abandonment,~~ exploitation, or neglect, so long as it is consistent with the withholding or withdrawal of artificial life-sustaining procedures from a qualified patient.

SECTION 15. That Section 39-5212, Idaho Code, as enacted in Chapter 286, Laws of 1982, be, and the same is hereby amended to read as follows:

39-5~~2~~312. RULES AND REGULATIONS. The director of the department shall have the authority to adopt, promulgate and enforce such rules and regulations as he deems necessary in carrying out the provisions of this chapter, subject to the provisions of chapter 52, title 67, Idaho Code.

SECTION 16. That Section 111, Chapter 213, Laws of 1990, be, and the same is hereby amended to read as follows:

> SECTION 111. Sections 1, ~~and~~ 2, 46 and 47 of this act shall be in full force and effect on and after July 1, 1990. ~~Sections 3 through 110~~ All other sections of this act shall be in full force and effect on and after July 1, 1993.

SECTION 17. An emergency existing therefor, which emergency is hereby declared to exist, Section 16 of this act shall be in full force and effect on and after its passage and approval.

Approved April 5, 1991.

CHAPTER 330
(S.B. No. 1083, As Amended in the House)

AN ACT

RELATING TO THE YOUTH CONSERVATION CORPS; AMENDING SECTIONS 56-603, 56-607 AND 56-609, IDAHO CODE, TO PROVIDE THAT YOUTH CONSERVATION CORPS PARTICIPANTS MAY BE EITHER MALE OR FEMALE, TO PROVIDE THAT THEIR COMPENSATION WILL BE SET BY THE PARK AND RECREATION BOARD, AND TO PROVIDE THAT THE PARTICIPANTS ARE COVERED AS CIVIL EMPLOYEES OF THE STATE FOR PURPOSES OF WORKER'S COMPENSATION.

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

SECTION 1. That Section 56-603, Idaho Code, be, and the same is hereby amended to read as follows:

56-603. REQUIREMENTS FOR PARTICIPANTS -- SUMMER CAMP. (a) Participants in the Idaho youth conservation project shall be ~~male individuals,~~ citizens of the United States and the state of Idaho, of good character and health who are not less than fourteen (14) years nor more than seventeen (17) years of age.

(b) In order to participate in the project an individual must

agree to comply with the rules and regulations as set up by the park board for the government of those taking part in the project.

(c) Participation shall be for the duration of one (1) summer camp as set by the park and recreation board.

SECTION 2. That Section 56-607, Idaho Code, be, and the same is hereby amended to read as follows:

56-607. COMPENSATION OF PARTICIPANTS. A. (1) The base compensation of participants shall be ~~at a rate of thirty dollars ($30.00) per month~~ set by the park and recreation board.

(2) The park and recreation board shall establish procedures whereby each participant may make an allotment to his parent, dependent, legal guardian, or any fund established for his benefit, of part of the periodic compensation to which he is entitled by this act, and such allotment shall be paid directly to the person or fund in which favor it is made.

B. In addition to compensation authorized in subsection A, participants shall be furnished with such quarters, subsistence, transportation, equipment, clothing, medical services, and hospital services as the park and recreation board may deem necessary or appropriate for their needs.

SECTION 3. That Section 56-609, Idaho Code, be, and the same is hereby amended to read as follows:

56-609. WORKMEN'S COMPENSATION BENEFITS. (a) Participants shall, for the purpose of the administration of the workmen's compensation law, be deemed to be civil employees of the state ~~and the provisions thereof shall apply to participants except as hereinafter provided.~~

~~(b) For the purposes of this section:~~

~~(1) Coverage under the workmen's compensation act shall not include any act of a participant:~~

~~(A) While he is on authorized leave or a pass; or~~

~~(B) While he is absent from his assigned post of duty, except while participating in an activity authorized by or under the direction or supervision of the project.~~

~~(2) In computing compensation benefits for disability or death under the workmen's compensation law, the monthly pay of a participant shall be deemed to be $150.00 a month.~~

~~(3) The term "injury" as defined in the workmen's compensation law shall not include:~~

~~(A) Mental disease or illness except where such disease or illness is caused by a disabling physical injury sustained while in the performance of duty; or~~

~~(B) Any other disease or illness which does not arise naturally out of service in the project or naturally or unavoidably result from a physical injury.~~

~~(4) Compensation for disability shall not begin to accrue until the day following the date on which the injured participant is discharged from the project.~~

Approved April 6, 1991.

CHAPTER 331
(H.B. No. 189)

AN ACT

RELATING TO ILLEGAL CREDIT CARD FACTORING OR LAUNDERING; AMENDING SECTION 18-3122, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 18-3123, IDAHO CODE, TO PROVIDE ADDITIONAL ELEMENTS OF THE CRIME OF FORGERY OF A FINANCIAL TRANSACTION CARD; AMENDING SECTION 18-3124, IDAHO CODE, TO PROVIDE ADDITIONAL ELEMENTS OF THE CRIME OF FRAUDULENT USE OF A FINANCIAL TRANSACTION CARD; AMENDING CHAPTER 31, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3125A, IDAHO CODE, TO PROVIDE THE CRIME OF UNAUTHORIZED FACTORING OF CREDIT CARD SALES DRAFTS; AMENDING SECTION 18-3126, IDAHO CODE, TO PROVIDE A CITATION; AND AMENDING SECTION 18-3127, IDAHO CODE, TO PROVIDE A CITATION.

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

SECTION 1. That Section 18-3122, Idaho Code, be, and the same is hereby amended to read as follows:

18-3122. DEFINITIONS. The following words and phrases used in this chapter mean:

(1) "Authorized credit card merchant" means a person or organization who is authorized by an issuer to furnish money, goods, services or anything of value upon presentation of a financial transaction card or a financial transaction card account number by a card holder, and to present valid credit card sales drafts to the issuer for payment.

(2) "Automated banking device" means any machine which, when properly activated by a financial transaction card and/or a personal identification code, may be used for any of the purposes for which a financial transaction card may be used.

(~~2~~3) "Card holder" means any person or organization named on the face of a financial transaction card to whom, or for whose benefit, a financial transaction card is issued by an issuer.

(4) "Credit card sales draft" means:

(a) Any sales slip, draft, voucher or other written or electronic record of a sale of goods, services or anything else of value made or purported to be made to or at the request of a card holder with a financial transaction card, financial transaction card account number or personal identification code; or

(b) Any evidence, however manifested, of any right or purported right to collect from a card holder funds due or purported to be due with respect to any sale or purported sale.

(~~3~~5) "Expired financial transaction card" means any financial transaction card which is no longer valid because the terms agreed to have been cancelled or have elapsed.

(~~4~~6) "Financial transaction card" or "FTC" means any instrument or device known as a credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card or by any other name issued by the issuer for the use of the card holder in obtaining money, goods, services, or anything else of value

on credit, or in certifying or guaranteeing to a person or business the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of such a person or business; or any instrument or device used in providing the card holder access to a demand deposit account or a time deposit account for the purpose of making deposits of money or checks therein, or withdrawing funds in the form of money, money orders, or travelers checks or other representative of value therefrom or transferring funds from any demand account or time deposit account to any credit card account in full or partial satisfaction of any outstanding balance existing therein.

(7) "Financial transaction card account number" means the account number assigned by an issuer to a financial transaction card to identify and account for transactions involving that financial transaction card.

(~~5~~8) "Issuer" means a business organization or financial institution or its duly authorized agent which issues a financial transaction card.

(~~6~~9) "Personal identification code" means any numerical and/or alphabetical code assigned to the card holder of a financial transaction card by the issuer to permit the authorized electronic use of that FTC.

(~~7~~10) "Revoked financial transaction card" means a FTC which is no longer valid because permission to use it has been suspended or terminated by the issuer with actual notice having been made upon the card holder.

SECTION 2. That Section 18-3123, Idaho Code, be, and the same is hereby amended to read as follows:

18-3123. FORGERY OF A FINANCIAL TRANSACTION CARD. Any person who, with intent to defraud, counterfeits, falsely makes, embosses, or encodes magnetically or electronically any FTC, or who with intent to defraud, uses the financial transaction card account number or personal identification code of a card holder in the creation of a fictitious or counterfeit credit card sales draft, signs the name of another, or a ~~ficticious~~ fictitious name to an FTC, sales slip, sales draft, credit card sales draft, or any instrument for the payment of money which evidences an FTC transaction, shall be guilty of forgery and shall be punished under the current forgery statutes of the state of Idaho.

SECTION 3. That Section 18-3124, Idaho Code, be, and the same is hereby amended to read as follows:

18-3124. FRAUDULENT USE OF A FINANCIAL TRANSACTION CARD. It is a violation of the provisions of this section for any person with the intent to defraud:

(1) To knowingly obtain or attempt to obtain credit or to purchase or attempt to purchase any goods, property, or service, by the use of any false, ~~ficticious~~ fictitious, counterfeit, revoked, expired or fraudulently obtained FTC, by any FTC credit number, or by the use of any FTC issued;

(2) To use an FTC to knowingly and willfully exceed the actual balance of the demand deposit account or time deposit account;

(3) To use an FTC to willfully exceed an authorized credit line in the amount of one thousand dollars ($1,000) or more, or fifty per cent (50%) of such authorized credit line, whichever is greater;

(4) To willfully deposit into his account or any other account by means of an automatic banking device, any false, forged, ~~fictitious~~ fictitious, altered or counterfeit check draft, money order, or any other such document;

(5) To make application for an FTC to an issuer, while knowingly making or causing to be made a false statement or report relative to his name, occupation, financial condition, assets, or to willfully and substantially under value any indebtedness for the purposes of influencing the issuer to issue an FTC;

(6) To knowingly sell or attempt to sell credit card sales drafts to an authorized credit card merchant or any other person or organization, for any consideration whether at a discount or otherwise, or present or cause to be presented to the issuer or an authorized credit card merchant, for payment or collection, any credit card sales draft, or purchase or attempt to purchase any credit card sales draft for presentation to the issuer or an authorized credit card merchant for payment or collection if:

(a) Such draft is counterfeit or fictitious;

(b) The purported sale evidenced by such credit card sales draft did not take place;

(c) The purported sale was not authorized by the card holder;

(d) The items or services purported to be sold as evidenced by such credit card sales draft are not delivered or rendered to the card holder or person intended to receive them; or

(e) If purportedly delivered or rendered, such goods or services are of materially lesser value or quality from that intended by the purchaser, or are materially different from goods or services represented by the seller or his agent to the purchaser, or have substantial discrepancies from goods or services impliedly represented by the purchase price when compared with the actual goods or services purportedly delivered or rendered.

(7) To knowingly keep or maintain in any manner carbon or other impressions or copies of credit card sales drafts, and to use such impressions or copies for the purpose of creating any fictitious or counterfeit credit sales draft, or to engage in any other activity prohibited in this section.

SECTION 4. That Chapter 31, 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 18-3125A, Idaho Code, and to read as follows:

18-3125A. UNAUTHORIZED FACTORING OF CREDIT CARD SALES DRAFTS. It is unlawful for any person to knowingly and with intent to defraud, employ, solicit or otherwise cause an authorized credit card merchant, or for the authorized credit card merchant itself, to present to the issuer for payment any credit card sales draft pertaining to any sale or purported sale of goods or services which was not made by such

authorized credit card merchant in the ordinary course of business, except with the express authorization of the issuer.

SECTION 5. That Section 18-3126, Idaho Code, be, and the same is hereby amended to read as follows:

18-3126. RECEIVING OR POSSESSING FRAUDULENTLY OBTAINED GOODS OR SERVICES. It is unlawful for any person to receive, retain, conceal, possess or dispose of personal property, cash or other representative of value, who knows or has reason to believe the property, cash or other representative of value has been obtained by fraud as set forth in sections 18-3123, ~~and~~ 18-3124 and 18-3125A, Idaho Code.

SECTION 6. That Section 18-3127, Idaho Code, be, and the same is hereby amended to read as follows:

18-3127. PENALTY FOR VIOLATION. (1) Any person found guilty of a violation of sections 18-3124, 18-3125, 18-3125A or 18-3126, Idaho Code, is guilty of a misdemeanor. In the event that the retail value of the goods obtained or attempted to be obtained through any violation of the provision of section 18-3124, 18-3125A or 18-3126, Idaho Code, amounts to the sum of one hundred fifty dollars ($150) or more, any such violation will constitute a felony, and will be punished as provided in this section.

(2) For purposes of this section, the punishment for a misdemeanor shall be a fine of up to one thousand dollars ($1,000) or up to one (1) year in the county jail, or by both such fine and imprisonment.

(3) For purposes of this section, the punishment for a felony shall be a fine of up to five thousand dollars ($5,000) or by imprisonment in the state prison not exceeding five (5) years, or by both such fine and imprisonment.

Approved April 6, 1991.

CHAPTER 332
(H.B. No. 319)

AN ACT

RELATING TO WATER QUALITY MANAGEMENT OF PRIEST LAKE; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 39-105, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE SHALL FORMULATE A WATER QUALITY MANAGEMENT PLAN FOR PRIEST LAKE TO BE SUBMITTED TO THE BOARD OF HEALTH AND WELFARE FOR ITS APPROVAL.

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

SECTION 1. (1) The legislature of the state of Idaho finds:

(a) That the waters of Priest lake are threatened with deterioration that may endanger the natural beauty, wildlife and fisheries value, recreational use and economic potential of Priest lake.

(b) That preservation and protection of Priest lake and mainte-

nance of the use and enjoyment of the lake is in the best interest of all citizens of the state.

(c) Recreational use of Priest lake is an important element of the northern Idaho economy.

(d) Increasing demands upon the lake require coordinated state and local action to maintain the existing water quality of the lake.

(2) Therefore, it is hereby declared that the purposes of this act are:

(a) To establish a lake water quality management plan for Priest lake to maintain existing water quality in lieu of an outstanding resource water designation.

(b) To establish that the department of health and welfare is responsible for protecting the current water quality of Priest lake during the management plan development period.

(c) To provide that the final plan will be approved by the board of health and welfare and thereafter submitted to the legislature.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

l. The supervision and administration of administrative units whose responsibility shall be to assist and encourage counties, cities, other governmental units, and industries in the control of and/or abatement of environmental and health problems.

m. The supervision and administration of a statewide solid waste disposal plan including the enforcement of rules and regulations

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

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

o. The formulation and adoption of a comprehensive state nutrient management plan for the surface waters of the state of Idaho in consultation with the appropriate state or federal agencies, local units of government, and with public involvement as provided for under the administrative procedures act. The director shall recommend by March 1, 1990, to the board for adoption, rules and regulations setting forth procedures for development of the plan, including mechanisms to keep the public informed and encourage public participation in plan development. The plan shall be developed on a hydrologic basin unit basis with a lake system emphasis. The panhandle hydrologic basin plan shall be completed no later than July 1, 1992. The remaining basin plans shall be completed no later than January 1, 1995. Each plan shall identify nutrient sources; the dynamics of nutrient removal, use, and dispersal; and preventative or remedial actions where feasible and necessary to protect the surface waters of the state. The director shall formulate and recommend to the board for adoption rules and regulations as necessary to implement the plan. The plan shall be used by the department and other appropriate agencies including soil conservation districts, public health districts and local units of government in developing programs for nutrient management. State and local units of government shall exercise their police powers in compliance with the comprehensive state nutrient management plan of this act. Local nutrient management programs adopted by any local unit of government prior to the completion of the state comprehensive nutrient management plan or a hydrologic basin plan shall be consistent with the criteria for inclusion in the comprehensive state nutrient management plan as enumerated in this subsection, as evidenced by findings of fact by the local units of government and confirmed by the division of environmental quality and the local health district board. The director shall recommend by March 1, 1990, to the board for adoption, rules and regulations for procedures to determine consistency.

(p) The formulation of a water quality management plan for Priest lake in conjunction with a planning team from the Priest lake area whose membership shall be appointed by the board and consist of a fair representation of the various land managers, and user and interest groups of the lake and its Idaho watershed. The stated goal of the plan shall be to maintain the existing water quality of Priest lake while continuing existing nonpoint source activities in the watershed and providing for project specific best management practices when necessary. The plan shall include comprehensive characterization of lake water quality through completion of a baseline monitoring program to be conducted by the department

and shall consider existing economics and nonpoint source activity dependent industries of the Priest lake area. The planning team shall conduct public hearings and encourage public participation in plan development including opportunity for public review and input. Technical assistance to the planning team, with state nonpoint source management programs in forest practices, road construction and maintenance, agriculture and mining shall be provided by the department. Technical assistance to the planning team on area planning, zoning and sanitary regulations shall be provided by the clean lakes council. The plan shall be submitted to the board for its approval at the end of a three (3) year plan development period. Upon review and acceptance by the board, the plan shall be submitted to the legislature for amendment, adoption or rejection. If adopted by the legislature, the plan shall be enacted by passage of a statute at the regular legislative session when it receives the plan and shall have the force and effect of law. Existing forest practices, agricultural and mining nonpoint source management programs are considered to be adequate to protect water quality during the plan development period.

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

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

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

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

Approved April 6, 1991.

CHAPTER 333
(S.B. No. 1231)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME; DESIGNATING MONEYS FOR PAYMENT IN LIEU OF TAXES; APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME IN ADDI-

TION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 373, LAWS OF 1990; TRANSFERRING MONEYS FROM THE GENERAL ACCOUNT TO THE SECONDARY DEPREDATION ACCOUNT; AND DECLARING AN EMERGENCY FOR SECTIONS 4 AND 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 Fish and Game not exceed the following amount for the period July 1, 1991, through June 30, 1992:

FOR:	
Personnel Costs	$19,860,400
Operating Expenditures	13,138,500
Capital Outlay	5,024,600
Trustee and Benefit Payments	532,000
TOTAL	$38,555,500
FROM:	
Fish and Game Account	$20,333,900
Fish and Game Set-aside Account	2,649,600
Primary Depredation Account	200,000
Secondary Depredation Account	100,000
Fish and Game Federal Account	14,812,900
Fish and Game Expendable Trust Account	422,500
Fish and Game Nonexpendable Trust Account	36,600
TOTAL	$38,555,500

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, 1991, through June 30, 1992:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish and Game Account	$ 1,552,500	$ 1,079,800	$ 300,600	$232,000	$ 3,164,900
Fish and Game Set-aside Account	11,600	3,300			14,900
Fish and Game Federal Account	1,199,600	703,500	301,600		2,204,700
TOTAL	$ 2,763,700	$ 1,786,600	$ 602,200	$232,000	$ 5,384,500
II. ENFORCEMENT:					
FROM:					
Fish and Game Account	$ 4,188,000	$ 909,300	$ 475,000		$ 5,572,300
III. FISHERIES:					
FROM:					
Fish and Game Account	$ 2,389,000	$ 1,594,300	$ 823,800		$ 4,807,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Set-aside Account	13,800	55,200	75,000		144,000
Fish and Game Federal Account	4,317,800	4,208,400	803,600		9,329,800
Fish and Game Expendable Trust Account	153,700	30,300	238,500		422,500
Fish and Game Nonexpendable Trust Account		31,900			31,900
TOTAL	$ 6,874,300	$ 5,920,100	$1,940,900		$14,735,300
IV. WILDLIFE:					
FROM:					
Fish and Game Account	$ 2,133,900	$ 1,548,400	$ 297,300		$ 3,979,600
Fish and Game Set-aside Account	71,200	37,100	21,400		129,700
Fish and Game Federal Account	1,439,400	891,700	90,700		2,421,800
Fish and Game Nonexpendable Trust Account	2,800	1,900			4,700
TOTAL	$ 3,647,300	$ 2,479,100	$ 409,400		$ 6,535,800
V. INFORMATION AND EDUCATION:					
FROM:					
Fish and Game Account	$ 718,800	$ 532,900	$ 54,100		$ 1,305,800
Fish and Game Federal Account	103,500	65,600	32,500		201,600
TOTAL	$ 822,300	$ 598,500	$ 86,600		$ 1,507,400
VI. ENGINEERING:					
FROM:					
Fish and Game Account	$ 579,000	$ 48,600	$ 196,100		$ 823,700
Fish and Game Federal Account	36,300	19,200			55,500
TOTAL	$ 615,300	$ 67,800	$ 196,100		$ 879,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VII. PROGRAM COORDINATION:					
FROM:					
Fish and Game Account	$ 337,800	$ 63,100	$ 19,500		$ 420,400
Fish and Game Federal Account	378,000	153,500	68,000		599,500
TOTAL	$ 715,800	$ 216,600	$ 87,500		$ 1,019,900
VIII. WINTER FEEDING, DEPREDATION CONTROL, AND HABITAT IMPROVEMENT:					
FROM:					
Fish and Game Account	$ 203,100	$ 57,000			$ 260,100
Primary Depredation Account				$200,000	200,000
Secondary Depredation Account				100,000	100,000
Fish and Game Set-aside Account	30,600	1,103,500	$1,226,900		2,361,000
TOTAL	$ 233,700	$ 1,160,500	$1,226,900	$300,000	$ 2,921,100
GRAND TOTAL	$19,860,400	$13,138,500	$5,024,600	$532,000	$38,555,500

SECTION 3. Of the amounts appropriated by Section 2 of this act for the Administration Program, for trustee and benefit payments, $132,000 is included specifically for payment in lieu of taxes pursuant to subsections (1), (2) and (3) of section 63-105A, Idaho Code, as enacted in Senate Bill 1140, First Regular Session, Fifty-first Idaho Legislature.

