GENERAL AND SPECIAL LAWS
OF THE
STATE OF IDAHO

PASSED BY
THE SECOND AND THIRD EXTRAORDINARY SESSION OF THE
THIRTY-EIGHTH SESSION OF THE STATE LEGISLATURE
AND
THE THIRTY-NINTH REGULAR SESSION
OF THE STATE LEGISLATURE
1967-1968

PUBLISHED BY THE AUTHORITY OF
THE SECRETARY OF STATE

The CAXTON PRINTERS, Ltd.
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GENERAL AND SPECIAL LAWS
OF THE
STATE OF IDAHO

Passed by
THE SECOND EXTRAORDINARY SESSION OF THE
THIRTY-EIGHTH SESSION OF THE STATE LEGISLATURE

Convened February 14, 1868
Adjourned March 5, 1868

Published by the Authority of
THE SECRETARY OF STATE.
PROCLAMATION

WHEREAS, an extraordinary occasion requiring emergency attention has arisen in the State of Idaho which makes it appropriate and desirable to convene the 38th Idaho Legislature in Extraordinary Session:

NOW, THEREFORE, I, ROBERT E. SMYLIE, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this State, do by this Proclamation, call the 38th Idaho Legislature together in Extraordinary Session in the Legislative Chambers at the Capitol in Boise City, Ada County, Idaho, at the hour of 10:00 o'clock A.M., on the 14th day of February, 1966 for the following purposes and none other, to-wit:

1. To consider and to enact legislation amending Sections 67-202 and 203 Idaho Code, as amended by Chapters 2 and 4, respectively, Session Laws of the First Extraordinary Session of 1965, in order to apportion the Legislature of Idaho in conformance with the Constitution of the United States as exemplified by the judgment of the United States District Court for the District of Idaho, Southern Division, in Civil Case No. 3815, entitled Hearne and Whitman v. Smylie, et al.

2. To consider and to enact legislation providing for the nomination of candidates for, and election of members of a Legislature apportioned in accordance with the requirements of paragraph 1 above; or in the alternative providing for the nomination and election of a legislature in accordance with the Judgment of the Court in the case cited in paragraph 1 above.

3. To consider and to enact legislation amending Section 49-1201, Idaho Code, to permit the imposition of a tax upon gasoline in the hands of a private contractor operating a government facility.

4. To consider and to enact legislation amending Section 23, Chapter 195, Idaho Session Laws of 1965, to change the reporting date prescribed therein from
the 15th day of the succeeding month to the 25th day of the succeeding month.

5. To consider and to enact legislation amending Section 63-3067, Idaho Code, as amended, in order to provide a more adequate tax refund fund and thus permit expeditious payment of income tax refunds.

6. To consider and to approve for submission to the people a corrected version of the Constitutional Amendment known as SJR No. 11, submitted for ratification by the regular session of the 38th Idaho Legislature.

7. To consider options to purchase property near the Capitol Building which have been obtained pursuant to Section 1(r), Chapter 276, Idaho Session Laws of 1965, and to authorize or reject the purchase of all or any part thereof, and to make appropriations therefor.

8. To consider and to enact legislation appropriating funds to the Department of Agriculture for Dairy Inspection; to the Department of Agriculture for Meat Inspection; to the State Liquor Dispensary for administration and operation; and to the Parks Department to permit accelerated development of Farragut State Park in order to prepare the Park for the World Jamboree of the Boy Scouts which will be held there in 1967.

9. To consider and to enact legislation creating an agency or office to coordinate state programs with federal programs enacted since the budget for 1965-67 was prepared and submitted, and to appropriate funds therefor.

10. To consider and to adopt memorials expressing the sense of the House and the Senate on the management of the Salmon and Steelhead fishery in the Columbia River System; on bills now pending in the Congress which would require state of origin labeling of containers carrying potatoes shipped in interstate commerce; and on H.R. 8282 and H. R. 11798, now pending in the House of Representatives of the Congress.

11. To consider and to approve resolutions for submission to the people for ratification amending Article III and Article XX, Constitution of Idaho.

12. To consider and to enact legislation amending Section 49-754, Idaho Code, as amended, prescribing lighting equipment for school buses.
13. To consider, and to ratify or reject, an amendment to the Constitution of the United States which has been duly submitted by the Congress concerning Presidential disability.

14. To consider and to enact legislation amending Sections 43-402, and 43-704, Idaho Code, dealing with irrigation district bonds in order to encourage and promote private development of arid lands by creating an additional method of financing such development.

15. To consider and to enact legislation creating an Idaho Apple Commission to promote the sale of Idaho apples, making appropriate provision for the operation and conduct thereof.

16. To consider and to enact legislation appropriating moneys to the Public Utilities Commission and/or the Legislative Council for the conduct of an intensive study of the air service needs, present and future, of the State of Idaho with a view to preparing legislation designed to encourage air carriers and the appropriate federal agencies to be continuously aware of the State's needs for improved air service, both intra and inter-state.

17. To consider and to enact legislation authorizing the Department of Highways to acquire, maintain and improve areas adjacent to highways on the State Highway System for the restoration, maintenance and improvement of scenic beauty, for informational sites and for rest and recreation areas; and to consider and to enact legislation assenting to the provisions of the Act of Congress approved October 22, 1965 entitled "An Act to Provide for Scenic Development and Road Beautification of the Federal-Aid Highway Systems; and to consider and to enact legislation amending Section 40-107, Idaho Code, relating to the definition and term "highways."

18. To consider and to enact legislation amending Sections 56-201, 56-203, 56-206, 56-209b and 56-210a, Idaho Code, in order to permit the Department of Public Assistance to fully implement the new provisions of Title XIX, Social Security Act.

19. To consider and to enact legislation amending Section 67-4212, Idaho Code, with regard to Spalding State Park and Lewis and Clark Canoe Camp State Park, to permit full cooperation with the United
States in the early establishment of the Nez Perce National Historical Park.

20. To consider and to enact legislation suspending the operation of the effective date of Chapter 321, Idaho Session Laws of 1965, for a period of one year.

21. To consider and to enact legislation amending Sections 41-1415 and 41-1505, Idaho Code, in order to perfect state regulation of Fire and Casualty Insurance Rating Bureaus.

22. To consider and to enact legislation to provide for meeting the necessary expenses of this extraordinary session.

AND I HEREBY DIRECT AND REQUIRE that a copy of this Proclamation be caused to be delivered to the Lieutenant Governor, to the membership of the 38th Idaho Legislature and to the Constitutional officers of the State Government at the earliest practicable time.

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 9th day of February, in the year of our Lord Nineteen Hundred and Sixty-six and of the Independence of the United States the One Hundred and Ninetieth.

(s) ROBERT E. SMYLIE
Governor of Idaho

By the Governor:
ATTEST:
/s/ ARNOLD WILLIAMS
Secretary of State
AN ACT

MAKING AN APPROPRIATION FROM THE GENERAL FUND FOR THE PAYMENT OF SALARIES, WAGES AND MILEAGE OF MEMBERS, FOR SALARIES AND WAGES OF OFFICERS AND EMPLOYEES, FOR CAPITAL OUTLAY, AND FOR ALL OTHER EXPENSES OF THE SECOND EXTRAORDINARY SESSION OF THE THIRTY-EIGHTH SESSION OF THE IDAHO LEGISLATURE, WHICH APPROPRIATION IS ADDITION TO THE OTHER FUNDS WHICH HAVE HERETOFORE BEEN APPROPRIATED BY THE THIRTY-EIGHTH SESSION; PROVIDING THAT SUCH SUM SHALL ALSO BE USED TO PAY SALARIES AND OTHER EXPENSES OF ANY OTHER EXTRAORDINARY SESSION HELD PRIOR TO THE THIRTY-NINTH LEGISLATIVE SESSION; EXEMPTING THIS APPROPRIATION FROM THE PROVISIONS OF THE STANDARD APPROPRIATIONS ACT OF 1945; AND, DECLARING AN EMERGENCY.

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

SECTION 1. Any balance in the appropriation carried in Chapter 1 and Chapter 283, Session Laws of 1965, is hereby reappropriated, and there is further appropriated out of any moneys in the general fund not otherwise appropriated, the sum of $95,000, or so much thereof as may be necessary, for the purpose of paying salaries, wages and mileage of members, for salaries and wages of officers and employees, for capital outlay, for all other expenses of the Second Extraor-
dinary Session of the Thirty-eighth Session of the Idaho Legislature, and for salaries, wages and other expenses of any other extraordinary session or sessions held prior to the Thirty-ninth Session of the Idaho Legislature. The sums herein appropriated shall be paid in the same manner as other claims for legislative expenses and salaries, and any unexpended balance remaining from such appropriation shall revert to the general fund July 1, 1967.

SECTION 2. The appropriations herein made are expressly exempt from the provisions of the Standard Appropriations Act of 1945.

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

Approved February 25, 1966.

CHAPTER 2
(S. B. No. 16)

AN ACT
AMENDING SECTION 41-1415, IDAHO CODE, RELATING TO QUALIFICATIONS FOR LICENSING OF PROPERTY INSURANCE RATING BUREAUS, EXCEPT CROP HAIL AND NUCLEAR ENERGY INSURANCE RATING BUREAUS, BY RESTRING THE ISSUANCE OF LICENSES ONLY TO BUREAUS THAT ARE INDEPENDENTLY OPERATED OR MANAGED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 41-1415, Idaho Code, be, and the same is hereby amended to read as follows:

41-1415. RATING ORGANIZATIONS — LICENSING. —(1) Any person, corporation, unincorporated association, partnership or individual, whether located within or outside this state, not an officer or employee of any insurer, may apply to the commissioner for a license as a rate making organization for such kinds of insurance or subdivisions or classes of risk or part or combination thereof as are specified in its application. Any property insurance rating bureau licensed under the provisions of this chapter, except a crop
hail or nuclear energy insurance rating bureau, shall be entirely independent in its operation and management and shall not be a branch or division of any other property insurance rating bureau. A property insurance rating organization shall establish and maintain a rate making office in this state, and to the extent reasonably possible shall maintain in such office all the files and records relating to the rates currently filed by such rating organization and the making thereof; but this provision does not apply as to marine or inland marine or crop hail insurance rating organizations.

(2) As part of its application the rating organization shall file with the commissioner:

(a) Copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws, rules and regulations governing the conduct of its business;

(b) A list of its members and subscribers;

(c) The name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting the rating organization may be served; and

(d) A statement of its qualifications as a rating organization.

(3) If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization, and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance or subdivision or class of risk or part or combination thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the commissioner within sixty (60) days of the date of its filing with him.

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

Approved March 10, 1966.
CHAPTER 3
(S. B. No. 22)

AN ACT


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

SECTION 1. There is hereby appropriated out of the General Fund of the State of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages of the agencies herein named, for the period commencing March 1, 1966, and ending June 30, 1967:

To Whom Appropriated: Appropriation:

COMMISSIONER OF AGRICULTURE
FOR MEAT INSPECTION:
For: Salaries and Wages $27,000
From the General Fund $27,000

DAIRY INDUSTRY AND INSPECTION COMMISSION:
For: Salaries and Wages $39,000
From the General Fund $39,000

SECTION 2. This act is exempted from the provisions of the Standard Appropriations Act of 1945.

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

Approved March 10, 1966.
CHAPTER 4
(S. B. No. 34)

AN ACT

RECOGNIZING THE NEED FOR A STUDY OF AIR SERVICES IN THE STATE OF IDAHO; DIRECTING THE LEGISLATIVE COUNCIL TO UNDERTAKE AND COMPLETE A COMPREHENSIVE STUDY OF PRESENT AND FUTURE AIR SERVICE NEEDS IN IDAHO; MAKING AN APPROPRIATION OF $16,000 FOR SUCH PURPOSE, AND EXEMPTING THE APPROPRIATION FROM THE PROVISIONS OF THE STANDARD APPROPRIATION ACT OF 1945 AND SECTION 67-3516, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. The legislature of the state of Idaho hereby recognizes the need for a comprehensive study of air services, both present and future, and the desirability of encouraging air carriers and appropriate federal agencies to be continually aware of the state's need for improved air service, both interstate and intrastate.

SECTION 2. The Legislative Council is directed to undertake and complete a comprehensive study of present and future air service needs in the state of Idaho. The study may be accomplished by the council or contracted or submitted by the council to qualified individuals or agencies.

SECTION 3. There is hereby appropriated out of the general fund the sum of $16,000, or so much thereof as may be necessary to be expended by the Legislative Council to carry out the purpose of this act, and all such payments shall be made upon claims to be audited, examined, and paid as provided by law.

SECTION 4. The appropriation herein made is expressly exempt from the provisions of the Standard Appropriations Act of 1945 and the provisions of Section 67-3516, Idaho Code.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect immediately upon its passage and approval.

Approved March 10, 1966.
CHAPTER 5  
(H. B. No. 4)  

AN ACT  

AUTHORIZING THE IDAHO BOARD OF HIGHWAY DIRECTORS TO ACQUIRE, MAINTAIN AND IMPROVE AREAS ADJACENT TO HIGHWAYS ON STATE HIGHWAY SYSTEM FOR THE RESTORATION, PRESERVATION AND ENHANCEMENT OF SCENIC BEAUTY, INFORMATIONAL SITES, AND FOR REST AND RECREATIONAL AREAS; LIMITING THEIR WIDTH; PROVIDING FOR THE ACQUISITION OF SUCH AREAS IN FEE, EASEMENT OR OTHER INTEREST AND PROVIDING ACQUISITION BY GIFT, PURCHASE, EXCHANGE OR EMINENT DOMAIN; AND DECLARING AN EMERGENCY.

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

SECTION 1. The Idaho Board of Highway Directors is hereby authorized to acquire, maintain and improve areas adjacent to highways on the State Highway System for the restoration, preservation, and enhancement of scenic beauty, informational sites, and for rest and recreational areas for accommodation of the traveling public; provided that such areas shall be parallel to and contiguous with the highway and shall not exceed a width of 1000 feet from the adjacent right of way line.

SECTION 2. The said Idaho Board of Highway Directors may acquire such areas in fee, easement, or other interest as may be determined by said Board to be reasonably necessary to accomplish the purposes of this Act. Such acquisition is declared to be for a highway use, and may be by gift, purchase, exchange or eminent domain, and if the latter be necessary, it shall be carried out in the same manner as now provided by law for acquisition of right of way for state highways.

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

Approved March 10, 1966.
CHAPTER 6
(H. B. No. 6)

AN ACT

AMENDING SECTION 63-3623, IDAHO CODE, TO CHANGE THE DUE DATE OF SALES TAX RETURNS FROM THE FIFTEENTH DAY OF THE MONTH TO THE TWENTY-FIFTH DAY OF THE MONTH; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3623, Idaho Code, be, and the same is hereby amended to read as follows:

63-3623. RETURNS AND PAYMENTS.—The taxes imposed by this act are due and payable to the tax collector monthly on or before the fifteenth, twenty-fifth day of the succeeding month; provided, however, that the first payment under this act shall be due on or before the fifteenth day of October, 1965, for the period from the first day of imposition of tax under this act to and including September 30, 1965. Thereafter all payments shall be made monthly. The monthly payment shall be based on an estimate of taxable sales and will be subject to adjustment on the quarterly return.

(a) All moneys collected or received by the tax collector from the taxes, penalties, interest and fees imposed by this act shall be deposited with the state treasurer to be credited by him to the sales tax fund created by this act.

(b) On or before the fifteenth, twenty-fifth day of the month following each quarterly period of three months, with the first return due on or before the fifteenth day of October, 1965, a return for the preceding quarterly period shall be filed with the tax collector in such form as the tax collector may prescribe.

(c) For the purpose of the sales tax, a return shall be filed by every seller. For the purposes of the use tax, a return shall be filed by every retailer engaged in business in this state and by every person purchasing tangible personal property, the storage, use, or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. Returns shall be signed by the person required to file the return or by his duly authorized agent.

(d) For the purposes of the sales tax, the return shall
show the total sales at retail subject to tax under this act during the preceding reporting period. For the purposes of the use tax, in case of a return filed by a retailer, the return shall show the total sales price of the property sold by him, the storage, use, or consumption of which property became subject to the use tax during the preceding reporting period; in the case of a return filed by a purchaser, the return shall show the total sales price of the property purchased by him, the storage, use, or consumption of which became subject to the use tax during the preceding reporting period.

(e) The return shall show the amount of the taxes for the period covered by the return and such other information as the tax collector deems necessary for the proper administration of this act.

(f) The person required to file the return shall mail or deliver the return together with a remittance of the remaining balance of any tax due to the office of the tax collector for the preceding quarter over and above the amounts previously paid.

(g) The tax collector, if he deems it necessary in order to insure payment to or facilitate the collection by the state of taxes, may require returns for periods other than calendar quarters or for other than quarterly periods.

(h) For the purposes of the sales tax, gross amounts from rentals or leases of tangible personal property which may be subject to tax under this act shall be reported and the tax paid in accordance with such rules and regulations as the tax collector may prescribe.

(i) The tax collector for good cause may extend, for not to exceed one (1) month, the time for making any return or paying any amount required to be paid under this act.

(j) Any person whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the rate of six per centum (6%) per annum from the date on which the tax would have been due without the extension until the day of payment.

(k) Upon the transfer of ownership of a motor vehicle subject to sales or use tax, a certificate of title will be issued to the new owner only upon presentation of evidence of payment of sales or use tax on the transaction.

(l) The owner of a truck, trailer or motor vehicle required to be licensed by the laws of this state shall, upon
demand, furnish to the officer issuing such license satisfac-
tory evidence that any sales or use tax to which such truck,
trailer or motor vehicle is subject has been paid to this state
before any such license shall be issued.

SECTION 2. An emergency existing therefor, which
emergency is hereby declared to exist, this act shall be in
full force and effect from and after April 1, 1966.

Approved March 10, 1966.

CHAPTER 7
(H. B. No. 7)

AN ACT
AMENDING SECTION 63-3067, IDAHO CODE, TO AUTHORIZE
ADDITIONAL AMOUNTS TO BE PLACED IN THE “STATE
REFUND FUND”; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3067, Idaho Code, be, and
the same is hereby amended to read as follows:

63-3067. REVENUE RECEIVED—STATE REFUND
FUND.—All monies, except as hereinafter provided, re-
ceived by the state of Idaho under this act shall be deposited
by the tax collector, as received by him, with the state
treasurer and shall be placed in and become a part of the
general fund under the custody of the state treasurer. Pro-
viding however, that an amount equal to fifteen per cen-
tum (15%) of the amount deposited with the state treasurer
shall be placed in the “state refund fund” which is hereby
created for the purpose of repaying overpayments made
under this act and for the purpose of paying any other er-
roneous receipts illegally assessed or collected, penalties
collected without authority and taxes and licenses unjustly
assessed, collected or which are excessive in amount, where
the proceeds of such collection, tax, license or receipt are
credited to the general fund; and provided further that
whenever necessary for the purpose of making prompt pay-
ment of refunds, the Board of Examiners, upon request
from the tax collector, and after review, may authorize the
tax collector to transfer any additional specific amount from
income tax collections to the “state refund fund”. There is
hereby appropriated out of the state refund fund so much
thereof as may be necessary for the payment of the refunds herein provided for. No appropriation is made hereunder for refunds for gasoline tax or licenses, taxes, penalties, collections or any other payment, the proceeds of which go into a fund other than the general fund. Claims for, and payment of refunds under the provisions of this section shall be made in the same manner as other claims against the state of Idaho.

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

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

Approved March 10, 1966.

CHAPTER 8
(H. B. No. 13)

AN ACT

AMENDING TITLE 43, IDAHO CODE, RELATING TO IRRIGATION DISTRICTS, BY AMENDING SECTION 43-402 THEREOF TO INCREASE THE MAXIMUM DENOMINATION OF IRRIGATION DISTRICT BONDS FROM $1000 TO $5000 AND TO PROVIDE FOR AN ADDITIONAL THIRD PLAN FOR THE PAYMENT OF SUCH BONDS; BY AMENDING SECTION 43-411 THEREOF TO AUTHORIZE COLLECTION BY IRRIGATION DISTRICTS OF CERTAIN WATER TOLLS AND CHARGES AND PAYMENT THEREOF ON BOND PRINCIPAL AND INTEREST IN LIEU OF ASSESSMENTS, AND PROVIDING FOR PROCEDURES IN CONNECTION THEREWITH; BY AMENDING SECTION 43-704 THEREOF TO REQUIRE THAT ASSESSMENTS BE SUFFICIENT TO RAISE THE PRINCIPAL AND INTEREST ON SUCH BONDS AS THE SAME BECOME DUE AND PAYABLE, THEREBY AUTHORIZING ASSESSMENTS TO RAISE PRINCIPAL AS WELL AS INTEREST DURING THE FIRST TEN YEARS AFTER THE ISSUE OF SUCH BONDS; AND DECLARING AN EMERGENCY.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 43-402, Idaho Code, be, and the same is hereby amended to read as follows:

43-402. The bonds authorized by any vote shall be designated as a series and the series shall be numbered consecutively as authorized. The portion of the bonds of a series sold at any time shall be designated as an issue, and each issue shall be numbered in its order. The bonds of each issue shall be numbered consecutively, commencing with those earliest falling due. All bonds shall be negotiable in form and payable in money of the United States.

Interest coupons shall be attached thereto, and all bonds and coupons shall be dated on January 1, or July 1 next following the date of their authorization and they shall bear interest at a rate of not to exceed seven per cent per annum, payable semiannually on the first days of January and July of each year. The principal and interest shall be payable at the place designated therein. Said bonds shall be each of the denomination of not less than $100.00 nor not more than $1,000-$5,000, and shall be signed by the president and secretary, and the seal of the board of directors shall be affixed thereto. Coupons attached to each bond shall be signed by the secretary. Said bonds shall express on their face that they were issued by the authority of this title, naming it, and shall also state the number of the issue of which such bonds are a part. The secretary and treasurer shall each keep a record of the bonds sold, their number, the date of sale, the price received, and the name of the purchaser. In case the money raised by the sale of all of the bonds be insufficient for the completion of the plans and works adopted, and additional bonds be not voted, it shall be the duty of the board of directors to provide for the completion of said plan by a levy of assessment therefor, in the manner hereinafter provided.

Bonds may be issued with maturities under any one of the following plans:

Plan No. 1, Eleven-Twenty Year Bonds. At the expiration of eleven years from each issue, five per cent of the whole number of bonds of such issue; at the expiration of twelve years, six per cent; at the expiration of thirteen years, seven per cent; at the expiration of fourteen years, eight per cent; at the expiration of fifteen years, nine per cent; at the expiration of sixteen years, ten per cent; at the expiration of seventeen years, thirteen per cent; at the expiration of
nineteen years, fifteen per cent; at the expiration of twenty years, sixteen per cent; provided, that such percentages may be changed sufficiently so that every bond shall be in an amount of $100.00 or a multiple thereof, and the above provisions shall not be construed to require any single bond to fall due in partial payments.

Plan No. 2, Amortization Plan. Bonds may be issued on the amortization plan covering a period of forty years or less, at the discretion of the board of directors, with the principal payable in annual or semiannual installments, so arranged as to maturities that the combined principal and interest payments during the entire period shall be approximately the same each year during the life of the issue.

Plan No. 3, Five-Thirty Year Bonds. Bonds may be issued payable in annual installments over a period of thirty years or less. The board of directors may fix a date, not more than five years from the date of each issue, for the earliest maturity of each issue. Beginning with the date of the earliest maturity of each issue, the principal shall be payable in annual amounts designated by the board of directors over the remaining life of the bonds not to exceed thirty years from the date of issue.

SECTION 2. That Section 43-411, Idaho Code, be, and the same is hereby amended to read as follows:

43-411. Said bonds and the interest thereon shall be paid by revenue derived from the assessment upon the land in the district; and all the land in the district shall be and remain liable to be assessed for such payment; provided, that payment of interest may be made in accordance with the provisions of chapter 5 of this title; and provided also that the board of directors may fix rates of tolls and charges for use of water from the canals and irrigation system of the district, proportionate to the assessment and apportionment of benefits, for the purpose of paying the whole or any part of the principal or interest or both then due or next thereafter to become due. Where a toll is fixed for the payment of bond principal or interest, any portion of such toll remaining unpaid at the time fixed for levying the next annual assessment for payment of bond principal or interest, shall be added to and become part of the assessment against the land delinquent in the payment of such toll. The board in its order fixing or levying such tolls may fix the date or dates on or before which the same must be paid, may make the same payable in advance of the delivery of any water during the year for which the same are fixed, and may make
provision for the collection thereof and the keeping of a toll book by the district treasurer.

SECTION 3. That Section 43-704, Idaho Code, be and the same is hereby amended to read as follows:

43-704. At its regular meeting in September of each year the board of directors shall levy an assessment upon the lands in said district upon the basis, and in the proportion, of the list and apportionment of benefits approved by the court as hereinbefore provided, which assessment shall be sufficient to raise the annual interest on all outstanding bonds of the district as the same become due and payable. At the expiration of ten years after the issue of said bonds of any issue, the board must increase said assessment, as may be necessary from year to year, to raise a sum sufficient to pay the principal of the outstanding bonds as they mature. The secretary of the board must compute and enter in a separate column of the assessment book the respective sums, in dollars and cents, to be paid as an assessment on the property therein enumerated. When collected, the assessment shall be paid into the district treasury and shall constitute a special fund to be called "Bond fund of __________ irrigation district."

In case any assessment should be made for the purpose contemplated by a bond authorization, it shall be entered in a separate column of the assessment book in the same manner as the bond fund; and when collected shall constitute the "Construction fund of __________ irrigation district."