SECTION 4. In addition to the appropriation made by Section 2, Chapter 373, Laws of 1990, there is hereby appropriated to the Department of Fish and Game the following amount to be expended for the specified program according to the designated expenditure class from the listed accounts for the period July 1, 1990, through June 30, 1991:

WINTER FEEDING, DEPREDATION CONTROL AND HABITAT IMPROVEMENT:

FROM:	
Primary Depredation Account	$ 200,000
Secondary Depredation Account	100,000
General Account	1,000,000
TOTAL	$1,300,000
FOR:	
Trustee and Benefit Payments	$1,300,000

SECTION 5. Of the moneys appropriated to the Winter Feeding, Depredation Control and Habitat Improvement Program for trustee and benefit payments in Section 4 of this act, the State Auditor shall trans-

fer $1,000,000 from the General Account to the Secondary Depredation Account.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Sections 4 and 5 of this act shall be in full force and effect on and after passage and approval.

Approved April 9, 1991.

CHAPTER 334
(H.B. No. 298)

AN ACT

RELATING TO GASEOUS FUELS; AMENDING SECTION 63-2424, IDAHO CODE, TO PROVIDE FOR PAYMENT OF AN ANNUAL FEE ON A VEHICLE POWERED BY GASEOUS FUELS IN LIEU OF THE EXCISE TAX AND TO SPECIFY THE AMOUNT OF SUCH FEE.

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

SECTION 1. That Section 63-2424, Idaho Code, be, and the same is hereby amended to read as follows:

63-2424. GASEOUS FUELS. (1) In the case of special fuels which are in a gaseous form, the commission shall provide by regulation the method to be used for converting the measurement of the fuel to the equivalent of gallons for the purpose of applying tax rates. The method provided shall cause the tax rate provided in section 63-2405, Idaho Code, to apply to an amount of gaseous fuels having energy equal to one (1) gallon of gasoline.

(2) As an alternative to the provisions of subsection (1) of this section, an annual fee in lieu of the excise tax may be collected on a vehicle powered by gaseous fuels. The rate of the fee shall be based on the following schedule as adjusted by the formula set out below. The permits shall be sold by gaseous fuels vendors dispensing propane into motor vehicles.

VEHICLE TONNAGE (GVW)	FEE
0 - 8,000	$ 50.00
8,001 - 16,000	$ 75.00
16,001 - 26,000	$150.00
26,001 and above	$175.00

Permits for vehicles which are converted to gaseous fuels after the first of July in any year shall have the fee prorated for the appropriate number of months until renewal. The commission shall provide by regulation the method to be used for converting the measurement of fuel to the equivalent of gallons for the purpose of applying increases in tax rates after this law becomes effective. A decal issued by the department shall be displayed in any vehicle for which a permit is issued hereunder as evidence that the annual fee has been paid in lieu of the fuel tax. This decal shall be displayed in a con-

spicuous place on the exterior of the vehicle on the rear bumper or near the fuel tank inlet.

Approved April 9, 1991.

CHAPTER 335
(S.B. No. 1064, As Amended in the House)

AN ACT
RELATING TO THE HUMAN RIGHTS COMMISSION; AMENDING SECTION 67-5902, IDAHO CODE, TO REDEFINE EMPLOYER.

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

SECTION 1. That Section 67-5902, Idaho Code, be, and the same is hereby amended to read as follows:

67-5902. DEFINITIONS. In this act, unless the context otherwise requires:

(1) "Commission" means the commission on human rights created by this act;

(2) "Commissioner" means a member of the commission;

(3) "Discriminatory practice" means a practice designated as discriminatory under the terms of this act;

(4) "National origin" includes the national origin of an ancestor;

(5) "Person" includes an individual, association, corporation, joint apprenticeship committee, joint-stock company, labor union, legal representative, mutual company, partnership, any other legal or commercial entity, the state, or any governmental entity or agency;

(6) "Employer" means a person, wherever situated, who ~~has ten (10)~~ hires five (5) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year whose services are to be partially or wholly performed in the state of Idaho, except for domestic servants hired to work in and about the person's household. The term also means~~;~~:

(a) a person who as contractor or subcontractor is furnishing material or performing work for the state;

(b) any agency of or any governmental entity within the state; and

(c) any agent of such employer.

(7) "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person;

(8) "Labor organization" includes~~;~~:

(a) an organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievance, labor disputes, wages, rates of pay, hours, or other terms or conditions of

employment;

(b) a conference, general committee, joint or system board, or joint council which is subordinate to a national or international labor organization; or

(c) an agent of a labor organization.

(9) "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public;

(10) "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, or university and a business, nursing, professional, secretarial, technical, or vocational school~~;~~ and includes an agent of an educational institution;

(11) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal or any interest therein;

(12) "Real estate transaction" includes the sale, exchange, rental or lease of real property;

(13) "Housing accommodation" includes any improved or unimproved real property, or part thereof, which is used or occupied, or as the home or residence of one or more individuals;

(14) "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these~~.~~;

(15) "Handicap" means a physical or mental condition of a person, whether congenital or acquired, which constitutes a substantial disability to that person and is demonstrable by medically accepted clinical or laboratory diagnostic techniques. A handicapped person is one who (a) has such a disability, or (b) has a record of such a disability, or (c) is regarded as having such a disability~~.~~;

(16) "Reasonable accommodation" means an adjustment which does not (a) unduly disrupt or interfere with the employer's normal operations, (b) threaten the health or safety of the handicapped person or others, (c) contradict a business necessity of the employer, or (d) impose undue hardship on the employer based on the size of the employer's business, the type of business, the financial resources, and the estimated cost and extent of the adjustment.

Approved April 9, 1991.

CHAPTER 336
(H.B. No. 234, As Amended)

AN ACT

RELATING TO THE UNDERGROUND STORAGE TANK UPGRADE ASSISTANCE PROGRAM; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 50, TITLE 41, IDAHO CODE, TO PROVIDE DEFINITIONS, TO ESTABLISH THE UST UPGRADE ASSISTANCE ACCOUNT AND TO PROVIDE FOR CONTINUOUS APPROPRIATION OF MONEYS IN THE ACCOUNT, TO PROVIDE FOR DISBURSEMENT OF MONEYS FROM THE ACCOUNT, TO PROVIDE FOR REPAYMENTS TO THE ACCOUNT AND THE INTEREST RATE ON SAID REPAYMENTS, TO PROVIDE THE INTEREST RATE ON LOANS TO OWNERS BY ORIGINATING LENDERS, TO PROVIDE LIMITATIONS ON THE LOANS ELIGIBLE FOR PURCHASE BY THE ACCOUNT, TO PROVIDE FOR COMPLETE REPAYMENT TO THE ACCOUNT OF AMOUNTS USED TO PURCHASE LOANS, AND TO PROVIDE FOR PAYMENT OF ADMINISTRATIVE COSTS FROM THE ACCOUNT, TO PROVIDE PROCEDURES AND REQUIREMENTS FOR APPROVAL OF LOAN APPLICATIONS, TO PROVIDE FOR PROMULGATION OF RULES AND REGULATIONS, AND TO PROVIDE FOR LIQUIDATION OF THE ACCOUNT; 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 50, Title 41, Idaho Code, and to read as follows:

41-5001. DEFINITIONS. As used in this chapter, unless the context otherwise requires:

(1) "Administrator" means a person appointed by the director of the department of commerce to administer the underground storage tank upgrade assistance program.

(2) "Department" means the department of commerce of the state of Idaho.

(3) "Originating lender" means a bank or other financial institution which loans accounts to an owner for the purpose of financing the upgrade or replacement of an underground storage tank or tanks or an underground storage tank system or systems.

(4) "Owner" means a petroleum retailer owning an underground storage tank or underground storage tank system which is subject to the requirements of the underground storage tank upgrade regulations.

(5) "Person" means any individual, partnership, association, corporation, joint venture or other commercial entity.

(6) "Petroleum 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.

(7) "Petroleum retailer" means any person selling petroleum or petroleum products at retail to the public.

(8) "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.

(9) "Replacement" means the replacement of an underground storage tank or tank system determined to be the only economically feasible alternative to the upgrade of such tank or tank system.

(10) "SBA" means the United States small business administration.

(11) "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 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; or

(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.

(12) "Underground storage tank system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment and containment system, if any.

(13) "Underground storage tank upgrade regulations" mean regulations for the upgrade of underground 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.

(14) "Upgrade" means the addition to or retrofit of an underground storage tank or underground storage tank system with items including, but not limited to, cathodic protection, lining, or spill and overfill controls to improve the ability of an underground storage tank or tank system to prevent the release of petroleum or petroleum products which are necessary to bring the tank or tank system into compliance with underground storage tank upgrade regulations.

(15) "UST" means an underground storage tank as herein defined

and where the context requires shall also mean underground storage tank system as herein defined.

41-5002. ESTABLISHMENT OF UST UPGRADE ASSISTANCE ACCOUNT. There is hereby established in the state treasury a special account to be known as the UST upgrade assistance account. All money in the account is continuously appropriated for the purposes specified in this act and shall not be subject to the provisions of the standard appropriations act of 1945 or section 67-3516, Idaho Code.

41-5003. DISBURSEMENT OF MONEYS FROM THE ACCOUNT. (1) Moneys in the account shall be used for the purchase from originating lenders of SBA guaranteed portions of loans made by originating lenders to owners for the purpose of financing the upgrade or replacement of underground storage tanks or tank systems.

(2) The amount paid by the account for the purchase of the guaranteed portions of such loans shall be repaid to the account by the originating lender, together with interest thereon at the fixed rate of four percent (4%) per annum over a term not to exceed the term of the loan made by the lender to the owner.

(3) The interest rate to be charged by the originating lender on the loans eligible for purchase by the account shall not exceed a fixed rate of six percent (6%) per annum.

(4) The principal and interest of the loan portion to be purchased by the account must be fully guaranteed by the SBA.

(5) The loan to be purchased by the account must be solely attributable to financing or refinancing for the upgrade or replacement of underground storage tanks or tank systems, as those terms are defined in section 41-5001, Idaho Code, and site cleanup costs which may be required to qualify the tanks or tank systems for insurance coverage pursuant to section 41-4911, Idaho Code, and other applicable provisions of chapter 49, title 41, Idaho Code, and shall not be attributable to additional tanks or to facilities not related to compliance with underground storage tank upgrade regulations.

(6) The full amount of any principal and interest due to the account from originating lenders pursuant to purchases of loans by the account as herein provided shall be fully repaid to the account, notwithstanding any default by an owner in the repayment of any such loan, or any portion thereof, to the originating lender.

(7) Costs and expenses for the administration of the account shall be paid out of moneys in the account.

41-5004. PROCEDURES. (1) Applications for loans by owners, the guaranteed portion of which is proposed for purchase by the account, shall be submitted to and approved by the administrator, following approval by the originating lender and the SBA.

(2) Upon approval of the loan application by the administrator, accounts shall be disbursed from the account in accordance with procedures established by the administrator.

(3) Proof of insurance on the tank(s) or tank system(s) which are the subject of a loan application, or satisfactory proof that notwithstanding the presence of contamination, as defined in section 41-4903, Idaho Code, at the site where the tank or tank systems are

located, the contamination does not pose a threat to public health, safety or the environment and the owner may be eligible for insurance coverage pursuant to section 41-4911A, Idaho Code, or that any contamination has been cleaned up or a plan for cleanup approved by the Idaho department of health and welfare, division of environmental quality, is being implemented shall be required for approval of any loan application under the provisions of this act.

(4) It shall be a condition of any loan for the upgrade or replacement of a tank or tank system under the provisions of this act that such tank or system, if not previously insured, be insured following completion of the upgrade or replacement. Proof that such insurance has been obtained shall be supplied by the owner to the originating lender, the SBA, and the administrator.

41-5005. RULES AND REGULATIONS. The department may promulgate rules and regulations to implement the provisions of this chapter. Such rules and regulations shall be promulgated in compliance with the provisions of chapter 52, title 67, Idaho Code.

41-5006. LIQUIDATION OF ACCOUNT. (1) Upon a determination by the administrator that the purposes for which the account was established have been accomplished, or that the continued operation of the account is no longer viable, the administrator shall submit a written request to the director of the department that the account be liquidated. If liquidation of the account is approved by the director, the account shall be liquidated under a written plan of liquidation filed with and approved by the director. After its approval by the director, the plan of liquidation for the account shall be binding upon all persons pecuniarily interested in the account. Pending effectuation of the plan of liquidation the director may impose such prohibitions or restrictions upon disbursement or use of account moneys as he deems advisable.

(2) Upon dissolution of the account, any assets remaining after the payment of any obligations of the account shall be deposited in the general account. Any amounts then owing but not yet paid to the account, including principal and interest due from originating lenders shall, upon receipt thereof, be deposited in the general 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 9, 1991.

CHAPTER 337
(S.B. No. 1181, As Amended)

AN ACT

RELATING TO VOTER REGISTRATION; AMENDING SECTION 34-407, IDAHO CODE, TO PROVIDE THAT VOTER REGISTRATION FORMS BE AVAILABLE AT ANY PLACE WHERE DRIVERS' LICENSES EXAMINATIONS ARE CONDUCTED, TO PROVIDE PROCEDURES TO GOVERN SUCH VOTER REGISTRATIONS AND TO PROVIDE PEN-

ALTIES.

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

SECTION 1. That Section 34-407, Idaho Code, be, and the same is hereby amended to read as follows:

34-407. PROCEDURE FOR REGISTRATION. (1) Any county clerk or official registrar shall register without charge any elector who personally appears in the office of the county clerk or before the official registrar, as the case may be, and requests to be registered.

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

(3) At any place where examinations for drivers' licenses are issued, the county sheriff and deputies shall make voter registration materials available to any person who is a resident of the county, who is at least eighteen (18) years of age and who personally appears for a state identification card or for a driver's license issuance, renewal or correction. The materials shall briefly explain the opportunity to register to vote and the location of the county clerk's office.

(4) In counties where driver's license issuance is done in a building different from or not adjacent to the building where voter registration is done, a voter registration card prescribed by the county clerk shall be made available by the county sheriff and his deputies. In such case, the completed card may be left at the office of the sheriff to be recovered by the county clerk, who shall register such person, if qualified.

(5) Compliance with the registration application procedure established in this section shall satisfy the attestation requirements of this chapter.

(6) The wilful making of any false statement which is required by the provisions of this chapter for voter registration is perjury and is punishable as such.

Approved April 10, 1991.

CHAPTER 338
(H.B. No. 192, As Amended in the Senate)

AN ACT

RELATING TO HAZING; AMENDING CHAPTER 9, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-917, IDAHO CODE, TO PROHIBIT THE ACT OF HAZING, TO PROVIDE A DEFINITION, TO PROVIDE AN EXCEPTION AND TO PROVIDE PENALTIES.

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

SECTION 1. That Chapter 9, 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 18-917, Idaho Code, and to read as follows:

18-917. HAZING. (1) No member of a fraternity, sorority or other living or social student organization organized or operating on or near a college or university campus for purposes of participating in student activities of the college or university, shall intentionally haze or conspire to haze any member, potential member or person pledged to be a member of the organization, as a condition or precondition of attaining membership in the organization or of attaining any office or status therein.

(2) As used in this section, "haze" means to subject a person to bodily danger or physical harm or a likelihood of bodily danger or physical harm, or to require, encourage, authorize or permit that the person be subjected to any of the following:

(a) Total or substantial nudity on the part of the person;

(b) Compelled ingestion of any substance by the person;

(c) Wearing or carrying of any obscene or physically burdensome article by the person;

(d) Physical assaults upon or offensive physical contact with the person;

(e) Participation by the person in boxing matches, excessive number of calisthenics, or other physical contests;

(f) Transportation and abandonment of the person;

(g) Confinement of the person to unreasonably small, unventilated, unsanitary or unlighted areas;

(h) Sleep deprivation; or

(i) Assignment of pranks to be performed by the person.

(3) Subsection (1) of this section does not apply to curricular activities or to athletic teams of or within the college or university.

(4) A member of a fraternity, sorority or other student organization, who personally violates any provision of this section shall be guilty of a misdemeanor.

Approved April 10, 1991.

SENATE JOINT MEMORIALS

(S.J.M. No. 103)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SECRETARY OF THE DEPARTMENT OF AGRICULTURE, TO THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the national forests in Idaho produce numerous natural resources and values which are vital to the state's economy and quality of life; and

WHEREAS, Congress has reaffirmed the multiple use mandate for each national forest and has required that a comprehensive plan be prepared for each forest to carry out this mandate; and

WHEREAS, past management practices, coupled with the remote nature of much of Idaho's public lands have maintained habitat conditions favorable to the existence of several species, the survival of which is "threatened" or "endangered"; and

WHEREAS, the plans for many of the national forests within the state have been completed for a number of years, but have only been partially implemented; and

WHEREAS, one obstacle to the full implementation of these plans is implementation of recovery plans under the Endangered Species Act which affect timber sales and other resources to be produced pursuant to the plans; and

WHEREAS, without full implementation of the plans, the citizens of the state will not enjoy all the economic benefits and resource values that the national forests might have otherwise provided.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we:

(1) Urge the state's congressional delegation to seek and Congress to provide funding sufficient to fully implement the entire range of forest plan decisions in Idaho including timber sales, needed road construction, fish and wildlife, plus recreational improvements;

(2) Urge the United States Department of Agriculture, Forest Service to undertake all efforts to both implement its forest

plan decisions and identify and explain to the Legislature and the people of Idaho any barriers to the full implementation of these plans, along with strategies to overcome these barriers, including ways to expedite decisions related to legal challenges to plan decisions;

(3) Urge Congress and the appropriate agencies to either amend the Endangered Species Act or to find ways to carry out the recovery plans under this Act with no disruption in the resources to be produced under full implementation of the forest plan; and

(4) Urge Congress to create and fund an additional regional federal district court to exclusively adjudicate appeals related to implementation of forest plans.

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 United States Department of Agriculture, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 13, 1991.
Adopted by the House March 26, 1991.

(S.J.M. No. 105)

A JOINT MEMORIAL

TO THE HONORABLE GEORGE BUSH, PRESIDENT OF THE UNITED STATES, TO THE HONORABLE EDWARD MADIGAN, SECRETARY OF AGRICULTURE, TO THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, dairy production is one of Idaho's most important rural industries; and

WHEREAS, Idaho dairymen are now in an untenable economic position because of over-production and record low prices; and

WHEREAS, low prices for dairy products impact unfavorably on rural banking, hay and feed production, implement and supply sales and other rural industries; and

WHEREAS, this economic hardship could be remedied at the national level by a change in the policy of price and production stabilization; and

WHEREAS, the United States Secretary of Agriculture has the authority from Congress to initiate such a policy.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the Senate and the House

of Representatives concurring therein, that the United States Secretary of Agriculture is requested to develop a system of dairy production and price stabilization to rebuild dairy income.

BE IT FURTHER RESOLVED, that such a system, developed by the Secretary of Agriculture, should provide for a true cost of production price level in dairy, including a fair return on capital investment,

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the Honorable George Bush, President of the United States, to the Honorable Edward Madigan, Secretary of the United States Department of Agriculture, 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 Senate March 1, 1991.
Adopted by the House March 20, 1991.

(S.J.M. No. 106)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, water is a critical resource to Idaho's economy; and

WHEREAS, Idaho has a water law system which responsibly implements and achieves state water management goals; and

WHEREAS, the Federal Energy Regulatory Commission has asserted exclusive jurisdiction over the licensing of certain hydropower projects; and

WHEREAS, The U.S. Supreme Court held in the opinion of California vs. FERC that the Federal Energy Regulatory Commission has authority to establish stream flows for hydroelectric projects licensed under the Federal Power Act; and

WHEREAS, the U.S. Supreme Court decision is contrary to Congress' intent to defer to state regulation of water for hydropower projects as expressed in Section 27 of the Federal Power Act; and

WHEREAS, the court's opinion addressed a narrow application of the Federal Power Act and relied solely on a 1946 decision, First Iowa Hydroelectric Cooperative vs. Federal Power Commission; and

WHEREAS, the Federal Energy Regulatory Commission has taken an expansive reading of the court's decision; and

WHEREAS, decisions by the Federal Energy Regulatory Commission regarding stream flows for licensed hydroelectric projects could conflict with state water right conditions and could conflict with existing water rights; and

WHEREAS, under this ruling, hydroelectric projects on rivers could be licensed, built and operated regardless of state laws prohibiting such projects and the impact of such projects on other water rights; and

WHEREAS, reversing the U.S. Supreme Court's ruling is extremely critical in all western states, but especially in Idaho where relicensing proceedings will take place over the next ten years on the Hells Canyon complex of dams; and

WHEREAS, state primacy should continue to be the guiding principle for allocating water in the West.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the Congress of the United States to enact S.106, H.R.649 or other comparable legislation to clarify the authority of states over the use of water within their borders for hydroelectric projects licensed by the Federal Energy Regulatory Commission.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 7, 1991.
Adopted by the House March 28, 1991.