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

Approved March 10, 1966.

CHAPTER 9
(H. B. No. 18)

AN ACT

AMENDING SECTION 49-1201, IDAHO CODE, AS AMENDED, TO ADD THEREunto IMPOSITION OF A TAX FOR THE PRIVILEGE OF USING PUBLIC HIGHWAYS MEASURED BY THE GALLONS OF MOTOR FUELS AND SPECIAL FUELS USED
AT THE RATE OF SIX CENTS PER GALLON; PROVIDING THAT SUCH TAX SHALL BE COLLECTED, ADMINISTERED AND DISBURSED IN ACCORDANCE WITH THE PROVISIONS OF THE MOTOR FUELS TAX ACT; PROVIDING THAT THE USER SHALL BE SUBJECT TO THE PENALTIES, LIMITATIONS AND INTEREST SET FORTH IN THAT ACT; DECLARING AN EMERGENCY AND SETTING AN EFFECTIVE DATE.

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

SECTION 1. DECLARATION OF INTENTION.—It is the intention of the Legislature by this amendatory act to impose an excise tax upon the use of motor fuel or special fuel which is not included within the measure of the tax imposed by Section 49-1210, Idaho Code, Section 49-1227, Idaho Code, and Section 49-1231, Idaho Code, and not specifically exempted by the provisions of Chapter 12, Title 49, Idaho Code.

SECTION 2. That Section 49-1201, Idaho Code, be, and the same is hereby amended to read as follows:

49-1201. DEFINITIONS.—OF TERMS USED IN THIS CHAPTER AND IMPOSITION OF USE TAX.—

1. The following words, terms and phrases in this chapter, are, for the purpose thereof, defined as follows:

   (a) “Motor vehicles” shall include all vehicles, engines or machines which are operated or propelled, or intended to be operated or propelled, by combustion of gasoline, distillate or other volatile and inflammable liquid fuels.

   (b) “Motor fuels” shall mean and include gasoline and any other inflammable liquid or substance by whatever name it may be known or sold, the chief use of which is as a fuel for the propulsion of motor vehicles, motor boats or aeroplanes.

   (c) The word “person” includes any individual, firm, co-partnership, association, corporation (both private and municipal), or 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.

   (d) The term “dealer” shall include any person, as hereinabove defined, who first receives motor fuels in this state within the meaning of the word “received” as hereinafter in this section defined.
(e) The term "retail dealer" shall mean any person, as hereinabove defined, engaged in the retail sale of motor fuels in the state of Idaho.

(f) The word "commissioner" means the tax collector of the state of Idaho.

(g) Motor fuel, for the purpose of determining liability for the payment of the tax imposed by section 49-1210, shall be considered to be "received" in the following cases:

1. Motor fuel refined at a refinery in this state and placed in tanks thereat or motor fuel transferred from points outside this state or from a refinery or pipe line terminal in this state and placed in tanks thereat shall be considered to be received when such fuel is withdrawn from such refinery or terminal storage for sale or use in this state or for transportation to destinations in this state other than for transfer to other refineries or pipe line terminals in this state, and not before. When withdrawn from such refinery or terminal storage such motor fuel shall be considered to be received by the person for whose account such motor fuels were withdrawn if such person is a licensed dealer; otherwise such motor fuel shall be considered to be received by the person who owns such fuel immediately prior to its withdrawal from said storage.

2. Motor fuel imported into this state other than that placed in storage at refineries or pipe line terminals in this state shall be considered to be received immediately after the same is unloaded and by the person who is the owner thereof at such time if such person is a licensed dealer; otherwise such motor fuel shall be considered to be received by the person who owned such fuel immediately prior to its being unloaded; provided, however, motor fuels shipped or brought into this state by a qualified dealer, which fuel is sold and delivered in this state directly to a person who is not the holder of an uncanceled dealer permit, shall be considered to have been received by the dealer shipping or bringing the same into this state; further provided that motor fuel which is in any manner supplied, sold or furnished to any person or agency, whatsoever, not the holder of an uncanceled Idaho dealer permit, by an Idaho licensed dealer, for importation into the state of Idaho from a point of origin outside the state, shall be considered to be received by the Idaho licensed dealer so supplying, selling, or furnishing such motor fuel, immediately after the imported motor fuel has been unloaded in the state of Idaho. Except
as permitted by the proviso of section 49-1217, any motor fuel used in this state directly from the equipment by which
the same is imported shall be considered to have been re-
ceived by the person who is the owner thereof at the time
the same is brought into this state and by the person using
such motor fuel within this state.

3. Motor fuel produced, compounded, or blended
in this state other than at a refinery or pipe line terminal,
shall be considered to be received when the same is so pro-
duced, compounded or blended and by the person who is
the owner thereof at such time.

4. Motor fuel acquired in this state by any person,
other than as set forth in paragraphs (1), (2), and (3) of
this subsection, shall, unless the person from whom the
same is acquired has *** with respect thereto paid or in-
curred liability for, or the burden of, * the tax imposed by
this chapter or unless the same shall be exempt under the
provisions of this chapter, be considered to be first received
by the person so acquiring the same at the time so acquired.

5. ***Except as hereinbefore set forth, the word
“received” shall be given its usual and customary meaning.

*6. ***Motor fuel received by the dealer as herein-
above specified, shall, under rules and regulations prescribed
by the commissioner, be based upon consistent methods, gen-
erally recognized and accepted, for motor fuel tax account-
ing purposes, in respect to invoiced gallonage, stock trans-
fers, and stock accounting records.

2. Imposition of excise tax upon use:

(a) An excise tax is hereby imposed for the privilege
of using the public highways upon the use or possession for
use of motor fuels and special fuels in lieu of all taxes ac-
cording to value or quantity that might otherwise be imposed
with respect to the interest of such user in said motor fuel or
special fuel and said tax shall be imposed without regard to
whether such use is on an agency basis or otherwise; this tax
shall not be imposed in any case in which such motor fuel or
special fuel is subject to tax under Sections 49-1210, 49-1227
or 49-1231, Idaho Code, or is specifically exempted from
tax by the provisions of Chapter 12, Title 49, Idaho Code.

(b) Such use tax shall be in the amount of six cents
per gallon and shall be subject to the exemptions set forth
in Sections 49-1215 (c), 49-1230 (e) and 49-1232, Idaho
Code, and the refunds provided by Chapter 12, Title 49,
Idaho Code.
(c) The applicable procedures and requirements for reporting, disbursing, penalties, limitations, interest and collection set forth in the motor fuels tax act, Section 49-1201, Idaho Code, through Section 49-1226, Idaho Code, shall apply to and be considered as the procedures and requirements for administration, collection and disbursement of this tax. The Tax Collector shall be responsible for administration of this tax and may adopt such reasonable rules and regulations as are necessary for the administration of this tax.

(d) This use tax shall be a debt owing from the user to the state of Idaho and shall not constitute a lien upon the motor fuel or any interest therein.

SECTION 3. The provisions of this act are hereby declared to be separable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

SECTION 4. An emergency exists in this state making essential immediate implementation of this revenue measure in order to make the necessary preparations that will permit imposition and collection of taxes herein provided to commence on April 1, 1966. The Legislature of the State of Idaho hereby declares that this emergency exists and, because of this emergency, this act shall be in force and effect immediately upon its passage and approval except that, because of the need for administrative preparation and organization, the taxes herein provided shall not be imposed, collected or paid until on and after April 1, 1966. During the period between the date upon which this act is approved and April 1, 1966, the commissioner is hereby directed forthwith to do all things and take all steps necessary to begin collection of the taxes herein imposed on April 1, 1966.

Approved March 10, 1966.

CHAPTER 10
(H. B. No. 5, As Amended)

AN ACT
AMENDING CHAPTER 24 OF TITLE 40, IDAHO CODE, BY ADDING A NEW SECTION THERETO FOLLOWING SECTION 40-2401, TO BE KNOWN AND DESIGNATED AS SECTION 40-
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 24, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a new section following Section 40-2401, to be known and designated as Section 40-2401A, and to read as follows:

40-2401A. The legislature of the State of Idaho assents to the provisions of the Act of Congress approved October 22, 1965, entitled "An Act to provide for scenic development and road beautification of the federal-aid highway systems" (Public Law 89-285), and amendments thereof, or acts supplementary thereto and accepts the provisions and benefits of any act of Congress heretofore enacted having for its purpose the control of outdoor advertising, and junkyards adjacent to highways, or the landscaping and scenic enhancement of highways in the state of Idaho.

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

Approved March 10, 1966.

CHAPTER 11
(H. B. No. 14)

AN ACT
AMENDING SECTION 56-201, IDAHO CODE, BY AMENDING THE DEFINITIONS FOR PUBLIC ASSISTANCE, DIRECT ASSISTANCE IN CASH, AND MEDICAL ASSISTANCE FOR THE AGED; AMENDING SECTION 56-203, IDAHO CODE, BY CREATING THE POWER OF THE DEPARTMENT TO DEFINE MEDICALLY NEEDY INDIVIDUALS, TO DETERMINE THE AMOUNT, DURATION, AND SCOPE OF CARE FOR SERVICES TO BE PURCHASED AS MEDICAL ASSISTANCE; AMENDING SECTION 56-206, IDAHO CODE, BY AMEND-
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 56-201, Idaho Code, be, and the same is hereby amended to read as follows:

56-201. DEFINITIONS.—As used in this act:

(a) "State department" shall mean the state department of public assistance;

(b) "Commissioner" shall mean the commissioner of public assistance;

(c) "Public welfare" shall mean public assistance and social services;

(d) "Social services" shall mean activities of the department in efforts to bring about economic, social and vocational adjustment of families and persons:

(e) "Public assistance" shall include general assistance, old-age assistance, aid to the blind, aid to dependent children, aid to the permanently and totally disabled, and medical assistance for the aged;

(f) "General assistance" shall mean direct assistance in cash, direct assistance in kind, and supplementary assistance;

(g) "Direct assistance in cash" shall mean money payments to needy people not classified as old-age assistance, or aid to the blind, or aid to dependent children, or aid to the permanently and totally disabled, or medical assistance for the aged;

(h) "Direct assistance in kind" shall mean payments to others on behalf of a person or family in need for food, rent, clothing, and other normal subsistence needs;

(i) "Supplementary assistance" shall mean payments to others in behalf of a person or family in need for medical and surgical aid, nursing and hospital services, transportation, costs incidental to social and vocational adjustments, foster care, physical and medical appliances, medical supplies, and payments toward the funeral expenses of such persons when deceased;
(j) "Old-age assistance" shall mean money payments to or medical care in behalf of needy aged people.

(k) "Aid to the blind" shall mean money payments to or medical care in behalf of blind people who are needy;

(l) "Aid to dependent children" shall mean money payments with respect to or medical care in behalf of needy dependent children;

(m) "Needy aged" shall mean any person 65 years or older, whose income and sources of subsistence are insufficient to supply him with the common necessities of life commensurate with his needs and health, and who possesses the other qualifications which entitled him to the assistance awarded under this act.

(n) "Services to the blind" shall mean: (1) establishment and maintenance of a comprehensive and continuing register of the blind in Idaho; (2) home teaching for the adult blind and any blind persons not otherwise provided for throughout the state; (3) comprehensive vocational rehabilitation and placement services.

(o) "Sight conservation" shall mean medical and surgical eye treatment, including hospitalization when necessary, for the purposes of restoring or conserving sight, provided to individuals without financial resources to procure such services for themselves and the dissemination of information to the general public on subjects of preventing blindness and conserving sight.

(p) "Aid to the permanently and totally disabled" shall mean money payments to or medical care in behalf of needy individuals eighteen years of age or older who are permanently and totally disabled.

(q) "Medical assistance for the aged;" shall mean payments for medical care, or any type of remedial care, the practice of which is licensed by the state of Idaho, rendered on behalf of needy individuals who are 65 years of age or older, and who are not recipients of old-age assistance, part or all of the cost of such care and services enumerated in Section 1905 (a) (1) through (15) of the Federal Social Security Act as amended by the Social Security Act amendments of 1965, Public Law 89-97, 89th Congress, as may be designated by the Department by rule and regulation.

SECTION 2. That Section 56-203, Idaho Code, be, and the same is hereby amended to read as follows:
56-203. POWERS OF STATE DEPARTMENT.—The state department shall have the power to:

(a) Enter into contracts and agreements with the federal government through its appropriate agency or instrumentality whereby the state of Idaho shall receive federal grants-in-aid or other benefits for public assistance or public welfare purposes under any act or acts of congress heretofore or hereafter enacted;

(b) Cooperate with the federal government in carrying out the purposes of any federal acts pertaining to public assistance or welfare services, and in other matters of mutual concern;

(c) Cooperate with county governments and other branches of government and other agencies, public or private, in administering and furnishing public welfare services;

(d) Enter into reciprocal agreements with other states relative to the provisions of public assistance and welfare services to residents and nonresidents;

(e) Initiate and administer public assistance and social services for the prevention of blindness and for persons physically or mentally handicapped, and the services to the blind, including medical eye care, instruction in the home, social adjustment, and vocational rehabilitation. The state department is hereby designated as the agency to administer rehabilitation for the blind, as provided for by the United States Public Law No. 113, being statute 57, chapter 190, page 374 of the United States Statute at large, 78th Congress, first session, and shall act as the official state agency to collaborate with the federal government in the administration of any subsequent programs that may be set up for the purpose of rehabilitating the blind;

(f) Establish such requirements of residence for public assistance under this act as may be deemed advisable, subject to any limitations imposed in this act;

(g) Take such other action as may be necessary or proper to carry out the provisions of this act, including the establishment of such rules and regulations for the administration of medical assistance for the aged as may be necessary to the receipt of federal financial participation therein, and define medically needy individuals in such terms as will meet requirements for federal financial participation in medical assistance payments;
(h) Accept the legal custody of children committed to it by probate courts of this state under the child protective act, to provide protective supervision as defined therein, to place children for adoption when such children are in the legal custody of the state department and are legally available for adoption and to exercise consent to adoption when the authority to do so is vested in the department by court order or legally authorized parental relinquishment; and

(i) Determine the amount, duration, and scope of care and services to be purchased as medical assistance on behalf of needy eligible individuals.

SECTION 3. That Section 56-206, Idaho Code, be, and the same is hereby amended to read as follows:

56-206. GENERAL ASSISTANCE.—Public assistance awarded under the terms of this act which is not classified as old-age assistance, or aid to the blind, or aid to dependent children, or aid to the permanently and totally disabled, or medical assistance, shall be designated as general assistance.

SECTION 4. That Section 56-209b., Idaho Code, be, and the same is hereby amended to read as follows:

56-209b. MEDICAL ASSISTANCE FOR THE AGED.—Medical assistance for the aged shall be awarded to persons who have attained the age of sixty-five years, who are not recipients of old-age assistance but whose income and resources are insufficient to meet the costs of necessary medical or remedial care, are recipients of old-age assistance, aid to dependent children, aid to the blind, aid to the permanently and totally disabled and to such other persons as may be defined under the authority of this act to be medically needy individuals.

SECTION 5. That Section 56-210a., Idaho Code, be and the same is hereby repealed.

SECTION 6. EFFECTIVE DATE.—This act shall be effective on and after July 1, 1966.

Approved March 10, 1966.
CHAPTER 12
(H. B. No. 19)

AN ACT

AMENDING SECTION 49-754, IDAHO CODE; PROVIDING FOR THE USE OF RED WARNING SIGNAL LIGHTS WHEN A SCHOOL BUS IS STOPPED, PREPARING TO STOP OR IN AN EMERGENCY SITUATION; PROVIDING FOR SCHOOL BUS DRIVER SAFETY RESPONSIBILITY AND DUTIES IN LOADING AND UNLOADING SCHOOL PUPILS; PROVIDING FOR MOTOR VEHICLE OPERATOR'S DUTIES WHEN MEETING OR OVERTAKING A SCHOOL BUS; PROVIDING FOR SEVERABILITY; AND, DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-754, Idaho Code, be, and the same is hereby amended to read as follows:

49-754. SPECIAL LIGHTING EQUIPMENT ON SCHOOL BUSES.—(a) The commissioner is authorized to adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses consistent with the provisions of this act, but supplemental thereto, and except that such standards and specifications may shall designate and permit the use of flashing red warning signal lights and stop signal arms on school buses for the purpose of indicating when children are boarding or alighting from any said bus, or when such bus is stopped or preparing to stop for the purpose of loading or unloading pupils or for an emergency. Such standards and specifications shall correlate with and, so far as possible, conform to the specifications then current as approved by the society of automotive engineers.

(b) It shall be unlawful to operate any flashing red warning signal light on any school bus except when said school bus is stopped, or preparing to stop, on a highway for the purpose of permitting school children to board or alight from said school bus, or is stopped or in case of for an emergency.

(c) The school bus driver shall stop to load or unload pupils only at designated places and no such stop shall be made on any highway having more than three (3) lanes, if pupils are to cross such highway except at intersections where traffic signals or traffic controllers are operating. The driver shall drive the bus as far to the right of the highway as is practicable prior to stopping. The driver shall
activate the school bus flashing red warning lights for a distance of 300 feet prior to bringing the bus to a stop. The driver shall display the stop signal arm only after the bus has come to a complete stop unless he knows that the flashing red warning lights are inoperative, in which case he may use the signal arm as a substitute for the flashing lights. The flashing red warning lights shall continue to be operated and the signal arm shall be displayed until all pupils either have boarded or unloaded the bus and all who must cross the roadway have done so safely. The driver shall ascertain that the way is clear and shall signal pupils across the road in front of the bus. After pupils are safely out of danger, the driver shall turn off the flashing red warning lights, retract the stop signal arm, and proceed with the bus when it is safe to do so.

It shall be the duty of every school bus driver to report the license number of any vehicle which violates any law endangering school children to his immediate supervisor.

In addition to the provisions of this section, it shall be the responsibility of the driver to comply with related department of education regulations, supplemental to the enforcement of this section.

(d) Anything in Section 49-752a, Idaho Code, to the contrary notwithstanding, except when meeting a school bus on a highway having more than three (3) lanes, any person operating a motor vehicle, upon meeting or overtaking a school bus which has stopped on the highway or the shoulder thereof for the purpose of loading or unloading school children, shall completely stop the vehicle before reaching the point in the highway described in the second paragraph of this subsection; shall not proceed with the vehicle while any school children are leaving or boarding the school bus or crossing the highway; and shall not proceed until the flashing red warning lights on the bus have been discontinued and the stop signal arm has been retracted.

The driver shall come to a complete stop: when meeting a school bus on a public highway, having not more than three (3) lanes, at least ten (10) feet in front of the bus; and, when overtaking a school bus, at least ten (10) feet from the rear of the bus.

SECTION 2. The provisions of this Act are hereby declared to be separable and if any provision of this Act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this Act.
SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after the first day of July, 1966.

Approved March 10, 1966.

CHAPTER 13
(H. B. No. 23)

AN ACT
AMENDING SECTION 40-107, IDAHO, CODE, RELATING TO THE DEFINITION OF THE TERM "HIGHWAYS", AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 40-107, Idaho Code, be, and the same is hereby amended to read as follows:

40-107. Highways are hereby defined as roads, streets, alleys and bridges laid out or established for the public or dedicated or abandoned to the public. Such highways shall include necessary culverts, sluices, drains, ditches, waterways, embankments, retaining walls, bridges, tunnels, grade separation structures, roadside improvements, adjacent lands or interests therein lawfully acquired, pedestrian facilities, and any other structures, works or fixtures incidental to the preservation or improvement of such highways.

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

Approved March 10, 1966.

CHAPTER 14
(H. B. No. 25)

AN ACT
APPROPRIATING MONEYS FROM THE STATE LIQUOR FUND OF THE STATE OF IDAHO, TO THE STATE LIQUOR DISPENSARY FOR THE PURPOSE OF PAYING SALARIES AND
WAGES AND OTHER CURRENT EXPENSE FOR THE PERIOD COMMENCING ON THE EFFECTIVE DATE OF THIS ACT AND ENDING JUNE 30, 1967; SUBJECT TO THE PROVISIONS OF THE STANDARD APPROPRIATIONS ACT OF 1945; AND PROVIDING AN EMERGENCY CLAUSE.

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

SECTION 1. There is hereby appropriated out of the State Liquor Fund of the State of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages and other current expense of the agency herein named for the period commencing on the effective date of this act and ending June 30, 1967, subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
STATE LIQUOR DISPENSARY:
For: Salaries and Wages $108,000
Other Current Expense 10,800

Total $118,800
From the State Liquor Fund $118,800

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

Approved March 10, 1966.

CHAPTER 15
(H. B. No. 26)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL FUND OF THE STATE OF IDAHO, TO THE BUDGET BUREAU FOR THE OFFICE OF THE STATE COORDINATOR OF FEDERAL PROGRAMS FOR THE PURPOSE OF PAYING SALARIES AND WAGES, TRAVEL EXPENSE, OTHER CURRENT EXPENSE AND CAPITAL OUTLAY FOR THE PERIOD COMMENCING ON THE EFFECTIVE DATE OF THIS ACT AND ENDING JUNE 30, 1967; SUBJECT TO THE PROVISIONS OF THE STANDARD APPROPRIATIONS ACT OF 1945; AND PROVIDING AN EMERGENCY CLAUSE.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. There is hereby appropriated out of the General Fund of the State of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named for the period commencing on the effective date of this act and ending June 30, 1967; subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
BUDGET BUREAU FOR THE OFFICE OF
THE STATE COORDINATOR OF
FEDERAL PROGRAMS:
For: Salaries and Wages $28,250
Travel Expense 2,000
Other Current Expense 2,750
Capital Outlay 1,000

Total $34,000
From the General Fund $34,000

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

Approved March 10, 1966.

CHAPTER 16
(H. B. No. 30)

AN ACT
RELATING TO THE OFFICE OF COORDINATOR OF FEDERAL PROGRAMS; PROVIDING THE PURPOSE THEREFORE; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION THEREETO, TO BE KNOWN AND DESIGNATED AS CHAPTER 40; PROVIDING FOR THE OFFICE OF COORDINATOR OF FEDERAL PROGRAMS; PROVIDING FOR THE APPOINTMENT OF THE COORDINATOR OF FEDERAL PROGRAMS AND THE EXEMPTION FROM THE PROVISIONS OF CHAPTER 53, TITLE 67, IDAHO CODE; PROVIDING FOR THE DUTIES OF THE COORDINATOR OF FEDERAL PROGRAMS AND THE EXCEPTIONS; PROVIDING FOR THE EMPLOYMENT OF ASSISTANTS; AND DECLARING AN EMERGENCY.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. It is the intention of the legislature of the state of Idaho to participate as fully as possible in the federal programs that are now available or may be available in the future, consistent with the ability of the state to benefit from such programs.

The legislature deems it necessary that an office within the executive branch be established to keep the governor, the legislature, and political subdivisions of the state informed of what federal programs are available, what obligations are imposed, and what the present and future costs reasonably may be.

SECTION 2. That Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a new chapter, to be known and designated as Chapter 40 of Title 67, Idaho Code, and to read as follows:

67-4001. Office of coordinator of federal programs.—There is hereby created the office of coordinator of federal programs. Until otherwise provided by law or by executive order, the office of coordinator of federal programs shall be a part of the bureau of budget. The governor shall appoint a coordinator of federal programs. The coordinator of federal programs shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

67-4002. Duties of coordinator of federal programs.—It shall be the duty of the coordinator of federal programs to report to the governor and to the legislature on all federal programs, now existing or which shall hereafter be established, in which the state of Idaho or any of its political subdivisions may participate. Reports shall include an analysis of the present costs, anticipated costs, present benefits, anticipated benefits, present obligations and anticipated obligations, methods and sources of funding present and anticipated programs, and such other information as shall be deemed necessary or illustrative. The coordinator of federal programs may furnish information and assistance to the political subdivisions of the state of Idaho. The coordinator of federal programs shall not exercise any administrative control over any federal programs, but shall advise, analyze, coordinate programs so as to facilitate the accomplishment of the objectives thereof and make report of his activities in connection therewith. The coordinator of federal programs may employ such assistants as necessary to carry out the duties of his office.

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 10, 1966.

CHAPTER 17
(H. B. No. 8, As Amended)

AN ACT

DECLARING THE PURPOSE OF THIS ACT; ESTABLISHING THE IDAHO APPLE COMMISSION; PROVIDING DEFINITIONS TO BE USED IN THE ACT; PROVIDING FOR THE GROWER MEMBERSHIP OF SAID COMMISSION; PROVIDING FOR THE DEALER MEMBERSHIP OF SAID COMMISSION; SPECIFYING THE NUMBER OF MEMBERS, QUALIFICATIONS, TERMS OF OFFICE, MANNER OF APPOINTMENT OF MEMBERS OF SAID COMMISSION; PROVIDING FOR COMPENSATION OF MEMBERS OF SAID COMMISSION; PROVIDING FOR THE ELECTION OF A CHAIRMAN OF THE COMMISSION; AUTHORIZING THE COMMISSION TO EMPLOY PERSONNEL; PROVIDING FOR THE ORGANIZATION, PROCEDURES, MEETINGS AND DUTIES AND POWERS OF SAID COMMISSION; PROVIDING FOR THE ACCEPTANCE OF FUNDS OF SAID COMMISSION; PROVIDING FOR BONDS FOR THE ADMINISTRATOR, EMPLOYEES OR AGENTS OF THE COMMISSION; PROVIDING THAT THE COMMISSION MAY ESTABLISH AN OFFICE WITHIN THE STATE OF IDAHO; PROVIDING THAT THE STATE SHALL NOT BE LIABLE FOR THE ACTS OR OMISSIONS OF THE COMMISSION, ITS MEMBERS, OFFICERS, AGENTS OR EMPLOYEES; PROVIDING FOR THE LEVY OF A TAX ON SPECIFIED APPLES, FOR THE TIME OF PAYMENT, COLLECTION PROCEDURES; ESTABLISHING PROCEDURE FOR INCREASE IN TAX OR ELIMINATION OF EXEMPTIONS; PROVIDING FOR THE ESTABLISHMENT OF THE "IDAHO APPLE COMMISSION FUND" AND FOR THE PAYMENT OF COLLECTED TAXES INTO SAID FUND, AND THE PAYMENT OF EXPENSES, COSTS AND SALARIES OUT OF THE FUND; PROVIDING PENALTIES FOR VIOLATION OF THE PROVISIONS OF THIS ACT; PROVIDING FOR THE REPEAL OF ALL LAWS IN CONFLICT HEREWITHE; PROVIDING FOR THE CONSTRUCTION OF THIS ACT; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. It is to the best interests of all the people of the State of Idaho that the abundant and natural resources of Idaho be protected, fully developed and uniformly distributed. It is in the public interest and within the exercise of the police power of the state to protect the public health; to prevent fraudulent practices; to provide the means for the development of markets; production research; and new product development and promotion of the apple industry.