(S.J.M. No. 107)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the number of stock sheep in Idaho and the nation has declined by seventy-five per cent since World War II; and

WHEREAS, the traditional market for sheep used to be based on a wide-spread competitive system of packer-buyers buying livestock at auctions, stockyards and in the country; and

WHEREAS, since 1975, twenty-three major lamb slaughter facilities in the United States have been closed, with a resulting loss of over five million head in slaughter capacity; and

WHEREAS, there are only eight major lamb slaughter facilities left in the United States with the four largest representing seventy-seven per cent of the national federally inspected lamb slaughters; and

WHEREAS, these packers own vast feedyards and, in some instances, ranches supplying much of their own needs; and

WHEREAS, sheep producers are increasingly concerned about the apparent accelerated pace of packer concentration and other developments in marketing that appear to have an impact on the degree of price competition for lamb; and

WHEREAS, the Idaho sheep industry has been a viable Idaho agricultural industry that has provided a livelihood, as well as a way of life, for many generations of Idahoans.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully request that the United States Congress demand that the United States Department of Justice undertake a study to examine closely the structure of the lamb packing industry and the pricing systems utilized, to determine if action under the federal antitrust laws is warranted and necessary.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, to the President of the Senate and to the Speaker of the House of Representatives of Congress, and to the congressional delegation representing the state of Idaho in the Congress of the United States.

Adopted by the Senate March 20, 1991.
Adopted by the House March 27, 1991.

HOUSE JOINT MEMORIALS

(H.J.M. No. 1)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE PRESIDENT OF THE SENATE AND SPEAKER OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, California and a handful of other states are taxing pension benefits of former residents under the presumption that pensions are "deferred income" earned in their states and that these states are trying to collect income tax on the employer's portion which is not taxed when it is contributed; and

WHEREAS, these former residents who are having their pensions taxed are not enjoying any traditional benefits of state governments to which they pay the tax; and

WHEREAS, it could be argued that the taxation of pensions of nonresidents is nothing more than taxation without representation; and

WHEREAS, the Nevada Legislature has enacted a law that forbids any other state to collect a tax on pension benefits by forcing the sale of Nevada property; and

WHEREAS, the Nevada law is likely to be tested in the courts and is probably not the best solution to resolving this problem; and

WHEREAS, legislation was introduced in both the United States House of Representatives and Senate which would bar states from taxing pensions of nonresidents in 1989.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we hereby respectfully request the Congress of the United States to enact, and the President of the United States to sign legislation which would prohibit a state from imposing an income tax on the pension income of individuals who are not residents or domiciliaries of that state.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the 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 January 24, 1991.
Adopted by the Senate January 30, 1991.

(H.J.M. No. 3)

A JOINT MEMORIAL
TO THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Congress of the United States in the waning moments of the 1990 Session, passed a new tax on boats and raised the gas tax also affecting boats; and

WHEREAS, boaters in all states pay gas tax and registration fees; and

WHEREAS, the boat fees range from twenty-five dollars for a sixteen foot boat to one hundred dollars for a forty foot boat; and

WHEREAS, additional taxes have a negative impact on state economics; and

WHEREAS, the United States Coast Guard has minimal enforcement in the State of Idaho; and

WHEREAS, the one hundred and twenty-seven million dollar collection will not be used to benefit boaters or the Coast Guard; and

WHEREAS, boaters will be paying the added federal gas tax and luxury tax; and

WHEREAS, the newly enacted law pertains to navigable waters, and the State of Idaho has not defined all navigable waters; and

WHEREAS, the United States House of Representatives voted 287-119 against boat "use fees" in 1987.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we encourage Senator Symms, Senator Craig, Congressman Stallings and Congressman LaRocco to use their full influence to support House Resolution 534 to repeal the new federal boat tax before it is implemented.

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 19, 1991.
Adopted by the Senate March 15, 1991.

(H.J.M. No. 4)

A JOINT MEMORIAL

TO THE CITIZENS' STAMP ADVISORY COMMITTEE OF THE UNITED STATES POSTAL SERVICE, GOVERNMENT RELATIONS DEPARTMENT, AND TO THE HONORABLE ANTHONY M. FRANK, POSTMASTER GENERAL OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, communicating a positive image to the general public is beneficial to the dairy industry; and

WHEREAS, postal themes are regularly selected through a process of reviewing the many recommendations made to the United States Postal Service; and

WHEREAS, the dairy cow has been honored in other nations with commemoration on their postage stamps; and

WHEREAS, stamp themes that have broad public support are the ones selected for commemoration by the United States Post Office; and

WHEREAS, it is appropriate that the Legislature of the state of Idaho, speaking on behalf of the citizens of the state of Idaho, urge recognition of the dairy cow, inasmuch as the dairy industry is significant to Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we commend to the Citizens' Stamp Advisory Committee of the United States Postal Service Government Relations Department, and to the Postmaster General of the United States, Anthony M. Frank, the selection of the dairy cow for commemoration in a series of United States postage stamps honoring cows from the major dairy breeds.

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 Citizens' Stamp Advisory Committee and to the Honorable Anthony M. Frank, Postmaster General of the United States.

Adopted by the House March 4, 1991.
Adopted by the Senate March 18, 1991.

(H.J.M. No. 5)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, GEORGE BUSH, TO THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate

of the State of Idaho assembled in the First Regular Session of the Fifty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, it has been determined by the Department of Defense and the Congress of the United States that reductions will occur in the size of the military forces of the United States; and

WHEREAS, these force reductions will result in the elimination and consolidation of military bases throughout the United States; and

WHEREAS, maximizing the security of the United States with a downsized military establishment will necessitate utilizing the most cost-effective and versatile bases; and

WHEREAS, Mountain Home Air Force Base has been demonstrated to be a highly cost-effective and versatile base, with costs of operation among the lowest in the nation; and

WHEREAS, the state of Idaho has submitted a proposal to the United States Air Force to significantly increase the size, and thus the capabilities, of the existing training range used by Mountain Home Air Force Base, thereby demonstrating the commitment of the state of Idaho to the United States Air Force.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Congress of the United States should give strong consideration to both increasing the current mission and adding additional missions to Mountain Home Air Force Base.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to President George Bush, 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 27, 1991.
Adopted by the Senate March 6, 1991.

(H.J.M. No. 6)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SECRETARY OF THE INTERIOR, THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the introduction of wolves into the Yellowstone National Park and/or Central Idaho Wilderness will have a serious negative impact on the economic and natural resource base of the state of Idaho; and

WHEREAS, the Legislature strongly opposes the introduction of wolves into the Yellowstone National Park and/or the Central Idaho Wilderness.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we request Congress to direct the federal Wolf Management Committee to address state concerns before wolves are introduced into the Yellowstone National Park and/or the Central Idaho Wilderness. The Committee shall address the following:

(1) That the federal government assume liability for all livestock, wildlife depredation, and personal injury to humans before any wolf introduction.

(2) That a wolf shall not be protected in any way outside the Yellowstone National Park boundaries and/or the Central Idaho Wilderness boundaries and shall be controlled by state law; or the federal government agree to reimburse the state of Idaho for actual damage costs and expenses.

(3) That the federal government allocate sufficient funding prior to wolf introduction to cover ongoing costs of wolf monitoring, control of problem wolves and additional monitoring of game populations due to impacts of wolves.

(4) That baselines be established to assess the number of wolves which would be deemed acceptable and the impact on game populations which would be within acceptable limits in order to avoid an increase in the number of wolves or impacts on wildlife which would be unacceptable.

(5) That an exact process for delisting be established and funded by the federal government, prior to introduction.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the Secretary of the Interior, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 5, 1991.
Adopted by the Senate March 29, 1991.

(H.J.M. No. 8)

A JOINT MEMORIAL

TO THE REGENTS OF THE SMITHSONIAN INSTITUTION, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Smithsonian Institution has expressed interest in expanding the National Air and Space Museum; and

WHEREAS, Denver Stapleton Airport is the only western site being considered for this facility; and

WHEREAS, the current Stapleton Airport is an excellent and natural facility for the placement of the Smithsonian National Air and Space Museum Extension; and

WHEREAS, locating a branch of the Smithsonian Museum in the West would enable millions of new visitors an opportunity to see the treasures of the Smithsonian; and

WHEREAS, the Smithsonian National Air and Space Museum Extension would provide an unparalleled educational resource for the people of Idaho and all citizens of the western states; and

WHEREAS, the National Air and Space Museum Extension would attract over a million out-of-state visitors a year, many of whom would take advantage of their proximity to tour other states of the west, including Idaho; and

WHEREAS, locating this facility in Denver would save the taxpayers over one hundred and forty million dollars.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we applaud and support efforts to secure the Smithsonian National Air and Space Museum Extension at the Stapleton International Airport. We urge the members of the Regents of the Smithsonian to consider the advantages of this unique location and to act favorably upon this location.

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 Regents of the Smithsonian Institution, to the President of the Senate and to the Speaker of the House of Representatives of Congress, and to the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 6, 1991.
Adopted by the Senate March 13, 1991.

(H.J.M. No. 9)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, GEORGE BUSH; TO THE SECRETARY OF STATE, JAMES BAKER; TO THE SECRETARY OF DEFENSE, RICHARD CHENEY; TO THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF, GENERAL COLIN POWELL; TO THE COMMANDER OF THE UNITED STATES AND ALLIED FORCES IN OPERATION DESERT STORM, GENERAL H. NORMAN SCHWARZKOPF; TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the military objectives of Operation Desert Storm have been dramatically and decisively achieved with the defeat of the forces of Saddam Hussein and the liberation of Kuwait; and

WHEREAS, President and Commander-in-Chief, George Bush; Secretary of State, James Baker; Secretary of Defense, Richard Cheney; Chairman of the Joint Chiefs of Staff, General Colin Powell; and the commander of the United States and Allied Forces, General H. Norman Schwarzkopf are to be commended and congratulated for their unwavering commitment to the goals of Operation Desert Storm, for the masterful planning of the operation, the effective coordination of the allied forces, and the execution of a brilliant strategy in the air and on the field of battle which has brought a swift and sure conclusion to the conflict with minimal casualties; and

WHEREAS, throughout the conflict the men and women of the Armed Forces of the United States of America have performed their duties with exceptional competence, great courage and that singular vigor and determination which exemplify the very essence of the American spirit; and

WHEREAS, the victory achieved in Operation Desert Storm bears witness to the world's intolerance of tyranny and the efficacy of international cooperation in bringing about the defeat of those who would defy international law and challenge world order.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that President George Bush; Secretary of State, James Baker; Secretary of Defense, Richard Cheney; Chairman of the Joint Chiefs of Staff, General Colin Powell; the commander of the United States and Allied Forces, General H. Norman Schwarzkopf; and the men and women of the Armed Forces of the United States of America be commended for a job exceedingly well done.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to President George Bush; to Secretary of State, James Baker; to Richard Cheney, Secretary of Defense; to General Colin Powell, Chairman of the Joint Chiefs of Staff; to General H. Norman Schwarzkopf, commander of the United States and Allied Forces, 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 March 11, 1991.
Adopted by the Senate March 19, 1991.

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 102)

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. 43-7295 on January 2, 1991, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in Circle Creek and its tributaries which flow within the boundaries of the City of Rocks National Preserve, located in Sections 24, 25 and 36, Township 15 South, Range 23 East, B.M., and Sections 30, 31 and 32, Township 15 South, Range 24 East, B.M., Cassia County. The particular streams and their respective flows are: Circle Creek, 1.5 cfs; North Creek, 0.5 cfs; Center Creek, 0.5 cfs; and South Creek, 0.5 cfs.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order dated December 7, 1990, adopted by the Director of the Department of Water Resources.

Adopted by the Senate February 6, 1991.
Adopted by the House February 14, 1991.

(S.C.R. No. 108)

A CONCURRENT RESOLUTION
DECLARING 1991 TO BE THE IDAHO YEAR OF THE LIFETIME READER AND THE WEEK OF MAY 26, 1991, TO BE IDAHO LIFETIME READER WEEK.

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

WHEREAS, an informed and literate citizenry is vital to a strong democracy; and

WHEREAS, at every stage of life, from early childhood through old age, reading helps individuals to meet their responsibilities to country, community, family and self by providing personal enjoyment, knowledge and information; and

WHEREAS, a growing number of our citizens, from children to adults living in retirement, cannot read or do not read well, often with devastating effect on their health, happiness and ability to contribute to society; and

WHEREAS, literacy is a key to ensuring that the workforce is adaptable to changing business needs and technological advancements, thereby promoting economic development; and

WHEREAS, the state of Idaho recognizes the particular literacy needs of its citizens and should encourage and support the expansion of literacy services; and

WHEREAS, the Senate and the House of Representatives of the United States of America in Congress have designated 1991 as the "Year of the Lifetime Reader."

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that the year 1991 be declared the "Idaho Year of the Lifetime Reader" and the week of May 26, 1991, be declared "Idaho Lifetime Reader Week."

Adopted by the Senate March 5, 1991.
Adopted by the House March 20, 1991.

(S.C.R. No. 110)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND AMENDING A RULE OF THE STATE BOARD OF EDUCATION RELATING TO REQUIREMENTS FOR A COMPREHENSIVE HEALTH EDUCATION CURRICULUM IN THE PUBLIC SCHOOLS.

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 a certain rule of the State Board of Education, currently in effect, relating to a requirement for a comprehensive health education curriculum in the public schools, is in fact contrary to legislative intent in that the current rule seems to ignore statutory requirements in developing the curriculum for sex education in the schools; and

WHEREAS, it is the finding of the Legislature that the current

rule contains no readily available means or method for parents to have their children excused from sex education classes; and

WHEREAS, it is a finding of the Legislature that the material to be presented under the guidelines of the rule is not age appropriate.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that State Board of Education Rule 08.02.E3, be, and the same is hereby amended to read as follows:

3 ~~Communicable-Diseases~~

~~Venereal-disease-education-shall-be--incorporated--in--the--health curriculum-in-the-elementary-and-secondary-schools-of-the-state.~~

Comprehensive Health Education

Elementary and secondary schools in the state shall provide comprehensive health education to all students. A comprehensive health education program shall consist of planned, sequential learning experiences that assist students to achieve desirable knowledge, understanding, attitudes and practices related to personal, family and community health issues. The K-12 health curriculum shall contain instruction in substance use and abuse and the prevention and control of diseases and disorders, including HIV/AIDS and other sexually transmitted diseases. The content of instruction in human sexuality and family life shall be determined solely at the local level by the local school board, with the involvement of parents and school district community groups. Nothing contained herein shall require instruction in family life or sex education beyond that authorized in section 33-1605, and sections 33-1608 through 33-1611, Idaho Code.

Adopted by the Senate March 20, 1991.
Adopted by the House March 27, 1991.

(S.C.R. No. 114)

A CONCURRENT RESOLUTION

STATING THE SENSE OF THE LEGISLATURE, ENDORSING THE STATE OF IDAHO'S STRATEGIES FOR RECOVERY OF SNAKE RIVER SALMON, SUPPORTING IMMEDIATE ENVIRONMENTAL STUDIES TO CHANGE OPERATIONS AT MAINSTEM DAMS ON THE COLUMBIA AND LOWER SNAKE RIVERS, SUPPORTING CONGRESSIONAL DIRECTIVES TO IMPLEMENT STRATEGIES FOR RECOVERY OF SNAKE RIVER SALMON, SUPPORTING ADDITIONAL HARVEST MANAGEMENT AUTHORITY FOR IDAHO, SUPPORTING HARVEST CONTROLS TO ENSURE ADEQUATE ESCAPEMENT OF SALMON AND STEELHEAD, AND CALLING FOR REBUILDING OF IDAHO-ORIGIN SALMON AND STEELHEAD RUNS TO PRODUCTIVE, HARVESTABLE LEVELS.

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

WHEREAS, naturally spawning runs of Snake River salmon have declined to critically low levels; and

WHEREAS, petitions to protect Snake River spring, summer and fall chinook and sockeye salmon under the Endangered Species Act have been filed; and

WHEREAS, the state of Idaho and its citizens have made efforts to protect and rebuild Idaho's salmon and steelhead runs through protection of habitat and closing the general sport season on salmon since 1979; and

WHEREAS, Idaho-origin salmon and steelhead are subject to harvest management in seventeen different jurisdictions during their migration from Idaho to the Gulf of Alaska, only one of which is controlled by the state of Idaho; and

WHEREAS, the state of Idaho's "Strategies for Recovery of Snake River Salmon" is a balanced and realistic plan to rebuild the salmon and steelhead runs while protecting Idaho's water resources and the economy of the Pacific Northwest and is supported by Idaho environmental, sport fishing, irrigation and utility interests; and

WHEREAS, the primary threat to the survival and recovery of Snake River salmon runs has been the construction and operation by the United States Army Corps of Engineers of eight dams on the lower Snake and Columbia rivers; and

WHEREAS, substantial changes in the operation of Corps of Engineers dams on the lower Snake River and mainstem Columbia River are necessary in order to ensure the survival and recovery of Snake River salmon and steelhead; and

WHEREAS, the listing of one or more Snake River salmon runs under the Endangered Species Act may affect several economic sectors of critical importance to the Pacific Northwest including, but not limited to, hydropower, irrigation, navigation, commercial and sport harvest, and land management activities.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that fisheries on mixed stocks of salmon and steelhead in the Pacific Ocean and mainstem Columbia River must be controlled to allow an adequate number of fish to escape such fisheries to promote sound conservation and fair allocation of the fishery resource.

BE IT FURTHER RESOLVED that the state of Idaho should have joint authority to manage harvest on Idaho-origin salmon and steelhead throughout their migratory range.

BE IT FURTHER RESOLVED that we endorse the state of Idaho "Strategies for the Recovery of Snake River Salmon" plan and urge its adoption by all appropriate management entities as the best plan to rebuild the Snake River salmon and steelhead runs while protecting the resources and economy of the Pacific Northwest.

BE IT FURTHER RESOLVED that we support the immediate preparation by the United States Army Corps of Engineers and other appropriate agencies of any environmental studies necessary to allow implementation of "Strategies for the Recovery of Snake River Salmon."

BE IT FURTHER RESOLVED that we support action by the Congress of the United States to direct the United States Corps of Engineers, Bonneville Power Administration, and other relevant federal agencies

to promptly implement the measures contained in "Strategies for Recovery of Snake River Salmon" and to appropriate such funds as are necessary for such implementation.

BE IT FURTHER RESOLVED that adequate construction changes on the lower Snake and Columbia River federal dams where possible will be made to enhance fishery runs.

BE IT FURTHER RESOLVED that Snake River salmon and steelhead runs should be restored to healthy levels that permit substantial fisheries in the waters of origin in the state of Idaho.

Adopted by the Senate March 22, 1991.
Adopted by the House March 29, 1991.

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 1)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE FIFTY-FIRST IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the First Regular Session of the Fifty-first Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Tuesday, January 8, 1991.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Tuesday, January 8, 1991, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 8, 1991.
Adopted by the Senate January 8, 1991.

(H.C.R. No. 2)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE FIFTY-FIRST IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the First Regular Session of the Fifty-first Idaho Legislature in the Chamber of the House of Representatives at 11 a.m. on Thursday, January 10, 1991.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representa-

tives and the Senate meet in Joint Session on Thursday, January 10, 1991, at 11 a.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 10, 1991.
Adopted by the Senate January 10, 1991.

(H.C.R. No. 7)

A CONCURRENT RESOLUTION
PROVIDING FOR OFFSET PRINTING OF HOUSE AND SENATE BILLS, RESOLUTIONS, MEMORIALS AND AMENDMENTS, AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee have, according to law, made provisions for the offset printing of the House and Senate bills, resolutions, memorials and amendments;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee;

BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the contract for the offset printing of the House and Senate bills, resolutions, memorials and amendments, in accordance with the provisions of law and in accordance with the written contract between the Joint Committee as party of the first part, and BEST IMPRESSION PRINTING, Boise, Idaho, as party of the second part, be, and the same is hereby ratified and concurred in, and is incorporated herein, and made a part of this resolution in words and figures following, to-wit:

PRINTING AGREEMENT

THIS AGREEMENT, made and entered into this 7th day of January, 1991, by and between the HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fifty-first Idaho Legislature, hereinafter referred to as the Joint Committee, and BEST IMPRESSION PRINTING, hereinafter referred to as Best Impression.

WITNESSETH;

That pursuant to written bids submitted to and considered by the Joint Committee, a contract for legislative printing is hereby awarded to Best Impression per your letter response of December 5, 1990, for the First and Second Regular Sessions and any Extraordinary Sessions of the Fifty-first Idaho Legislature upon the following additional terms and conditions:

1. That Best Impression will utilize an offset process from "Camera Ready" copies, as these terms are used and recognized in the trade, to print Senate and House Bills, Resolutions, and Memorials.

2. That Best Impression concurrently with the execution of this

contract, deliver to the Joint Committee good and sufficient surety bond or other collateral, if and when requested, in the manner and form, and with a surety acceptable to the Joint Committee, in the sum of five thousand dollars ($5,000), guaranteeing the satisfactory and faithful performance by Best Impression of all the terms and conditions of this contract.

3. That Best Impression will maintain at all times a high standard of workmanship to the end that all printing will be neat, clean, legible and with adequate contrast between print and paper to be easily read.

4. That Best Impression will insure that all bills, resolutions and memorials will have neat and proper underlining, strikeovers and deletions and that the paper used will be properly punched and sized.

5. That for the purposes of this contract, all printing will be received from and delivered to the presiding officer of each house or his designee.

6. That Best Impression will deliver all standard lot printed material conforming to the above requirements by 9:00 a.m. the next morning after receipt of copy, unless prior arrangements have been made.

7. Upon failure to deliver such bills in the manner and within the time herein specified, this contract may be deemed terminated forthwith at the option of the Joint Committee and recourse had against Best Impressions' bond.

8. That a standard lot of printed material will be eight hundred (800) copies or less of individual bills, resolutions or memorials at a cost of sixteen dollars and ninety five cents ($16.95) per printed page. Additional copies may be obtained by the Joint Committee at the rate of two dollars and seventy-five cents ($2.75) per printed page in units of one hundred (100).