SECTION 2. Commission Created—Qualification of Members.

There is hereby created an Idaho Apple Commission, to be thus known and designated. The commission shall be composed of three practical apple growers and two practical apple dealers. The sixth member of the commission shall be the Commissioner of Agriculture, ex-officio without vote.

The three grower members shall be citizens and residents of this state, over the age of twenty-five years, each of whom is and has been actively engaged in the growing and producing of apples within the State of Idaho, and a major portion of his income from apples has been derived from growing apples.

The two dealer members shall be persons who, either individually or as executive officers of a corporation, firm, partnership, association or cooperative organization are and have been actively engaged as dealers of apples within the State of Idaho, are citizens and residents of this state; are over the age of twenty-five years, and a major portion of their income from apples has been derived from handling, packing, shipping, buying or selling apples, or acting as sales or purchasing agent, broker or factor of apples.

The qualifications of members of the Commission as hereinafter forth must continue during their term of office. No member of the Commission shall receive any salary or other compensation but each member of the Commission shall receive the sum of fifteen dollars ($15.00) per day for each day spent in actual attendance in meetings of the Commission and such allowance for traveling expenses in attending meetings of the Commission as is allowed other state employees for traveling expenses.

SECTION 3. Definitions. As used in this Act, unless the context requires otherwise:

(1) "Commission" means the Idaho Apple Commission.
(2) "Grower" means any land owner personally engaged in growing apples, a tenant personally engaged in growing apples, or both the owner and the tenant jointly, and includes a person, partnership, association, corporation, cooperative organization, trust, share-cropper, or any and all other business units, devices and arrangements, that grow apples.

(3) "Dealer" means any person, partnership, association, corporation, cooperative or other business units and devices who first handles, packs, ships, buys or sells apples, or who acts as sales or purchasing agent, broker or factor of apples.

(4) "Ship" means to load apples into any mode of conveyance for transport in the channels of trade or to market.

(5) "Processor" and "Processing Plant" means every person, partnership, association, corporation, cooperative or other business units and devices to whom and every place to which apples are delivered for drying, freezing, dehydrating, canning, pressing, powdering, extracting, cooking and for use in producing a product or manufacturing a manufactured article.

(6) "District No. 1" shall consist of the following Counties: Canyon, 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 and Bingham.

(7) "District No. 2" shall consist of the following Counties: Gem, Boise, Valley, Custer and Lemhi.

(8) "District No. 3" shall consist of the following Counties: Payette, Washington, Adams, Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Shoshone, Kootenai, Bonner and Boundary.

(9) "Person" means any partnership, association, corporation, cooperative or other business units or devices.

SECTION 4. Grower and dealer members of the commission shall be selected as follows:

(a) Two grower members shall be nominated for each grower vacancy that occurs, from which the Governor shall appoint one. The first nominees shall be nominated in the following manner: The Apple Committee of the Idaho Horticultural Society shall conduct meetings in each of the three districts referred to in Section 3 of this Act, and at such
meetings the growers shall nominate two growers for each district. The Apple Committee of the Idaho Horticultural Society shall call a general meeting of the Idaho apple dealers of the State of Idaho at such time and place as shall be decided by the committee for the purpose of nominating four dealers, representative of the three districts defined in sub-paragraphs (6), (7) and (8) of Section 3 of this Act. Notice of the meetings for the nomination of growers shall be by publication in one newspaper published in the major apple producing county of the district in which said nominations are to be made, and the notice shall be published in two issues of such newspaper, the first to be approximately thirty days and the second approximately ten days before said meeting. The notice shall state the purpose, time and place of said meeting. All meetings held for the selection of nominees shall be held prior to March 31st of the year the appointment or appointments are to be made.

(b) After the original appointments to the Commission all subsequent appointments shall be conducted in the same manner, except that the meetings shall be called and conducted by the Commission.

(c) The Governor shall select from the nominees for each district one grower member and from the four nominees for dealers, two members, as required by this Act.

(d) The Governor shall appoint five persons to the Commission based upon the nominating petitions. Three shall be growers and two shall be dealers, but each dealer nominee must be from a different district.

The first members of the Commission shall draw lots to determine their respective terms of office. Two of the original members shall serve for one year; two of the original members shall serve for two years; and one of the original members shall serve for three years. The term of office of members of the Commission thereafter shall be three years, commencing on July 1, 1966. Provided, however, that both dealer members of the Commission terms of office shall not expire during the same year.

Members of the Commission may not serve more than two consecutive terms. Provided, upon serving two consecutive terms, and the lapse of one full term, such member may again be nominated and appointed to the Commission.

In the event there are vacancies in the Commission, through death, resignation or removal, it shall be the duty of the growers and dealers as provided in Section 4 of this
Act, to submit to the Governor at least two qualified names for each grower vacancy, and two qualified names for each dealer vacancy for the district in which the vacancy occurred. The Governor shall make the appointment or appointments to fill the vacancy.

SECTION 5. Powers and Duties. The Idaho Apple Commission shall have, but is not limited to, the following powers and duties:

(1) To elect a chairman and such other officers as it deems advisable.

(2) To appoint and employ, and at its pleasure discharge, all necessary agents, employees and professional personnel and other personnel, including experts in agriculture and the publicizing of the products thereof, and to prescribe their duties and fix their compensation.

(3) To establish offices and incur expense and enter into contracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this Chapter.

(4) To find new markets for apples and apple products.

(5) To give, publicize and promulgate reliable information showing the value of apples and apple products for any purpose for which they are found useful and profitable.

(6) To make public and encourage the wide-spread national and international use of apples and apple products.

(7) To investigate and participate in studies of the problems peculiar to the growers of apples in the State of Idaho.

(8) To take such action as to the Commission seems necessary or advisable in order to promote the sale of apples and to protect the apple industry.

(9) To enter into such contracts as may be necessary or advisable.

(10) To make use of such advertising means and methods as the Commission deems advisable and to enter into contracts and agreements for research and advertising within and without the State of Idaho.

(11) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state, or the United States Government, engaged in work or activity similar to the work and activities of the
Commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education, product protection, publicity and reciprocal enforcement of these objectives.

(12) To investigate and prosecute in the name of the State of Idaho violations of this Act; to investigate and prosecute in the name of the State of Idaho any suit or action for the collection of assessments as hereinafter provided, or to protect brands, marks, packages, brand names or trademarks being promoted by the Commission.

(13) To do any and all things that will promote the sale of apples.

(14) To keep an accurate record of all of its dealings, which shall be open to inspection and audit by the State Auditor.

(15) To sue and be sued.

(16) To adopt and from time to time alter, rescind, modify and/or amend all proper and necessary rules, regulations and orders for the exercise of its powers and performance of its duties under this Act.

SECTION 6. The Commission shall provide for and conduct a comprehensive and extensive research, advertising and educational campaign as continuous as the crop, sales and market conditions reasonably require. It will investigate and ascertain the needs of growers, conditions of the market and extent to which public convenience and necessity require research and advertising to be conducted.

SECTION 7. The Commission may accept 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 shall be paid to the Idaho Apple Commission and shall be deposited into the “Idaho Apple Commission Fund”, which is hereby created in the office of the State Treasurer, State of Idaho, said monies to be kept in said “Idaho Apple Commission Fund”, and are hereby appropriated out of said fund and made available for defraying the expenses of the Commission in carrying out the provisions of this Act.

SECTION 8. The Commission may require the administrator, or any agent or employee appointed by the Commission, to give a bond payable to the State of Idaho in the amount, and with the security and containing the terms and
conditions the Commission prescribes. The cost of the bond is an administrative expense under this Act.

SECTION 9. The State of Idaho is not liable for the acts or omissions of the Commission or any member thereof, or any officer, agent or employee thereof.

SECTION 10. There is hereby levied upon all apples grown annually in this state, and all apples packed as Idaho apples, an assessment of one cent on each forty pounds. Provided, however, this action shall not apply to apples shipped to a processing plant for processing, nor shall it apply to any person, dealer or grower who sells less than one thousand pounds of apples in any marketing year. Provided, however, the exemption for shipments or sales to a processing plant for processing may be eliminated by a referendum mail ballot vote conducted by the Commission among the apple growers of this State, and provided further the vote is approved by a two-thirds vote of the growers of fifty percent or more of the acreage represented in the voting. All monies collected hereunder shall be expended to effectuate the purposes and objects of this Act.

SECTION 11. The assessment shall be paid by the grower and shall be due on or before the time when such apples are first handled in the primary channels of trade and shall be paid at such times as the Commission may by rule or regulation prescribe, but not later than sixty days from the date on which the apples were handled in the primary channels of trade.

The Commission shall by rule or regulation prescribe the method whereby the grower remits the assessment, and for that purpose may require the grower to file with the Commission his sworn statement containing the information concerning all apples grown, handled, packed, shipped or processed by him, and the amount of tax due.

SECTION 12. Every dealer and grower shall keep a complete and accurate record of all apples handled, packed, shipped or processed by him. The record shall be in such form and contain such information as the Commission by rule or regulation prescribes, and shall be preserved for a period of two years, and be subject to inspection at any time upon demand of the Commission or its agents.

SECTION 13. If it appears from an investigation that the revenue from the assessment levied hereunder is inadequate to accomplish the purposes of this Act, the Commission shall file with the Commissioner of Agriculture a report showing
the necessity of the industry, extent and probable cost of the required research, market promotion and advertising, extent of public convenience, interest and necessity, and probable revenue from the assessment desired to be levied. It shall thereupon increase the assessment to a sum not to exceed five cents per forty pounds shipped in bulk, container or any style of package; but no increase shall be made prior to filing of said report and finding. Provided, however, that no increase in such assessment shall become effective unless the same shall first be referred by the Commission on a referendum mail ballot of the apple growers of this state, and be approved by two-thirds vote of the growers of fifty percent or more of the acreage represented in the voting.

SECTION 14. Each dealer and/or grower shall, at such times as the Commission may by rule or regulation require, file with the Commission a return under oath, on forms to be furnished by the Commission, stating the quantity of apples grown, packed, handled, shipped or processed by him, during the period prescribed by the Commission. The return shall contain such further information as the Commission may require.

SECTION 15. The Commission may inspect the premises and records of any grower, carrier, handler, packer, dealer or processor for the purpose of enforcing this Act and the collection of the assessment.

SECTION 16. Any person who violates or aids in violation of any provision of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $300.00, or imprisonment not to exceed six months, or both.

SECTION 17. This Act shall be liberally construed and if any part or portion thereof be declared invalid, or the application thereof to any person, circumstance or thing is declared invalid, the validity of the remainder of this Act and/or applicability thereof to any person, circumstances or thing shall not be affected thereby, and it is the intention of the Legislature to preserve any and all parts of this Act if possible.

SECTION 18. All laws in conflict herewith are hereby repealed.

SECTION 19. An emergency existing therefor, which emergency is hereby declared to exist, this Act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1966.
AN ACT

AMENDING SECTION 1, CHAPTER 276, IDAHO SESSION LAWS OF 1965 BY PROVIDING FOR THE ACQUISITION OF PROPERTY IN BOISE CITY, ADA COUNTY, IDAHO, FOR THE CONSTRUCTION OF A STATE CAPITOL MALL AND BUILDINGS COMPLEX; AUTHORIZING ACQUISITION OF SUCH PROPERTY BY PURCHASE OR CONDEMNATION BY THE DEPARTMENT OF PUBLIC WORKS; PRESCRIBING THE CONDITIONS UNDER WHICH SUCH PURCHASE SHALL BE MADE; DECLARING THE NECESSITY FOR PUBLIC USE OF SUCH ACQUISITION; APPROPRIATING MONEYS FOR THE PURPOSE OF MAKING SUCH ACQUISITION AND FOR ADMINISTRATION OF THE PURCHASE; AUTHORIZING THE DEPARTMENT TO OPERATE THE PROPERTY ACQUIRED HEREUNDER WHILE THE SAME IS NOT BEING USED FOR THE CONSTRUCTION OF BUILDINGS; AUTHORIZING THE CONSTRUCTION OF A NEW WARD BUILDING AT THE IDAHO STATE SCHOOL AND COLONY AT NAMPA; EXEMPTING THIS ACT FROM THE PROVISIONS OF THE STANDARD APPROPRIATIONS ACT OF 1945; DECLARING THESE MONEYS TO BE IMMEDIATELY AVAILABLE FOR THE PURPOSE OF THIS ACT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 276, Idaho Session Laws of 1965, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated from the Permanent Building Fund to the Permanent Building Fund Advisory Council and the Department of Public Works the sums of money set forth in the following schedule, or so much thereof as in each case may be necessary, for the purpose of paying the cost of any land, building, equipment, furniture, or the rebuilding, renovation or repair, of the following buildings, installations, facilities or structures at the institutions and agencies named and listed in the following schedule. The Permanent Building Fund Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building Fund 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) IDAHO SCHOOL FOR THE DEAF & BLIND, GOODING:
   For: Recreation Add'n to gym
   Campus Lighting System
   Foyer for existing gymnasium
   Repair roof on gym, heating plant and girls' dorm
   Plumbing and Heating systems
   in 3 buildings $ 102,000

(b) STATE YOUTH TRAINING CENTER, ST. ANTHONY:
   For: Provide adequate housing for male population $110,000
   Attach SYTC sewer lines to city sewer 30,000
   Upgrade dairy to grade A 30,000 $ 170,000

(c) IDAHO STATE UNIVERSITY, POCATELLO:
   For: Completing and equipping new fine arts building
   College of Business Administration, and General Classrooms
   Trade & Technical Department construction or remodeling projects
   Utility Extension, site development, prop. purchases, etc.
   Renovate Science Hall (Baldwin) 2,000,000

(d) UNIVERSITY OF IDAHO, MOSCOW:
   For: College of Education and Engineering Laboratory 2,000,000

(e) LEWIS-CLARK NORMAL SCHOOL, LEWISTON:
   For: Remodel College Elementary School to provide Library
   and Classroom space 149,977

(f) STATE FORESTRY DEPARTMENT:
   For: Area Bunkhouse at Cavanaugh Bay property on Priest Lake 5,000
(g) **IDAHO STATE SCHOOL AND COLONY, NAMPA:**
For: Repairs Canyon Hall, Kamiah Lodge, Latah Lodge, Dubois, Elmore, Game, Jerome and Madison, Ada and Fremont Clinics
   *New Ward Building Construction,*
   Renovation Old Admin. Bldg., Hog brooding, and Training School
   Remodel Kitchen and Dining
   Facilities
   Routine maintenance on interior
   and exterior all buildings $300,000

(h) **STATE HOSPITAL SOUTH, BLACKFOOT:**
For: Routine interior and exterior maintenance on all buildings $35,000
Provide night lighting system for institution $14,000

(i) **STATE HOSPITAL NORTH, OROFINO:**
For: Routine interior and exterior maintenance on buildings $75,000
Major Plbg. overhaul on electrolytic activity $46,000

(j) **IDAHO STATE HOSPITAL, GOODING:**
For: Interior and exterior maintenance on all buildings $11,500
Extension on existing garage for vehicles $8,000

(k) **STATE HISTORICAL MUSEUM AND STATE TRAVELING LIBRARY, BOISE:**
For: Construction of a new Museum Building, and Renovation of present Museum Building for use by the Idaho State Traveling Library $250,000
This appropriation is in addition to the sum appropriated for a
Museum Building by Chapter 228, Idaho Session Laws of 1963.

(1) IDAHO STATE PENITENTIARY, BOISE:
   For: Construction of new penitentiary
   Refrigerator and storage space for canning produce
   Irrigation and domestic water supply
   Repairs to 4-guard's living quarters

   It is the express intention of the Legislature that $30,000 of the sum appropriated by this subsection 1 (1) of this Act be made available upon the effective date of this Act for the drilling of an irrigation well at the new site of the Idaho State Penitentiary in Ada County, Idaho, and for the purpose of constructing an irrigation and domestic water supply at the existing site of the Penitentiary which shall be available to, and used by, the Departments of Health and Agriculture Laboratory which is now under construction there without charge.

(m) IDAHO VETERANS' AFFAIRS COMMISSION:
   For: Veterans' Home at new location 275,000

   This appropriation is in addition and is supplementary to the appropriation for a new Veterans' Home made by Chapter 228, Idaho Session Laws of 1963. The residual balance amounting to $20,000 more or less, remaining in the appropriation made to the Idaho Soldiers' Home by Chapter 43, Idaho Session Laws of 1961 are hereby made available for the construction and furnishing of the new Veterans' Home.

(n) VARIOUS STATE OFFICES:
   For: Amount necessary for rentals of 3rd and 4th floors, Bank of Idaho 98,873

(o) STATE CAPITOL COMPLEX:
   For: Renovation of the 3rd and 4th floors of the Capitol Building for the use of the Legislature; for the renovation and furnishing of the West wing of the 2nd floor of the Capitol Building for the use of the offices of the Governor; for the acquisition by the Governor of a parcel of land as recommended by the "State Capitol Planning Commission" for the location of a state office building
conforming to a development plan as set forth in House Bill No. 286, as amended, Thirty-eighth Session of the Idaho Legislature. It is the express intention of the Legislature that this appropriation is in addition and supplemental to the appropriation made by subsection 14, Section 1, Chapter 228, Idaho Session Laws of 1963, as amended, and any residual balances therein are made available hereby for the purposes of this act and that subsection in the aggregate 500,000

The Department of Public Works, with the advice and consent of the Permanent Building Fund Advisory Council and the Governor, is authorized to acquire by purchase or condemnation all of the real property not now in public ownership located in Blocks 63, 64, 101, 102, 105, 95 and all of Block 94 except Lots 1, 2, 7 and 8, as those blocks appear on the Townsite Plat of Boise City, Ada County, Idaho for a State Capitol Mall and buildings complex.

In determining a fair purchase price of each parcel, there shall be considered the appraisals of two members of the American Institute of Real Estate Appraisers.

The area consisting of Blocks 63, 64, 65, 94, 95, 101, 102 and 105, and the Capitol square, all as shown on the Plat of the Townsite of Boise City, Idaho, is hereby designated as the Idaho State Capitol Mall.

Acquisition of the real property described herein is declared to be necessary for public use and its acquisition is required by public necessity for the construction of office buildings and other public buildings. The Department of Public Works and the Permanent Building Fund Advisory Council are directed to prepare a land use plan for the development thereon of a complex of buildings to meet the long range needs of the state. In the preparation of such plan the department shall consult with the planning agencies of Boise City and Ada County and insofar as is possible shall plan for the location in the area of city and county, or joint use facilities, as the case may be. The Department is authorized to make land use agreements with the city and/or county which in the Department's judgment will be in the best interests of the State of Idaho.

The sum appropriated in this subsection 1 (o) and subsection 1 (q) of Chapter 276, Idaho Session Laws of 1965,
together with all unused balances in the appropriations made for completed projects by the said Chapter 276, by Chapter 43, Idaho Session Laws of 1961, and by Chapter 228, Idaho Session Laws of 1963, not to exceed $1,300,000, are hereby re-appropriated from the Permanent Building Fund to the Department of Public Works for the purpose of acquiring land for the State Capitol Mall which is hereby authorized. Appropriations for administration made by the said Chapter 43 and 228 are hereby re-appropriated and made available for use in the current biennium.

The Department of Public Works is authorized and directed to operate any property acquired hereunder and to enter into contracts not inconsistent with the use of the real estate for building purposes when authorized. The Department may contract with a licensed realtor for the management of all, or parts, of the property thus acquired. Proceeds accruing from such rental contracts shall be deposited to the credit of the Permanent Building Fund.

(p) PERMANENT BUILDING FUND ADVISORY COUNCIL, AND DEPARTMENT OF PUBLIC WORKS FOR ADMINISTRATION

OF THIS ACT:
For: Salaries and Wages 60,000
Travel expense 20,424
Other Current Expense 18,576
Capital Outlay 500

99,500

(q) For: Completion and fulfillment of 1963-1965 Biennium Appropriations for uncompleted projects and purchase of property as authorized in subsection (o) above.

510,861

(r) PERMANENT BUILDING FUND ADVISORY COUNCIL FOR CONTINGENCIES:
For: Use by the Permanent Building Fund Advisory Council, with the consent and approval of the Governor, in supplementing, in its discretion, the appropriations made by Section 1 (a) through Section 1 (q) inclusive, when the Council finds that the amounts appropriated herein are insufficient to provide for equipment and construction, repair or renovation, in keeping with the needs of the agency or institution for whom construction is herein authorized and provided for; and for use by
the Permanent Building Fund Council, with the approval and consent of the Governor, in purchasing options to purchase land suitable for governmental use located near the Capitol in Boise, which options to purchase shall be submitted to the next convening session of the Legislature for decision as to whether such option should be exercised.

Grand Total from Permanent Building Fund $8,055,711

SECTION 2. It is the express intention of the legislature that the funds appropriated in this act for construction at the University of Idaho, Idaho State University and Lewis and Clark Normal School may be anticipated and made available for matching any allotment of funds now in existence or hereafter made by agencies of the United States under and pursuant to the Higher Education Facilities Act of 1963. It is the intention of the legislature that this authority be effective from the effective date of this act.

SECTION 3. AUTHORIZATION FOR ACQUISITION OF STATE OFFICE BUILDING.—The Permanent Building Fund Advisory Council is hereby authorized and directed, with the approval of the Governor, for and on behalf of the State of Idaho, to contract with competent parties for the construction of a new state office building on state owned real property located in Boise City, Idaho, as recommended by the “State Capitol Planning Commission” and conforming to a development plan as set forth in House Bill No. 286, as amended, Thirty-eighth Session of the Idaho Legislature, for the purpose of providing office space and all necessary accommodations in connection therewith for agencies and departments of government now or hereafter located in Boise.

The contract hereby authorized may provide that said state office building shall not become a part of the real estate except as hereinafter provided; that the State of Idaho shall lease said building for an agreed period of time and at an agreed consideration; that said building shall become a part of the realty when the total agreed consideration has been paid by the State of Idaho, and that at such time as the total agreed consideration has been paid that the building will become the property of the State of Idaho free and clear of any incumbrance. The contract may also provide for a lease of the state owned real property to the lessor of the building built thereon for a term of years coincident with the term of the lease-purchase agreement authorized
by, and executed pursuant to, this section. The contract shall provide that the agreed consideration shall be paid from moneys accruing to the Permanent Building Fund of the State of Idaho, which are hereby appropriated therefor.

The Permanent Building Fund Advisory Council is directed to negotiate with the Board of Directors of the Public Employees' Retirement System and/or the Board of Directors of the Teachers' Retirement System in making the contract and undertakings herein authorized.

SECTION 4. All appropriations made herein shall be exempt from the provisions of Chapter 36, Title 67, and Section 67-3516, Idaho Code, but shall be available for expenditure only after allotment in accordance with the other provisions of Chapter 35 of Title 67, Idaho Code, as amended, and all appropriations made hereunder shall be subject to the provisions of Section 67-2304, Idaho Code, as amended, except as otherwise provided herein.

Section 5. The authorization contained herein for the acquisition of real property, and the appropriations made for that purpose, shall be effective immediately.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 11, 1966.

CHAPTER 19
(S. B. No. 1, As Amended)

AN ACT

PROVIDING FOR THE TRANSFER OF TITLE TO SPALDING STATE PARK AND LEWIS AND CLARK CANOE CAMP TO THE NATIONAL PARK SERVICE FOR USE AS A PUBLIC RECREATION FACILITY; AND TO AMEND SECTION 67-4212, IDAHO CODE, TO DELETE REFERENCE TO SPALDING STATE PARK; REPEALING SECTION 67-4208, IDAHO CODE, RELATING TO SPALDING MEMORIAL PARK; TRANSFERRING JURISDICTION AND CONTROL OF SPECIFIED STATE PARKS TO PARK BOARD OF THE DEPARTMENT OF PARKS; AND DECLARING AN EMERGENCY.
Be It Enacted by the Legislature of the State of Idaho:

Section 1. Transfer of title to that real property known as Spalding State Park, located in Nez Perce County, Idaho, and that real property known as Lewis and Clark Canoe Camp Historical Site, located in Clearwater County, Idaho, from the state of Idaho to the United States of America Department of the Interior, National Park Service, for inclusion in the Nez Perce Historical National Park is hereby authorized, provided, however, that the deed given by the state to said National Park Service contain a clause whereby title to said property shall revert to the state of Idaho in the event that said property not be used for public recreation purposes.