9. That Best Impression will pick up "Camera Ready" copy at least twice daily of each day that the Legislature is in session.

10. That Best Impression will make available to and sell to the general public any bill, resolution or memorial in lots of one hundred (100) copies at a cost of two dollars and seventy-five cents ($2.75) per printed page, provided the order for such is received prior to the time the bill is printed.

11. That the Joint Committee reserves to itself the sole and exclusive decision as to the proper fulfillment of the terms and conditions of this agreement by Best Impression, and that the Joint Committee may terminate this agreement upon twenty-four (24) hours notice to Best Impressions', with no liability accruing to the Joint Committee or the State except for printing already completed and delivered. The Joint Committee reserves the right to review and revise this contract prior to the Second Regular Session of the Fifty-first Idaho Legislature.

IN WITNESS WHEREOF, the parties hereto have hereunder set their hands as of the day and year first above written.

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

By /s/ Don C. Loveland
DON C. LOVELAND, Chairman

By /s/ Tom Boyd
TOM BOYD, Speaker of the House

SENATE JUDICIARY AND RULES COMMITTEE

By /s/ Denton Darrington
DENTON DARRINGTON, Chairman

By /s/ Michael D. Crapo
MICHAEL D. CRAPO, President Pro Tempore

BEST IMPRESSION PRINTING

By /s/ Richard W. Flintzer
RICHARD W. FLINTZER, Owner

Adopted by the House January 24, 1991.
Adopted by the Senate February 8, 1991.

(H.C.R. No. 8)

A CONCURRENT RESOLUTION
PROVIDING FOR PRINTING THE HOUSE AND SENATE LEGISLATIVE JOURNALS AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, Section 67-509, Idaho Code, has made provisions for the printing of the House and Senate Legislative Journals;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee;

BE IT RESOLVED, by the members of the First Regular Session of the Fifty-first Idaho Legislature, that the contract for the printing of the House and Senate Legislative Journals in accordance with the provisions of law and in accordance with the written contract between the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee, as party of the first part, and John Catlin, of Boise, Idaho, as party of the second part, be, and the same is hereby ratified and confirmed, and is incorporated herein and made a part of this resolution, in words and figures following, to-wit:

PRINTING AGREEMENT

THIS AGREEMENT, made and entered into this 7th day of January, 1991, by and between the HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fifty-first Idaho Legislature, hereinafter mentioned as party of the first part, and John Catlin, Owner, CATLIN PRINTING, Boise, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH; That pursuant to a resolution of said party of the

first part and written quotation submitted by party of the second part, a contract for legislative printing is hereby awarded to the said Catlin Printing, as follows:

HOUSE AND SENATE DAILY JOURNAL
FIRST REGULAR SESSION

375 copies of House Journal
375 copies of Senate Journal
750 total copies ..... $16.50 per page
100 additional copies ..... $ 1.00 per page

PERMANENT JOURNAL
FIRST REGULAR SESSION

275 copies of House Permanent Journal, including 5 hard-bound gold lettered volumes
275 copies of Senate Permanent Journal, including 5 hard-bound gold lettered volumes
560 total copies ..... $15.00 per page

HOUSE AND SENATE DAILY JOURNAL
SECOND REGULAR SESSION

375 copies of House Journal
375 copies of Senate Journal
750 total copies ..... $16.50 per page
100 additional copies ..... $ 1.00 per page

PERMANENT JOURNAL
SECOND REGULAR SESSION

275 copies of House Permanent Journal, including 5 hard-bound gold lettered volumes
275 copies of Senate Permanent Journal, including 5 hard-bound gold lettered volumes
560 total copies ..... $15.00 per page

IT IS AGREED by the parties hereto that all of said printing shall be done in the form and manner and upon such suitable material as was included in the bid specifications and is now required by the statutes of the State of Idaho; where not otherwise herein provided, such statutes shall be controlling, and particularly as to the printing of Legislative Journals, the same shall be printed in conformity with Section 67-509, Idaho Code, which section is hereby referred to and by reference made a part of this contract as though set forth herein at length; that the number of copies to be supplied under this contract may from time to time be determined by the party of the first part; and that all other terms of the specifications for the Journals of the party of the first part shall be complied with as though set forth herein at length.

IT IS AGREED that in the printing of the Journal the same shall be delivered daily on the desk of the Chief Clerk of the House, and on the desk of the Secretary of the Senate not later than the hour of 9 a.m. on each day; provided, that the party of the second part shall not be responsible in this respect, in cases of unreasonable delay in furnishing copy for such printing to the party of the second part.

IT IS FURTHER AGREED, that the permanent printed Journal shall be delivered to the Chief Clerk of the House not later than twenty (20) working days from date of receipt of final House copy, and to the Sec-

retary of the Senate not later than twenty (20) working days from date of receipt of final Senate copy, and that for each day's failure to so deliver, there shall be deducted from the contract price for printing said Journal the sum of Fifty Dollars ($50) per day for each day's delay.

The party of the second part further covenants and agrees to deliver to the party of the first part good and sufficient surety bond or other collateral, if and when requested, in the manner and form, and with a surety acceptable to party of the first part, in the sum of Five Thousand Dollars ($5,000), guaranteeing the satisfactory and faithful performance by the party of the second part of all the conditions and covenants of this contract.

IN WITNESS WHEREOF, the party of the second part has caused these presents to be executed by its proper official and the party of the first part, by Concurrent Resolution, has caused these presents to be executed by its proper officials.

Party of the First Part

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

By/s/ Don C. Loveland
Don C. Loveland, Chairman

By/s/ Tom Boyd
Tom Boyd, Speaker of the House

SENATE JUDICIARY AND RULES COMMITTEE

By/s/ Denton Darrington
Denton Darrington, Chairman

By/s/ Michael D. Crapo
Michael D. Crapo, President Pro Tempore

Party of the Second Part

CATLIN PRINTING

By/s/ John Catlin
John Catlin, Owner

Adopted by the House January 24, 1991.
Adopted by the Senate February 8, 1991.

(H.C.R. No. 9)

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 First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, 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	$ 3,400,000
Secretary of State	1,100,000
State Treasurer	22,000,000
Department of Insurance	25,500,000
Department of Lands	130,000
Department of Law Enforcement	1,050,000
Department of Revenue and Taxation:	
Individual Income Tax	430,300,000
Corporate Income Tax	62,000,000
Kilowatt Hour Tax	1,700,000
Beer Tax	1,550,000
Mine License Tax	450,000
Wine Tax	800,000
Cigarette Tax	6,600,000
Unclaimed Property	1,000,000
Miscellaneous Agencies and Transfers	1,200,000
Liquor	4,945,000
Sales Tax	341,100,000
TOTAL	$904,825,000

Adopted by the House January 30, 1991.
Adopted by the Senate February 7, 1991.

(H.C.R. No. 10)

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 1992 fiscal year, and to consult with experts in all fields in order to present the most complete information available; and

WHEREAS, it is the desire of the Legislature to adopt the findings of this committee as to the revenue projections in order to facilitate

the appropriations process.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first 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 1991-1992 fiscal year.

Revenue Projections for 1991-1992 fiscal year:

Court System	$ 3,500,000
Secretary of State	1,050,000
State Treasurer	19,000,000
Department of Insurance	26,100,000
Department of Lands	130,000
Department of Law Enforcement	1,050,000
Department of Revenue and Taxation:	
Individual Income Tax	458,000,000
Corporate Income Tax	65,000,000
Kilowatt Hour Tax	2,000,000
Beer Tax	1,800,000
Mine License Tax	200,000
Wine Tax	800,000
Cigarette Tax	6,500,000
Unclaimed Property	1,000,000
Miscellaneous Agencies and Transfers	1,200,000
Liquor	4,945,000
Sales Tax	361,500,000
TOTAL	$953,775,000

The Legislative Revenue Projections Committee acknowledges the existence of legal and legislative issues which may affect these projections in a manner as yet unknown:

(1) Nonresident personal income tax law (Moses vs. Idaho State Tax Commission);
(2) Sales tax production exemption law (Idaho State Tax Commission vs. Haener Bros., Inc.);
(3) Wine tax refund obligation;
(4) Multi-state corporate income tax in regard to apportionment of obligation between states.

Adopted by the House January 30, 1991.
Adopted by the Senate February 7, 1991.

(H.C.R. No. 12)

A CONCURRENT RESOLUTION

EXPRESSING THE SENSE OF THE IDAHO LEGISLATURE IN SUPPORT OF "OPERATION HOMEFRONT."

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

WHEREAS, over 400,000 American servicemen and women are risking their lives in defending the interests and principles of the United

States of America; and

WHEREAS, these American troops, including many from the State of Idaho, are performing with remarkable success against Saddam Hussein and his military-industrial complex; and

WHEREAS, all citizens of the State of Idaho should take great pride in the manner in which our brave servicemen and women are representing our Nation in the Middle East; and

WHEREAS, all Americans eagerly await a successful and expedient conclusion to the Persian Gulf war and the safe return of our courageous men and women serving in that region.

NOW, THEREFORE, BE IT RESOLVED on this seventh day of February by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we do strongly support and endorse "OPERATION HOMEFRONT" as a national grassroots effort to support our servicemen and women participating in "OPERATION DESERT STORM" and their families here at home; and we encourage state and local governments and private businesses and industry to organize "OPERATION HOMEFRONT" task forces intended to provide support for the families of the troops while they are deployed and to plan and organize welcome home celebrations for the servicemen and women upon their arrival home.

Adopted by the House February 4, 1991.
Adopted by the Senate February 11, 1991.

(H.C.R. No. 13)

A CONCURRENT RESOLUTION

DECLARING THE WEEK OF APRIL 7-13, 1991, TO BE IDAHO COUNTY GOVERNMENT WEEK.

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

WHEREAS, county government is the oldest form of local government in the United States; and

WHEREAS, ninety-eight percent of the nation's and one hundred percent of Idaho's population resides in counties; and

WHEREAS, county government in Idaho employs hundreds of people and spends millions of dollars annually to provide a wide range of services for the benefit of the people of Idaho; and

WHEREAS, county government is often the last available resource for providing emergency and long-term services for the poor, the homeless, immigrants, refugees, the disadvantaged and other segments of society; and

WHEREAS, over the last thirty years, county governments have assumed increasing responsibility for the administration and financing of health, welfare, justice, transportation, housing and community development programs; and

WHEREAS, county governments have a greater role in solving areawide problems dealing with air and water pollution, solid waste disposal, airports, parks and other issues; and

WHEREAS, Congress and the President have adopted a resolution proclaiming the week of April 7-13, 1991, as National County Government Week.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the week of April 7-13, 1991, be declared Idaho County Government Week.

Adopted by the House February 6, 1991.
Adopted by the Senate February 15, 1991.

(H.C.R. No. 14)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE FIFTY-FIRST IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING THE STATE OF THE JUDICIARY FROM SUPREME COURT CHIEF JUSTICE ROBERT BAKES.

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

WHEREAS, Chief Justice Robert Bakes has informed the House of Representatives and the Senate that he desires to deliver a message on the State of the Judiciary to a Joint Session of the House of Representatives and the Senate of the First Regular Session of the Fifty-first Idaho Legislature in the Chamber of the House of Representatives at 10:30 a.m. on Friday, February 8, 1991.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Friday, February 8, 1991, at 10:30 a.m. for the purpose of hearing the State of the Judiciary from Chief Justice Robert Bakes.

Adopted by the House February 7, 1991.
Adopted by the Senate February 8, 1991.

(H.C.R. No. 15)

A CONCURRENT RESOLUTION

AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF THE ADMINISTRATIVE PROCEDURES ACT.

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

WHEREAS, the Administrative Procedures Act contained in Chapter 52, Title 67, Idaho Code, was first enacted in 1965; and

WHEREAS, the Administrative Procedures Act was amended by the pas-

sage of House Bill No. 529 in 1990 which related to legislative oversight of administrative rules and was interpreted in 1990 by the Idaho Supreme Court in the case of Mead v. Arnell; and

WHEREAS, the Mead v. Arnell case upheld the Legislature's authority to reject rules and regulations promulgated by the executive branch of government; and

WHEREAS, the problem of notice for proposed rules under the Administrative Procedures Act is one that both state agencies and persons or entities regulated by rules and regulations seem to struggle with; and

WHEREAS, the world, Idaho and state government have changed greatly since 1965 and an examination of the Administrative Procedures Act is in order to modernize it, make it more efficient and have it better serve the needs of the people of the state as well as agencies of state government.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized and directed to appoint a twelve person committee, with six members from the Senate and six members from the House of Representatives, to undertake and complete a study of the Administrative Procedures Act with emphasis given to legislative oversight of administrative rules and the general procedure of how rules get promulgated and notice is given to and received by the public. In conducting this study, the Committee shall consult with the directors or administrative heads of state agencies and institutions, and the private, public entities and persons who are impacted by or regulated by administrative rules and the general provisions of the Administrative Procedures Act.

BE IT FURTHER RESOLVED that the Committee shall report its findings, recommendations and proposed legislation, if any, to the Second Regular Session of the Fifty-first Idaho Legislature.

Adopted by the House February 15, 1991.
Adopted by the Senate March 29, 1991.

(H.C.R. No. 17)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND DIRECTING THE LEGISLATIVE COUNCIL TO ESTABLISH A COMMITTEE TO REVIEW INDIAN AFFAIRS ISSUES.

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

WHEREAS, there are Indian tribes in the State of Idaho with unique rights which are inherent or acknowledged by treaties, statutes or case law and these tribes are recognized by the United States as sovereign dependent nations; and

WHEREAS, due to the unique character of tribal governments, there are many complex issues relating to law enforcement, water rights, zoning and land use, natural resources, wildlife management, health

and welfare services, education, and taxation which should continue to be addressed in a coordinated manner by legislative bodies of federal, state and tribal governments; and

WHEREAS, the United States Congress, as the ultimate authority on Indian tribes, has not acted in a decisive manner to resolve many of these legal, social and economic issues relating to Indian tribes in Idaho; and

WHEREAS, the Legislature of the State of Idaho and tribal councils of the five Idaho Indian tribes have started a successful effort toward resolving these complex issues through cooperation, negotiation, and mutual agreement; and

WHEREAS, failure to address Indian affairs issues will result in expensive court litigation which has strained tribal-state relations in the past and has not satisfactorily resolved any of these important issues; and

WHEREAS, it is the goal of the Legislature of the State of Idaho to address current Indian affairs issues through coordinated legislative action based upon improved communications and better understanding between the federal, state and tribal governments; and

WHEREAS, the Legislative Council Committee on Indian Affairs in meeting in 1983 and 1984, studied Indian affairs issues and determined that it would be beneficial for a special joint committee of the Legislature to continue to meet with tribal and federal government representatives in order to address important issues of mutual concern.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council shall appoint a committee comprised of eight members to review Indian affairs issues. This committee shall consist of four members of the House of Representatives and four members of Senate, with consideration given in appointing members to the Committee to achieve a geographical balance and with consideration given to individuals who have served on the previous Indian Affairs Committees.

BE IT FURTHER RESOLVED that the Committee may seek opinions of and information from the various Indian tribes, both jointly and individually, state agencies, local government, citizens living on or near Indian reservations and other interested persons and entities, to assist the Committee in its deliberations as the members deem appropriate for studying Indian-related issues of the various tribes in Idaho.

BE IT FURTHER RESOLVED that the Committee shall initially give priority to Indian affairs issues and may recommend legislation and suggest solutions to resolve those issues.

BE IT FURTHER RESOLVED that the Legislative Council shall report the Committee's findings, recommendations and, if appropriate, legislation to the Second Regular Session of the Fifty-second Idaho Legislature and that the Legislative Council shall submit a progress report of the Committee to the Second Regular Session of the Fifty-first Idaho Legislature.

Adopted by the House February 14, 1991.
Adopted by the Senate February 26, 1991.

(H.C.R. No. 19)

A CONCURRENT RESOLUTION

PROVIDING FOR PRINTING THE SESSION LAWS, FIXING THE PRICE FOR PRINTING THE SAME, AND THE PRICE WHICH THE PUBLIC SHALL BE CHARGED FOR COPIES OF THE SESSION LAWS.

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

WHEREAS, Section 67-904, Idaho Code, has made provisions for the printing of the Session Laws;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee of the Legislature of the State of Idaho hereinafter referred to as the Joint Committee;

BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the contract for the printing of the Session Laws of the First and Second Regular Sessions, Fifty-first Idaho Legislature, and the Session Laws of any Extraordinary Session, Fifty-first Idaho Legislature, in accordance with the provisions of law and in accordance with the written contract between the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the Joint Committee as party of the first part, and CAXTON PRINTERS, LTD., of Caldwell, Idaho, as party of the second part, be, and the same is hereby ratified, confirmed and concurred in, and is incorporated herein and made a part of this resolution, in words and figures following, to-wit:

PRINTING CONTRACT

THIS AGREEMENT, made and entered into this 29th day of January, 1991, by and between the Speaker of the House of Representatives, Tom Boyd, and the President Pro Tempore of the Senate, Michael D. Crapo, the Joint Committee of the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee of the Legislature of the State of Idaho, hereinafter mentioned as party of the first part, and THE CAXTON PRINTERS, LTD., of Caldwell, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH:

That pursuant to a resolution of said party of the first part and written bid submitted to the said party of the first part by the party of the second part, contract for legislative printing is hereby awarded to said CAXTON PRINTERS, LTD., as follows:

SESSION LAWS

For printing and binding 1200 copies of the Session Laws of the First Regular Session of the Fifty-first Idaho Legislature and for printing and binding 1200 copies of the Session Laws of the Second Regular Session of the Fifty-first Idaho Legislature and the Session Laws of any Extraordinary Session of the Fifty-first Idaho Legisla-

ture: $25.75 per page, f.o.b. Boise, Idaho, if produced by offset lithography with camera-ready copy being furnished party of the second part, plus $5.80 per volume for binding. For pages requiring reduction shots, an additional $7.00 per page charge. Each volume to be Smythe sewed, rounded and backed with suitable headbands and Roxite Library Buckram over a 15 point Red Label Davey Board. The party of the second part shall provide an additional quantity to be made available to the general public at $35.00 per single volume, and $42.00 per set of two volumes, if a second volume is required. The Session Laws of any Extraordinary Session adjourned prior to June 1, 1991, shall be included in the Session Laws of the First Regular Session, or if adjourned prior to June 1, 1992, shall be included in the Session Laws of the Second Regular Session. No charge shall be made by the party of the second part for proofreading or blank pages.

IT IS AGREED between the parties hereto that all of said printing shall be done in the form and manner as submitted in written bid dated January 28, 1991, by party of the second part, and in compliance with the statutes of the State of Idaho where not otherwise provided, such statutes shall be controlling.

IT IS FURTHER AGREED that said Session Laws shall be printed, delivered to and be ready for distribution by the Secretary of State in conformity with the provisions of Section 67-904, Idaho Code, which section is hereby referred to and by such reference made a part of this contract as though set forth at length herein, and particularly as follows:

The Session Laws shall be printed and made available for distribution within 60 days after the last day on which the Governor may sign or approve bills following adjournment of the session of the legislature which enacted or passed the measures included in the Session Laws, or within 30 days after the delivery to the party of the second part of the proper title pages, certificate pages, tables of laws and statutes amended and repealed and a proper index of the contents of the Session Laws, whichever date is first in time.

Such printing and delivery of said Session Laws to the Secretary of State are to be made as provided by law; that for each day's failure to so deliver volumes of such Session Laws as herein provided, there shall be deducted from the contract price for printing said Session Laws the sum of $50.00 per day for each day's delay; provided, however, that the party of the second part shall not be held responsible for delay occasioned by failure to furnish copy for such printing to the party of the second part and such delay shall, to the same extent, extend the time for the performance of this agreement.

IN WITNESS WHEREOF, the party of the second part has caused these presents to be executed by its proper officials, and the party of the first part, by concurrent resolution has caused these presents to be executed by its proper officials.

Party of the First Part

SPEAKER OF THE HOUSE OF REPRESENTATIVES
By /s/Tom Boyd
Tom Boyd

HOUSE JUDICIARY, RULES AND
ADMINISTRATION COMMITTEE
By /s/Don C. Loveland
Don C. Loveland, Chairman

PRESIDENT PRO TEMPORE OF THE SENATE
By /s/Michael D. Crapo
Michael D. Crapo

SENATE JUDICIARY AND RULES COMMITTEE
By /s/Denton Darrington
Denton Darrington, Chairman

Party of the Second Part

THE CAXTON PRINTERS, LTD.
By /s/Dave Gipson
Dave Gipson
Vice President

Adopted by the House February 19, 1991.
Adopted by the Senate February 27, 1991.

(H.C.R. No. 20)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE INTENT ON PAY POLICIES FOR STATE EMPLOYEES.