SECTION 2. That Section 67-4212, Idaho Code, be, and the same is hereby amended to read as follows:

67-4212. STATE PARKS LISTED — CONTROLLED BY BOARD OF LAND COMMISSIONERS. PARK BOARD OF THE DEPARTMENT OF PARKS.—The following described areas in the state of Idaho, so far as these areas are owned or controlled by the state of Idaho, and used for public, outdoor recreational purposes, are hereby declared to be Idaho State Parks, and they are hereby placed under the jurisdiction and control of the board of land commissioners, Park Board of the Department of Parks of the state of Idaho:

(1) Deep Creek Park, located adjacent to and east of U.S. Highway 95 on Deep Creek approximately four miles south of Bonners Ferry, in Boundary County.

(2) Priest Lake Park, constituted by all of the land owned by the State of Idaho on the east shore of Priest Lake to a depth of 1,000 feet from the shoreline in Bonner County.

(3) Dickensheet Campground, located on Priest River downstream from Priest Lake in Bonner County.

(4) Sunnyside Park, located on the North Shore of Lake Pend d'Oreille and approximately four miles east of Sandpoint in Bonner County.

(5) Little Round Lake Park, located on the shores of Little Round Lake in Bonner County.

(6) Mary Minerva McCroskey Memorial State Park, located at and near the boundary line between Latah and Benewah Counties and west of U.S. Highway 95.
(7) Heyburn State Park, located on Lake Chatcolet in Benewah County.

(8) Spalding Park, located at Spalding, Idaho, on U.S. Highway 95 in Nez Perce County.

(9) (8) Land Board Park, located in Section 30 of Township 42 North in Range 5 East of the Boise Meridian in Clearwater County.

(10) (9) Packer John Cabin Site, located along State Highway 15 near Old Meadows in Adams County.

(11) (10) Ponderosa Park, constituted by all the land of the State of Idaho adjacent to Payette Lake in Valley County.

(12) (11) Bogus Basin Recreational Area, located approximately eighteen miles north of Boise in Boise County.


(14) (13) Discovery Park, located approximately eight miles southeast of Boise between Lucky Peak Dam and Diversion Dam on the Boise River and along State Highway 21 in Ada County.

(15) (14) Lucky Peak Reservoir, constituted by all recreational areas on the shores of Lucky Peak Reservoir on the Boise River in Ada and Boise Counties.

(16) (15) Three picnic areas on More's Creek, adjacent to the backwaters of Lucky Peak Reservoir in Boise County.

(17) (16) Lake Walcott Park, located on the shores of Lake Walcott Reservoir on the Snake River upstream from the Minidoka Dam in Blaine County.

(18) (17) Register Rock and Massacre Rock, each being located approximately four miles west of American Falls on U.S. Highway 30 North in Power County.

(19) (18) American Falls Boat Dock, Aberdeen Sportsmen's Park and Seagull Bay, all three being located on the shores of American Falls Reservoir in Bingham and Power Counties.

(20) (19) City of Rocks, located west of the Village of Almo in Cassia County.
Henry's Lake, located on the shores of Henry's Lake in Fremont County.

Hagerman Refuge, located approximately one mile east of Hagerman in Gooding County.

SECTION 3. That Section 67-4208, Idaho Code, be, and the same is hereby repealed.

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

Approved March 11, 1966.

CHAPTER 20
(S. B. No. 12)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL FUND OF THE STATE OF IDAHO, TO THE IDAHO DEPARTMENT OF PARKS, FOR THE PAYMENT OF PERMANENT DEVELOPMENT PROJECTS OUTLINED FOR THE 1967 BOY SCOUT INTERNATIONAL JAMBOREE, AT FARRAGUT STATE PARK; EXEMPTING THIS ACT FROM THE STANDARD APPROPRIATIONS ACT OF 1945; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sum of money, or so much thereof as may be necessary, to the Idaho Department of Parks for payment of permanent development projects outlined for the 1967 Boy Scout International Jamboree, at Farragut State Park:

To Whom Appropriated:                          Appropriation:
Idaho Department of Parks                       $460,551.00
For: Permanent Development Projects            
      outlined for the 1967 Boy Scout International Jamboree
From the General Fund                          $460,551.00

SECTION 2. The appropriation herein made is expressly exempt from the provisions of the Standard Appropriations Act of 1945.
CHAPTER 21
(H. B. No. 11)

AN ACT

AMENDING SECTION 12 OF CHAPTER 321 OF THE SESSION LAWS OF THE THIRTY-EIGHT REGULAR SESSION OF THE STATE LEGISLATURE BY CHANGING THE DATE UPON WHICH THE ACT SET FORTH AS CHAPTER 321 AND KNOWN AS THE "FOREST LAND AND TIMBER TAX LAW" SHALL BECOME EFFECTIVE; PROVIDING FOR AN EFFECTIVE DATE TOGETHER WITH RETROACTIVE OPERATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. DECLARATION OF INTENTION.—By this amendatory act, it is hereby declared to be the intention of the Legislature that the "Forest Land and Timber Tax Law" not become effective until on and after the assessment date for the tax year 1967 in order that adequate time be provided for a study of impact and revenue loss upon taxing districts in the state and preparation of recommendations relating to this legislation for presentation to the next regular session of this legislature.

SECTION 2. That Section 12 of Chapter 321 of the Session Laws of the Thirty-Eighth Regular Session of this Legislature (The "Forest Land and Timber Tax Law") be, and the same is hereby amended to read as follows:

SECTION 12. EFFECTIVE DATE.—This act shall become effective on and after the assessment date of the tax year 1966–1967.

SECTION 3. EFFECTIVE DATE.—An emergency existing therefore, which emergency is hereby declared to exist, this Act shall be in full force and effect immediately upon its passage and approval retroactively to the assessment date of the tax year 1966 in order that the purposes expressed in the Declaration of Intention above may be accomplished.

Approved March 17, 1966.
A CONCURRENT RESOLUTION


WHEREAS, Section 67-601, 67-602 and 67-608 of the Idaho Code provide that the compensation of the employees of the Senate and the House of Representatives shall be fixed by concurrent resolution of the Senate and House; and

WHEREAS, It is the desire of the Senate and the House, by this concurrent resolution, to fix the compensation of the employees of the Second Extraordinary Session of the Thirty-eighth Session of the Idaho Legislature:

NOW, THEREFORE, BE IT RESOLVED by the Senate, the House of Representatives concurring therein, that the compensation of the various officers of the Senate and House of the Second Extraordinary Session of the Thirty-eighth Session of the Idaho Legislature be fixed as follows:

Secretary of the Senate $30.00
Chief Clerk and Parliamentarian (House) 30.00
Assistant Secretary of the Senate 25.00
Assistant Chief Clerk (House) 25.00
Secretaries to the President, Speaker and
President Pro Tem 20.00
Sergeant-at-Arms 25.00
Assistant Sergeant-at-Arms 20.00
Purchasing Agent 20.00
Journal Clerks 20.00
Docket Clerks 20.00
Enrolling and Engrossing Clerks 18.00
Payroll Accountant 18.00
Secretaries 18.00
Clerks 15.00
Proof Readers 18.00
Receptionists and Hostess 12.00
Elevator Operators .......................... 12.00
Mail Clerks .................................. 12.00
Doorkeepers .................................. 12.00
Janitors ...................................... 12.00
Messengers ................................... 12.00
Pages ......................................... 10.00
Chaplains .................................... 10.00
Attorneys ..................................... 30.00
Nightwatchman ................................ 12.00

PRE-LEGISLATIVE WORKERS:
Robert Peterson 8 days at $25.00 per day
Tina Prophet 9 days 20.00
Byron Jones 7 days 20.00
Floyd Loomis 6 days 20.00
Bert Dewey 5 days 12.00

Passed by Senate February 21, 1966.
Passed by House February 24, 1966.

(S. C. R. No. 2)

A CONCURRENT RESOLUTION
SUPPORTING THE HONORABLE BERNARD F. GRATTON FOR NATIONAL COMMANDER OF THE AMERICAN LEGION.

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

WHEREAS, the Idaho Department of the American Legion has unanimously endorsed a native son of Gem County and a prominent Idaho citizen as National Commander of the American Legion, a 48 year old organization of veterans of three wars; and

WHEREAS, Idaho is proud that one of her sons has risen to such prominence in this great American organization that Legionnaires in this state and throughout the entire American Legion consider him worthy of being a candidate for National Commander; and

WHEREAS, to attain this position in a group noted for outstanding Americans this candidate has for many years labored to carry out the principles of the American Legion, which are embodied in service to God and Country; and

WHEREAS, this candidate joined his hometown American Legion Post No. 49 at Emmett in 1945, after service in
the United States Army in World War II; has been Post
Commander, District Commander, Commander for the State
of Idaho, Alternate National Executive Committeeman, and
is currently National Executive Committeeman; and

WHEREAS, this Idahoan has served with distinction as
President of American Legion Gem Boys State, and has been
appointed by several National Commanders to national po­
sitions requiring deep understanding of Americanism as
well as knowledge of world events; and

WHEREAS, the election of an Idahoan as National Com­
mander of the American Legion would focus the attention
of the entire nation and approximately three million Legion­
naires upon the State of Idaho; and

WHEREAS, during his travels through the United States
and the world, this Idahoan would be featured in the press,
over radio and on television and would be of great benefit
to his native state; and

WHEREAS, Idaho can be justly proud of this candidate;

NOW, THEREFORE, BE IT RESOLVED by the Senate
of the State of Idaho, the House of Representatives concur­
ing therein, that we support and sustain a vote of unani­
mous confidence in The Honorable Bernard F. Gratton as
a candidate for National Commander of the American Le­
gion.

BE IT FURTHER RESOLVED that the Secretary of
the Senate is hereby directed to forward an appropriate
copy of this Resolution to all National Officers and State
Commanders of the American Legion.

Passed by Senate February 24, 1966.
Passed by House February 24, 1966.

(S. C. R. No. 4)

A CONCURRENT RESOLUTION

PROVIDING FOR THE ADJOURNMENT OF THE SECOND EX­
TRAORDINARY SESSION OF THE THIRTY-EIGHTH SES­
SION OF THE IDAHO LEGISLATURE AND FIXING THE
TIME FOR THE ADJOURNMENT SINE DIE.

BE IT RESOLVED by the Senate of the Second Extraor-
dinary Session of the Thirty-eighth Session of the Legislature of the State of Idaho, the House of Representatives concurring therein, that at the hour of 5:45 p.m. on March 5, 1966, the Senate and the House of Representatives of the Second Extraordinary Session of the Thirty-eighth Session of the Legislature of the State of Idaho adjourn Sine Die.

Passed by Senate March 5, 1966.
Passed by House March 5, 1966.
A CONCURRENT RESOLUTION


"WHEREAS, the Governor has informed the House and the Senate that he desires to deliver a message to a Joint Session of the Senate and House of Representatives in the Hall of the House of Representatives at 11:00 o'clock a.m., February 14, 1966.

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives, the Senate concurring therein that the Senate and the House meet in Joint Session, at 11:00 o'clock a.m., on February 14, 1966, for the purpose of hearing a message from the Governor."

Passed by House February 14, 1966.
Passed by Senate February 14, 1966.

A CONCURRENT RESOLUTION

PROVIDING FOR PRINTING AND INDEXING REQUIRED BY THE SECOND EXTRAORDINARY SESSION OF THE THIRTY-EIGHTH SESSION BY CONTINUING THE CONTRACTS ENTERED INTO FOR THE THIRTY-EIGHTH REGULAR SESSION.

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

WHEREAS, the Joint Printing Committee of the Senate Printing Legislative Expense and Elections Committee and
the House Printing and Legislative Expense Committee has, according to the law, entered into contracts for printing of the Legislative Calendars, Session Laws, Bills and Journals for the Thirty-Eighth Regular Session.

BE IT RESOLVED, by the House of Representatives, the Senate concurring that the contracts entered into, by the adoption of House Concurrent Resolutions Nos. 9, 10, 12 and 14 for the Thirty-Eighth Regular Session of the Idaho Legislature, will continue and be in effect during the second extraordinary session of the Legislature of the State of Idaho.

Passed by Senate February 24, 1966.

(H. C. R. No. 3)

A CONCURRENT RESOLUTION
PROVIDING FOR JOINT MEETINGS OF THE STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE.

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

WHEREAS, several standing committees of the House of Representatives and the Senate have indicated a desire to meet in joint session during the Second Extraordinary Session of the Thirty-eighth Idaho Legislature.

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives, the Senate concurring therein, that the several standing committees of the House of Representatives and Senate meet in joint session, with the consent of the respective houses in regard to time and place.

Passed by House February 18, 1966.
Passed by Senate February 22, 1966.

(H. C. R. No. 5)

A CONCURRENT RESOLUTION
CONGRATULATING AND SUPPORTING THE NORTH IDAHO
JUNIOR COLLEGE BASKETBALL TEAM FOR THEIR OUTSTANDING PERFORMANCE AND BID FOR THE 1966 NATIONAL JUNIOR COLLEGE BASKETBALL TITLE:

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

WHEREAS, the North Idaho Junior College Cardinals of Coeur d'Alene, Idaho are representing Idaho and the Pacific Northwest in the National Junior College Elimination Basketball Tournaments, and

WHEREAS, this fine college and its basketball team have demonstrated a competitive spirit that is characteristic of Idaho, and

WHEREAS, the NIJC Cardinals are ranked as one of the top Junior College Basketball teams in the United States, and

WHEREAS, the Idaho State Legislature desires to encourage and recognize this type of excellence and fine sportsmanship among our young people of Idaho;

NOW, THEREFORE BE IT RESOLVED, that the members of the Idaho State Legislature of the Second Extraordinary Session now in session, do hereby extend our heartiest congratulations and wishes of good luck to Coach Rollie Williams and the NIJC Cardinals in their efforts in these tournaments.

Passed by House March 2, 1966.
SENATE JOINT RESOLUTIONS

(S. J. R. No. 1)

A JOINT RESOLUTION


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

SECTION 1. That S.J.R. No. 11 of the Thirty-eighth Legislature of the State of Idaho be rescinded, voided, repealed and recalled.

SECTION 2. That the Attorney General of the State of Idaho and the Secretary of State of the State of Idaho be, and they are hereby directed to disregard and deem null and void the directives contained in Section 3 and Section 4 of said S.J.R. No. 11.

Passed by Senate
Passed by House

(S. J. R. No. 4)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF IDAHO BY AMENDING SECTION 3, ARTICLE VIII THEREOF, RELATING TO LIMITATIONS ON COUNTY AND MUNICIPAL INDEBTEDNESS, BY PROVIDING THAT CITIES AND VILLAGES MAY INCLUDE PUBLIC RECREATION FACILITIES AMONG THOSE PROJECTS AUTHORIZED TO BE FINANCED BY REVENUE BONDS; PROVIDING ALSO FOR THE SUBMISSION TO THE ELECTORATE OF THE STATE OF IDAHO FOR THEIR APPROVAL OR REJECTION OF THE QUESTION OF WHETHER OR NOT SAID
SECTION 3, ARTICLE VIII, SHALL BE SO AMENDED; DIRECTING THE ATTORNEY GENERAL TO PREPARE A STATEMENT CONCERNING THIS PROPOSED CONSTITUTIONAL AMENDMENT; AND DIRECTING THE SECRETARY OF STATE TO GIVE LEGAL NOTICE THEREOF.

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

SECTION 1. That Section 3, Article VIII of the Constitution of the State of Idaho, be amended to read as follows:

SECTION 3. LIMITATIONS ON COUNTY AND MUNICIPAL INDEBTEDNESS.—No county, city, town, township, board of education, or school district, or other subdivision of the state, shall incur any indebtedness, or liability, in any manner, or for any purpose, exceeding in that year, the income and revenue provided for it for such year, without the assent of two-thirds of the qualified electors thereof voting at an election to be held for that purpose, nor unless, before or at the time of incurring such indebtedness, provisions shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within thirty years from the time of contracting the same. Any indebtedness or liability incurred contrary to this provision shall be void: provided, that this section shall not be construed to apply to the ordinary and necessary expenses authorized by the general laws of the state and provided further that any city or village may own, purchase, construct, extend, equip, within and without the corporate limits of such city or village, water systems and sewage collection systems, and water treatment plants and sewage treatment plants, and off street parking facilities, and public recreation facilities, and, for the purpose of paying the cost thereof may, without regard to any limitation herein imposed, with the assent of two-thirds of the qualified electors voting at an election to be held for that purpose, issue revenue bonds therefor, the principal and interest of which to be paid solely from revenue derived from rates and charges for the use of, and the service rendered by, such systems, plants, and facilities as may be prescribed by law; and provided further that any port district, for the purpose of carrying into effect all or any of the powers now or hereafter granted to port districts by the laws of this state, may contract indebtedness and issue revenue bonds evidencing such indebtedness, without the necessity of the voters of the port district authorizing the same, such revenue bonds to be payable solely from all or such part of the revenues of the port district derived from any source whatsoever ex-
cepting only those revenues derived from ad valorem taxes, as the port commission thereof may determine, and such revenue bonds not to be in any manner or to any extent a general obligation of the port district issuing the same, nor a charge upon the ad valorem tax revenue of such port district.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 3, Article VIII of the Constitution of the State of Idaho be amended to authorize cities and villages of this state to finance the purchase, construction and equipping of public recreation facilities by means of revenue bonds with the assent of two-thirds of the qualified electors voting at an election to be held for that purpose as they are now authorized to do with respect to water systems, sewage collection systems, water treatment plants, sewage treatment plants and off street parking facilities?"

SECTION 3. The attorney general is directed to prepare the statement required by Section 67-507a, Idaho Code, as amended, and file the same.

SECTION 4. The secretary of state is directed to cause this proposed amendment to the constitution to be published for six consecutive weeks prior to the next general election in one newspaper of general circulation, published in each county of the state, in conformity with the constitution and Section 67-507a, Idaho Code, as amended.

Passed by Senate February 21, 1966.
Passed by House February 25, 1966.

(S. J. R. No. 7)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 2, ARTICLE XX, OF THE CONSTITUTION OF THE STATE OF IDAHO TO PROVIDE FOR THE MANNER OF SUBMISSION, TO THE ELECTORATE, OF SEVERAL AMENDMENTS TO THE CONSTITUTION OF THE STATE OF IDAHO; DIRECTING THE ATTORNEY GENERAL TO PREPARE A STATEMENT CONCERNING THIS PROPOSED CONSTITUTIONAL AMENDMENT; AND DIRECTING THE SECRETARY OF STATE TO GIVE LEGAL NOTICE THEREOF.
Be It Resolved by the Legislature of the State of Idaho:

SECTION 1. That Section 2, Article XX, of the Constitution of the State of Idaho, be, and the same is hereby amended to read as follows:

SECTION 2. SUBMISSION OF SEVERAL AMENDMENTS.—If two or more amendments subjects are proposed, by amendment, they shall be submitted in such manner that the electors shall vote for or against each of them separately. However, the amendment, repeal, replacement, or reenactment of any portion or portions of this constitution may be submitted to the electors as one question, even though such proposal embraces more than one subject, provided that any such proposal when it relates to more than one subject was submitted to the legislature by a constitutional revision commission created by legislative act at a prior session. When the amendment, repeal, replacement, or reenactment of one section or article proposes the inclusion or exclusion of such subject matter in another article of the constitution, it may be so set forth and included in such question.

SECTION 2. The question to be submitted to the electors of the state of Idaho at the next general election shall be as follows:

"Whether Section 2, Article XX, of the Idaho Constitution shall be amended to provide that amendments to the constitution embracing more than one subject may be submitted to the electors as one question if the proposal was submitted by a duly created constitutional revision commission and to provide that an amendment of one section or article of the constitution proposing inclusion or exclusion of such subject matter in another article of the constitution, may be set forth in and included in such question to the electorate?"

SECTION 3. The Attorney General is directed to prepare the statement required by Section 67-507a, Idaho Code, as amended, and file the same.

SECTION 4. The Secretary of State is directed to cause this proposed amendment to the Constitution to be published for six consecutive weeks prior to the next general election in one newspaper of general circulation, published in each county of the state, in conformity with the Constitution and Section 67-507a, Idaho Code, as amended.

Passed by Senate March 1, 1966.

Passed by House March 4, 1966.
A JOINT RESOLUTION

RATIFYING THE PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OF AMERICA RELATING TO SUCCESSION TO THE PRESIDENCY AND VICE PRESIDENCY AND TO CASES WHERE THE PRESIDENT IS UNABLE TO DISCHARGE THE POWERS AND DUTIES OF HIS OFFICE.

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

WHEREAS, the Eighty-ninth Congress of the United States of America, at its first session, in both houses, by a constitutional majority of two-thirds thereof, has made the following proposition to amend the Constitution of the United States of America in the following words, to-wit:

"JOINT RESOLUTION

"Proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice Presidency and to cases where the President is unable to discharge the powers and duties of his office.

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two thirds of each House concuring therein). That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the Several States within seven years from the date of its submission by the Congress:

"ARTICLE

"SECTION 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

"SECTION 2. Whenever there is a vacancy in the office of the Vice President, the president shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress."
"SECTION 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

"SECTION 4. Whenever the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

"Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as the Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in Session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as acting President; otherwise, the President shall resume the powers and duties of his office."

NOW, THEREFORE, BE IT RESOLVED BY the Legislature of the State of Idaho:

SECTION 1. That the said proposed amendment to the Constitution of the United States of America be, and the same is hereby ratified by the Legislature of the State of Idaho.

Passed by House February 25, 1966.

Passed by Senate March 2, 1966.
SENATE JOINT MEMORIALS

(S. J. M. No. 1)

A JOINT MEMORIAL

TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED:

We, your Memorialists, the Legislature of the State of Idaho, respectfully represent that:

WHEREAS, the lack of an adequate transportation system is the greatest deterrent to the full use of the natural resources in the national forests in the State of Idaho; and

WHEREAS, under the present rate of road construction, it will take 100 years to complete an adequate national forest conservation road transportation system;

NOW, THEREFORE, BE IT RESOLVED, by the Second Extraordinary Session of the Thirty-eighth Session of the Legislature of the State of Idaho now in session, the Senate and House of Representatives concurring, that we most respectfully urge the Congress of the United States of America to proceed at the earliest possible date to enact the necessary legislation to authorize the financing of primary National Forest Conservation roads from the general funds of the United States Treasury and to provide an appropriation commensurate with the urgency of the demonstrated need.

BE IT FURTHER RESOLVED, that the Secretary of State of the State of Idaho be, and he hereby is authorized and directed to forward certified copies of this memorial to the President and Vice President of the United States, the Speaker of the House of Representatives of the Congress, and to the Senators and Representatives representing this state in the Congress of the United States.

Passed by Senate February 18, 1966.
Passed by House February 24, 1966.
A JOINT MEMORIAL

TO THE HONORABLE LYNDON B. JOHNSON, PRESIDENT OF THE UNITED STATES, AND TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED:

We, your Memorialists, the Senate and House of Representatives of the Legislature of the State of Idaho, assembled in the Second Extraordinary Session of the Thirty-eighth Session, petition as follows:

WHEREAS, The availability of flexible, convenient, and minimum cost transportation is one of the most important factors in Idaho's economic welfare and because of these requirements, transportation needs of the state are fulfilled primarily by motor vehicles; and

WHEREAS, Idaho's economy is based primarily on the development and exportation of her natural resources; the state's principal industries being lumbering, mineral extraction, cattle and sheep raising, sugar beets and general farm products; and because of the state's limited population, only a small portion of this production is consumed locally and major markets for the excess, such as Los Angeles and San Francisco, are many miles away making the cost of transportation vitally important, which factors require Idaho producers and shippers to assume additional transportation costs if they are to compete successfully with similar commodities produced closer to these markets; and

WHEREAS, The Congress of the United States now has before it recommendations for substantial increases in Federal excise taxes on larger trucks and combinations of the type used in processing Idaho's natural resources and in hauling the processed commodities to out of state markets, and these recommended Federal tax increases are accompanied by a proposal to revise the maximum size and weight of vehicles that may be operated on Federal aid highways, which, however, in the case of Idaho would substantially reduce the existing state limits for vehicles hauling natural products; and

WHEREAS, The combination of these two Federal proposals would result in pronounced increase in the cost of transportation for Idaho producers, shippers and consumers, and the state's economy would be adversely affected at a time when such economy should be bolstered; and
WHEREAS, Your memorialists believe that the welfare of Idaho, as well as that of the entire Western region, will be best served if financing of the Federal highway program and the establishment of size and weight standards are handled in accordance with the two resolutions adopted by the 1965 annual meeting of the Western Conference of the Council of State Governments, to wit:

"... that there be no increase in federal excise taxes for the purpose of financing the federal share of costs for construction of the national system of interstate and defense highways, and that to the extent the financing cannot be accomplished from such taxes within the construction period now prescribed by federal law, the completion date for the program be extended accordingly, and

"... that if it is to continue to be congressional policy to have federal regulation of motor vehicle sizes and weights, the minimum standards should be established at levels based on the needs of the economy and on the true capacity of the highways as developed by the various federal and state studies that have been conducted in recent years;"

NOW, THEREFORE, BE IT RESOLVED, that we, your memorialists, respectfully petition the President and the Congress of the United States to plan for financing the Federal aid highway program within the revenues that will accrue to the Highway Trust Fund from Federal excise taxes at existing rates, and, if Federal control is necessary, to establish Federal standards for motor vehicle sizes and weights consistent with the needs of the economy and with the actual geometrical and structural capacity of the several Federal aid highway systems.

BE IT FURTHER RESOLVED, that the Secretary of State of the State of Idaho be, and he hereby is, authorized and directed to forward certified copies of this Memorial to the President of the United States, and to the Senators and Representatives representing this state in the Congress of the United States.

Passed by Senate February 25, 1966.

Passed by House March 2, 1966.
(H. J. M. No. 1)

A JOINT MEMORIAL


We, your memorialists, the Senate and House of Representatives of the sovereign State of Idaho, hereby respectfully represent that:

WHEREAS, The Sixty-fifth Congress of the United States, in its Act of April 8, 1918, consented to and ratified the Columbia River Compact entered into between the States of Oregon and Washington relative to regulating, protecting, and preserving fish in the waters of the Columbia River and its tributaries within the confines of the States of Oregon and Washington, where such waters are state boundaries; and

WHEREAS, the Snake River, which forms part of the common boundary between the State of Idaho and the States of Oregon and Washington, and over whose waters the said states are deemed to have concurrent jurisdiction where such waters are state boundaries, is a major tributary of the Columbia River; and

WHEREAS, The Snake River, together with its tributaries, the Salmon River and the Clearwater River, which lie wholly within the State of Idaho, are major producers of salmon and steelhead trout in the Columbia River System; and

WHEREAS, it is now apparent that proper utilization, regulation, protection and preservation of the anadromous fisheries resources of Columbia River system cannot hereafter be realized or achieved without the State of Idaho becoming a party to the Columbia River Compact;

NOW, THEREFORE, BE IT RESOLVED, by the Second Extraordinary Session of the Thirty-eighth Legislature of the State of Idaho, the Senate and House of Representatives
concurring, that we respectfully urge the Honorable Senate and House of Representatives of the State of Oregon and the Honorable Senate and House of Representatives of the State of Washington, to mutually amend the Columbia River Compact so that the Idaho Fish and Game Commission, on behalf of the State of Idaho, may execute the said compact and become one of the regulatory parties thereto with equal status thereunder with the States of Oregon and Washington.

BE IT FURTHER RESOLVED, that the Secretary of State of the State of Idaho be, and hereby is, authorized and directed to forward certified copies of this memorial to the Governor of the State of Oregon, to the Senate and the House of Representatives of the State of Oregon, to the Governor of the State of Washington, to the Senate and the House of Representatives of the State of Washington, and to the respective Directors of the Oregon Fish Commission, the Oregon Game Commission, the Washington Department of Fisheries and the Washington Department of Game.

Passed by House February 23, 1966.
Passed by Senate February 25, 1966.

(H. J. M. No. 3)
A JOINT MEMORIAL
TO THE HONORABLE PRESIDENT OF THE UNITED STATES,
THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE HONORABLE SECRETARY OF THE INTERIOR AND TO THE HONORABLE SECRETARY OF THE AGRICULTURE:

We, your Memorialists, the Legislature of the State of Idaho, respectfully represent that:

WHEREAS, the natural resources of the State of Idaho include land peculiarly adapted to agricultural development, and abundant sources of water which are not being put to beneficial uses; and

WHEREAS, the ever expanding population of the nation and the world demand that such lands and waters be utilized in the production of food stuffs; and

WHEREAS, modern methods of developing agricultural lands require tremendous capital expenditures for irriga-
tion systems, thus requiring large acreages for economic feasibility, and the combination or pooling of small desert entry tracts is essential to the development of presently unproductive lands;

NOW, THEREFORE, BE IT RESOLVED, by the Second Extraordinary Session of the Thirty-eighth Session of the Legislature of the State of Idaho, now in session, the Senate and House of Representatives concurring, that we respectfully urge the Congress of the United States of America to take appropriate action to permit the orderly development, through private enterprise, of our public lands for agricultural purposes on a realistic basis, including the utilization of sufficient water therefor.

BE IT FURTHER RESOLVED, That all desert entry applications now pending before the Department of Interior be reviewed in the light of this resolution and a decision rendered.

BE IT FURTHER RESOLVED, That all application for patents now pending before the Department of Interior for desert entry be likewise acted upon.

BE IT FURTHER RESOLVED, That the Department of Interior be required to permit the combination of individual desert entries, under appropriate rules and regulations, to carry out the purpose of this resolution.

BE IT FURTHER RESOLVED, That the Secretary of State of the State of Idaho be, and he is hereby authorized and directed to send copies of this Joint Memorial to the President of the United States, the Vice President of the United States, the individual members of the Senate and House of Representatives in Congress, the Secretary of the Department of Interior and the Secretary of the Department of Agriculture.

Passed by House February 23, 1966.
Passed by Senate February 25, 1966.

(H. J. M. No. 4)

A JOINT MEMORIAL

TO THE HONORABLE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, IN CONGRESS ASSEMBLED:
We, your memorialists, the Legislature of the State of Idaho, assembled in the Second Extraordinary Session of the Thirty-Eighth Legislature thereof, respectfully represent that:

WHEREAS, THE Willis Subcommittee of the Judicial Committee of the United States House of Representatives has admirably performed a most difficult and voluminous task assigned to them, the study of State Taxation and its impact on Interstate Commerce; and

WHEREAS, in the course of that study, this Committee has disclosed areas in which state taxation should be adjusted to provide simpler and more equitable procedure for taxation of corporations involved and transactions occurring in multi-state business operations; and

WHEREAS, this Subcommittee has drafted and presented to the full Judiciary Committee and the House of Representatives, H. R. 11798, which in the opinion of this Legislature, goes far beyond the task assigned to the Committee; and

WHEREAS, H. R. 11798, by eliminating sales from the income apportionment formulae applicable to corporations and thereby excluding the state of destination from taxation of revenue of those businesses to which they provide a market, coercing a uniform pattern for sales taxation, and usurping supervision of a broad area of state taxation, interferes with States' freedom of action and simultaneously opens avenues for the inequities which occur from tax competition among the several states, and

WHEREAS, in the opinion of the Legislature of this sovereign state, the proposed legislation threatens the foundations of federalism and the Constitutional principles upon which this great nation was founded;

NOW, THEREFORE, BE IT RESOLVED, by the Senate and the House of Representatives of this Second Extraordinary Session of the Thirty-Eighth Legislature of the State of Idaho that:

1. The entire membership of the special subcommittee of the Judiciary Committee of the House of Representatives chaired by theHonorable Edwin E. Willis be complimented for pinpointing those areas in which administration of state tax laws has created problems for multi-state businesses.

2. The Legislature of the State of Idaho will work toward and achieve solution of these problems by making necessary amendments to our laws, directing our admini-
strators to work with us in achieving this goal and, when necessary, working jointly with other states for equitable solutions.

3. Problems disclosed by Committee study do not warrant the drastic action suggested by Committee conclusions expressed in HR 11798 which, by limiting state revenue potential and providing the opportunity for structuring of tax havens with resultant accentuation of state tax competition may have a deleterious effect on the very end which it is designed to serve, free and even flow of commerce and economic activity in the several states.

4. Within a constitutional sphere, the states must perpetuate our federal system through retention of the operation and supervision of state revenue systems.

5. The Legislature of the State of Idaho is unalterably opposed, in theory and practice, to H. R. 11798 and the principles of government which it represents and, after full debate and discussion, is firmly convinced that neither this legislation nor any act of a similar nature constitutes an acceptable solution of the problem studied by the Committee and does instead represent a threat to the basic rights of our state under the constitutional principles upon which our government was founded.

6. The Congress of the United States be petitioned to reject the legislation proposed in H. R. 11798 or any legislation of a similar nature.

AND THAT IT BE FURTHER RESOLVED that the Secretary of State of the State of Idaho be, and is hereby authorized and directed to forward certified copies of this Memorial to the President and Vice-President of the United States, the Speaker of the House of Representatives and every United States Senator and Representative.


Passed by Senate February 23, 1966.

(H. J. M. No. 5)

A JOINT MEMORIAL
TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES OF THE SOVEREIGN STATE OF OREGON AND THE
HONORABLE SENATE AND HOUSE OF REPRESENTATIVES 
OF THE SOVEREIGN STATE OF WASHINGTON.

We, your memorialists, the Senate and House of Repre­
sentatives of the sovereign State of Idaho, hereby respect­
fully represent that:

WHEREAS, the runs of spring and summer chinook and steelhead trout into the Snake River have been steadily de­
clining during recent years; and

WHEREAS, the Salmon River, a tributary in Idaho of the Snake River, is a major producer of salmon and steelhead in the Columbia River System; and

WHEREAS, the decline in numbers of chinook salmon entering the Snake River caused an emergency closure of all salmon fishing in the Salmon River drainage during 1965 with resulting deprivation and hardship to the sport fisher­men and economy of Idaho; and

WHEREAS, one of the primary causes of the decline of the salmon and steelhead trout runs into the Snake River and its tributaries is an unexplained loss of upstream migrating fish between dams on the Columbia River and Snake River; and

WHEREAS, a cooperative study by the concerned state and federal fishery agencies to determine the cause of these losses, has recently been initiated;

NOW, THEREFORE, BE IT RESOLVED, that we re­
spectively urge the Honorable Senate and House of Repre­
sentatives of the State of Oregon and the Honorable Senate and House of Representatives of the State of Washington to take appropriate action to insure that the commercial harvest of spring and summer chinook is eliminated or significantly curtailed and that the escapement of steelhead trout above the commercial fishery be significantly increased over that allowed during recent years until such time as the reasons for the losses of chinook salmon and steelhead trout between Columbia River and Snake River dams are determined.

BE IT FURTHER RESOLVED, that the Secretary of State of the State of Idaho be, and hereby is, authorized and directed to forward certified copies of this memorial to the Governor of the State of Oregon, to the Senate and the House of Representatives of the State of Oregon, to the Governor of the State of Washington, to the Senate and the House of Representatives of the State of Washington, and
to the respective Directors of the Oregon Fish Commission, the Oregon Game Commission, the Washington Department of Fisheries and the Washington Department of Game.

Passed by House February 26, 1966.
Passed by Senate February 28, 1966.

(H. J. M. No. 6)

A MEMORIAL

TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES OF THE SOVEREIGN STATE OF OREGON.

We, your memorialists, the Senate and House of Representatives of the sovereign State of Idaho, hereby respectfully represent that:

WHEREAS, the numbers of summer steelhead trout entering the Snake River and its major tributaries in Idaho have been steadily declining during recent years; and

WHEREAS, the commercial fishery for steelhead trout in the Columbia River is largely incidental to and secondary in value to the commercial salmon fishing industry in the Columbia River; and

WHEREAS, the sport fishery for steelhead trout in the States of Oregon, Washington, and Idaho is a major industry and of great economic benefit to these States, particularly in the State of Idaho where they are a prime stimulus to the important tourist and recreation industry; and

WHEREAS, it is apparent that steelhead trout now taken in the Columbia River commercial fishery would contribute significantly more to the economic well-being of the States of Oregon, Washington, and Idaho if they were taken in the sport fisheries of these States and that this would also be in the best interest of the public and of the fishery resources;

NOW, THEREFORE, BE IT RESOLVED, that we respectfully urge the Honorable Senate and House of Representatives of the State of Oregon to take appropriate action to establish the steelhead trout as a game fish in the jurisdictional waters of the State of Oregon as it is presently established in the waters of the States of Washington and Idaho.
BE IT FURTHER RESOLVED, that the Secretary of State of the State of Idaho be, and hereby is, authorized and directed to forward certified copies of this memorial to the Governor of the State of Oregon, to the Senate and the House of Representatives of the State of Oregon, to the Governor of the State of Washington, to the Senate and the House of Representatives of the State of Washington, and to the respective Directors of the Oregon Fish Commission, the Oregon Game Commission, the Washington Department of Fisheries and the Washington Department of Game.

Passed by House February 26, 1966.
Passed by Senate February 28, 1966.

(M. J. M. No. 7)

A JOINT MEMORIAL

TO THE HONORABLE SENATORS FRANK CHURCH AND LEN B. JORDAN AND THE HONORABLE REPRESENTATIVES COMPTON I. WHITE AND GEORGE HANSEN:

We, your Memorialists, the Legislature of the State of Idaho, respectfully represent that;

WHEREAS, in order to provide for the comprehensive development of the Snake River in Idaho for the purposes, among other, of regulating the flow of the Snake River and its tributaries, furnishing water for irrigation and for municipal and industrial purposes, controlling floods, controlling water quality, producing and distributing hydroelectric power, conserving and developing fish and wildlife resources, enhancing outdoor recreation opportunities, and for other purposes the Southwest Idaho Water Development Project is being proposed to promote the development, whether by private effort or by reclamation projects, of the Mountain Home Division, the Garden Valley Division, the Weiser River Division and the Wickahoney and Bruneau Division, as outlined in the Bureau of Reclamation proposal, and other projects, such as supplemental water for the Salmon Falls tracts, that might fall within the area;

WHEREAS, our congressional delegation has advised us that united support from the State of Idaho is necessary to their efforts in our national capitol;
WHEREAS, time is perhaps short for the State of Idaho to start using her waters;

NOW, THEREFORE, BE IT RESOLVED by the Second Extraordinary Session of the Thirty-Eighth Session of the Legislature of the State of Idaho, now in session, that we, the Legislature of the State of Idaho, do wholeheartedly endorse the concept of the Southwest Idaho Water Development Project as supported by the entire congressional delegation from the State of Idaho.

BE IT FURTHER RESOLVED, That the Secretary of State of the State of Idaho be, and he hereby is authorized and directed to forward certified copies of this Memorial to Senators Frank Church and Len B. Jordan, and Representatives Compton I. White and George Hansen, congressional delegates for the State of Idaho.

Passed by House February 20, 1966.
Passed by Senate March 2, 1966.

(H. J. M. No. 8)

A JOINT MEMORIAL

TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED.

We, your memorialists, the Senate and House of Representatives of the sovereign State of Idaho, hereby respectfully represent that:

WHEREAS, the Congress of the United States will have before it, in the near future, proposed legislation affecting future management of the present Sawtooth Primitive Area and adjacent property,

WHEREAS, this is a region of incomparable scenic beauty and attractiveness and should be protected for the enjoyment and use of the people for all time to come,

WHEREAS, there is a growing need and urgency to provide adequate facilities for the public for maximum use and enjoyment of the area and accordingly an urgency for a permanent plan and policy,

WHEREAS, the proposed National Recreation Area will provide for multiple use of the area to the extent that this
is practicable—for example, permitting grazing and timber management where feasible,

WHEREAS, a National Recreation Area would permit continued management of fish and game by the Idaho Fish and Game Department,

WHEREAS, this area has been ably administered by the United States Forest Service for the past sixty-one years,

NOW, THEREFORE, BE IT RESOLVED by the second Extraordinary Session of the Thirty-Eighth Session of the Legislature of the State of Idaho now in session, the Senate and House of Representatives concurring, that we most respectfully urge the Congress of the United States of America to proceed at the earliest possible date to enact the necessary legislation to authorize the establishment of the Sawtooth Mountains National Recreation Area and Wilderness,

BE IT FURTHER RESOLVED that the Secretary of State of the State of Idaho be, and he is hereby authorized and directed to forward certified copies of this memorial to the President and the Vice President of the United States, the Speaker of the House of Representatives of the Congress, and to the Senators and Representatives representing this state in the Congress of the United States.

Passed by House February 28, 1966.
Passed by Senate March 4, 1966.

(H. J. M. No. 9)

A JOINT MEMORIAL

TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES, IN CONGRESS ASSEMBLED:

We, your memorialists, the members of the Legislature of the State of Idaho, respectfully represent that:

WHEREAS, there are now pending in Congress several bills, including S. 1058, H.R. 909, and H.R. 2982, proposing the enactment of legislation to be known as the "National Potato Labeling Act;" and

WHEREAS, such proposed legislation will require that all fresh potatoes marketed in interstate commerce be la-
beled to show the name and address of the packer or re­
packer and the state in which such potatoes were grown; and

WHEREAS, the widespread practice by packers and re­
packers of mislabeling fresh potatoes has resulted in po­
tatoes which were grown in one state being labeled, adver­
tised and sold as having been grown in another state; and

WHEREAS, such false labeling has misled the consumer
and in many instances has caused the consumer to buy po­
tatoes that are wrong for the intended use; and

WHEREAS, the consumer has a right to protection from
such deceptive practices and a right to choose from among
various potatoes in the market on the basis of correct infor­
mation as to their state or origin; and

WHEREAS, since similar legislation has been enacted to
protect farmers in the purchase of seed potatoes, the con­
sumer is entitled to the same protection in the purchase of
fresh potatoes.

NOW, THEREFORE, BE IT RESOLVED, by the Second
Extraordinary Session of the Thirty-Eighth Legislature of
the State of Idaho, now in session, the Senate and House of
Representatives concurring, that we most respectfully urge
the Congress of the United States to enact the proposed
"National Potato Labeling Act" as proposed in S. 1058,
H.R. 909 and H.R. 2982;

BE IT FURTHER RESOLVED, that the Secretary of
State of the State of Idaho, be, and he is hereby authorized
and directed to forward certified copies of this memorial to
the Vice President of the United States, the Speaker of the
House of Representatives, the members of the Senate and
the House of Representatives of the United States from
the State of Idaho, to the chairman of the Senate Com­
mittee on Commerce and to the chairman of the House Com­
mittee on Interstate and Foreign Commerce.

Passed by House February 28, 1966.

Passed by Senate March 2, 1966.
A JOINT MEMORIAL

TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED:

We, your memorialists, the members of the Legislature of the State of Idaho, respectfully represent that:

WHEREAS, there is now pending in Congress H. R. 8282 proposing extensive changes in the federal laws relating to unemployment insurance; and

WHEREAS, the enactment of H. R. 8282 would have a profound and adverse effect on the unemployment insurance laws of the states in that it would superimpose a new federal program on the states and would force basic changes in state laws relating to eligibility of benefit claimants, the amount and duration of payments, disqualification of claimants and the taxable wage base; and

WHEREAS, the passage of H. R. 8282 would result in a substantial increase in the cost of the unemployment insurance program in Idaho and other states and would do violence to the principle of primary state responsibility which has been the foundation of the unemployment insurance program since it was established more than thirty years ago; and

WHEREAS, for the past many years in each regular session of the legislature of the State of Idaho has devoted considerable time and attention to the enactment of legislation effecting changes in this state's unemployment insurance laws and Idaho has thereby demonstrated its ability and willingness to improve and strengthen the unemployment insurance program of this state to meet changing conditions; and

WHEREAS, the state employment security administrators have proposed alternative legislation to H.R. 8282, providing for modifications in the federal laws which will effect improvements in state unemployment insurance programs, many of which have been previously adopted by the Idaho legislature and which would preserve in the states the primary responsibility for the development and administration of the program;

NOW, THEREFORE, BE IT RESOLVED, by the Second Extraordinary Session of the Thirty-Eighth Legisla-
tute of the State of Idaho, now in session, the Senate and House of Representatives concurring, that we most respectfully oppose H.R. 8282.

BE IT FURTHER RESOLVED, that Congress is urged to give careful consideration to the enactment of the alternate legislation proposed by the state employment security administrators which preserves in the states the primary responsibility for the development and administration of the unemployment insurance program.

BE IT FURTHER RESOLVED, that the Secretary of State of the State of Idaho, be, and he is hereby authorized and directed to forward certified copies of this memorial to the Vice President of the United States, the Speaker of the House of Representatives, the members of the Senate and the House of Representatives of the United States from the State of Idaho and the Chairman of the House Ways and Means Committee.

Passed by Senate, March 5, 1966.

(H. J. M. No. 11)

A JOINT MEMORIAL

TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED:

We, your Memorialists, the members of the Senate and House of Representatives of the Legislature of the State of Idaho assembled in the Second Extraordinary Session of the 38th Legislature of the State of Idaho do respectfully represent that:

WHEREAS, the legislature of the State of Idaho has in several sessions during recent years adopted memorials addressed to the Congress of the United States urging that Congress approve and submit to the states for ratification a proposed amendment to the Constitution of the United States permitting states with a bicameral legislature to apportion one house on the basis of factors other than population; and

WHEREAS, there is now pending before Congress S.J.R. No. 103, proposing an amendment to the Constitution of
the United States which would permit any state with a bi-
cameral legislature, upon a majority vote of the people of
such state, to adopt a plan for apportionment of its state
legislature which provides for the apportionment of one
house on the basis of factors other than population; and

WHEREAS, the members of the Idaho legislature believe
that the people of the State of Idaho desire that they be
granted the right to apportion one house of the Idaho leg-
islature on the basis of factors other than population.

NOW, THEREFORE, BE IT RESOLVED, by the Second
Extraordinary Session of the 38th Legislature of the State
of Idaho, now in session, the Senate and the House of Rep-
resentatives concurring, that we most respectfully urge
the Congress of the United States to promptly approve
S.J.R. No. 103 by the required two-thirds vote in both houses
and to submit the same to the states for ratification.

BE IT FURTHER RESOLVED, that the Secretary of
State of the State of Idaho be, and is hereby authorized and
directed to forward certified copies of this memorial to the
Vice President of the United States, the Speaker of the
House of Representatives of the United States and to each
member of the United States in Congress from this State
of Idaho.

Passed by Senate March 5, 1966.

(H. J. M. No. 12)

A JOINT MEMORIAL
TO THE HONORABLE MAYOR AND COUNCILMEN OF THE
CITY OF BOISE:

We, your Memorialists, members of the Senate and House
of Representatives of the Legislature of the State of Idaho,
assembled in the second extraordinary session of the thirty-
eighth session thereof, do respectfully request that:

"WHEREAS, the Idaho State Capitol Building is a struc-
ture of great architectural beauty; and

WHEREAS, that beauty is an asset which should be pre-
served for future generations to enjoy and appreciate; and
WHEREAS, the further proliferation of multi-story buildings in close proximity to the Capitol Building will forever destroy or diminish the beauty of that structure;

NOW, THEREFORE, BE IT RESOLVED, by the second extraordinary session of the thirty-eighth Idaho Legislature now in session, the Senate and House of Representatives concurring, that we do hereby respectfully request that the Boise City Council enact a zoning ordinance placing reasonable height restrictions upon the construction of buildings and structures within an appropriate radius of the State Capitol Building.

BE IT FURTHER RESOLVED, That the Secretary of State of the State of Idaho, be, and he hereby is authorized and directed to forward certified copies of this memorial to the Mayor and Councilmen of the city of Boise."

Passed by House March 2, 1966.
Passed by Senate March 4, 1966.

(H. J. M. No. 13)

A JOINT MEMORIAL

TO THE HONORABLE STATE BOARD OF LAND COMMISSIONERS:

We, your Memorialists, the Legislature of the State of Idaho, respectfully represent that:

WHEREAS, it is the intention of the Legislature of the State of Idaho to fully use all of the space on the third and fourth floors of the State Capitol for legislative purposes only, excepting specially that portion of the third floor now occupied by the Supreme Court of the State of Idaho; and

WHEREAS, there are certain rooms, now existing on the third and fourth floors of the State Capitol, which are used for functions not connected with primarily legislative purposes, especially the telephone switchboard and switching equipment on the fourth floor; and

WHEREAS, it is recognized that the important communications network of the state would be better protected if the state capitol switchboard were located on the basement floor in case of hostile air attack;

NOW, THEREFORE, BE IT RESOLVED, by the Second
Extraordinary Session of the Thirty-eighth Session of the Legislature of the State of Idaho, now in session, the Senate and House of Representatives concurring, that it is the consensus of your memorialists that the State Board of Land Commissioners be urged to cause the switchboard and communications equipment on the fourth floor of the State Capitol to be relocated on the basement floor of the State Capitol as quickly as possible, but in no case later than October 15, 1966.

BE IT FURTHER RESOLVED, That the Secretary of State of the State of Idaho be, and he hereby is, authorized and directed to forward certified copies of this Memorial to the State Board of Land Commissioners.

Passed by House March 5, 1966.

Passed by Senate March 5, 1966.

(H. J. M. No. 14)

A JOINT MEMORIAL

TO THE HONORABLE PRESIDENT OF THE UNITED STATES, THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED AND THE HONORABLE SECRETARY OF THE DEPARTMENT OF AGRICULTURE:

We, your Memorialists, the Legislature of the State of Idaho, respectfully represent that:

WHEREAS, the most important industry in the State of Idaho is agriculture, an industry that produces crops of many kinds; and

WHEREAS, the teaching of instructors in the field of agriculture extension work, to provide assistance to the agriculture industry, is very necessary to the industry; and

WHEREAS, the agriculture programs of the extension service do more than any other single program to keep our young people in the field of agriculture on the farm; and

WHEREAS, a program of agricultural research is vital to the agriculture industry of the State of Idaho, and is the only program that we now have in the development of new strains of seeds and the control of diseases and insects that in so many ways destroy farm crops; and
WHEREAS, the federal budget for 1966-1967, appropriating monies to these programs, has drastically reduced these funds;

NOW, THEREFORE, BE IT RESOLVED, by the Second Extraordinary Session of the Thirty-eighth Session of the Legislature of the State of Idaho, now in session, the Senate and House of Representatives concurring, that we most respectfully request that action be taken by the President and the Congress of the United States of America, to restore these funds to the original amounts as provided in the 1965-1966 budget.

BE IT FURTHER RESOLVED, that attention be drawn that the growing population of the world will bring additional strain on the production of foods and fibers; and to curtail the development and selection of instructional personnel and deter the research in the area of agriculture is not in line with our American principles.

BE IT FURTHER RESOLVED, that the Secretary of State of the State of Idaho be and he hereby is, authorized and directed to forward certified copies of this Memorial to the President and Vice-President of the United States, the Speaker of the House of Representatives of the Congress, the Secretary of the Department of Agriculture, and to the Senators and Representatives representing this state in the Congress of the United States.