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

WHEREAS, the Legislature has by law provided that the Governor and the Idaho Personnel Commission report to the Legislature their recommendations for proposed pay policies, together with estimated costs thereof; and

WHEREAS, the Legislature has received and reviewed the report of the Governor dated January 14, 1991, and the report of the Idaho Personnel Commission dated October 1, 1990; and

WHEREAS, the Legislature recognizes the need to maintain spending patterns of state government within established guidelines; and

WHEREAS, the Legislature recognizes the necessity to maintain the internal equity of its classification and compensation structure; and

WHEREAS, the Legislature intends that state employee salaries shall be based on market costs of labor and salary increases based on job performance as measured by factors such as productivity, reliability, effectiveness and the ability to achieve the goals and objectives of the particular position; and

WHEREAS, the Legislature intends that the average step placement of state employees move toward the midpoint of the compensation schedule.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular

Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that:

1. Recommendation No. 1 of the Idaho Personnel Commission and concurred in by the Chief Executive is hereby adopted.
2. Recommendation No. 2 of the Idaho Personnel Commission and concurred in by the Chief Executive is rejected.
3. Recommendation No. 3 of the Idaho Personnel Commission is rejected.
4. Recommendation of the Chief Executive to include an additional $805,600 General Account appropriation ($1,484,100 in total funds) in selected agency budgets to assist movement of employees to mid-point is hereby adopted.
5. A 4.0% structure adjustment to the payline is granted as expressed by the following mathematical formula to adjust the payline:
   Positions with 0 to 320 job evaluation points:
   Hourly rate = $.03475 per point plus $2.214
   Positions with 321 points or more:
   Hourly rate = $.01445 per point plus $8.737.
6. 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.
   (a) It is hereby declared that it is the intent of the Legislature that pay for performance shall be awarded for solid, mainstream, dependable performance as determined through a job performance evaluation and criteria described in this resolution and section 67-5309C, Idaho Code.
   (b) It is further declared that pay for performance should not be misunderstood to mean that pay increases be awarded only for superlative, "above and beyond the call of duty" job performance.
   (c) It is further declared that the job performance evaluation of a supervisor include, as a significant factor, how well he or she executes job performance evaluation of his or her subordinate employees where required to do such evaluation.
   (d) It is further declared that it is the intent of this Legislature that 4.0% money be made available to colleges and universities for increases, based upon job performance, for classified and nonclassified employees. These increases, except as provided by law, shall be based upon job performance.
7. The Joint Finance-Appropriations Committee is directed to appropriate an amount not to exceed $12,290,700 from the General Account to fund these recommendations.
8. For those agencies funded in total or in part from non-General Account money, the Joint Finance-Appropriations Committee is directed to appropriate in as nearly possible the same manner as for General Account funded agencies.

9. 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.
10. The effective date of implementation of these salary adjustments shall be June 9, 1991.

BE IT FURTHER RESOLVED that appropriation measures to fund nonclassified employees be prepared in as nearly possible the same manner as for classified employees; and

BE IT FURTHER RESOLVED that the Joint Finance-Appropriations Committee is directed to specify appropriations within the lump sum budgets of the universities dedicated to classified employee salaries in as nearly possible the same manner as for General Account funded agencies.

Adopted by the House February 21, 1991.
Adopted by the Senate March 1, 1991.

(H.C.R. No. 21)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND DIRECTING THE LEGISLATIVE COUNCIL TO ESTABLISH A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF PUBLIC TRANSPORTATION SYSTEMS THROUGHOUT THE STATE OF IDAHO.

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

WHEREAS, the Idaho Transportation Department is empowered and directed, pursuant to Section 21-104, Idaho Code, to encourage, foster and assist in the development of public transportation in the state and is further directed to cooperate with the federal government, municipalities of the state and others in that effort, and to coordinate the public transportation activities of these entities; and

WHEREAS, access to reliable public transportation is vital to individual mobility and access to day-to-day activities and the availability of an efficient public transportation system directly affects the quality of life of Idaho's citizenry; and

WHEREAS, federal funding for public transportation has not been sufficient to address Idaho's diverse, growing transit needs; and

WHEREAS, there is considerable fragmentation in the delivery of public transportation services by public agencies and private entities, resulting in a duplication of effort and the inefficient utilization of resources; and

WHEREAS, the lack of coordination and collaboration between state agencies and the providers of transit services hinders the establishment of a unified and efficient public transportation system and thus impedes the delivery of effective, dependable transit services to the citizens of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular

Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized and directed to appoint a committee to undertake and complete a study of public transportation systems in the state of Idaho, which will include an assessment of the public transportation needs of the citizens of Idaho and an analysis of the resources available to meet those needs. The Committee shall make recommendations for the effective coordination of existing services and the development of a uniform system of transit services delivery throughout the state, and in keeping therewith, shall formulate a proposed public transportation policy for the state of Idaho.

BE IT FURTHER RESOLVED, that the Committee shall report its findings, with any recommended legislation, to the Second Regular Session of the Fifty-first Idaho Legislature.

Adopted by the House March 7, 1991.
Adopted by the Senate March 29, 1991.

(H.C.R. No. 22)

A CONCURRENT RESOLUTION
AUTHORIZING THE CONTINUATION OF IDAHO'S PARTICIPATION IN THE WESTERN STATES LEGISLATIVE FORESTRY TASK FORCE.

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

WHEREAS, the state of Idaho has participated in the formation and work of the Western States Legislative Forestry Task Force; and

WHEREAS, the Western States Legislative Forestry Task Force is now a working entity, and is diligently pursuing the several subjects important to forest management of the member states; and

WHEREAS, it is to the benefit of the state of Idaho that we continue to participate in the Task Force so that the involved member states have every opportunity to foster sound forest management.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the state of Idaho continue to participate in and be a member of the Western States Legislative Forestry Task Force through the medium of a legislative delegation, which is authorized to serve for the duration of the Fifty-first Idaho Legislature.

BE IT FURTHER RESOLVED that the President Pro Tempore of the Senate is authorized to appoint two members of the Senate to serve as members of the Task Force, one each from the Republican and Democratic parties, and that the Speaker of the House of Representatives is authorized to appoint two members of the House of Representatives, one each from the majority and minority parties, to serve as members of the Task Force. The appointing officers may also designate alternates. The members or alternates of the Task Force shall be entitled to compensation and allowances as provided by law for members of other leg-

islative interim committees, to be paid from the Legislative Account.

Adopted by the House February 26, 1991.
Adopted by the Senate March 15, 1991.

(H.C.R. No. 23)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND RECOMMENDING THE ESTABLISHMENT OF A TASK FORCE TO ASSESS THE NEEDS OF PERSONS IN IDAHO WITHOUT HEALTH INSURANCE COVERAGE, AND TO REPORT FINDINGS AND PROPOSED LEGISLATION TO THE LEGISLATURE.

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

WHEREAS, it is estimated that up to 200,000 persons in Idaho may not have health insurance coverage; and

WHEREAS, it is in the best interests of the people of the state of Idaho that such persons have health insurance coverage for economic and societal reasons; and

WHEREAS, it is felt that the private sector should and must have a leading role in formulating and establishing programs to address this problem; and

WHEREAS, the private sector has indicated the desire and interest to work toward a partnership that recognizes the expertise and abilities of both public and private sectors in working toward a solution to the problem in this area; and

WHEREAS, it is felt that viable solutions to this problem could include guaranteed issuance of basic health insurance benefits for uninsured individuals by carriers or from a state basic benefits pool, the creation of lower cost private health insurance benefit packages not bound by mandatory legislative and regulatory requirements, and state tax credits for previously uninsured small employers, among other proposals; and

WHEREAS, determining the appropriate means for providing access to health insurance coverage for the state's uninsured population is an issue which requires further study and appropriate legislative action.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recommend the Department of Insurance establish and provide administrative support for a task force comprised of representatives from the insurance industry, other businesses and industries, health care provider groups and associations, public and advocacy groups, the Governor and other elected officials, and other groups, agencies and organizations as deemed appropriate, to undertake and complete an assessment of all relevant issues associated with providing coverage for the uninsured, uninsurable and small employers in Idaho.

BE IT FURTHER RESOLVED that the task force report periodically on its deliberations and progress to the Office of the Governor and the Special Legislative Committee on Health Care.

BE IT FURTHER RESOLVED that the task force shall report its findings and recommended legislation to the Second Regular Session of the Fifty-first Idaho Legislature.

Adopted by the House February 26, 1991.
Adopted by the Senate March 19, 1991.

(H.C.R. No. 29)

A CONCURRENT RESOLUTION
CONFIRMING THE APPOINTMENT OF MR. BRUCE BALDERSTON TO THE POSITION OF LEGISLATIVE AUDITOR FOR THE STATE OF IDAHO.

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

WHEREAS, Section 67-441, Idaho Code, provides that a Legislative Auditor for the State of Idaho shall be appointed by the Joint Senate Finance-House Appropriations Committee, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, pursuant to Section 67-441, Idaho Code, the Joint Senate Finance-House Appropriations Committee has appointed Mr. Bruce Balderston to the position of Legislative Auditor, and the appointment is now before the Legislature of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we do confirm the appointment of Mr. Bruce Balderston to the position of Legislative Auditor for the State of Idaho, effective August 1, 1991.

Adopted by the House March 13, 1991.
Adopted by the Senate March 28, 1991.

(H.C.R. No. 33)

A CONCURRENT RESOLUTION
EXPRESSING THE SENSE OF THE IDAHO LEGISLATURE IN SUPPORT OF RESEARCH AND DEVELOPMENT PROGRAMS AT THE IDAHO NATIONAL ENGINEERING LABORATORY.

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

WHEREAS, the Idaho National Engineering Laboratory is a major technical facility in the northern Rocky Mountain region; and

WHEREAS, the site's biotechnology research will help Idaho farmers turn agricultural wastes into viable products; and

WHEREAS, other research is exploring methods to organically remove hazardous materials from ground water; and

WHEREAS, scientists at the Idaho National Engineering Laboratory have developed instrumentation to detect trace amounts of chemicals

and pesticides; and

WHEREAS, the site's research center is studying ways to produce agricultural fertilizers from animal byproducts; and

WHEREAS, the Idaho National Engineering Laboratory continues to contribute to many important research and development programs for agriculture and Idaho industry in general.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we do strongly support and appreciate the research activities and programs at the Idaho National Engineering Laboratory and its contribution to Idaho agriculture and Idaho's overall economy.

Adopted by the House March 21, 1991.
Adopted by the Senate March 29, 1991.

(H.C.R. No. 34)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO STUDY WATER QUALITY ISSUES.

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

WHEREAS, protecting water quality is important to the people of Idaho, with clean water being a vital component of the state's economy and quality of life; and

WHEREAS, laws and programs designed to protect water quality and assure continued economic activities which are vital to the people of Idaho are the responsibility of the Idaho Legislature; and

WHEREAS, the antidegradation agreement signed between the state of Idaho, industry, and conservation interests is to be reviewed in 1992; and

WHEREAS, proposals for economic development activities, as well as various additional water quality protection efforts raise questions about the need for and effectiveness of such programs which are increasingly complex and controversial; and

WHEREAS, resolution of these issues will require knowledge and experience, including technical knowledge which reflects the complexity of water quality management.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized and directed to undertake and complete a study to evaluate various water quality programs and pollution control strategies including the application and effectiveness of best management practices for control of nonpoint source pollution; the relationship between water quality, pollution, control, fish habitat and recreational values; and future efforts which might be effective in protecting water quality.

BE IT FURTHER RESOLVED that, in carrying out this study, the Com-

mittee shall utilize the expertise and knowledge of public agencies involved in water quality protection and resource management, plus the services of educational institutions in the state and that the Committee's work shall include meetings and field trips throughout the state.

BE IT FURTHER RESOLVED that the Committee shall submit its findings, recommendations and, if appropriate, recommend legislation to the First Regular Session of the Fifty-second Idaho Legislature. The Committee shall submit a progress report to the Second Regular Session of the Fifty-first Idaho Legislature.

Adopted by the House March 22, 1991.
Adopted by the Senate March 29, 1991.

(H.C.R. No. 36)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND AMENDING 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 1, 1990, relating to Individual/Subsurface Sewage Disposal Systems go beyond and are contrary to the Environmental Protection and Health Act, Chapter 1, Title 39, Idaho Code, and the Water Pollution Abatement Act, Chapter 36, Title 39, Idaho Code; and

WHEREAS, it is the finding of the Legislature that certain rules of the Board of Health and Welfare, originally effective October 15, 1990, relating generally to Individual/Subsurface Sewage Disposal Systems and more specifically seepage pit disposal facilities should be amended.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 16.01.3008,11, Idaho Department of Health and Welfare Rules and Regulations, Chapter 3, Title 1, Rules and Regulations for Individual/Subsurface Sewage Disposal Systems, be, and the same is hereby amended to read as follows:

11. Seepage Pit. ~~Until October 1, 1991, s~~Seepage pit disposal facilities may be used on a case by case basis within the boundaries of District Health Department Seven when an applicant can demonstrate to the district director's satisfaction

that the soils and depth to ground water are sufficient to prevent ground water contamination. The district director shall document all such cases. ~~(10-1-90)~~( )

Adopted by the House March 27, 1991.
Adopted by the Senate March 29, 1991.

(H.C.R. No. 37)

A CONCURRENT RESOLUTION
AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF WASTE DISPOSAL.

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

WHEREAS, disposal of waste is of prime concern to all of the citizens of the state; and

WHEREAS, there is a need to investigate, study and evaluate various proposals for disposal of a variety of waste products.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of the problems of waste disposal, including solid wastes, medical wastes, and other hazardous wastes.

BE IT FURTHER RESOLVED that the Committee shall submit its findings and recommendations to the Second Regular Session of the Fifty-first Idaho Legislature.

Adopted by the House March 28, 1991.
Adopted by the Senate March 29, 1991.

(H.C.R. No. 38)

A CONCURRENT RESOLUTION
AUTHORIZING THE APPOINTMENT OF A JOINT LEGISLATIVE COMMITTEE TO PREPARE A PLAN OR PLANS TO REAPPORTION THE IDAHO LEGISLATURE.

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

WHEREAS, the Constitution of the State of Idaho requires that the Idaho Legislature be reapportioned following the census of 1990; and

WHEREAS, the census data is now available to allow this process to proceed; and

WHEREAS, it is critical that this process be conducted in a fair and open forum.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that a Joint Committee on

Reapportionment is hereby authorized and created. The Joint Committee shall consist of twenty members, ten from the House of Representatives and ten from the Senate. The members of the House of Representatives shall be appointed by the Speaker of the House, with six members from the majority party and four members from the minority party, and the first member named by the Speaker shall be a co-chair of the Joint Committee. Five members of the Senate shall be appointed by the President Pro Tempore, and the first member named by the President Pro Tempore shall be a co-chair of the Joint Committee. Five members of the Senate shall be appointed by the Democrat Leader of the Senate.

The Joint Committee shall meet at the call of the co-chairs or at the call of a majority of the members of the Committee.

The Legislative Council shall provide staff and support services for the Joint Committee.

The Joint Committee shall prepare a plan or plans for reapportionment of the Idaho Legislature based on the 1990 census data in compliance with the requirements of the United States Constitution and the Constitution of the State of Idaho, and present such plan or plans to the presiding officers of the Legislature at the earliest date, but not later than the date of convening of the Second Regular Session of the Fifty-first Idaho Legislature.

The Joint Committee shall adopt such rules as are necessary to allow reasonable access to the statistical data, maps and information available to the Committee.

The Joint Committee may conduct such meetings and hearings as necessary to conduct its business.

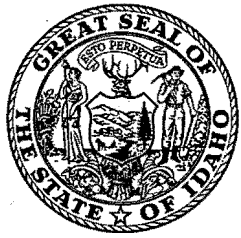
BE IT FURTHER RESOLVED, that the members of the Joint Committee shall receive such compensation and allowances as are prescribed by the Citizen's Committee on Legislative Compensation, to be paid from the Legislative Account.

Adopted by the House March 28, 1991.
Adopted by the Senate March 29, 1991.

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 Fifty-firstLegislature of the State of Idaho, First Regular Session thereof, which convened January 7, 1991, and which adjourned March 29, 1991, 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 24th day of April, 1991.

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. 90-5

CONTINUATION OF THE IDAHO RAILROAD ADVISORY COUNCIL AND DESIGNATION OF THE IDAHO TRANSPORTATION DEPARTMENT AND ITS DIRECTOR AS THE RECIPIENT OF FEDERAL GRANTS FOR LOCAL RAIL SERVICE ASSISTANCE, REPEALING AND REPLACING EXECUTIVE ORDER 90-2

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 continue 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 Transportation Department and its Director to receive and expend monies from the Federal Railroad Administrator for Local Rail Service Assistance for planning and projects, as provided under applicable federal law and existing commitments by the state.

The Idaho Railroad Advisory Council shall consist of the Director of the Department of Commerce, who shall be chairman; 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 shall assist the Idaho Transportation Department in preparing a railroad 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 twenty-ninth day of May, 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. 90-6

CONTINUATION OF THE IDAHO CONSORTIUM FOR HUMAN AND ANIMAL HEALTH, REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-15

WHEREAS, it is in the public interest to promote the well-being of the people of Idaho by optimal use of resources related to human and animal health; and

WHEREAS, the most efficient and effective use of scarce resources requires cooperative planning as well as sharing information, technical capability, and equipment; and

WHEREAS, the public agencies that are responsible for various aspects of human and animal health at the state, local, and federal levels need to maintain and enhance open lines of communication; and

WHEREAS, the State of Idaho has experienced complicated and perplexing crises such as the PCB contaminated livestock episode in 1979 and the ash fallout from Mount St. Helens volcano in 1980, both having serious implications for human and animal health; and

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by virtue of the authority vested in me, do hereby continue the Idaho Consortium for Human and Animal Health, which shall be composed of the State Health Officer in the Department of Health and Welfare, the Chief of the Bureau of Laboratories in the Department of Health and Welfare, the Administrator of the Division of Animal Industries in the Department of Agriculture, the Administrator of the Division of Agriculture Technology in the Department of Agriculture, the Director of the Caine Teaching Center in Caldwell, the Head of the Quality Assurance Laboratories in Moscow and Twin Falls, the Director of the Department of Fish and Game, the State Wildlife Veterinarian, the Administrator of the Division of Environmental Quality in the Department of Health and Welfare, and the Chairman of the Conference of Pub-

lic Health Directors, or their designee.

The continuation of the Consortium is made with the understanding that policy-making responsibilities and the administration of affected state programs as provided by the Idaho Code will be maintained as legally required, and the Consortium will report to the Governor's Office, department directors, and agency boards that have different degrees of responsibility for programs related to human and animal health.

The continuation of the appointment of this Consortium is made with the understanding that its main responsibility will be to maximize the use of all government resources that can be applied to an optimum understanding of human and animal health concerns, particularly those functions involving laboratory study, research initiatives, and the coordination of acute information needs necessary for accurate technical analysis. This will require the coordination of ongoing programs and the investigation of high-priority health problems that require the prompt organization of diverse data necessary for the prevention of widespread, costly illness in humans and animals.

The continuation of this Consortium is made with the understanding that the people serving in these positions have extensive technical knowledge and experience available in state government for the protection and maintenance of human and animal health in the State of Idaho and, therefore, have access to other state, local, and federal government resources. Since these resources extend far beyond the members of the Consortium, yet remain essential to laboratory coordination and research direction for health-related concerns, the Consortium must make every effort to maximize their effectiveness and consider the resources of other state and federal agencies.

The appointment of the Chairperson of the Consortium shall be made by the Governor from a list of recommendations submitted by the Consortium. The Chairperson will serve at the pleasure of the Governor. Regular meetings of the Consortium will be held twice annually and emergency meetings may be called at any time.

This Executive Order repeals and replaces Executive Order No. 86-15.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twentieth day of August, in the year of our Lord nineteen hundred ninety, and of the Independence of the United States of America the two hundred fifteenth, and of the Statehood of Idaho the one-hundred first.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 90-7

CONTINUING PROCEDURES FOR MAINTAINING A PROPERTY INVENTORY SYSTEM REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-19

WHEREAS, proper control of chattel property is necessary for effective management of state resources; and

WHEREAS, agency directors are responsible for the best possible management of property under their control; and

WHEREAS, proper budgeting, accounting, and planning decisions depend upon accurate information concerning chattel property at the agency level; and

WHEREAS, timely and accurate information concerning the availability of state property is necessary for civil defense and other statewide emergencies; and

WHEREAS, accurate records of chattel property are necessary for purposes of providing adequate property insurance and assisting in determining the extent of physical destruction of property;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by virtue of the authority vested in me under the Constitution and laws of the State of Idaho, do hereby order as follows:

1. All agency directors shall develop and maintain an inventory system, meeting minimum requirements as set forth by the Department of Administration, for all chattel property which the agency owns or is responsible for whether under terms of any contract, grant, or otherwise.
2. Each state agency director shall be accountable for the maintenance, security, and efficient economic use -- as well as the verification of physical location and condition of all chattel property belonging to that agency.
3. The agency director shall be responsible for conducting an annual inventory of all chattel property by no later than the first day of March of each fiscal year. Further, each agency director shall make a written report to the Director of the Department of Administration that the inventory has been completed by the end of the first week of March of each year on a form developed by and under such guidelines as are issued by the Department of Administration.
4. The Department of Administration shall provide all agencies with an inflation factor for chattel property in early January of each year to assist agency directors in discharging the responsibility set forth herein.
5. Each agency director may appoint a property control officer who shall be responsible for conducting the annual inventory of agency property. The property control officer shall also be responsible for ensuring the prompt recording of newly acquired property and the economical disposition of surplus property in a timely manner. The property control officer shall periodically review the values of property for reasonableness.
6. The agency director or his appointed property control officer shall have the authority to dispose of surplus property in accordance with the rules and regulations of the State Divi-

sion of Purchasing.

7. To maintain uniformity among the various agency property inventory systems, the Department of Administration shall develop and distribute to each agency minimum requirements for each inventory system. Each agency should feel free to add additional functions beyond those minimums to meet their requirements.