Passed by House March 4, 1966.

Passed by Senate March 5, 1966.

(H. J. M. No. 15)

A JOINT MEMORIAL
TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED.

We, your memorialists, the Senate and House of Representatives of the sovereign State of Idaho, hereby respectfully represent that:

WHEREAS, the federal budget request for vocational education for fiscal year 1967 is considerably lower than the amount authorized by the Vocational Education Act of 1963; and
WHEREAS, a reduction in federal appropriations under Section 4 of the Vocational Education Act of 1963 will seriously curtail the development of public vocational education programs in the nation, and reduce the number of youth that might otherwise benefit from such programs; and

WHEREAS, a vigorous and expanding program of public vocational education is essential to the domestic and military economy of this nation; and

WHEREAS, the federal-state-local relationship built up over the many years has proven itself for an effective program of vocational education.

NOW, THEREFORE, BE IT RESOLVED, by the Second Extraordinary Session of the Thirty-eighth Legislature of the State of Idaho, now in session, the Senate and House of Representatives concurring, that we most respectfully urge the Congress of the United States to appropriate the full amount authorized under Section 4 of the Vocational Education Act of 1963.

BE IT FURTHER RESOLVED that the Secretary of State of the State of Idaho be, and he is hereby authorized and directed to forward certified copies of this memorial to the President and the Vice President of the United States, the Speaker of the House of Representatives of Congress, and to the Senators and Representatives representing this state in the Congress of the United States.

Passed by House March 4, 1966.
Passed by Senate March 5, 1966.

(H. J. M. No. 16)
A JOINT MEMORIAL
TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED:

We, your Memorialists, the Legislature of the State of Idaho, respectfully represent that:

WHEREAS, the impact of federal programs has long been evident in the State of Idaho, and will continue to affect this state; and
WHEREAS, such federally sponsored programs result in the immigration of large numbers of families, and children of these families must be educated; and

WHEREAS, the education of these children places great burden upon existing instructional facilities and educational resources of this state; and

WHEREAS, it is the heritage of our country and the right of all to receive the benefits of a good and competent educational program;

NOW, THEREFORE, BE IT RESOLVED, by the Second Extraordinary Session of the Thirty-eighth Session of the Legislature of the State of Idaho, now in session, the Senate and House of Representatives concurring, that we most respectfully urge the Congress of the United States to proceed with all due speed to extend Public Laws 81-874 and 81-815, as amended, authorizing the funds for educational purposes in areas burdened by the increased numbers of educable children, caused directly by the impact of federal programs.

BE IT FURTHER RESOLVED, that the Secretary of State of the State of Idaho be, and he is hereby authorized and directed to forward certified copies of this Memorial to the President and Vice-President of the United States, the Speaker of the House of Representatives of the Congress, and to the senators and representatives representing the State of Idaho in the Congress of the United States.

Passed by House March 5, 1966.
Passed by Senate March 5, 1966.
CERTIFICATE OF SECRETARY OF STATE
UNITED STATES OF AMERICA } ss.
STATE OF IDAHO

I, ARNOLD WILLIAMS, Secretary of State 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 Second Extraordinary Session of the Thirty-eighth Session of the Idaho Legislature, which convened February 14, 1966, and adjourned March 5, 1966, as they appear from 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 17th day of March, 1966.

Arnold Williams
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.
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**Notes:**
- Sales increased by 50% over the last quarter.
- Expenses are expected to remain constant.
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#### FEDERAL LAWS REFERENCES

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GENERAL AND SPECIAL LAWS
OF THE
STATE OF IDAHO

Passed by
THE THIRD EXTRAORDINARY SESSION OF THE
THIRTY-EIGHTH SESSION OF THE STATE LEGISLATURE

Convened March 7, 1966
Adjourned March 17, 1966

Published by the authority of
THE SECRETARY OF STATE
PROCLAMATION

WHEREAS, an extraordinary occasion requiring emergency attention has arisen in the State of Idaho which makes it appropriate and desirable to convene the 38th Idaho Legislature into Extraordinary Session:

NOW, THEREFORE, I, ROBERT E. SMYLIE, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this State, do by this Proclamation, call the 38th Idaho Legislature together in Extraordinary Session in the Legislative Chambers at the Capitol in Boise City, Ada County, Idaho, at the hour of 10:00 o'clock A.M., on the 7th day of March, 1966 for the following purposes and none other, to-wit:

1. To consider and to enact legislation amending Sections 67-202 and 203 Idaho Code, as amended by Chapters 2 and 4, respectively, Session Laws of the First Extraordinary Session of 1965, in order to apportion the Legislature of Idaho in conformance with the Constitution of the United States.

2. To consider and to enact legislation providing for the nomination of candidates for, and election of members of a Legislature apportioned in accordance with the requirements of paragraph 1 above.

3. To consider and to enact legislation which would provide, in the event that a satisfactory plan of apportionment is not adopted, for the nomination and election of a legislature from the state at large.

4. To consider and to enact legislation to provide for meeting the necessary expenses of this extraordinary session.

AND I HEREBY DIRECT AND REQUIRE that a copy of this Proclamation be caused to be delivered to the Lieutenant Governor, to the membership of the 38th Idaho Legislature and to the Constitutional officers of the State Government at the earliest practicable time.
IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at Boise, the Capital, the 5th day of March, in the year of our Lord Nineteen Hundred and Sixty-six and of the Independence of the United States the One Hundred and Ninetieth.

/s/ ROBERT E. SMYLIE,
Governor of Idaho

By the Governor:

/s/ ARNOLD WILLIAMS
Secretary of State
CHAPTER 1
(H. B. No. 9)

AN ACT
MAKING AN APPROPRIATION FROM THE GENERAL FUND
FOR THE PAYMENT OF SALARIES, WAGES AND MILEAGE
OF MEMBERS, FOR SALARIES AND WAGES OF OFFICERS
AND EMPLOYEES, FOR CAPITAL OUTLAY, AND FOR ALL
OTHER EXPENSES OF THE THIRD EXTRAORDINARY SES-
SION OF THE THIRTY-EIGHTH SESSION OF THE IDAHO
LEGISLATURE, WHICH APPROPRIATION IS IN ADDITION
TO THE OTHER FUNDS WHICH HAVE HERETOFORE BEEN
APPROPRIATED BY THE THIRTY-EIGHTH SESSION; PRO-
VIDING THAT SUCH SUM SHALL ALSO BE USED TO PAY
SALARIES AND OTHER EXPENSES OF ANY OTHER EX-
TRAORDINARY SESSION HELD PRIOR TO THE THIRTY-
NINTH LEGISLATIVE SESSION; EXEMPTING THIS AP-
PROPRIATION FROM THE PROVISIONS OF THE STANDARD
APPROPRIATIONS ACT OF 1945; AND, DECLARING AN
EMERGENCY.

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

SECTION 1. Any balance in the appropriation carried in
Chapter 1 and Chapter 283, Session Laws of 1965, and any
balance in the appropriation carried in House Bill No. 20,
Second Extraordinary Session, Thirty-Eighth Legislature,
is hereby reappropriated, and there is further appropriated
out of any moneys in the general fund not otherwise ap-
propriated, the sum of $67,000, or so much thereof as may be
necessary, for the purpose of paying salaries, wages and
mileage of members, for salaries and wages of officers and employees, for capital outlay, for all other expenses of the Third Extraordinary Session of the Thirty-eighth Session of the Idaho Legislature, and for salaries, wages, capital outlay, and other expenses of any other extraordinary session or sessions held prior to the Thirty-ninth Session of the Idaho Legislature. Five thousand dollars of this appropriation, or so much as may be necessary, may be used, upon the approval of the President of the Senate and the Speaker of the House of Representatives, to reimburse expenses incurred by the Secretary of State in preparing and distributing memorials and resolutions approved by the Second Extraordinary Session and the Third Extraordinary Session of the Thirty-eighth Idaho Legislature. The sums herein appropriated shall be paid in the same manner as other claims for legislative expenses and salaries, and any unexpended balance remaining from such appropriation shall revert to the general fund July 1, 1967.

SECTION 2. The appropriations herein made are expressly exempt from the provisions of the Standard Appropriations Act of 1945.

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

Approved March 16, 1966.

CHAPTER 2
(H. B. No. 2)

AN ACT

PROVIDING A DECLARATION OF LEGISLATIVE INTENT; REPEALING AND REENACTING SECTION 67-202, IDAHO CODE; PROVIDING FOR SENATORS TO BE ELECTED FROM LEGISLATIVE DISTRICTS AND THE NUMBER OF SENATORS IN EACH DISTRICT; PROVIDING FOR REPRESENTATIVES TO BE ELECTED FROM LEGISLATIVE AND REPRESENTATIVE DISTRICTS AND THE NUMBER OF REPRESENTATIVES FROM EACH DISTRICT; REPEALING SECTION 67-203, IDAHO CODE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. DECLARATION OF INTENT. The legislature finds that in order to establish the most practical and workable apportionment plan encompassing both the senate and the house of representatives on the basis of population in compliance with the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States as interpreted by the United States Supreme Court, it is necessary and desirable to form legislative districts of approximately equal population with one senator to be elected from each such district and two representatives to be elected from each such district or with one representative to be elected from each of two representative districts which are included within certain of such legislative districts.

SECTION 2. That Section 67-202, Idaho Code, be, and the same is hereby repealed and reenacted to read as follows:

67-202. LEGISLATIVE DISTRICTS—REPRESENTATIVE DISTRICTS — SENATORS ELECTED — REPRESENTATIVES ELECTED. The state is divided into 35 legislative districts. One senator shall be elected from each legislative district. Two representatives shall be elected from each legislative district except that one representative shall be elected from each of representative districts 9A, 9B, 10A, 10B, 20A, 20B, 21A, 21B, 22A, 22B, 26A, 26B, 28A and 28B. The names, numbers and boundaries of the precincts and counties herein referred to in describing the area included within the legislative districts and representative districts shall be as the same existed on November 3, 1964, except that the numbers and boundaries of the precincts herein referred to in describing the area included within the Legislative Districts in Ada County shall be as the same were published on February 28, 1966. The counties and precincts constituting the legislative and representative district are as follows:

(1) Legislative District No. 1 shall include all the area contained within Boundary and Bonner Counties.

(2) Legislative District No. 2 shall include all the area contained within the following precincts of Kootenai County: Athol, Bayview, Borah, Fair, Hauser, Huetter, North Post Falls, Prairie, Rathdrum, South Post Falls, Spirit Lake and Twin Lakes, Balton, Bryan, Eastside, Hayden Lake, Harding, Lincoln, Roosevelt and Sunset.

(3) Legislative District No. 3 shall include all the area contained within Benewah County and all the area
within the following precincts of Kootenai County: Bellgove, Harrison, Medimont, Mica, Mission, Rose Lake, Wolf Lodge, Worley, Academy, Central, Coeur d'Alene, Fernan, Kootenai, Lakeshore, Lewis, Mid­town, Potlatch and Sherman.

(4) Legislative District No. 4 shall include all the area contained within Shoshone County.

(5) Legislative District No. 5 shall include all the area contained within Latah County.

(6) Legislative District No. 6 shall include all the area contained within the following precincts of Nez Perce County: Hatwai, Lewiston No. 2, No. 3, No. 4, No. 5, No. 6, No. 7, No. 8, No. 9, No. 10, No. 11, No. 12, No. 13, No. 14, No. 15, No. 16, No. 17, No. 18, Orchards No. 1, Orchards No. 5 and Rimrock.

(7) Legislative District No. 7 shall include all the area contained within Clearwater County and all the area contained within the following precincts of Nez Perce County: Orchards No. 2, No. 3, No. 4, No. 6, No. 7, No. 8, and No. 9, Tammany, Waha, Webb, Chesley, Culdesac, Gifford, Lapwai, Leland, Lenore, Melrose, Myrtle, Peck, Southwick and Spalding.

(8) Legislative District No. 8 shall include all the area contained within Lewis and Idaho Counties.

(9) Legislative District No. 9 shall include all the area contained within Adams, Boise, Gem and Valley Counties.
   
   (a) Representative District 9A shall include all the area within Adams, Valley and Boise Counties and shall elect one representative.
   
   (b) Representative District 9B shall include all the area within Gem County and shall elect one representative.

(10) Legislative District No. 10 shall include all the area within Payette and Washington Counties.

   (a) Representative District 10A shall include all the area within Washington County and shall elect one representative.

   (b) Representative District 10B shall include all the area within Payette County and shall elect one representative.
(11) Legislative District No. 11 shall include all the area contained within the following precincts of Canyon County: Apple Valley, Arena Valley, Central Cove, Center Point, East Parma, Fargo, Greenleaf, Lake, Medleton, Notus, Pleasant Ridge, Purple Sage, Rosewell, West Parma, Wilder, East Caldwell No. 1, No. 2, No. 3 and No. 4, South Caldwell No. 1 and No. 2, West Caldwell No. 1 and No. 2.

(12) Legislative District No. 12 shall include all the area contained within the following precincts of Canyon County: Central Park, East Nampa No. 1, No. 2, and No. 3, Franklin, Lone Star, Lone Tree, Marble Front, Midway, North Caldwell No. 1, No. 2, and No. 3, North Nampa No. 1 and No. 2, West Nampa No. 1, No. 2 and No. 3, Young Nampa No. 1, No. 2, No. 3 and No. 4.

(13) Legislative District No. 13 shall include all the area contained within Owyhee County and all the area within the following precincts of Canyon County: Bowmont, Homestead, Kurtz, Nampa No. 1, No. 2, No. 3, and No. 4, Lakeview, Melba, Old Nampa No. 1 and No. 2, Peaceful Valley, Scism, South Nampa No. 1 and No. 2, South Side Boulevard, Sunny Ridge and Sunny Slope.

(14) Legislative District No. 14 shall include all the area contained within the following precincts of Ada County: No. 25, No. 27, No. 34, No. 42, No. 55, No. 63, No. 65, No. 66, No. 67, No. 68, No. 69, No. 70, No. 71, No. 72, No. 73, No. 74, No. 75, No. 76 and No. 77.

(15) Legislative District No. 15 shall include all the area contained within the following precincts of Ada County: No. 5, No. 7, No. 8, No. 15, No. 16, No. 18, No. 23, No. 29, No. 32, No. 40, No. 43, No. 44, No. 46, No. 47, No. 48, No. 51, No. 52, No. 53 and No. 88.

(16) Legislative District No. 16 shall include all the area contained within the following precincts of Ada County: No. 2, No. 17, No. 20, No. 28, No. 38, No. 39, No. 49, No. 50, No. 54, No. 57, No. 58, No. 59, No. 60, No. 79, No. 82 and No. 83.

(17) Legislative District No. 17 shall include all the area contained within the following precincts of Ada County: No. 1, No. 3, No. 6, No. 9, No. 10, No. 11,
No. 12, No. 19, No. 21, No. 22, No. 24, No. 30, No. 31, No. 41, No. 64, No. 80 and No. 81.

(18) Legislative District No. 18 shall include all the area contained within the following precincts of Ada County: No. 4, No. 13, No. 14, No. 26, No. 33, No. 35, No. 36, No. 37, No. 45, No. 56, No. 61, No. 62, No. 78, No. 84, No. 85, No. 86 and No. 87.

(19) Legislative District No. 19 shall include all the area contained within Elmore County.

(20) Legislative District No. 20 shall include all the area contained within Clark, Custer, Jefferson and Lemhi Counties.

(a) Representative District 20A shall include all the area within Lemhi and Custer Counties and shall elect one representative.

(b) Representative District 20B shall include all the area within Clark and Jefferson Counties and shall elect one representative.

(21) Legislative District No. 21 shall include all the area contained within Blaine, Lincoln and Minidoka Counties.

(a) Representative District 21A shall include all the area within Blaine and Lincoln Counties and the following precincts of Minidoka County: Adelaide, Minidoka, Morland and Pioneer and shall elect one representative.

(b) Representative District 21B shall include the following precincts of Minidoka County: Acequia, Emerson, Heyburn No. 1 and No. 2 Paul No. 1 and No. 2, Rupert No. 1, No. 2, No. 3, No. 4, No. 5, No. 6 and No. 7 and shall elect one representative.

(22) Legislative District No. 22 shall include all the area contained within Camas, Gooding and Jerome Counties.

(a) Representative District 22A shall include all the area within Camas and Gooding Counties and shall elect one representative.

(b) Representative District 22B shall include all the area within Jerome County and shall elect one representative.
(23) Legislative District No. 23 shall include the following precincts of Twin Falls County: Hansen, Kimberly No. 1 and No. 2, Murtaugh, Rock Creek, Twin Falls No. 1, No. 2, No. 3, No. 4, No. 8, No. 9, No. 10, No. 11, No. 12, No. 13, No. 17, No. 18, No. 19, No. 20, No. 22, No. 23 and No. 24.

(24) Legislative District No. 24 shall include the following precincts of Twin Falls County: Allendale, Berger, Buhl No. 1, No. 2, No. 3, No. 4, No. 5, No. 6 and No. 7, Castleford, Clover, Deep Creek, Filer No. 1, No. 2 and No. 3, Hollister, Lucerne, Maroa, Rogerson, Thometz, Twin Falls No. 5, No. 6, No. 7, No. 14, No. 15, No. 16, No. 21 and No. 25.

(25) Legislative District No. 25 shall include all the area contained within Cassia County.

(26) Legislative District No. 26 shall include all the area contained within Butte and Power Counties and all the area contained within the following precincts of Bingham County: Atomic City, Moreland No. 1 and No. 2, Pingree, Riverside, Thomas, Aberdeen No. 1, No. 2 and No. 3, Springfield and Sterling.

(a) Representative District 26A shall include all the area within Butte County and the following precincts of Bingham County: Atomic City, Moreland No. 1 and No. 2, Pingree, Riverside and Thomas and shall elect one representative.

(b) Representative District 26B shall include all the area within Power County and the following precincts of Bingham County: Aberdeen No. 1, No. 2 and No. 3, Springfield and Sterling and shall elect one representative.

(27) Legislative District No. 27 shall include all the area contained within the following precincts of Bingham County: Blackfoot No. 1, No. 2, No. 3, No. 4, No. 5, No. 6, No. 7, No. 8, No. 9, No. 10, No. 11, Firth No. 1 and No. 2, Fort Hall, Goshen, Groveland, James- ton, Kimball, Riverton, Rose, Shelley No. 1, No. 2 and No. 3, Wapello and Woodville.

(28) Legislative District No. 28 shall include all the area contained within Fremont and Madison Counties.

(a) Representative District 28A shall include all the area within Fremont County and shall elect one representative.
(b) Representative District 28B shall include all the area within Madison County and shall elect one representative.

(29) Legislative District No. 29 shall include all the area contained within the following precincts of Bonneville County: Idaho Falls No. 1, No. 2, No. 3, No. 4, No. 5, No. 6, No. 7, No. 8, No. 17, No. 18, No. 19, No. 20, No. 21 and No. 32, New Sweden, Osgood, and Riverdale.

(30) Legislative District No. 30 shall include all the area contained within the following precincts of Bonneville County: Idaho Falls No. 9, No. 10, No. 11, No. 12, No. 13, No. 14, No. 15, No. 16, No. 23, No. 24, No. 25, No. 26, No. 31, Taylor and York.

(31) Legislative District No. 31 shall include all the area contained within Teton County and the following precincts of Bonneville County: Ammon, Blowout, Coltman, Crowley, Gray, Idaho Falls No. 22, No. 27, No. 28, No. 29, No. 30, Iona, Jacknife, Lincoln, Palisades, Poplar, Ucon and Willow Creek.

(32) Legislative District No. 32 shall include all the area contained within Bear Lake, Caribou and Franklin Counties.

(33) Legislative District No. 33 shall include all the area contained within Oneida County and the area within the following precincts of Bannock County: Arimo, Downey, Inkom, Lava Hot Springs, McCammon, Pocatello No. 1, No. 2, No. 3, No. 4, No. 15, No. 16, No. 17, No. 25, No. 26, No. 27 and Swan Lake.

(34) Legislative District No. 34 shall include all the area contained within the following precincts of Bannock County: Alameda No. 1, and No. 8, Pocatello No. 5, No. 6, No. 7, No. 8, No. 9, No. 10, No. 11, No. 12, No. 13, No. 14, No. 18, No. 19, No. 20, No. 22, No. 23, No. 24, and No. 28.

(35) Legislative District No. 25 shall include all the area contained within the following precincts of Bannock County: Alameda No. 2, No. 3, No. 4, No. 5, No. 6 and No. 7, Chubbuck No. 1 and No. 2, Hawthorne Acres, North Pocatello No. 1 and No. 2, Pocatello No. 21, No. 29 and No. 30 and Tyhee.

SECTION 3. SEVERABILITY.—If any provisions of this act or the application thereof is held invalid, such invalidity
shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

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

Approved March 22, 1966.

CHAPTER 3
(H. B. No. 13)

AN ACT

AMENDING HOUSE BILL NO. 2, THIRD EXTRAORDINARY SESSION, THIRTY-EIGHTH IDAHO LEGISLATURE, CORRECTING SPELLING AND PUNCTUATION ERRORS; REPEALING SECTION 67-203, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Subsection 2 of Section 2 of House Bill No. 2, Third Extraordinary Session, Thirty-eighth Idaho Legislature, be, and the same is hereby amended to read as follows:

(2) Legislative District No. 2 shall include all the area contained within the following precincts of Kootenai County: Athol, Bayview, Borah, Fair, Hauser, Huetter, North Post Falls, Prairie, Rathdrum, South Post Falls, Spirit Lake, and Twin Lakes, Dalton, Bryan, Eastside, Hayden, Lake, Harding, Lincoln, Roosevelt and Sunset.

SECTION 2. That Subsection 11 of Section 2 of House Bill No. 2, Third Extraordinary Session, Thirty-eighth Idaho Legislature, be, and the same is hereby amended to read as follows:

(11) Legislative District No. 11 shall include all the area contained within the following precincts of Canyon County: Apple Valley, Arena Valley, Central Cove, Center Point, East Parma, Fargo, Greenleaf, Lake, Middleton, Notus, Pleasant Ridge, Purple
Sage, Rosewell, West Parma, Wilder, East Caldwell No. 1, No. 2, No. 3 and No. 4, South Caldwell No. 1 and No. 2, West Caldwell No. 1 and No. 2.

**SECTION 3.** That Subsection 13 of Section 2 of House Bill No. 2, Third Extraordinary Session, Thirty-eighth Idaho Legislature be, and the same is hereby amended to read as follows:

(13) Legislative District No. 13 shall include all the area contained within Owyhee County and all the area within the following precincts of Canyon County: Bowmont, Homestead, Kurtz, Nampa No. 1, No. 2, No. 3 and No. 4, Lakeview; Melba, Old Nampa No. 1 and No. 2, Peaceful Valley, Scism, South Nampa No. 1 and No. 2, South Side Boulevard, Sunny Ridge and Sunny Slope.

**SECTION 4.** That Subsection 21 of Section 2 of House Bill No. 2, Third Extraordinary Session, Thirty-eighth Idaho Legislature be, and the same is hereby amended to read as follows:

(21) Legislative District No. 21 shall include all the area contained within Blaine, Lincoln and Minidoka Counties.

(a) Representative District 21A shall include all the area within Blaine and Lincoln Counties and the following precincts of Minidoka County: Adelaide, Minidoka, Norland, Norland and Pio- neer and shall elect one representative.

(b) Representative District 21B shall include the following precincts of Minidoka County: Ac- quia, Emerson, Heyburn No. 1 and No. 2, Paul No. 1 and No. 2, Rupert No. 1, No. 2, No. 3, No. 4, No. 5, No. 6 and No. 7 and shall elect one representative.

**SECTION 5.** That House Bill No. 2, Third Extraordinary Session, Thirty-eighth Idaho Legislature be, and the same is hereby amended by the addition thereto of a new section to be known as Section 3 and to read as follows:

**SECTION 3.** That Section 67-203, Idaho Code, be, and the same is hereby repealed.

**SECTION 6.** That Section 3 of House Bill No. 2, Third Extraordinary Session, Thirty-eighth Idaho Legislature be, and the same is hereby amended to read as follows:
SECTION 4. SEVERABILITY.—If any provisions of this act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 7. That Section 4 of House Bill No. 2, Third Extraordinary Session, Thirty-eighth Idaho Legislature be, and the same is hereby amended to read as follows:

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

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

Approved March 22, 1966.

CHAPTER 4
(H. B. No. 8)

AN ACT

PROVIDING FOR THE INCLUSION IN A LEGISLATIVE OR REPRESENTATIVE DISTRICT OF AN ELECTION PRECINCT WHICH HAS BEEN OMITTED FROM ANY SUCH DISTRICT AND FOR THE REMOVAL OF AN ELECTION PRECINCT FROM CERTAIN LEGISLATIVE OR REPRESENTATIVE DISTRICT IF SUCH PRECINCT HAS BEEN INCLUDED IN MORE THAN ONE LEGISLATIVE DISTRICT OR MORE THAN ONE REPRESENTATIVE DISTRICT; AND DECLARING AN EMERGENCY.

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

SECTION 1. In the event in the enactment of legislation creating legislative and representative districts for the election of senators and representatives, any election precinct has been omitted from any legislative and/or representative district or has been included in more than one legislative
and/or representative district, the county commissioners of the county in which any such precinct is located are authorized and directed to make such changes as are hereinafter provided. If an omitted precinct is located entirely within a district, it shall be included in such district. If an omitted precinct borders on two or more districts, it shall be included in the district which has the smaller number of registered voters. If a precinct has been included in more than one legislative or more than one representative district, it shall be removed from the district or districts which have the larger number of registered voters, provided, however, that such precinct must be contiguous with the legislative and representative district with which it is included.