This Executive Order repeals and replaces Executive Order No. 86-19.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the fifth day of October, in the year of our Lord nineteen hundred ninety, and of the Independence of the United States of America the two hundred fifteenth, and of the Statehood of Idaho the one hundred first.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 90-8

CONTINUING THE IDAHO COOPERATIVE CENTER FOR HEALTH STATISTICS WITHIN THE DIVISION OF HEALTH, DEPARTMENT OF HEALTH AND WELFARE REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-24

WHEREAS, the Congress of the United States has enacted the National Health Planning and Resources Development Act of 1974 (PL 93-641), the Health Planning and Resources Development Amendments of 1979 (PL 96-79), the Health Professionals Educational Assistance Act (PL 94-484), and the Health Services Research, Health Statistics, and Medical Libraries Act of 1974 (PL 93-353) which authorizes the National Center for Health Statistics to develop a national Cooperative Health Statistics System; and

WHEREAS, the executive agencies of the State of Idaho must continue their commitment to reducing duplication of data collection and processing through shared data systems; to improving the quality, timeliness, and comparability of health statistics; to providing equal access to data to all appropriate data users (such access to be limited by the provision of guarantees for the confidentiality of individually identifiable data); and to supporting the goals and objectives of the Cooperative Health Statistics System established by the National Center for Health Statistics;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby continue within the Vital Statistics Unit of the

Division of Health, Department of Health and Welfare, the Cooperative Center for Health Statistics pursuant to the provisions of Public Laws 93-641, 96-79, 94-484, and 93-353.

FURTHERMORE, the purpose of the Idaho Cooperative Center for Health Statistics shall continue to be to further assist the Idaho Department of Health and Welfare in the uniform collection, analysis, and dissemination of vital health care data and to serve as the focal point for coordinating the collection, analysis, and dissemination of health data. The Cooperative Center for Health Statistics shall provide statistical support services to meet the needs of the federal, state, and local public health data users and providers in both the public and private sectors.

FURTHER, I authorize the Director of the Department of Health and Welfare to continue the subcommittee of the permanent Vital Statistics Advisory Committee, known as the Cooperative Center for Health Statistics Advisory Committee. The Cooperative Center for Health Statistics Advisory Committee shall advise the Department of Health and Welfare with respect to the design and use of statistical and information systems within the Division of Health and shall make specific recommendations to:

1. Develop general program policy and long-range plans for the development, implementation, and technical support of the State Cooperative Center for Health Statistics;
2. Assure that state and local health providers, collectors, and users are appropriately involved in decision-making regarding health data;
3. Improve the availability and use of nonconfidential health data, with equal access to data limited only by the provision of guarantees of confidentiality or nondisclosure of the identity of individual respondents or data subjects;
4. Maintain an appropriate balance between legitimate access to data and protection of confidentiality and privacy;
5. With respect to technical uses of major import regarding the compatibility and integration of health data systems, recommend such standards that relate to confidentiality, quality control, and physical security;
6. Assist in the coordination of activities in the development of shared data systems for the purpose of reducing duplication of data collection and processing, minimizing respondent burden, and encouraging maximum compatibility of data; and
7. Assure that the needs of local, state, and national data users in both the public and private sectors have been considered and that the Division of Health's data systems are flexible and responsive to these needs.

FURTHER, the Cooperative Center for Health Statistics Advisory Committee shall report its recommendations in writing to the Director of the Department of Health and Welfare, the Division of Health Administrator, and the State Health Officer at least once a year on a date designated by the Division of Health Administrator.

This Executive Order repeals and replaces Executive Order No. 86-24.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the thirtieth day of October, in the year of our Lord nineteen hundred ninety, and of the Independence of the United States of America the two hundred fifteenth, and of the Statehood of Idaho the one-hundred first.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 90-9

CONTINUING A SYSTEM FOR ALLOCATING VOLUME CAP IN THE STATE CONSISTENT WITH THE PROVISIONS OF TITLE 50, CHAPTER 28, IDAHO CODE, AND THE U.S. INTERNAL REVENUE CODE OF 1986, REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-25

WHEREAS, Section 146 of the U. S. Internal Revenue Code of 1986 (the "Code") subjects certain private activity and non-private activity bonds to volume limitations or "volume cap" (the "Volume Cap"); and

WHEREAS, Section 146(e) of the Code authorizes the governor of a state to proclaim a different formula for allocating the Volume Cap among the governmental units (or other authorities) in such state as an interim allocation system pending the enactment of state law with respect to the Volume Cap and such interim allocation system was provided for by Executive Order No. 86-25; and

WHEREAS, as required by Section 146(e) of the Code, the Idaho Legislature did adopt the provisions of Title 50, Chapter 28, Idaho Code, (the "State Law") to provide a permanent allocation formula for Volume Cap in the state; and

WHEREAS, Section 50-2804, Idaho Code, authorizes and directs the Governor of the State of Idaho to provide for the implementation and administration of the allocation formula established under Section 50-2803, Idaho Code, by executive order; and

WHEREAS, in order to provide for the implementation and administration of the formula for allocation of the Volume Cap among the state and its issuing authorities under the State Law, it is necessary and desirable to issue this Executive Order;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the power vested in me by the Constitution and laws of the State of Idaho, do hereby order and proclaim:

Section 1: As used in this Executive Order:

(1) "Allocation Dollars" means the dollar amount of the Volume Cap expressed in terms of dollars. Each allotment dollar equals one dollar of Volume Cap that may be allocated under this Executive Order and the State Law.
(2) "Bonds" means any obligations for which an allocation of the Volume Cap is required by the Code and the State Law.
(3) "Certificates" means mortgage credit certificates described in Section 25 of the Code. With respect to any allocation of Allotment Dollars for the purpose of issuing certificates, certificates will be deemed "issued" when the mortgage credit certificate program for which the allocation is made is implemented.
(4) "Code" means the Internal Revenue Code of 1954, as amended by the Reform Act of 1986 and renamed the Internal Code of 1986, and any related regulations.
(5) "Department" means the Department of Commerce of the State.
(6) "Director" means the director of the Department or such other official or officials of the Department as the director shall designate to carry out the duties of the director set forth in this Executive Order.
(7) "Form 8038" means Department of the Treasury tax form 8038 (OMB NO. 1545-0720) or any other federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the Code.
(8) "Issuing Authority" means
  (a) any county, city or port district;
  (b) any public corporation created pursuant to Section 50-2703 of the Idaho Code or other entity acting on behalf of one or more counties, cities, or both;
  (c) the State; or
  (d) any other entity authorized to issue Bonds or Certificates in the State.
(9) "Program" means the program to be financed in whole or in part with the proceeds of the sale of Bonds or to be implemented through the issuance of Certificates.
(10) "Project" means the facility to be financed in whole or in part with the proceeds of sale of Bonds.
(11) "Qualifying Carryforward Project or Program" means a Project or Program qualifying for carryforward under Section 146(f) of the Code.
(12) "State" means the state of Idaho, any of its agencies, instrumentalities, institutions and divisions authorized to issue Bonds or Certificates under State law.
(13) "State Law" means Title 50, Chapter 28, Idaho Code, as amended.
(14) "Volume Cap" means the volume cap for the State as computed under Section 146 of the Code.
(15) "Year" means each calendar year beginning January 1, 1990.

Section 2:

The Volume Cap for each Year is allocated to Issuing Authorities in accordance with the procedures set forth in this Executive Order. An allocation of the Volume Cap may be obtained by submitting an application to the Director in accordance with Section 3

or Section 5, as appropriate. The Director shall evidence a grant of an allocation of the Volume Cap by issuing a certificate of allocation in accordance with Section 4 or Section 5, as appropriate.

Section 3:

(1) Any Issuing Authority proposing to issue Bonds or Certificates shall, prior to the issuance of such Bonds or Certificates, submit an application to the Director which contains the following information and attachments:
   (a) the name of the Issuing Authority;
   (b) the mailing address of the Issuing Authority;
   (c) the tax identification number of the Issuing Authority;
   (d) the name, title and office telephone number of the official of the Issuing Authority to whom notices should be sent and from whom information can be obtained;
   (e) the principal amount of Bonds or Certificates proposed to be issued for which an application for an allocation of the Volume Cap is requested;
   (f) the nature and the specific location of the Project or the type of Program;
   (g) the initial owner or user of the Project or Program, if other than the Issuing Authority;
   (h) a copy of a valid and fully executed resolution or similar official action of the Issuing Authority evidencing its intention to issue Bonds or Certificates for the Project or Program;
   (i) with respect to Bonds, the anticipated date on which the Bonds are expected to be sold and the anticipated date on which the closing or final transaction with respect to the issuance and sale of the Bonds is expected to occur and, with respect to Certificates, the anticipated date on which the Certificates are expected to be issued;
   (j) the name, address, and telephone number of all parties to the transaction;
   (k) the applicable provisions of the Code under which the Bonds or Certificates are expected to be issued; and
   (l) any other information or attachments reasonably required by the Director.

(2) The Director shall
   (a) establish the form of application for requests for allocations of the Volume Cap, which form shall contain the information required by Section 3(1), and
   (b) make such forms available to the public upon request.

(3) The Director shall be under no obligation to process any application that is incomplete. Any application submitted by an Issuing Authority that the Director does not process shall be returned by the Director on or before the fifteenth day after receipt thereof with a brief explanation as to why the application was not processed.

Section 4:

(1) Except as otherwise provided in this Executive Order, on or before the fifteenth day after receipt by the Director of an

application for an allocation of the Volume Cap, the Director shall, if the application is in satisfactory order, make the requested allocation in the amount so requested, if available, and certify to the Issuing Authority applying for the allocation that an allocation has been made, the Project or Program for which the allocation has been made, and the amount of such allocation. Certificates of allocation evidencing the granting of an allocation by the Director shall be issued by the Director in the chronological order in which completed applications are received. No Issuing Authority issuing Bonds or Certificates is entitled to any allocation of the Volume Cap with respect to such Bonds or Certificates unless it has first received the aforementioned certificate of allocation from the Director evidencing the granting of an allocation for such Bonds or Certificates.

(2) Every allocation of the Volume Cap granted under this Executive Order by the Director for which Bonds or Certificates have not been issued with respect to such allocation, except those grants made pursuant to Section 5, shall remain effective until, and including, the earlier of

(a) the ninetieth day after the date on which such allocation was made,

(b) 12:00 o'clock midnight on December 30 of the Year in which such allocation was made, or

(c) the date upon which the Director receives a written notification from any such Issuing Authority pursuant to Section 7(2). Any allocation for which Bonds or Certificates are issued on or prior to the applicable date specified in this subsection shall be irrevocably allocated to such Bonds or Certificates.

(3) Until and including December 30 of each Year, any allocation of Allotment Dollars made in such Year, except allocations made pursuant to Section 5, for which Bonds or Certificates are not issued on or prior to the applicable date specified in Section 4(2) shall be available for reallocation to applying Issuing Authorities. On December 31 of each Year, any allocation of Allotment Dollars made in such Year for which Bonds or Certificates are not issued on or prior to the applicable date specified in Section 4(2) shall become available for reallocation only for Qualifying Carryforward Projects or Programs. In either case, such reallocations shall be made in the same manner as for original allocations of Allotment Dollars.

(4) No application submitted by an Issuing Authority to the Director pursuant to this section shall be processed if the amount of allocation of the Volume Cap requested in such application is in excess of the amount of Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the

reasons stated in this subsection, the Director shall continue to process other applications in the chronological order in which received, granting allocations pursuant to the provisions of this Executive Order.

Section 5:

(1) Issuing Authorities with Qualifying Carryforward Projects or Programs may apply for an allocation of Allotment Dollars for such Qualifying Carryforward Projects or Programs by submitting an application to the Director which shall contain:

(a) the carryforward purpose for the Bonds or Certificates under Section 146(f) of the Code;

(b) any other information required by Section 146(f) of the Code;

(c) a certification signed by both an official of the Issuing Authority responsible for the supervision of the issuance of the Bonds or Certificates and, if applicable, a representative of the person or entity constructing, acquiring, or rehabilitating the Project or administering the Program, stating that the Issuing Authority and, if applicable, such person or entity, will proceed with diligence to ensure the issuance of the Bonds or Certificates within the carryforward period provided by Section 146(f) of the Code;

(d) a preliminary opinion from bond counsel that the Project or Program qualifies for carryforward under Section 146(f) of the Code, if applicable;

(e) if applying for an allocation of Allotment Dollars for the purpose of issuing Certificates, the amount of qualified mortgage bonds defined in Section 143 of the Code which the Issuing Authority elects not to issue under the Code; and

(f) such other information and attachments as are set forth in Section 3(1).

(2) No application submitted by an Issuing Authority to the Director pursuant to this section shall be processed if at the time such application is considered the amount of allocation of the Volume Cap requested in such application is in excess of the amount of the Volume Cap remaining available for allocation. Any application not processed for the reasons stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in the chronological order in which received, granting allocations pursuant to the provisions of this Executive Order.

(3) Allocations of the Volume Cap for Qualifying Carryforward Projects or Programs shall be granted by the Director in the amount requested by the applying Issuing Authority, if available, on or after December 1, but no later than December 31, of the Year in which an application in satisfactory order is

submitted to the Director for an allocation of the Volume Cap for a Qualifying Carryforward Project or Program in the chronological order in which applications for such allocations are received. The Director shall issue certificates of allocation evidencing the granting of an allocation within the time period specified in the preceding sentence to each Issuing Authority which applied to the Director and which received an allocation of the Volume Cap for a Qualifying Carryforward Project or Program for each such Qualifying Carryforward Project or Program of such Issuing Authority, such certificates of allocation to be similar to the certificates of allocation described in Section 4, stating the amount of Allotment Dollars which have been allocated to such Issuing Authority, specifying the Qualifying Carryforward Project or Program for which the allocation has been made and specifying the expiration date of the allocation, as provided by Section 146(f) of the Code.

Section 6:

No application submitted to the Director may be amended without the consent of the Director; provided, however, that no such consent shall be required for an Issuing Authority to submit a new application in order to replace a previously submitted application if such new application is submitted before an allocation is made on the basis of the original application; provided further, that the consent of the Director shall not be required for an Issuing Authority to withdraw a previously submitted application. For purposes of receiving an allocation of the Volume Cap, any application that has been amended shall be treated as though such application was submitted on the date that the amendment was made, rather than on the date of the original submission of such application.

Section 7:

(1) After the effective date of this Executive Order, any Issuing Authority issuing Bonds or Certificates without a certificate of allocation of the Director issued pursuant to Section 4 or Section 5, as appropriate, evidencing the granting of an allocation for such Bonds or Certificates, or any Issuing Authority issuing Bonds or Certificates after the expiration of an allocation under Section 4 or Section 5, as appropriate, is not entitled to any allocation of the Volume Cap for such Bonds or Certificates, and any Issuing Authority issuing Bonds or Certificates in excess of the allocation set forth in the certificate of allocation is not entitled to any allocation of the Volume Cap for such excess.

(2) Each Issuing Authority shall

(a) advise the Director on or before the earlier of the sixtieth day after the issuance of any Bonds or Certificates or December 30 of each Year, of the principal amount of Bonds or Certificates issued under the allocation set forth in each certificate of allocation issued by the Director evidencing the granting of an allocation for such Bonds or Certificates by delivering to the Director a copy of the Form 8038 which was delivered to

the Internal Revenue Service in connection with such Bonds or Certificates, or, if no such form was required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the Director with respect to such Bonds or Certificates, or

(b) if all or a stated portion of such Bonds or Certificates will not be issued, shall advise the Director in writing, on or before the earlier of

(i) the fifteenth day after the earlier of

(A) the final decision not to issue all or a stated portion of such Bonds or Certificates or

(B) the expiration of the allocation, or

(ii) December 30 of the Year in which the allocation for such Bonds or Certificates was made.

(3) Each Issuing Authority shall cooperate with the Director in furnishing any information the Director reasonably requires. If an Issuing Authority obtains an allocation of a portion of the Volume Cap for a particular Project or Program from the Director as provided in Section 4 or Section 5, as appropriate, but does not issue its Bonds or Certificates within the prescribed time limit, or issues a lesser amount of Bonds or Certificates within the prescribed time limit, such Issuing Authority may again submit an application with respect to the proposed Bonds or Certificates or portion of such Bonds or Certificates not issued for such Project or Program as provided in Section 4 or Section 5, as appropriate. Such application shall be treated as a new application.

Section 8:

In addition to the duties otherwise specifically set forth in this Executive Order, the Director shall:

(1) determine the amount of Allotment Dollars available on December 31 of each Year for allocation for Qualifying Carryforward Projects or Programs and allocate the Allotment Dollars available for Qualifying Carryforward Projects or Programs as provided in this Executive Order;

(2) maintain a record of all applications filed by Issuing Authorities under Section 3 and Section 5 and all certificates of allocation issued under Section 4 and Section 5;

(3) maintain a record of all Bonds or Certificates issued by Issuing Authorities during each Year;

(4) maintain a record of all information filed by Issuing Authorities under this Executive Order;

(5) make available upon reasonable request a certified copy of all or any part of the records maintained by the Department under this Executive Order or a summary thereof including information regarding the Volume Cap for each Year and any amounts available, or at any time remaining available, for allocation under this Executive Order;

(6) the Director shall serve as the State official designated under State law to make any certifications required to be made under the Code including, without limitation, the certification required by Section 149(e)(2)(F) of the Code; and

(7) promulgate reasonable rules not inconsistent with this Executive Order deemed necessary or expedient to allocate the Volume Cap hereunder.

Section 9:

If any provision of this Executive Order shall be held to be, or shall, in fact, be invalid, inoperative or unconstitutional, the defect of the provision shall not affect any other provision of this Executive Order or render it invalid, inoperative, or unenforceable. To the extent this Executive Order shall be held or shall, in fact, be invalid, inoperative, or unconstitutional, all allocations of the Volume Cap previously made under this Executive Order shall be treated as allocations made by the Governor of the State in accordance with provisions of the State Law.

Section 10:

This Executive Order replaces Executive Order No. 86-25, which has expired, provided that such replacement shall not affect any allocations in the State made prior to the effective date hereof pursuant to any other Executive Orders or laws of the State.

Section 11:

The State pledges and agrees with the owners of any Bonds or Certificates to which an allocation of the Volume Cap has been granted under this Executive Order that the State will not retroactively alter the allocation of the Volume Cap to such Bonds or Certificates.

Section 12:

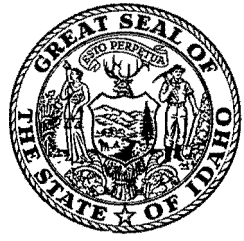
No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt or liability of the State or be deemed to constitute an approval of any obligation issued or to be issued hereunder.

Section 13:

The purpose of this Executive Order is to maximize the benefits of financing and development through the use of Bonds and Certificates providing a system for the implementation and administration of the formula specified in the State Law for allocating the Volume Cap within the meaning of Section 146(e) of the Code.

Section 14:

This Executive Order shall be effective immediately and shall continue in effect until such time as it may be repealed or superseded by operation of State or Federal law. Notwithstanding the foregoing, allocations for Qualifying Carryforward Projects or Programs pursuant to Section 5 hereof shall remain effective for the term of such allocation provided for in Section 146(f) of the Code.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the sixth day of November, in the year of our Lord nineteen hundred ninety, and of the Independence of the United States of America the two hundred fifteenth, and of the Statehood of Idaho the one hun-

dred first.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 90-10

CONTINUATION OF THE IDAHO DEPARTMENT OF EMPLOYMENT AS THE ORGANIZATIONAL UNIT TO BE RESPONSIBLE FOR THE STATE OF IDAHO'S LABOR MARKET INFORMATION PROGRAMS, REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-26

WHEREAS, the "Job Training Partnership Act of 1982" requires the Governor, in order to be eligible for federal financial assistance for state labor market information programs under this Act, to designate an organizational unit to be responsible for oversight and management of a statewide comprehensive labor market and occupational supply and demand information system; and

WHEREAS, the state must design a comprehensive cost-efficient labor market and occupational supply and demand information system which

1. Is responsive to the economic demand and education and training supply support needs of the state and areas within the state; and
2. Meets the federal standards under Chapter 35 of Title 44, United States Code, and other appropriate federal standards established by the Bureau of Labor Statistics; and

WHEREAS, the state's system must standardize available federal and state multi-agency administrative records and direct survey data sources to produce an employment and economic analysis with the published set of projections for the state and designated areas within the state which shall be used to contribute in carrying out the provisions of the "Job Training Partnership Act of 1982," the "Vocational Education Act of 1963," and the "Act of June 6, 1933," known as the "Wagner-Peyser Act"; and

WHEREAS, the Governor must assure to the extent feasible that

1. Automated technology will be used by the state,
2. Administrative records have been designed to reduce paperwork, and
3. Multiple survey burdens on the employers of the state have been reduced; and

WHEREAS, the Idaho Department of Employment operates a highly automated labor market information system supported by seven area labor market analysts located in each of the largest cities in Idaho; and

WHEREAS, since the Idaho Department of Employment in operating the state's Unemployment Insurance Program must collect from the employers of the state core information basic to any comprehensive statewide labor market and occupational supply and demand information system;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby continue the assignment to the Idaho Department of Employment of the role of organizational unit to be responsible for oversight and management of Idaho's statewide comprehensive labor market and occupational supply and demand information system; and

I FURTHER DIRECT that the Idaho Department of Employment continue to rely upon the Idaho State Occupational Information Coordinating Committee as the disseminating and coordinating mechanism for occupational supply/demand and career information system. Such a system will use existing sources of information where possible, including data from and generated by the Idaho Department of Employment through its Labor Market Information and Occupational Employment Statistics programs.

AND I FURTHER DIRECT the following in an effort to reduce paperwork and multiple survey burdens of the employers of Idaho:

1. The Idaho Personnel Commission will utilize the Department of Employment's annual wage and salary survey to meet its obligation to recommend payline adjustment to the Governor and Legislature. All attributable costs to the Idaho Department of Employment for the Personnel Commission's portion of the annual wage and salary survey will be billed by the Department of Employment to the Personnel Commission.
2. The Regulatory Reform Task Force will act as a screening mechanism for all proposed surveys of the state's private employers by the Executive Branch who request information beyond that required by law for each agency to perform its statutory duties.
3. Executive Order No. 86-26 is hereby repealed and replaced.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twelfth day of December, in the year of our Lord nineteen hundred ninety, and of the Independence of the United States of America the two hundred fifteenth, and of the Statehood of Idaho the one hundred first.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 90-11

CONTINUATION OF UNIFORM STATE PLANNING REGIONS, REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-27

WHEREAS, Executive Order No. 72-3 created six official and uniform

state planning regions to be utilized by all state departments and agencies and this has continued through such orders since 1972; and

WHEREAS, state departments and agencies continue to rely on divergent regional patterns for planning, administrative, technical assistance and data-gathering activities; and

WHEREAS, the need to coordinate the activities of state departments and agencies on a regional basis continues to exist; and

WHEREAS, the establishment of the aforementioned official and uniform state planning regions continues to result in a reduction of confusion among local public officials and in the more efficient delivery of services to the citizens of the State of Idaho by local governmental units; and

WHEREAS, the increase in the activities and involvement of the departments and agencies of the United States has intensified the need for the unimpeded cooperation among federal, state and local programs; and

WHEREAS, Public Law 90-577, the Intergovernmental Cooperation Act of 1968 and Part IV of the U.S. Office of Management and Budget Circular No. A-95, Revised, encourages the states "to exercise leadership in delineating and establishing a system of planning and development districts or regions in each state, which can provide a consistent geographic base for the coordination of federal, state and local development programs";

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by virtue of the powers vested in me, do issue this Executive Order continuing the official and uniform state planning regions to be utilized by all state departments and agencies. Six major regions shall continue to be as follows:

Region I: Boundary, Bonner, Kootenai, Benewah and Shoshone Counties (Panhandle Region)

Region II: Latah, Clearwater, Nez Perce, Lewis, and Idaho Counties (Clearwater Region)

Region III: Adams, Valley, Washington, Payette, Gem, Canyon, Boise, Ada, Elmore, and Owyhee Counties (Southwest Region)

Region IV: Camas, Blaine, Gooding, Lincoln, Jerome, Minidoka, Twin Falls, and Cassia Counties (Magic Valley Region)

Region V: Bingham, Power, Bannock, Oneida, Franklin, Caribou and Bear Lake Counties (Southeast Region)

Region VI: Lemhi, Custer, Butte, Clark, Jefferson, Fremont, Madison, Teton, and Bonneville Counties (Eastern Region)

It is hereby ordered and directed that all state agencies continue to conduct planning activities, collect data, compile reports, and report program progress on the basis of the State Planning Regions.

It is further ordered and directed that all agencies within the Executive Branch of Government continue to take the above Regional Districts into consideration in the future establishment and revision of all applicable state plans and programs.

It is further ordered and directed that state agencies may continue with the written authorization of the Governor to group or combine whole State Planning Regions into agency-designated larger geographic areas but shall continue to utilize the six state regions with

the nomenclature and numerical designations established by this order for purposes of data gathering and reporting.

However, where warranted, special exceptions may be granted by the Governor to those state agencies showing just cause for exemption. Agencies seeking exemption must submit:

(a) A map depicting those regions which can be utilized and those where a modification from existing boundaries is deemed necessary;

(b) A written statement of justification citing statutes, federal regulations or guidelines, personnel difficulties, unreasonable workload assignments, existing investments in field facilities, or other major factors indicating sufficient cause for delay or total exemption from adoption of the State Multi-County Regions specified herein; and

(c) A timetable for eventual agency compliance with this order when appropriate.

All state agencies utilizing administrative districts are encouraged to continue to bring their administrative district boundaries into conformity with the boundaries of the six planning regions.

The Department of Water Resources shall be exempted from this Order as their administrative regions are based on hydrologic drainage basins.

FURTHERMORE, local governmental units are encouraged to continue joint participation in regional councils of governments within this system of districts to enhance intergovernmental cooperation for the purposes of comprehensive planning and development and the administration of state and federally supported programs within the State of Idaho as authorized by the provisions of law.

This order contemplates that, if subsequent circumstances and developments warrant changes in the six regional boundaries due to the continuing process of local regional organization, appropriate revision of this order will be undertaken.

This Executive Order repeals and replaces Executive Order No. 86-27.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the fourteenth day of December, in the year of our Lord nineteen hundred ninety, and of the Independence of the United States of America the two hundred fifteenth, and of the Statehood of Idaho the one hundred first.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 90-12

CONTINUATION OF THE POLICY OF THE STATE ON LIFE-CYCLE COSTING PRACTICES AND DIRECTING THE ADMINISTRATOR OF THE DIVISION OF PURCHASING TO ASSIST STATE AGENCIES IN DEVELOPING PLANS TO UTILIZE LIFE-CYCLE COSTING PRACTICES, REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-28

WHEREAS, energy, its production, distribution, and utilization is a primary concern of all Idaho citizens; and

WHEREAS, the use of energy is an integral part of people's lives -- in agriculture, in business and industry, at home and in state and local government; and

WHEREAS, to be effective, energy planning should be incorporated into decision-making; and, with regard to procurement practices and construction of new buildings by the state, life-cycle costing is one technique already in use in several states of the Union; and

WHEREAS, life-cycle costing is a technique whereby the long-term maintenance and operating costs of a building or product are considered in addition to its original purchase price or construction cost. These additional costs are often as important as the original cost and affect the true economy of buildings and products. Life-cycle costing techniques supplement the present minimum bid standards for controlling state contracting, purchasing and building practices. When applied logically, this method of cost evaluation has been proven effective in establishing the greatest gain between quality and thrift; and

WHEREAS, Idahoans are rightly concerned about the cost of government today. By encouraging wise management of energy and fiscal resources in government, through life-cycle costing, every Idaho citizen's tax dollar will be expended in a manner to guarantee maximum efficiency;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby declare that it will continue to be the policy of the state to continue to promote the conservation of energy and the life-cycle cost or greatest value of commodities, and to effect coordination in the purchase of commodities by the State of Idaho.

To that end, all state agencies, prior to construction or renovation of any major facility, are directed to include in the design phase a provision for life-cycle costing. To accomplish the desired energy savings, agencies must calculate and define the additional costs of the life-cycle cost factors in their budget request of buildings. The Permanent Building Fund Advisory Council shall determine that all designs for buildings have been given a thorough analysis of life-cycle costing and energy-conscious design.

All state agencies are further directed to develop plans and specifications for energy efficiency in the acquisition of commodities purchased and/or acquired by the state, including life-cycle for the purchase of all major energy-consuming products.

I Further Direct the Administrator of the Division of Purchasing to assist all state agencies in developing plans and specifications to utilize energy efficiency and life-cycle costing in their acquisition and bidding practices. The Administrator of the Division of Purchasing

may, in his discretion, waive the requirements of life-cycle costing if he determines such exemption would be in the best interest of the State of Idaho.

This Executive Order repeals and replaces Executive Order No. 86-28.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the fourteenth day of December, in the year of our Lord nineteen hundred ninety, and of the Independence of the United States of America the two hundred fifteenth, and of the Statehood of Idaho the one hundred first.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 90-13

CONTINUATION OF A STATE HOUSING TAX CREDIT AGENCY REPEALING AND REPLACING EXECUTIVE ORDER NO. 86-30

WHEREAS, the United States Congress has enacted and amended the Internal Revenue Code of 1986 (the "Code"); and

WHEREAS, Section 42 of the Code authorizes a Low-Income Housing Credit; and

WHEREAS, Section 42(h) of the Code stipulates that the Housing Credit is subject to certain restrictions regarding the aggregate credit allowable with respect to projects located in a state; and

WHEREAS, the Idaho Housing Agency was created by the adoption of Chapter 62, Title 67, of the Idaho Code to increase the supply of housing for persons and families of low income and to encourage cooperation and coordination among private enterprise and state and local government to sponsor, build and rehabilitate residential housing for such persons and families; and

WHEREAS, in order to establish and continue an equitable process for the allocation of the allowable Low-Income Housing Credit for the State of Idaho, it is necessary and desirable to issue this Executive Order to provide authorization required under Section 42(h) for a State Housing Credit agency as defined in the Code;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the power vested in me do hereby order as follows:

Section 1: As used in the Executive Order:

(a) "Annual Report" means the report required from any agency which allocates any housing credit amount to any building for any calendar year, as specified in Section 42(1)(3) of the Code.

(b) "Code" means the Internal Revenue Code of 1986, as amended, and any related regulations.
(c) "Executive Director" means the Executive Director of the Idaho Housing Agency or such other official or officials of the Idaho Housing Agency as the Executive Director shall designate to carry out the duties set forth in this Executive Order.
(d) "Housing Credit Ceiling" means the dollar amount of State Housing Credit Ceiling applicable to any state for any calendar year in an amount based upon the applicable per capita limit and the State's population as determined in accordance with Section 42(h)(3) of the Code.
(e) "Idaho Housing Agency" or "Agency" means the Idaho Housing Agency, an independent public body, corporate and politic, created by the Idaho Legislature under the provisions of Chapter 62, Title 67 of the Idaho Code, as amended.
(f) "Low-Income Housing Credit" means the federal tax credit authorized under Section 42 of the Code.
(g) "Qualified Low-Income Housing Project" means any project for residential rental property which meets the requirements of Section 42(g) of the Code; in general Section 42(g) of the Code pertains to the requirement that 20 percent of the units in the project be both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income, or that 40 percent of the units in the project be both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.
(h) "State" means the State of Idaho.
(i) "State Housing Credit Agency" means the agency authorized to carry out the provisions of Section 42(h), Section 42(l) and Section 42(m) of the Code and in particular the Idaho Housing Agency.
(j) "Year" means the period January 1 through December 31, inclusive, for each calendar year beginning January 1, 1990.

Section 2. The Code has created a Low-Income Housing Credit which can be granted by a State Housing Credit Agency for a Qualified Low-Income Housing Project.

The Code has further created a Housing Credit Ceiling which the state may use in any year to assist Qualified Low-Income Housing Projects during the allocation term.

Section 3. The state has delegated certain responsibilities and granted certain powers to the Idaho Housing Agency in order that the supply of housing for persons and families of low income be increased and that coordination and cooperation among private enterprise, state and local government be encouraged to sponsor, build and rehabilitate residential housing for such persons and families.

Section 4. The state requires the development of a Qualified Allocation Plan described in Section 7(a) below for the allocation of the Low-Income Housing Credit in order to ensure fair and equal opportunity by interested parties in gaining an allocation of the Housing Credit Ceiling.

Section 5. The state requires the implementation of said Qualified Allocation Plan in order to ensure the proper use of such credits for Qualified Low-Income Housing Projects.

Section 6. An Annual Report shall be submitted to the Secretary of

the Treasury and to the Governor of the State of Idaho with respect to the use of the Low-Income Housing Credit for any year.

Section 7. In consideration of the requirements of the state, the Governor appoints the Idaho Housing Agency to act as the State Housing Credit Agency for the state in the distribution of the Housing Credit Ceiling for any year.

The Idaho Housing Agency is required to:

(a) Establish a Qualified Allocation Plan as defined and provided for in Section 42(m) of the Code for the fair distribution of the Housing Credit Ceiling for the state;

(b) Distribute the Housing Credit Ceiling for Qualified Low-Income Housing Projects in the manner required under Section 42 of the Code.

(c) Submit an Annual Report to the Secretary of the Treasury and the Governor of the State of Idaho (at such time and in such manner as the Secretary shall prescribe) specifying:

(1) the amount of housing credit allocated to each building for such year,

(2) sufficient information to identify each such building and the taxpayer with respect thereto, and

(3) such other information as the Code, the Secretary, the Governor or the Legislature of the State of Idaho may require.

Section 8. The state pledges and agrees with the owners of any Qualified Low-Income Housing Project for which an allocation of the Housing Credit Ceiling has been granted under this Executive Order that the state will not retroactively alter the allocation of the Housing Credit Ceiling to such project except as may be required under the terms of the Code.

Section 9. No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt, or liability of the state.

Section 10. The purpose of this Executive Order is to maximize the opportunity for developing low-income housing units through the use of the Low-Income Housing Credit by providing a responsible State Housing Credit Agency within the meaning and requirements of Section 42 of the Code.

Section 11. This Executive Order shall be effective immediately and shall be applied to all allocations made after January 1, 1990, with respect to any Qualified Low-Income Housing Project. This Executive Order shall continue in effect until such time as it may be repealed or superseded by operation of the state or federal law.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-fourth day of December, in the year of our Lord nineteen hundred ninety, and of the Independence of the United States of America the two hundred fifteenth, and of the Statehood of Idaho the one hundred first.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 91-1

CONTINUING THE IDAHO CRIMINAL JUSTICE COUNCIL, AND THE DRUG POLICY BOARD FOR THE STATE AND LOCAL ASSISTANCE FOR NARCOTICS CONTROL PROGRAM REPEALING AND REPLACING EXECUTIVE ORDER NO. 87-3

WHEREAS, combating crime and protecting citizens from criminal depredation is of vital concern to government; and

WHEREAS, it is in the best interests of the citizens of the State of Idaho that government promote efficiency and effectiveness of the criminal justice system; and

WHEREAS, communication and cooperation among the various facets of the community of criminal justice professionals is of utmost importance in promoting efficiency and effectiveness; and

WHEREAS, under provisions of the State and Local Assistance for Narcotics Control Program, established under the Anti-Drug Abuse Act of 1986, each state is strongly encouraged to establish a Drug Policy Board to serve as a forum for communication and a structure for coordination, with responsibility for development of a statewide policy for disbursement of grant funds, and shall represent state and local officials, components of the criminal justice system, education, and treatment.

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby continue the Idaho Criminal Justice Council and charge this council with the responsibility to facilitate communication among criminal justice professionals, to improve professionalism, and to improve cooperation and coordination at all levels of the criminal justice system, with the overall mission of reducing crime in Idaho. The Idaho Criminal Justice Council shall function as the Drug Policy Board, in conjunction with an advisory board representing state and local officials, components of the criminal justice system, education, and treatment. The advisory board shall formulate a statewide policy for disbursement of grant funds for the Council's approval and shall make recommendations to the Council on all grant applications. Voting authority shall be vested in the Council.

The Council shall consist of fourteen (14) members comprised of the following representatives (or their designess) who shall serve at the pleasure of the Governor:

The Attorney General of the State of Idaho
The Director of the Idaho Department of Correction
The Director of the Idaho Department of Law Enforcement
Two (2) Chiefs of Police
Two (2) Sheriffs
Two (2) Prosecuting Attorneys
One (1) representative of the juvenile justice system

One (1) representative of private security organizations
Two (2) citizens-at-large
The Executive Director of the Governor's Commission on Alcohol and Drug Abuse

The Council shall exist as a nonprofit corporation under the laws of the State of Idaho.

The Drug Policy Advisory Board shall consist of the following representatives who shall serve at the pleasure of the Governor:

Four (4) members of the Criminal Justice Council, one of whom shall be the Executive Director of the Governor's Commission on Alcohol and Drug Abuse
One (1) state narcotics officer
One (1) county narcotics officer
One (1) city narcotics officer
The state narcotics/drug education officer
The Health and Physical Education Consultant for the State Department of Education
The Executive Director of the Parents and Youth Against Drug Abuse Program
The Prevention Education Specialist, Substance Abuse Section, Idaho Department of Health and Welfare

This Executive Order repeals and replaces Executive Order No. 87-3.

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 twenty-first day of March, in the year of our Lord nineteen hundred ninety-one, and of the Independence of the United States of America the two hundred fifteenth, and of the Statehood of Idaho the one hundred first.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

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ABBREVIATIONS USED IN THIS INDEX

Approp = Appropriation
Bd = Board
Com = Commission
Comm = Committee
Dept = Department
Dist = District
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

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IDAHO STATE OFFICIAL DIRECTORY

ELECTED OFFICIALS

CONGRESSIONAL

UNITED STATES SENATORS
Senator Steven D. Symms (R)
Senator Larry E. Craig (R)

REPRESENTATIVES IN CONGRESS
Larry LaRocco (D), 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 Larry Echohawk (D)

SUPERINTENDENT OF PUBLIC INSTRUCTION Jerry L. Evans (R)

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MINORITY LEADER
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P.O. Box 533, Pinehurst 83850
Realtor 682-4114 Wife-Sandra "Sam"
Local Government, Resources/Conservation
State Affairs

5-LATAH COUNTY

Betty G. Benson (D), Senate
2305 Wallen Rd., Moscow 83843
Student Home 883-1054 Husband-Jim
Agricultural Affairs, Education
Local Government/Taxation

James R. "Doc" Lucas, DVM (R), House Seat A
4231 Highway 95 South, Moscow 83843
Veterinarian - Retired 882-7374 Wife-Vi
Appropriations (JFAC), Environmental Affairs
Resources/Conservation

Tom Boyd (R), House Seat B
Route 1, Box 69, Genesee 83832
Farmer 285-1578 Wife-Beverly
SPEAKER OF THE HOUSE

LEGISLATORS BY DISTRICT (continued)

6-NEZ PERCE COUNTY

Bruce L. Sweeney (D), Senate
(Served 2 terms House, 1970-74)
Box 604, Lewiston 83501
Home 743-9148 Bus. 743-2534
Land Development/Construction Wife-Marilyn
DEMOCRAT LEADER
Education, State Affairs
Transportation, Ways/Means

Larry R. Vincent (D), House Seat A
Route 1, Box 720, Culdesac 83524
Farmer 843-7212 Wife-Betty
Agricultural Affairs, Revenue/Taxation
Commerce, Industry/Tourism

Deanna Vickers (D), House Seat B
807 Sixth Street, Lewiston 83501 743-3253
Civic Leader/Dental Hygienist Husband-Lee
Appropriations (JFAC)
Resources/Conservation

7-CLEARWATER, IDAHO & LEWIS COUNTIES

Marguerite McLaughlin (D), Senate
(Served 2 terms House, 1979-82)
704 Floyd Ave., Orofino 83544
Husband-G. Bruce 476-4136
ASSISTANT DEMOCRAT LEADER
Finance (JFAC), Human Resources
Ways/Means

Paul A. Decelle (D), House Seat A
Box 1238, Orofino 83544 Home 476-7026
Mayor Bus. 476-4725 Wife-Betty Ann
Local Government
Resources/Conservation

Harold W. Reid (D), House Seat B
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
P.O. Box 415, Grangeville 83530
Lineman - Outfitter 983-2535
Finance (JFAC), Transportation
Resources/Environment

Richard L. Adams (D), House Seat A
H.C. 67, Box 28, Grangeville 83530
Home 983-0165 Bus. 926-4511
Teacher Wife-Karen
MINORITY CAUCUS CHAIRMAN
Appropriations (JFAC), Transportation/Defense

Claud Judd (D), House Seat B
(Served 2 terms Senate, 1975-78)
4265 Hwy. 11, Orofino 83544 435-4380
Retired Wife-Elvita
Revenue/Taxation
Transportation/Defense

9-ADAMS, BOISE, GEM & VALLEY COUNTIES

Terry A. Haun (D), Senate
619 Hazel Ave., Emmett 83617 Wife-Lyn
Teacher Bus. 365-2921 Home 365-6581
Agricultural Affairs, Education
Transportation

Gayle Ann Wilde (R), House Seat A
P.O. Box 984, McCall 83638 634-5678
Former Petroleum Marketer/Teacher
Husband-Ralph
Commerce, Industry/Tourism
Education, Environmental Affairs

Judi Danielson (R), House Seat B
P.O. Box 724, Council 83612 Husband-John
Former Nurse/Former County Commissioner 253-4850
CHAIRMAN--Ways/Means
Judiciary, Rules/Administration
Local Government, State Affairs

10-PAYETTE & WASHINGTON COUNTIES

Mary Hartung (R), Senate
(Served 3 years in House, 1987-89)
Box 147, Payette 83661
Home 642-3270 Bus. 642-9382
Insurance Husband-Morris
REPUBLICAN CAUCUS CHAIRMAN
Education, Judiciary/Rules
State Affairs, Transportation, Ways/Means

Gertrude Sutton (R), House Seat A
Route 1, Box 42, Midvale 83645
Home 355-2442
Resources/Conservation
Agricultural Affairs, State Affairs

Donna Jones (R), House Seat B
1911 1st Ave. S, Payette 83661
Home 642-9679 Bus. 642-9433
Realtor Husband-Donald
VICE CHAIRMAN--Local Government
Business, Revenue/Taxation

11-CANYON COUNTY

David E. Kerrick (R), Senate Seat A
2005 S. 10th, Caldwell 83605
Home 454-3373 Bus. 459-3659
Attorney Wife-Juneal
Commerce/Labor, Education
Judiciary/Rules