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

Approved March 26, 1966.

CHAPTER 5
(H. B. No. 15)

AN ACT
AMENDING SECTION 34-502, IDAHO CODE, PROVIDING FOR TIME OF PRECINCT BOUNDARY CHANGES; AMENDING SECTION 34-503, IDAHO CODE, PROVIDING FOR TIME FOR DESIGNATING POLLING PLACES; AMENDING SECTION 34-504, IDAHO CODE, PROVIDING FOR TIME OF APPOINTING ELECTION JUDGES; CREATING A NEW SECTION 34-504A, IDAHO CODE, PROVIDING FOR POLL WATCHERS; AMENDING SECTION 34-605, IDAHO CODE, TO PROVIDE QUALIFICATION FOR CANDIDATES FOR STATE SENATORS AND REPRESENTATIVES; AMENDING SECTION 34-606, IDAHO CODE, TO PROVIDE DECLARATION OF CANDIDACY FOR STATE SENATORS, REPRESENTATIVES, AND LEGISLATIVE DISTRICT CHAIRMAN; AMENDING SECTION 34-608, IDAHO CODE, PROVIDING FOR PAYMENT OF FILING FEE; AMENDING SECTION 34-609, IDAHO CODE, PROVIDING PLACE OF FILING FOR STATE SENATORS, REPRESENTATIVES, AND LEGISLATIVE DISTRICT CHAIRMAN; AMENDING SECTION 34-612, IDAHO CODE, PROVIDING FOR FORM AND SUFFICIENCY OF BALLOT; AMENDING SECTION 34-612A, IDAHO CODE, PROVIDING FOR FILLING VACANCIES
ON Nomination of state senators, state representatives and legislative district chairman; providing for nomination and certification of state senators, state representatives, and legislative district chairman or county offices and payment of required fee; providing for meeting of county and legislative district assemblies; providing for composition of state assemblies; amending section 34-612d, Idaho code, providing for unendorsed political party candidates; amending section 34-619, Idaho code, providing for elimination of candidates for united states senator and representative in congress from the provisions thereof; providing for increase in amount to be expended by candidates for state offices, judiciary and legislature; providing for elimination of run-off election provisions; amending section 34-620, Idaho code, providing for elimination of run-off election provisions; amending section 34-624, Idaho code, providing for election and composition of county committees; providing for election of officers of county committee; creating a new section 34-624a, Idaho code, providing for election and composition of legislative district committees; providing for officers and meeting of legislative district committee; amending section 34-632, Idaho code, providing for elimination of run-off election provisions; amending section 34-634, Idaho code, providing determination of ties for state senators, state representatives, and legislative district chairmen; amending section 34-636, Idaho code, providing for certification of nomination election results by county commissioners to secretary of state for state senators, state representatives, and legislative district chairmen; amending section 34-637, Idaho code, providing certification by state board of canvassers for state senators and state representatives; providing for certification of election by state board of canvassers of legislative district chairmen; providing for issuance of certificates of election to legislative district chairmen by secretary of state; providing for term of office of legislative district chairmen; amending section 34-638, Idaho code, providing for filling vacancies by legislative district committee; repealing section
34-640, IDAHO CODE; AMENDING SECTION 34-646, IDAHO CODE, PROVIDING FOR CERTIFICATION FROM SECRETARY OF STATE TO COUNTY AUDITORS AND DELETING MULTI-REPRESENTATIVE PROVISIONS; AMENDING SECTION 34-648, IDAHO CODE, PROVIDING FOR FILLING VACANCIES IN LEGISLATIVE DISTRICT OFFICES; PROVIDING FOR FILLING LEGISLATIVE DISTRICT OFFICES DURING 1966; AMENDING SECTION 34-801, IDAHO CODE, PROVIDING FOR TIME OF APPOINTMENT OF REGISTRARS AND DEPUTIES; AMENDING SECTION 34-903, IDAHO CODE, PROVIDING FOR MARKING BALLOTS BY VOTER; REPEALING SECTION 34-904A, IDAHO CODE; CREATING NEW SECTION 34-904A, IDAHO CODE, PROVIDING FOR LEGISLATIVE AND REPRESENTATIVE DISTRICT SPACE ON BALLOT; AMENDING SECTION 34-905, IDAHO CODE, PROVIDING FOR MARKING OF CONSTITUTIONAL AMENDMENT AND OTHER QUESTION BALLOTS BY VOTERS; AMENDING SECTION 34-907, IDAHO CODE, PROVIDING FOR MARKING OF SPECIAL QUESTION BALLOTS BY VOTERS; AMENDING SECTION 34-1011, IDAHO CODE; PROVIDING FOR VOTER ASSISTANCE AND MARKING OF BALLOT BY VOTER; AMENDING SECTION 34-1021, IDAHO CODE, PROVIDING FOR DETERMINATION OF RESIDENCE OF VOTERS IN LEGISLATIVE OR REPRESENTATIVE DISTRICTS; AMENDING SECTION 34-1023, IDAHO CODE, PROVIDING FOR OATH OF CHALLENGED PERSON IN LEGISLATIVE OR REPRESENTATIVE DISTRICTS; AMENDING SECTION 34-1120, IDAHO CODE, PROVIDING FOR REGISTRATION AND VOTING CERTIFICATE FORM; AMENDING SECTION 34-1211, IDAHO CODE, PROVIDING FOR FORM AND DISPOSITION OF ABSTRACT OF VOTERS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 34, Chapter 5, Idaho Code, be, and the same is hereby amended to read as follows:

34-502. CHANGING BOUNDARIES OF PRECINCTS. —The board may from time to time, change the boundaries of, create new or consolidate established precincts, but they must not alter or change any election precinct or change the place of holding election in any precinct after their regular January meeting next preceding any election; provided, that the precincts established and the places designated in which to hold elections at the time of the taking effect of this chapter shall so remain until changed.
SECTION 2. That Title 34, Chapter 5, Idaho Code, be, and the same is hereby amended to read as follows:

34-503. DESIGNATION AND PLAN OF POLLING PLACES.—The county commissioners of each county, at their meeting in February next preceding any general election, shall designate and appoint suitable polling places, throughout the county, and shall cause the same to be suitably provided with a sufficient number of voting shelves or compartments, at or in which voters may conveniently mark their ballots, so that in the marking thereof they may be screened from the observation of others, and a guard rail shall be so constructed and placed that only such persons as are inside said rail can approach within ten (10) feet of the ballot boxes and of such voting shelves, places or compartments as are herein provided for. The arrangements shall be such that neither the ballot boxes nor the voting shelves or compartments shall be hidden from view of those just outside the said guard rail.

The number of such voting shelves or compartments shall not be less than one (1) for every fifty (50) electors, or fraction thereof, registered in the precinct, and the expense of providing such polling places, compartments, guard rails, and all necessary supplies shall be a public charge, and shall be provided for in the same manner as all other election expenses. Each voting shelf or compartment shall be kept provided with proper supplies and conveniences for marking the tickets. At their regular meeting in January next preceding any election, the board of county commissioners of each county shall alter or divide the election precincts in such manner that each election precinct shall not obtain more than six hundred (600) voters; provided, that in precincts containing less than twenty-five (25) registered voters the election may be conducted under the provisions of this title without the preparation of such booths or compartments as are required in this section and provided further, that any board of county commissioners who shall refuse and/or willfully neglect to comply with the provisions of this section shall be subject to removal from office as provided in title 19, chapter 41.

In all municipal elections the duties specified in this section as devolving on the county commissioners, shall devolve on the officers in each city or town whose duty it is to designate and appoint polling places therein.

SECTION 3. That Title 34, Chapter 5, Idaho Code, be, and the same is hereby amended to read as follows:
34-504. APPOINTMENT OF ELECTION JUDGES.— It is the duty of the county commissioners, at their regular session in May or March next preceding a general election, to appoint three (3) capable and discreet persons, at least one (1) of which shall represent each political party as defined in chapter 6 of this title, and who possess the qualifications of electors; provided, however, that the precinct committee-men for each precinct shall have the right to submit to the county commissioners in writing, at least ten (10) days prior to the date on which any such appointment is to be made, the names of one (1) or more persons to be appointed as such election judges, and if the persons so recommended are qualified as to party and otherwise, said persons shall be appointed. If further appointments from one (1) or both parties are thereafter required, the commissioners may appoint persons of their own choosing, and nothing herein contained shall be construed so as to preclude the county commissioners from exercising discretion as to the party affiliation of their appointees except as hereinbefore in this section specifically provided. Such persons shall act as judges of election at each election precinct and one (1) of such judges shall be appointed senior election judge for each precinct by the county commissioners; and the clerk of the board must make out and deliver to the sheriff of the county, immediately after the appointment of such judges, a notice thereof, in writing, directed to the judges so appointed; and the sheriff, within ten (10) days of the receipt of such notice, must serve the same upon each of the said judges of election by registered mail. It shall be the duty of the judges to designate one (1) of their number to act as distributing clerks.

All such judges of election shall hold office for (2) years, unless sooner removed by the board of county commissioners and shall act at all state and county elections.

SECTION 4. That Title 34, Chapter 5, Idaho Code, be, and the same is hereby amended by adding a new section thereto following Section 34-504, to read as follows:

34-504A. CHALLENGERS AND POLL WATCHERS.—The judges of the election shall, if requested at any time, permit one person authorized by each political party to be at the polling place for the purpose of challenging voters, and shall, if requested, permit any candidate, or one person authorized by a candidate, several candidates or political party, to be present to watch the receiving and counting of the votes. Such authorization shall be evidenced by a writing signed by the County Chairman and Secretary of the political
party, or by the candidate or candidates, and filed with the
judges of the election. Persons permitted to be present to
watch the counting of the votes shall not absent themselves
until the polls are closed.

SECTION 5. That Section 34-605, Idaho Code, be, and the
same is hereby amended to read as follows:

34-605. PERSONS QUALIFIED TO BECOME CAN­
Didates.—Any person legally qualified to hold such office
is entitled to become a candidate for office, and to have his
name placed on the ballot provided for any nominating elec­
tion authorized herein, upon a substantial compliance with
the terms of this act, and not otherwise.

No person shall be a candidate for state senator, or state
representative who at the time of his filing as a candidate,
is not a citizen of the United States, and an elector of this
state nor anyone who has not been, for one year next pre­
ceding the nominating election, a resident and elector of
the county legislative or representative district within which
he files for nomination, whence he may be chosen.

No person shall be a candidate for a state representative
who, at the time he files for nomination, is not a citizen of
the United States, and an elector of this state and who has
not been, for one year next preceding the date of nomina­
ting election, a resident and elector within the representa­
tive district whence he may be chosen.

SECTION 6. That Section 34-606, Idaho Code, be, and the
same is hereby amended to read as follows:

34-606. DECLARATION OF CANDIDACY—TIME OF
FILING—FORM.—Each candidate for office shall file his
declaration of candidacy in the proper office, as herein pro­
vided, by May 7th but not before May 1st, prior to the nomi­
ning election to be held to nominate candidates for such
office, in substantially the following form, to-wit:

Candidates for state senator, state representative, Legis­
lative District Chairman, county or precinct office shall file
a declaration of candidacy in the following form, to-wit:

I, the undersigned, being a qualified elector of

________________ Precinct, __________ Legislative or Representa­
tive District, __________ County, __________ State of Idaho, and a member of

________________ Party, hereby declare myself to be a candidate for
the office of ________________, to be voted for at the nominating
election to be held on the __________ day of __________, 19__, and certi­
fy that I possess the legal qualifications to fill said office and
represent the principles of said party, and that my post office address is ________________.

(Signed) ____________________________.

Each candidate for the office of United States senator and United States representative, governor or any state office shall file his declaration of candidacy in the following form, to-wit:

I, the undersigned, being a qualified elector of ________________ Precinct, ________________ County, State of Idaho, and a member of ________________ party, hereby declare myself to be a candidate for the office of ________________, to be voted for at the nominating election to be held on the ______ day of ______, 19____, considered for endorsement by the state assembly of the ________________ party, at a meeting of said assembly to be held on the ______ day of ______, 19____, and certify that I possess the legal qualifications to fill said office, and represent the principles of said party, and that my post office address is ________________.

(Signed) ____________________________.
Subscribed and sworn to before me this __________ day of ________________, 19____.

______________________________
Notary Public

All blank spaces shall be properly filled in with the necessary information, and the declaration of candidacy shall be subscribed and sworn to before an officer authorized to administer oaths.

Said declaration of candidacy, before the same shall be filed in the office of the secretary of state, or in the office of the county auditor, of any county which contains a part of a legislative district, as the case may be, must have appended thereto a petition or petitions, in substantially the following forms, to-wit:

The declaration of candidacy shall have appended thereto a petition or petitions in the following form, to-wit:

I, the undersigned, being a qualified elector of the State of Idaho, and a member of the ________________ party, do hereby certify and declare that I am a member of the said party and that ________________, a candidate for the office of ________________, to be voted for at the nominating election or state assembly to be held in 19____, is legally qualified to fill said office and represents the principles of said party.

I further certify and declare that I intend to support said
office and have signed no other petition for a candidate for the same office.

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<th>Name of Petitioner</th>
<th>Post Office</th>
<th>Date of Signing</th>
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Each candidate for United States senator, United States representative, governor, or any state office must have appended to his declaration of candidacy a certificate in the following form, to-wit:

State of Idaho, )
County of ___________ ) ss;

I do solemnly swear (or affirm) that I am a qualified elector of the State of Idaho and a legal resident of the county of ___________, and that I am a member of the __________ party; that each of persons whose name is affixed to the above paper signed the same personally, together with his post office address and the date of signing, and that he signed the same with full knowledge of its contents; that to the best of my knowledge he is a qualified elector of the State of Idaho and is a member of the __________ party, that I intend to support the candidate named in such petition at the state assembly of the __________ party, and in good faith to support the candidates, generally, at the next general election of the __________ party, of which the candidate named in the petition is a member.

Subscribed and sworn to before me this __________ day of __________, 19____.

Notary Public

Said petition shall be signed by qualified electors residing within the political division in and for which the officer is to be elected to the number of at least 1000 no more than 50 of which may reside in any one (1) county when the nomination is for an office to be filled by the voters of the entire state; or at least 500, nor more than 50 in each county where the nomination is for an office to be filled by the voters of less than the entire state, except in the case of a district judge where the names must be divided approximately equally among the counties of the district in which he resides. If for a precinct committeeman, constable, or a county office or member of the state legislature, said petition or petitions must have affixed thereto not fewer than five (5) nor more than ten (10) names of voters residing within the county and of the party of which the candidate is a mem-
ber, provided, that a petition or petitions for a legislative district chairman, precinct committeeman, and constable must have affixed thereto not fewer than five (5) nor more than ten (10) names of voters residing within the precinct for which they are nominated. In addition, each candidate for legislative district chairman must have as signators to his petition no more nor less than three (3) duly elected precinct committeemen of precincts within the legislative district from whence he may be chosen. If for a member of the state legislature said petition or petitions must have affixed thereto not fewer than fifty (50) nor more than two hundred (200) names of voters residing within the district from which he may be chosen. Each candidate for legislative district chairman, precinct committeeman, constable, a county office or member of the state legislature must have appended to his declaration of candidacy a certificate in the following form, to-wit:

State of Idaho, )  
) ss:  
County of ________________)

I do solemnly swear (or affirm) that I am a qualified elector of the State of Idaho and a legal resident of the county of ______ and that I am a member of the _________ party; that each of the persons whose name is affixed to the above paper signed the same personally, together with his post office address and the date of signing, and that he signed the same with full knowledge of its contents; that to the best of my knowledge he is a qualified elector of the state of Idaho and is a member of the _________ party, that I intend to support the candidate named in such petition at the nominating election, and in good faith to support the candidates, generally, at the next general election of the _________ party, of which the candidate named in the petition is a member.

Subscribed and sworn to before me this _____ day of ______, ----.

______________________________
Notary Public

Provided, that a candidate for the office of justice of the Supreme Court or for office of district judge shall make and file his declaration of candidacy as provided by chapter 7 of this title, and other nonpolitical candidates shall file no declaration of party affiliation in their declaration of candidacy and the petition or petitions supporting their nomination shall declare that the petitioners are not supporting
their candidacy as members of any political party and their declaration of candidacy for office shall be substantially in the following form to-wit:

I, the undersigned, being a qualified elector of ____________ Precinct of ____________ County, State of Idaho, hereby declare myself to be a candidate for the office of ____________ to be voted for at the nominating election to be held on the ____________ day of ____________, 19____, and certify that I possess the legal qualifications to fill said office and that my post office address is _______________.

(Signed) ________________

SECTION 7. That Section 34-608, Idaho Code, be, and the same is hereby amended to read as follows:

34-608. FEE FOR FILING — AMOUNT — TO WHOM PAYABLE.—The fee to be paid by or on behalf of a candidate shall be the sum of two dollars ($2.00) if he is a candidate for an office the salary of which is $300.00 or less per annum; when such salary exceeds the sum of $300.00 per annum an additional sum equal to one per cent (1%) thereof on such excess.

Said fees are to be paid to the following officers, to-wit: When the candidacy is for a congressional, state or district office embracing more than one (1) county, the fee shall be paid to the secretary of state to be paid by him to the state treasurer and when for district offices or districts containing more than one (1) county the same shall be divided equally between the counties composing such districts and paid to the respective treasurers thereof, and the secretary of state shall issue all necessary warrants for such payments on the state treasurer. When a candidacy is for state senator, or other than multicoey district or a county office such fees shall be paid to the county auditors, of any county which contains a part of the legislative district, and by them paid to him divided equally between the respective county treasurers encompassed in said legislative district. Provided, no fee shall be paid by or on behalf of any candidate for precinct committeeman, legislative district chairman, justice of the peace or constable.

SECTION 8. That Section 34-609, Idaho Code, be, and the same is hereby amended to read as follows:

34-609. DECLARATIONS OF CANDIDACY—WHERE FILED.—All declarations of candidacy herein required shall be filed as follows: The candidates for United States senator, representatives in Congress, state offices and all offices
of districts which contain more than one county, except legislative and representative districts in the office of the secretary of state; for candidates to be voted for wholly within one county, in the office of the county auditor of such county; and, for candidates for legislative and representative districts in the office of the county auditor of any county which contains a part of any such such district.

SECTION 9. That Section 34-612, Idaho Code, be, and the same is hereby amended to read as follows:

34-612. BALLOT—FORM AND SUFFICIENCY. — As soon as possible after the time has expired for filing declaration of candidacy in his office, and after the receipt of the certified list of candidates from the secretary of state, the county auditor of each county shall prepare a form of ballot showing each political party which has qualified as hereinbefore provided and which has candidates whose names are to be placed on the ballot. The names of candidates for each office shall be arranged thereon alphabetically according to the first letter of the surname of each candidate. In a legislative district encompassing more than one county, or part or parts of more than one county, the county auditor of each county encompassed wholly or partially within said legislative district shall, as soon as possible after the time has expired for filing declarations of candidacy in their respective offices for state senator, state representative or legislative district chairman within said legislative district, meet and prepare a certified list of the candidates of each political party which have qualified for said legislative district offices and whose names shall be placed on the ballot for the precincts of each of said counties encompassed within any such legislative district. The official nominating ballot shall be printed therefrom in the following manner: The names of candidates under headings designating each official position shall be alternated thereon in the printing in the following manner namely:

The form shall be set up with the names of candidates in the order in which they appear upon the form of the official ballot prepared by the county auditor; in printing each set of official ballots for the various election precincts the position of the names shall be changed in each office division as many times as there are candidates in the office division or group in which there are the most names; as nearly as possible an equal number of ballots shall be printed after each change. In making the changes of position the printer shall take the line of type at the top of each office division and place it at the bottom of that division, moving the column
so that the name which was second before shall be first after the change. After the ballots are printed before being cut, they shall be kept in separate piles for each change of position and shall then be piled, taking one (1) from each pile, and placing it on the pile to be cut; the intention being that every other ballot in the pile of printed sheets shall have the names in different positions. After the piles are made in this manner, they shall be cut and placed in blocks of fifty (50) ballots in each block, every other ballot in such blocks to have the names in different positions as nearly as practicable. For each party a separate ticket, uniform in size and printing white and printed in black ink, shall be placed on the same side of the same sheet of paper with tickets of all other parties.

Following the names of candidates for nomination to county offices, there shall be (And) one (1) blank space in which shall be printed in small type “For Constable. Vote for one.” Following this shall be a space at the top of which shall be printed in small type “For Precinct Committeeman. Vote for one.” The names of candidates for precinct committeeman shall be printed in alphabetical order with spaces to the right sufficient to permit the voter to place a cross (X), or other suitable mark sufficiently clear to show the voter’s intent, the purpose of the blank spaces being to permit the voter to write in the name of one (1) elector of his precinct whom he desires to nominate for constable, and to vote for each of said persons by placing a cross (X), or other suitable mark sufficiently clear to show the voter’s intent, after his name.

Across the top of each ballot shall be printed in plain type:

1. The words “Official nominating ballot.”

2. Select the party ticket you desire to vote and vote only on that party ticket. Tear off your ballot and deliver to election judge, along with the remaining blank tickets.

3. The name of the county in which the ballots are to be used. Each ballot shall be divided by a perforated line into as many equal columns as there are parties having qualified and filed their tickets as provided by law.

On each ballot shall be printed the names of all persons certified to by the secretary of state or filed with the county auditor, commencing with the candidate for United States senator, including all state offices as well as candidates for the legislature, legislative district chairman and all county offices.
The names of all candidates for non-political offices shall be placed in a separate column under a proper and appropriate heading for the offices for which said persons are candidates.

A blank space shall be provided under each official heading in order that a voter may write in the name of a candidate for any office. On the same line with the official designation of the offices shall be the instruction: "Vote for ________" giving the number of candidates to be voted for in case there is more than one officer of the same official designation to be nominated.

To the right of the name of the candidate, and in the blank space and on the same line therewith, shall be a suitable square wherein the choice of the voter may be marked. When an elector offers to vote he shall be given a ballot with all party tickets printed thereon. He shall select in private which party ticket he shall vote. He shall vote for persons on one (1) party ticket only and if the elector shall vote or mark opposite the name or the ticket of more than one party, his vote shall be void as to that particular office.

Each voter shall, upon receiving the ballot, retire to one (1) of the booths, and without delay, select the ticket he desires to vote and shall mark such ticket on the ballot received by him; and after preparing his ballot the elector shall detach the same from the remaining ticket and fold it so that its face shall be concealed. The remaining unvoted ticket attached together shall be folded in like manner by the elector. He shall immediately thereafter deliver said voted ballot to one (1) of the judges of election, and it shall be deposited by said judge in the ballot box for votes. The remaining tickets attached together shall be given by the elector to one (1) of the judges of election who shall deposit said remaining tickets in a separate ballot box to be marked and designated as the blank ballot box. In the event said voter shall soil or deface the ballot he desires to vote, he shall at once return it and get a new one, and the election officer shall place the ballot returned in the box provided for blank ballots.

SECTION 10. That Section 34-612A, Idaho Code, be, and the same is hereby amended to read as follows:

34-612A. CERTIFICATION OF CANDIDATES BY SECRETARY OF STATE AND COUNTY AUDITOR AND MEETING OF COUNTY ASSEMBLY.—Not less than five (5) days before the county and legislative district assembly meets, the secretary of state shall mail or deliver personally
to the county chairman of each political party in each county and legislative district a certified copy of all declarations of his party for the office of United States senator, United States representative, governor, and any other state office, and the county auditor shall not less than five (5) days before the county and legislative district assembly meets mail or deliver personally to the county and legislative district chairman of each political party in each county and legislative district a list of the state senator, state representative, legislative district chairman, or county offices for which no candidate of his political party has filed.

The county assembly of each political party shall meet at 8:00 p.m. on the third Friday of May of each year in which a general election is held. The legislative district assembly of each political party shall meet at 8:00 p.m. on the third Saturday of May of each year in which a general election is held. The members of the county central committee and legislative district committee of the respective political parties shall make up the county and legislative district assembly and shall meet at a place at the county seat designated by the county and legislative district chairman for their respective assemblies. The county respective chairman shall preside at the meeting but shall have no vote except in case of a tie. The assembly shall vote by roll call ballot alphabetically by precinct and all action taken shall be by majority vote; provided, however, that no action of the county any assembly shall be taken unless at least fifty-one per cent (51%) of the precincts in the county or legislative district in their respective assemblies are represented in person by the precinct committeeman at said assembly and no proxies shall be allowed, and the respective assembly assemblies shall have the following powers:

a. To nominate candidates for state senator, state representative and legislative district chairman in legislative district assemblies, or and for county offices in county assemblies; where no candidate has filed for said office at the time said assembly is held. The Legislative District Assembly or county assembly shall certify any nomination made by them for any such office to the county auditor of their county, or each county auditor in the legislative district as to Legislative Districts encompassing more than one county, or part or parts of more than one county, and upon payment of the required fee, the name of any candidate so nominated shall be placed upon the county primary ballot.

b. To elect delegates to the state assemblies of their respective political parties. Each county shall have as many.
delegates as it has legislative seats in the state senate and house and in addition thereto shall have one (1) additional delegate for each 2,000 or major fraction of votes of that political party cast for the office of United States representative at the last primary election. The county chairman, state committeeman and state committeewoman and the incumbent legislators of the respective party shall be delegates to the state assembly and in addition to the number of delegates allowed each county hereinabove. Each legislative district shall have one (1) delegate for each 2,000 or major fraction of votes of that political party cast for the office of United States representative at the last primary election within that legislative district.