J. L. "Jerry" Thorne (R), Senate Saat B
331 Winther Blvd., Nampa 83651
Home 467-2892 Bus. 466-3682
Printing Wife-Lois
CHAIRMAN--Local Government/Taxation
Finance (JFAC), Transportation

Atwell J. "At" Parry (R), Senata Seat C
6985 Baseline Road, Melba 83641 495-2226
Grocer/Meat Cutter - Retired Wife-Elaine
CHAIRMAN--Finance, Co-Chairman--JFAC
Local Government/Taxation

LEGISLATORS BY DISTRICT (continued)

DISTRICT 11-Continued

Robert E. Schaefer (R), House Seat A
P.O. Box 55, Nampa 83653
Home 466-3636 Bus. 466-3636
Architect Wife-Betty
VICE CHAIRMAN--Environmental Affairs
Commerce, Industry/Tourism

Dorothy L. Reynolds (R), House Seat B
(Served 3 terms House, 1974-80)
1920 Howard, Caldwell 83605
Farm Owner/Educator 459-2553
CHAIRMAN--Commerce, Industry/Tourism
Education, Health/Welfare

Michael McEvoy (R), House Seat C
10498 Purple Sage Rd., Middleton, 83644
Farmer Home 585-2277
Commerce, Industry/Tourism
Health/Welfare

William W. Deal (R), House Seat D
312 3rd St. S., Nampa 83651
Home 466-3184 Bus. 466-2465/887-1077
Insurance Wife-Joan
Local Government, State Affairs

Dolores J. Crow (R), House Seat E
203 11th Ave. S. Extension, Nampa 83686
Home 467-1302 Husband-Wayne
CHAIRMAN-Environmental Affairs
Revenue/Taxation

Ron Crane (R), House Seat F
Route 3, Box 496, Caldwell 83605
Businessman 459-4990 Wife-Cheryl
CHAIRMAN--Business
State Affairs

12-ELMORE & OWYHEE COUNTIES

R. Claire Wetherell (D), Senate
360 East 15th North, Mountain Home 83647
Title Insurance Home 587-3240 Bus. 587-9091
Agricultural Affairs, Finance (JFAC)

Frances Field (R), House Seat A
HC-85, Box 221, Grandview 83624
Home 834-2488 Husband-Oscar
Homemaker/School Dist. Bus. Mgr., Retired
CHAIRMAN--Agricultural Affairs
Education, Resources/Conservation

Leanna Lasuen (D), House Seat B
103 Mountain View Dr., Mountain Home 83647
Home 587-4644 City Treasurer
MINORITY CAUCUS CHAIRMAN
Business, Ways/Means
Transportation/Defense

13-ADAMS, BOISE, CANYON, ELMORE, GEM, OWYHEE, PAYETTE, VALLEY & WASHINGTON COUNTIES

George Vance (R), Senate
25913 Jacks Rd., Parma 83660
Farmer Home 482-6422 Wife-Caroline
CHAIRMAN--Commerce/Labor
Agricultural Affairs, Local Government/Taxation

Lawerence Denney (R), House Seat A
2227 Denney Rd, Midvale 83645
Farmer Home 355-2374 Wife-Donna
Commerce, Industry/Tourism
Transportation/Defense

W. O. "Bill" Taylor (R), House Seat B
8367 Track Road, Nampa 83686 Home 466-0970
Contractor/Real Estate Investments Wife-Shirley
Business, Education
Local Government

14-ADA COUNTY

Herb Carlson (R), Senate
1812 Hill Road, Eagle 83616 939-6979
Farmer - Rancher Wife-Lorrain
CHAIRMAN--Agricultural Affairs
Finance (JFAC), Resources/Environment

Gary L. Montgomery (R), House Seat A
737 N. 7th St., Boise 83702
Home 376-7380 Bus. 342-3563
Attorney Wife-Marilyn
MAJORITY LEADER
Judiciary, Rules/Administration
Ways/Means

William T. "Bill" Sali (R), House Seat B
795 W Amity, Meridian 83642
Home 888-3165 Wife-Terry
Attorney
Commerce, Industry/Tourism
Health/Welfare

15-ADA COUNTY

Sally E. Snodgrass (D), Senate
5250 Sorrento Dr., Boise 83704
Home 375-9068
Counselor Husband-Garry
Commerce/Labor, Health/Welfare

Don C. Loveland (R), House Seat A
(Served 3 terms Senate, 1963-67)
4624 Berkshire Drive, Boise 83704
Retired 375-8893 Wife-Dorothy
CHAIRMAN--Judiciary, Rules/Administration
Local Government, Revenue/Taxation

Phil Childers (R), House Seat B
3440 Quail Place, Boise 83704 375-8904
Sales/Marketing Wife-Margaret
VICE CHAIRMAN--Revenue/Taxation
Business, Environmental Affairs

LEGISLATORS BY DISTRICT (continued)

16-ADA COUNTY

Brian N. Donealey (D), Senate
6024 Plano Lane, Boise 83703
Home 336-1753 Bus. 343-3851
Attorney Wife-Sara
Commerce/Labor, Resources/Environment
State Affairs

Molly Lazechko (D), House Seat A
2604 W. Bannock, Boise 83702
Teacher (Retired) 343-4263 Husband-Walter
Business, Education
Environmental Affairs

Horace B. "Hod" Pomeroy (R), House Seat B
6822 Kingsdale Dr., Boise 83704
Home 377-1293 Wife-Margarita
Business Consultant
Appropriations (JFAC)
Transportation/Defense

17-ADA COUNTY

F. Edward Osborne (R), Senate
(Served 1 term House 1989-1990)
4515 Hillcrest Drive, Boise 83705
Home 385-9633 Wife-Jeanne
Retired Bus 342-3411
Commerce/Labor, Education
Human Resources

John Gannon (D), House Seat A
1104 Johnson St., Boise 83705
Home 343-1608 Wife-Mary Ann
Attorney Bus. 375-9135
Resources/Conservation
Transportation/Defense

Ruby R. Stone (R), House Seat B
6604 Holiday Drive, Boise 83709
Property Management 375-7975
CHAIRMAN--Local Government
Commerce, Industry/Tourism, State Affairs

19-ADA COUNTY

Cynthia Scanlin (D), Senate
10655 Blackhawk Dr., Boise 83709
Home 362-4274 Husband-Steven
Ordained Minister
Health/Welfare, Judiciary/Rules
Local Government/Taxation

Herm Steger (R), House Seat A
11513 W. Amity Rd., Boise 83709
Home 362-1363 Wife-Doris
Retired Elem. School Principal
Education, Environmental Affairs
Resources/Conservation

Fred O. Tilman (R), House Seat B
11457 Alejandro, Boise 83709
Retired Home 322-1133 Wife-Geri
Education, Local Government

19-ADA COUNTY

Sue Reents (D), Senate
908 North 18th, Boise 83702
Home 343-7009 Bus 343-7009
Consultant Husband-Henry
Finance (JFAC), Human Resources
Judiciary/Rules

Kathleen W. (Kitty) Gurnsey (R), House Seat A
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
(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
136 Dover Lane, Boise 83705
Home 383-0356 Bus. 342-5000
Attorney Wife-Kathy
Human Resources, Judiciary/Rules
Local Government/Taxation

Pam Bengson Ahrens (R), House Seat A
2854 S. Swallowtail Lane, Boise 83706
Home 345-6168 Husband-Steve Ahrens
Bus. 377-2211 Director/Human Resources/IHA
CHAIRMAN--State Affairs
Agricultural Affairs, Judiciary, Rules/Administration

Jim Hansen (D), House Seat B
2010 Coloma Way, Boise 83712
Home 385-9413 Bus. 342-6571
Attorney/Small Business Owner Wife-Joan
Education, Health/Welfare
Judiciary, Rules/Administration

21-ADA COUNTY

Mike Burkett (D), Senate
1938 N. 17th, Boise 83702
Senate Office 342-4931 Bus. 345-7800
Attorney Home 384-9267 Wife-Sharon
Education, Local Government/Taxation
Resources/Environment

Alan G. Lance (R), House Seat A
1370 Eggers Place, Meridian 83642
Home 888-1319 Bus. 888-3535
Attorney Wife-Sheryl
Judiciary, Rules/Administration
Transportation/Defense, State Affairs

Sheila Sorensen (R), House Seat B
P.O. Box 873, Boise 83701
Home 345-8688 Bus. 344-4900 Husband-Dean
VICE CHAIRMAN--Judiciary, Rules/Administration
State Affairs, Transportation/Defense

LEGISLATORS BY DISTRICT (continued)

22-BLAINE, CAMAS, GOODING & LINCOLN COUNTIES

John T. Peavey (D), Senate
P.O. Box 88, Carey 83320
Home 788-2850/summer 726-7568/winter
Rancher Wife-Diane Josephy
OEMOCRAT CAUCUS CHAIRMAN
Agricultural Affairs, Resources/Environment
State Affairs, Ways/Means

W. Clinton Stennett (D), House Seat A
P. O. Box 475, Ketchum 83340
Home 726-8106 Bus. 726-0113
TV Station President
Commerce, Industry/Tourism, State Affairs
Environmental Affairs

Pattie Nafziger (D), House Seat B
1787 East 3100 South, Wendell 83355
Home 536-2922 Husband-James
Farm Owner/Operator Bus. 536-6678
Agricultural Affairs, Education

23-TWIN FALLS COUNTY

Laird Noh (R), Senate Seat A
3442 Addison Ave E., Kimberly 83341
Sheep Producer 733-3617 Wife-Kathleen
CHAIRMAN--Resources/Environment
Agricultural Affairs, Education

B. Joyce McRoberts (R), Senate Seat B
342 Monroe Place, Twin Falls 83301
Home 734-3329 Business Woman Husband-Darrel
ASSISTANT REPUBLICAN LEADER
Health/Welfare, Judiciary/Rules
State Affairs, Ways/Means

Ronald L. Black (R), House Seat A
240 N. Locust, Twin Falls 83301 734-9035
Small Business Incubator Manager Wife-Gael
VICE CHAIRMAN--Health/Welfare
Business, Education

Celia R. Gould (R), House Seat B
Route 4, Box 113, Buhl 83316
Home 543-6725 Bus. 543-4131
Rancher Husband-Bruce Newcomb
Agricultural Affairs, Judiciary
Rules/Administration, Revenue/Taxation

Lee Barnes (R), House Seat C
4604 Clear Lakes Grade, Buhl 83316
Home 543-4632 Bus. 733-1987
Denturist Wife-Barbara
VICE CHAIRMAN--Commerce, Industry/Tourism
Health/Welfare, State Affairs

Douglas R. Jones (R), House Seat D
Route 2, Filer 83328
Home 326-4181 Bus. 733-8458
Farmer Wife-Mary Liz
VICE CHAIRMAN--Education
Agricultural Affairs, Resources/Conservation

24-CASSIA, JEROME & MINIDOKA COUNTIES

Denton Darrington (R), Senate Seat A
Route 1, Declo 83323
Home 654-2712 Bus. 678-6613
Farmer/Teacher Wife-Virgene
CHAIRMAN--Judiciary/Rules
Health/Welfare

Lynn S. Tominaga (R), Senate Seat B
Route 5, Box 184, Rupert 83350
Farmer 532-4352 Wife-Brenda
CHAIRMAN--Ways/Means
Finance (JFAC), Resources/Environment

Jim D. Kempton (R), House Seat A
Star Rt., Box 28, Albion 83311
Rancher 673-6261 Wife-Susan
Environmental Affairs
Revenue/Taxation

Bruce Newcomb (R), House Seat B
1626 Monroe, Burley 83318 678-3758
Farmer/Rancher Wife-Celia Gould
ASSISTANT MAJORITY LEADER
Agricultural Affairs, Resources/Consarvation
State Affairs, Ways/Means

Steve Antone (R), House Seat C
1141 Link St., Rupert 83350 436-3927
Farmer Wife-Diane
CHAIRMAN--Revenue/Taxation
Business

Maxine T. Bell (R), House Seat D
194 S. 300 E., Jerome 83338 324-4298
Farmer/Homemaker Husband-H. Jack
Agricultural Affairs
Appropriations (JFAC), Resources/Conservation

25-BLAINE, CAMAS, CASSIA, GOODING, JEROME, LINCOLN, MINIDOKA & TWIN FALLS COUNTIES

Russell W. Newcomb, M. D. (R), Senate
(Served 1 term, House 1987-1988)
668 Shoshone St., Twin Falls 83301
Home 734-2885 Bus. 733-3700
Physician Wife-Carol
Health/Welfare, Human Resources
Judiciary/Rules

Mark D. Stubbs (R), House Seat A
2030 Bitterroot Dr., Twin Falls 83301
Home 733-0049 Bus. 733-7180
Attorney Wife-Jan
Business, Environmental Affairs

Ralph B. Peters (R), House Seat B
601 E. Avenue A, Jerome 83338
Home 324-4683 Wife-Blanche
Retired Farmer/Businessman
VICE CHAIRMAN--State Affairs
Commerce, Industry/Tourism, Local Government

LEGISLATORS BY DISTRICT (continued)

26-BINGHAM COUNTY

Jerry T. Twiggs (R), Senate
955 West 100 South, Blackfoot 83221
Farmer 684-4090 Wife-Sandra
REPUBLICAN LEADER
Agricultural Affairs, State Affairs
Transportation, Ways/Means

Raymond G. Parks (R), House Seat A
1054 West Tabor Road, Blackfoot 83221
Farmer 684-4816 Wife-Paula
VICE CHAIRMAN--Transportation/Defense
Appropriations (JFAC)

Michael K. Simpson (R), House Seat B
786 Hoff Drive, Blackfoot 83221
Home 785-5043 Bus. 785-0310
Dentist Wife-Kathy
Judiciary, Rules/Administration
Revenue/Taxation, Transportation/Defense

27-BANNOCK & POWER COUNTIES

Mary Ellen Lloyd (D), Senate Seat A
(Served 2 terms House 1987-1990)
P.O. Box 2557, Pocatello 83250
Home 237-8207 Bus. 234-0102
Restaurant Owner Husband-Bill
Commerce/Labor, Health/Welfare

Patricia L. McDermott (D), Senate Seat B
(Served 11 terms House, 1979-90)
P.O. Box 3, Pocatello 83204
Home 232-6978 Bus. 232-3162 Attorney
Commerce/Labor, Judiciary/Rules
Local Government

C. E. "Chick" Bilyeu (D), Senate Seat C
11076 N. Philbin Rd., Pocatello 83202 237-3158
Educator/Retired Wife-Diane
Finance (JFAC), Transportation

Elaine Hofman (D), House Seat A
216 S. 16th Ave., Pocatello 83201
Home 232-7167 Husband-Cornelius
Former Educator
Education, Health/Welfare
Judiciary, Rules/Administration

Wayne Hell (D), House Seat B
309 11th Street, McCammon 83250
Dairy Farmer Wife-Vera 254-3431
Education, Local Government

Albert M. (Al) Johnson (D), House Seat C
12350 N. Philbin Rd., Pocatello 83202
Farmer/Rancher 237-2828 Wife-Betty
Agricultural Affairs, Resources/Conservation
Revenue/Taxation

Pete Black (D), House Seat D
2249 Cassia, Pocatello 83201
Home 237-1779 Bus. 237-2271
Educator Wife-Ronda
ASSISTANT MINORITY LEADER
Appropriations (JFAC)
Business, Ways/Means

Millie L. Flandro (D), House Seat E
109 Mountain Dr., Pocatello 83204
Home 232-0723 Bus. 237-1300
Teacher Husband-Michael
Business, Health/Welfare

John Alexander (D), House Seat F
P.O. Box 1144, 627 N. Grant, Pocatello 83204
Home 232-2516 Bus. 526-0750
Procurement Wife-Lisa
Local Government, State Affairs

28-BEAR LAKE, CARIBOU, FRANKLIN & ONEIDA COUNTIES

Dennis S. Hansen (R), Senate
2612 Second Bridge Rd., Soda Springs 83276
Home 547-4410 Bus. 547-3391
Accountant Wife-Marianne
CHAIRMAN--Transportation
Agricultural Affairs

Robert C. Geddes (R), House Seat A
7235 N. 2600 West, Preston 83263
Farmer 852-1376 Wife-Carma
VICE CHAIRMAN--Appropriations (JFAC)
Agricultural Affairs

John H. Tippets (R), House Seat B
65 E. Center Bennington, Montpelier 83254
Home 847-2876 Wife-Nancy
Instrumentation Technician
Business, Health/Welfare
State Affairs

29-BANNOCK, BINGHAM, BEAR LAKE, CARIBOU, FRANKLIN, ONEIDA & POWER COUNTIES

Allan F. Larsen (R), Senate
(Served 6 terms, House 1967-78)
848 W. Tabor Rd. Blackfoot 83221
Home/Bus. 684-4911 Wife-Alva Lu
Farmer
Commerce/Labor, Education
Local Government/Taxation

Myron Jones (R), House Seat A
(Served 4 terms, House 1977-82)
Malad Summit, Malad 83252
Home 766-4325 Bus. 766-4665
Farmer/Construction Wife-Nola
Agricultural Affairs, Resources/Conservation
Revenue/Taxation

Evan Frasure (R), House Seat B
1946 Beth, Pocatello 83201
Home/Bus. 232-5646
Self-employed Wife-Analyn
Health/Welfare
Judiciary, Rules/Administration

30-BUTTE, CLARK, CUSTER, JEFFERSON & LEMHI COUNTIES

Rex L. Furness (R), Senate
3470 E. 300 N., Rigby 83442
Ag/Business 754-8558 Wife-Fern
CHAIRMAN--Health/Welfare
Local Government/Taxation, Resources/Environment

Ray E. Infanger (R), House Seat A
Route 1, Box 174, Salmon 83467
Home 756-3642 Bus. 756-3649 Wife-Vera
Heating, Sheet Metal & Electrical Shop
VICE CHAIRMAN--Agricultural Affairs
Appropriations (JFAC)

JoAn E. Wood (R), House Seat B
3778 E. 500 N., Rigby 83442
Home 745-7846 Husband-Thomas O.
Partner-Ranch/Farm/Trucking Corp.
ACTING CHAIRMAN--Resources/Conservation
State Affairs, Transportation/Defense

LEGISLATORS BY DISTRICT (continued)

31-FREMONT & MADISON COUNTIES

Mark G. Ricks (R), Senate
3348 S. 1400 W., Rexburg 83440 356-6676
Farmer Wife-Evalyn T.
CHAIRMAN--State Affairs
Finance (JFAC)

R. L. "Dick" Davis (R), House Seat A
P.O. Box 391, Rexburg 83440 356-3233
Contractor/Retired Wife-Phyllis
CHAIRMAN--Education
Transportation/Defense

H. Grant Mortensen (R), House Seat B
230 N. 7 E., St. Anthony 83445
624-7215 Wife-Moziene
Farmer
Agricultural Affairs
Commerce, Industry/Tourism

32-BONNEVILLE & TETON COUNTIES

Michael D. Crapo (R), Senate Seat A
P.O. Box 50130, Idaho Falls 83405
Home 524-4631 Bus. 523-0620
Attorney Wife-Susan
PRESIDENT PRO TEMPORE
State Affairs

Lee Staker (R), Senate Seat B
2553 Everon, Idaho Falls 83401
Home 529-5256 Bus. 523-7950
Florist, self-employed Wife-Jean
CHAIRMAN--Human Resources
Finance (JFAC), Transportation

John D. Hansen (R), Senate Seat C
260 Marjacq Ave., Idaho Falls 83401
Home 523-5599 Legis. Office 523-1055
Attorney Bus. 523-5171 Wife-Michele
CHAIRMAN--Education
Human Resources, Resources/Environment

John O. Sessions (R), House Seat A
Box 89, Driggs 83422
Home 354-2508 Bus. 354-2373
Retailer, semi-retired Wife-Alice
CHAIRMAN--Transportation/Defense
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
Appropriations (JFAC)
Transportation/Defense, 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
CAUCUS CHAIRMAN
Local Government, Resources/Conservation
Revenue/Taxation, Ways/Means

DISTRICT 32-Continued

Thomas F. Loertscher (R), House Seat D
1357 Bone Road, Iona 83427 522-3072
Farmer Wife-Linda
VICE CHAIRMAN--Business
Health/Welfare, State Affairs

Melvin M. "Mel" Richardson (R), House Seat E
3725 Brookfield, Idaho Falls 83406
Marketing Development Wife-Dixie
Home 522-0772 Bus. 522-2817
Business, Education
Environmental Affairs

Reed Hansen (R), House Seat F
4329 N. 26 W., Idaho Falls 83402
Farmer 522-5359 Wife-Marilyn
CHAIRMAN--Health/Welfare
Resources/Conservation, Revenue/Taxation

33-BONNEVILLE, BUTTE, CLARK, CUSTER, FREMONT, JEFFERSON, LEMHI, MADISON & TETON COUNTIES

Stan Hawkins (R), Senate
(Served 3 terms House 1987-90)
Box 367, Ucon 83454
Home 524-1586 Bus. 523-2880
Agri-Business Wife-Linn
Commerce/Labor, Health/Welfare
Local Government/Taxation, Resources/Environment

S. Lynn Loosli (R), House A
Rt. 1 Box 72, Ashton 83420
Home/Bus. 652-3312 Wife-Portia
Rancher
Agricultural Affairs, Resources/Conservation

Golden C. Linford (R), House Seat B
2120 West 4200 South, Rexburg 83440
Home 356-7220 Bus. 356-7346
Potato Grower/Shipper Wife - Pat
Health/Welfare, Resources/Conservation
Revenue/Taxation