Each legislative district assembly shall send the legislative district chairman, and any incumbent legislators of their respective party as delegates to the state assembly in addition to the number of delegates allowed each legislative district hereinabove. Each county assembly shall be entitled to five (5) delegates to the state assembly three of whom shall be the county chairman, the state committeeman and the state committeewoman, and the balance to be elected by each county assembly.

The county assembly respective assemblies may elect as many alternate delegates as it has delegates. The county chairman and secretary of the respective assemblies shall certify immediately after adjournment to the state chairman of their respective political parties the names of the delegates and alternate delegates who have been chosen to represent the county or legislative district at the state assembly. The state chairman shall, not less than ten (10) days before the meeting of the county and legislative district assemblies, certify to each county chairman of the respective political parties the number of delegates allotted his county or legislative district for the coming state assembly of that political party. The provisions in this section relating to delegates to the respective state assemblies insofar as they amend the provisions hereof in effect on January 1, 1966 shall be in full force and effect on August 1, 1966.

SECTION 11. That Section 34-612B, Idaho Code, be, and the same is hereby amended to read as follows:

34-612B. STATE ASSEMBLY — MEETING — POWERS.—The respective state assemblies shall meet on the second Friday and Saturday in June at a time and place selected by the respective state central committee of each po-
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political party. Notice of such meeting shall be given to all legislative district chairmen, all county chairmen and precinct committeemen by the respective state chairman of each political party not less than ten (10) days before the meeting of the assembly. The assembly of each political party shall consist of the duly elected delegates and alternates of the various legislative districts and counties of that party. The incumbent state chairman of the respective political party shall call the meeting to order and the assembly shall forthwith elect its own chairman and other officers, adopt its rules and determine its procedure not in conflict herewith. The state assembly shall have the following powers and duties:

a. To write and adopt a party platform.

b. To elect a state chairman, vice-chairman and other statutory and desired officers.

c. In the years of presidential elections, it shall, in addition to the above: (1) elect delegates to the national convention, at least one-third ($\frac{1}{3}$) of the number of delegates elected to the national convention shall be elected from each congressional district of the state and the remainder shall be elected from the state at large; (2) elect a national committeeman and a national committeewoman; (3) select presidential electors.

d. To endorse and select national and state candidates for the primary elections as herein provided.

The assembly shall have before it for consideration all candidates who have filed their declaration as provided in section 34-606, Idaho Code, for a national or state office of the party represented at the assembly. If only one (1) candidate has filed his declaration for any office, then only in that event shall one (1) candidate be nominated for such office. In all other events at least two (2) candidates shall be nominated for each office. All candidates receiving more than twenty per cent (20%) of the votes cast at the state assembly on any ballot where at least two (2) candidates receive more than twenty per cent (20%) of the votes cast at the state assembly for any office shall be nominated for that office. In the event at least two (2) candidates do not receive more than twenty per cent (20%) of the votes cast at the state assembly for any office on any given ballot then the candidate receiving the least number of votes on said ballots shall be dropped from the subsequent ballot and if on said subsequent ballot at least (2) candidates do not receive more than twenty per cent (20%) of the votes cast at
the state assembly for said office the candidate receiving the least number of votes on that ballot shall be dropped from the subsequent ballot, this procedure and the balloting shall continue until at least two (2) candidates shall have received more than twenty per cent (20%) of the votes cast at the state assembly for such office at which time balloting for such office shall cease. No candidate shall be nominated for any office until at least two (2) candidates are nominated for such office unless only one (1) candidate has filed his declaration for such office as provided hereinabove. All candidates nominated as herein provided shall be certified to the secretary of state as candidates as hereinafter provided in the following primary election and upon such certification shall be duly certified by the secretary of state to the county auditor as candidates for the primary election as provided by law. The delegates of each congressional district to the respective assembly shall act as an assembly to nominate the candidates for congress for their respective district in the same manner as provided above. They shall be bound by the same rules as the state assembly but shall determine their own procedure.

No delegation shall vote or be bound by the unit rule and no delegate shall vote any proxy. If a delegate is not present then the alternate delegate in the order of election certified to the state assembly shall be entitled to vote. All balloting shall be by a roll call vote of the respective delegations represented and the chairman of each county delegation shall announce the votes of his county’s delegates unless a delegate of said county shall demand a polling of said county delegation, in which event each delegate of said delegation shall be called to cast his vote.

The chairman and the secretary of the respective state assemblies shall forthwith, after the adjournment of the assembly, certify to the secretary of state the names of the candidates and the respective offices for which they have been nominated as candidates in the coming primary election. The secretary of State shall, within five (5) days after the receipt of such certificates from the officers of the respective state assemblies, certify to the county auditors the candidates of each party whose names are to be placed upon the primary ballots and the names of the offices for which they are running.

Section 12. That Section 34-612D, Idaho Code, be, and the same is hereby amended to read as follows:

34-612D. UNENDORSED POLITICAL PARTY CAN-
DIDATES—DECLARATION OF CANDIDACY.—Candidates for national or state office who have filed a declaration of candidacy and submitted to a state assembly of any political party as defined in this chapter, who have not received at least ten per cent (10%) of the votes cast and a majority of the votes from the delegations of at least six (6) counties on the ballot on which the candidates of the state assembly are nominated for such office, as provided in paragraph d of section 34-612B may be nominated otherwise than by a state assembly and be a candidate at the primary election for a political party in the following manner:

Each candidate for office who, having filed his declaration of candidacy in the office of the secretary of state in accordance with the provisions of section 34-606 and having failed to receive the nomination of the state assembly, but who has received at least ten per cent (10%) of the votes cast and a majority of the votes from the delegation of at least six (6) counties for nomination for such office on the ballot on which the candidates of the state assembly are nominated for such office, as provided in paragraph d of section 34-612B, may, not later than the first Tuesday after the first Monday of July prior to the nominating election, file in the office of the secretary of state an additional declaration of candidacy in substantially the following form, to-wit:

I, the undersigned, being a qualified elector of ______________ Precinct of ______________ County, State of Idaho, and a member of ______________ party, having heretofore filed my declaration of candidacy for the following office and submitted my name for nomination thereto at the state assembly of my party, and having failed at such assembly to receive endorsement for such office hereby declare myself to be a candidate for the office of ______________, to be voted for at the nominating election to be held on the _____ day of ______________, 19__, and certify that I possess the legal qualifications to fill said office, and represent the principles of said party, and that my post office address is ________________.

(Signed) _________________.

All blank spaces shall be properly filled in with the necessary information, and the declaration of candidacy shall be subscribed and sworn to before an office authorized to administer oaths.

Said declaration of candidacy before the same shall be filed in the office of the Secretary of State must have appended thereto a petition or petitions, in substantially the following form, to-wit:
I, the undersigned, being a qualified elector of the State of Idaho, and a member of the ______________ party, do hereby certify and declare that I am a member of the said party and ______________, a candidate for the office of ______________, to be voted for at the nominating election to be held in 19____, is legally qualified to fill said office and represents the principles of said party.

I further certify and declare that I intend to support said candidate for said office and have signed no other petition for a candidate for the same office.

Name of Petitioner  Post Office  Date of Signing

Each candidate must have appended to his declaration of candidacy a certificate in the following form, to-wit:

State of Idaho, )
  ) ss:
County of )

I do solemnly swear (or affirm) that I am a qualified elector of the State of Idaho and a legal resident of the county ______________ and that I am a member of the ______________ party; that each of the persons whose name is affixed to the above paper signed the same personally, together with his post office address and the date of signing, and that he signed the same with full knowledge of its contents; that to the best of my knowledge he is a qualified elector of the state of Idaho and is a member of ______________ party, that I intend to support the candidate named in such petition in the nominating election, and have signed no other petition for a candidate for the same office, and in good faith to support the candidates, generally, at the next general election of the ______________ party, of which the candidate named in the petition is a member.

Subscribed and sworn to before me this ____ day of _______

Notary Public

Said petition shall be signed by not less than 3,000 qualified electors residing within the political subdivision in and for which the candidate is to be elected, no more than 150 of which may reside in any one county when the nomination is for statewide office; or not less than 1,500, no more than 150 of which may reside in any one county, where the nomination is for an office that is less than statewide.
SECTION 13. That Section 34-619, Idaho Code, be, and the same is hereby amended to read as follows:

34-619. PERSONAL EXPENSES DEFINED — AMOUNT ALLOWED.—No person shall, in order to aid or promote his nomination to an office under the provisions of this act, directly or indirectly, himself or through any other person, give, pay, expend or contribute, promise to give, pay, expend or contribute any money or other valuable thing, or service, except for personal expenses. The words “Personal expenses” as used in this act shall include only expenses directly incurred and paid by candidates for traveling and for purposes directly incidental to traveling, and for writing, printing and preparing for transmission any letters, circular, or other publication, whereby he states his position or views.

Provided, that no candidate for nomination to any office at any nominating election held under the provisions of this act shall expend for personal expenses, or at all, in order to aid or promote his own nomination to such office, more than $5,000 if he be a candidate for United States senator, nor more than $2,500 if he be a candidate for representative in Congress, upon public or other questions, for cards, stationery and postage, and for the necessary expenses in hiring halls or other rooms for the purpose of holding public meetings at which to address the voters and others, upon public questions and matters relating to his candidacy, nor more than $2,000 if he be a candidate for any state office, other than a member of the legislature; not more than thirty per cent (30%) of the yearly compensation or salary attached to such office if he be a candidate for justice of the Supreme Court or district judge; nor more than $250.00 if he be a candidate for any county office or for member of the legislature;

Provided further, that in a run-off primary election no candidate for the office of United States senator or the office of governor shall expend or have expended in his behalf, for personal expenses, in order to aid or promote his own nomination to such office, more than $1,500 nor more than $1,000 if he be a candidate for the office of representative in Congress.

SECTION 14. That Section 34-620, Idaho Code, be, and the same is hereby amended to read as follows:

34-620. VERIFIED STATEMENT OF PERSONAL EXPENSES.—Every candidate for nomination under the terms of this act shall, not more than twenty (20) days after
the date of holding the nominating election at which he is a candidate, file a statement in writing, duly sworn to as to its correctness, with the officer with whom his declaration of candidacy is filed, setting forth under separate heads the sums of money and things of value or any other considerations contributed, paid or promised by him or any one for him, with his knowledge or acquiescence for the purpose of securing or influencing, or in any way affecting his nomination to said office. Said statement must set forth sums paid as personal expenses and state generally the nature, kind and character of the expenses for which the sums were expended and on all sums in excess of ten dollars ($10.00) the party or parties to whom the sums were paid and the purpose or purposes for which such payments were made; and in this statement all sums or other considerations promised and not paid, must be included. Such statements when so filed shall immediately be subject to the inspection and examination of any elector and shall be and become a part of the public records. The county auditor must notify all county candidates and the secretary of state must notify all state and district candidates not later than ten (10) days after the nominating election that filing of such statement is required.

Provided that any candidate in a run-off election shall within twenty (20) days from the date thereof file a verified statement of personal expenses, incurred by him in said run-off election, which statement shall be in the same form as the one for the regular primary election above provided. The secretary of state shall notify said run-off election candidates not later than ten (10) days after the nomination run-off election that the filing of said additional statement is required.

SECTION 15. That Section 34-624, Idaho Code, be, and the same is hereby amended to read as follows:

34-624. ELECTION OF COUNTY CENTRAL COMMITTEE—COMPOSITION.—At the nominating election held as herein provided, any voter may vote, in the space on the ballot for that purpose for a candidate for precinct committee of the party of which he is a member. The person in each political party receiving the highest number of votes shall be committee man thereof in such precinct. The county central committee of each political party in each county shall consist of the precinct committee elected in the various precincts of the county at the nominating election and the county chairman elected by the precinct committeemen as herein provided. Such committee shall serve until their successors are elected in like manner at the fol-
lowing nominating election. The county central committee-
men so elected shall meet at the county seat of each county
at eight (8) o'clock P.M. on the tenth day after the nomi­
nating election and shall organize by electing a chairman,
a state central committeeman and a state central committee­
woman, each of whom shall be a member of the state cen­
tral committee and entitled to one (1) vote at all meetings
of the state central committee, and all of whom shall be
members of or delegates to the platform convention and a
secretary, a vice-chairman and such other officers as they
may desire, who shall hold office during the pleasure of such
committee— or until their successors are elected.

SECTION 16. That Chapter 6, Title 34, Idaho Code, be,
and the same is hereby amended by adding a new section
thereto, following Section 34-624, to be known and design­
ned as Section 34-624A, and to read as follows:

34-624A. ELECTION OF LEGISLATIVE DISTRICT
COMMITTEES—COMPOSITION.—The legislative district
committee of each political party in each legislative district
shall consist of the precinct committeemen elected in the
various precincts of the legislative district at the nominat­
ing election and the legislative district chairman elected by
the voters of the legislative district as provided in Section
34-637, Idaho Code.

At eight (8) o'clock P.M. on the eleventh day after the
nominating election, all precinct committeemen of each leg­
islative district shall meet in the county seat of a county
containing all or part of the legislative district. The meet­
ing place will be designated by the legislative district chair­
man. The legislative district chairman shall be a member
of the state central committee and entitled to one (1) vote
at all meetings of the state central committee.

SECTION 17. That Section 34-632, Idaho Code, be, and
the same is hereby amended to read as follows:

34-632. RESULT OF ELECTION.—The person receiv­
ing the highest number of votes at a nominating election as
the candidate of the party for an office shall be a candidate
of that party for such office and his name shall be placed on
the official ballot at the following general election, provided
that if such person was a candidate for the office of United
States senator, representative in Congress or governor, he
must have received forty per cent (40%) or more of the
votes cast for such office by his party.
SECTION 18. That Section 34-634, Idaho Code, be, and the same is hereby amended to read as follows:

34-634. DETERMINATION OF TIE.—Should two (2) or more candidates for a nonpolitical office or two (2) or more candidates of a political party receive the same number of votes for the same office the tie shall be determined by lot by such candidates; if for state senator or other than multi-county representative district or a county office, in the presence of the county canvassing board; and if for a legislative district chairman or state representative, state senator or state office, United States senator or representative in Congress, before in the presence of the state canvassing board.

SECTION 19. That Section 34-636, Idaho Code, be, and the same is hereby amended to read as follows:

34-636. CERTIFICATION OF RESULT BY COUNTY COMMISSIONERS.—As soon as the returns are received and not later than the third day after the nominating election, the board of county commissioners shall meet as a board of canvassers, and canvass and make abstracts of the votes for the respective candidates for the different offices, and shall certify to the secretary of state the number of votes received in such county by all candidates for United States senator, representative in Congress and state and district offices, state senator and state representative nominated by such county political subdivision, or representative district political subdivision.

Said board shall certify to the county auditor the names of persons nominated other than state senators, state representatives and legislative district chairman, by the different respective political parties for the respective offices to be voted for at the ensuing general election in such county only.

In legislative districts encompassing more than one county, or part or parts of more than one county, as soon as the returns are received and not later than the third day after the nominating election the Boards of county commissioners of each of the counties forming a part of said legislative district shall meet as a board of canvassers and canvass and make abstracts of the votes for the respective candidates for the offices of state senator, state representative and legislative district chairman, and shall certify to the Secretary of State the number of votes received in such legislative district by all candidates for state senator, state representative and legislative district chairman.
In legislative districts encompassing part or all of a single county, as soon as the returns are received and not later than the third day after the nominating election, the Board of County Commissioners of the county in which said legislative district is situate shall meet as a Board of Canvassers and canvass and make abstracts of the votes for the respective candidates for the offices of state senator, state representative and legislative district chairman, and shall certify to the Secretary of State the number of votes received in such legislative district by all candidates for state senator, state representative and legislative district chairman.

SECTION 20. That Section 34-637, Idaho Code, be, and the same is hereby amended to read as follows:

34-637. CERTIFICATION OF RESULT BY STATE BOARD OF CANVASSERS.—For the purpose of canvassing the results of the nominating elections as herein provided, the state board of canvassers shall meet at the office of the secretary of state at ten (10) o'clock in the forenoon of the eleventh day after the nominating elections and said board shall canvass the votes for candidates for United States senator, representatives in Congress, state legislators and district offices, state senators nominated by each county political subdivision, and state representatives, when such offices are voted upon at the primary election, and shall certify the nominees of the different parties nominated at the state primary election, to the secretary of state, not less than thirteen (13) days after the nominating election.

At the same time the state board of canvassers shall canvass the votes for candidates for legislative district chairmen when such offices are voted upon at the primary election, and shall certify the candidates from each political party for each legislative district receiving the highest number of votes as the elected legislative district chairman to the secretary of state, not less than thirteen (13) days after the nominating election and upon the receipt thereof it shall be the duty of the Secretary of State immediately to make out a certificate of election to each of the persons so certified by the State Board of Canvassers, and cause such certificates to be delivered to the person so entitled. Said person to serve until his successor is elected or appointed as provided by law.

SECTION 21. That Section 34-638, Idaho Code, be, and the same is hereby amended to read as follows:

34-638. VACANCIES EXISTING AFTER NOMINA-
TION ELECTION.—Vacancies other than those specified in section 34-648, existing after the holding of any nominating election may be filled by the party committee or legislative district committee of the party wherein they occur, of the state, district or county, as the case may be, at any time before the sixtieth day prior to the general election.

SECTION 22. That Section 34-640, Idaho Code, be, and the same is hereby repealed.

SECTION 23. That Section 34-646, Idaho Code, be, and the same is hereby amended to read as follows:

34-646. PUBLICATION OF NOMINATIONS.—Within thirteen (13) days after a nominating election, the secretary of state shall certify to the county auditor of each county the name and description of the persons nominated as candidates for whom the electors in each county political subdivision or part of said county forming a legislative district may vote, as specified in the certificates of nomination filed with the secretary of state. As soon as the county auditor shall have received the information herein required to be certified to him by the secretary of state, including the candidates from the several county political subdivisions within that senatorial district or single or multi represent
ative district as the case may be it shall be his duty to compile in ballot form the information for the county and each legislative district encompassing a part of said county of any, contained in said certificate, together with the information contained in all certificates of nomination to county and precinct officers which may be filed with him as the nominees to be voted on at the next succeeding general election and cause the same to be published in two (2) issues of a newspaper published or distributed in such county. Said publications and notices shall be, as far as possible, in the form in which such nominations shall appear upon the official ballot as provided in chapter 9 of this title. In making said publications and notices county auditors shall keep in view the object of giving information, as far as possible. to the largest number of voters of all political parties.

SECTION 24. That Section 34-648, Idaho Code, be, and the same is hereby amended to read as follows:

34-648. FILLING VACANCIES IN NOMINATIONS.—Should any person nominated die before the printing of the ticket or decline the nomination as in this act provided, or should any certificate of nomination be or become insufficient or inoperative from any cause, or if the original nomination was made by a party convention which had delegated to a
committee the power to fill vacancies, the vacancy or vacancies thus occasioned may be filled in the following manner: The proper committee may, upon the occurring of such vacancies, proceed to fill the same. The chairman and secretary of such committee shall thereupon make and file with the proper officer, a certificate setting forth the cause of the vacancy, the name of the person nominated, the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination. The certificate so made shall be executed in the manner prescribed for the original certificate of nomination, and shall have the same force and effect as an original certificate of nomination. When such certificate shall be filed with the secretary of state, he shall, in certifying the nomination to the various county auditors, insert the name of the person who has thus been nominated to fill a vacancy in place of that of the original nominee; and in the event he has already sent forth his certificate, he shall forthwith notify the auditors of the proper counties of the name and description of the person so nominated to fill a vacancy, the office he is nominated for, the party or principles he represents and the name of the person for whom such nominee is substituted.

In the case of a vacancy in a multicity state representative district the state political party chairman shall call a meeting of the involved county electoral committee at a time and a place certain within the multicity representative district any time before the sixtieth day prior to the general election for the purpose of filling such vacancy.

In case of a vacancy in a legislative district office the state political party chairman of the political party affected, shall call a meeting of the involved legislative district committee at a time and place certain within the legislative district anytime before the sixtieth day prior to the general election for the purpose of filling such vacancy.

Until such time in the year 1966 as the legislative district committee has been formed any such vacancy shall be filled by the state central committee of that political party affected as above provided.

SECTION 25. That Section 34-801, Idaho Code, be, and the same is hereby amended to read as follows:

34-801. APPOINTMENT OF REGISTRARS AND DEPUTIES.—The board of county commissioners of each
county of the state must at its regular meeting in January-February next preceding each general election, appoint a registrar for each election precinct in the county, who must be a qualified elector and resident of such precinct, and otherwise a proper person qualified to perform the duties of such office. Such registrar upon qualifying shall hold office until his successor is appointed and qualified.

When, in the judgment of such board, it is necessary to appoint a deputy registrar for any precinct of the county, such board shall appoint a deputy registrar for such precinct, who shall have the same powers and perform the same duties as the registrar so appointed, excepting that such deputy registrar shall be under the supervision and direction of such registrar.

In the event there is an incorporated city or village within such election precinct, the commissioners shall appoint at least one (1) such registrar or deputy registrar who resides in such city or village. The precinct committeemen for each precinct shall have the right to submit to the county commissioners in writing at least ten (10) days prior to the date on which any such appointment is to be made, the names of one or more persons to be appointed as such registrars or deputy registrars, and if the persons so recommended are qualified as to party and otherwise, the registrar, and deputy registrar if there is one, shall be appointed from the persons so recommended. Nothing herein contained shall, however, be construed so as to preclude the county commissioners from exercising discretion as to the party affiliation of their appointees.

SECTION 26. That Section 34-903, Idaho Code, be, and the same is hereby amended to read as follows:

34-903. OFFICIAL BALLOTS TO BE PROVIDED — WRITING IN NAME ON BALLOT — ELECTIONS FOR SCHOOL DISTRICT OFFICERS EXCEPTED—MUNICIPAL ELECTIONS.—Except as in this title otherwise provided, it shall be the duty of the county auditor of each county to provide printed ballots for every election for public officers in which electors, or any of the electors, within the county, participate, and cause to be printed in the ballot the name of every candidate whose name has been certified to or filed with the county auditor in the manner provided for in this title. Ballots, other than those printed by the respective county auditors according to the provisions of this title, shall not be cast or counted in any election. Nothing in this title contained shall prevent any voter from writing on
his ticket the name of any person for whom he desires to vote for an office, and such vote shall be counted the same as if printed upon the ballot and marked by the voter. The voter may place a cross (X), or other suitable mark sufficiently clear to show the voter's intent, opposite the name he has written, but his having written the name of his choice is sufficient evidence that such is the person for whom he desires to vote. Elections for school district officers are excepted from the provisions of this section. In all municipal elections the duties specified in this section as devolving on the county auditor shall devolve on the municipal clerk.

SECTION 27. That Title 34, Chapter 9, Idaho Code, be, and the same is hereby repealed.

SECTION 28. That Title 34, Chapter 9, Idaho Code, be, and the same is hereby amended by repealing Section 34-904A.

That Title 34, Chapter 9, Idaho Code, be, and the same is hereby amended by adding a new section thereto. The following Section 34-904A to read as follows:

34-904A. PROVISION FOR LEGISLATIVE AND REPRESENTATIVE DISTRICTS ON BALLOT.—On the ballot just below the state elective offices, there shall be provided a space for the "legislative district #——" and immediately below the space for the legislative district there shall be provided a space for the "representative district #——", each of which shall be in a size of type not smaller than long primer capitals, setting forth each of the legislative and representative districts and certified candidates for state senate and state representative in each legislative and representative district belonging to that particular legislative district.

On the ballot immediately preceding the space provided for candidates for precinct committeeman there shall be provided a space for candidates for legislative district chairman setting forth the legislative district and all certified candidates for legislative district chairman.

The face of the portion of the ballot for legislative and representative districts shall be in substantially the following form:
<table>
<thead>
<tr>
<th>BALLOT FORM A</th>
<th>BALLOT FORM B</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LEGISLATIVE DISTRICT NO.</strong></td>
<td><strong>LEGISLATIVE DISTRICT NO.</strong></td>
</tr>
<tr>
<td><strong>FOR STATE SENATOR</strong></td>
<td><strong>FOR STATE SENATOR</strong></td>
</tr>
<tr>
<td>JOHN DOE</td>
<td>GEORGE WILSON</td>
</tr>
<tr>
<td>RICHARD ROE</td>
<td>FRED ANDERSON</td>
</tr>
<tr>
<td>JOE JONES</td>
<td>WILLIAM ALLEN</td>
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<tr>
<td><strong>LEGISLATIVE DISTRICT NO.</strong></td>
<td><strong>LEGISLATIVE DISTRICT NO.</strong></td>
</tr>
<tr>
<td><strong>FOR STATE REPRESENTATIVE</strong></td>
<td><strong>FOR STATE REPRESENTATIVE</strong></td>
</tr>
<tr>
<td>SWEDE O'RILEY</td>
<td>ROBERT JOHNSON</td>
</tr>
<tr>
<td>JAMES WHITE</td>
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<tr>
<td>HELEN HAMILTON</td>
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</table>
SECTION 29. That Section 34-905, Idaho Code, be, and the same is hereby amended to read as follows:

34-905. CONSTITUTIONAL AMENDMENTS AND OTHER QUESTIONS—FORM OF BALLOT.—When constitutional amendments or other questions are to be submitted to a vote of the people at any general or other state election, the question or questions to be voted on shall be printed upon a separate ballot. Immediately preceding said questions on such ballot shall be printed a word or words indicating the nature of the questions to be voted on, as “Constitutional Amendments,” and the following instructions to the voter: “To vote on the following, mark a cross (X), or other suitable mark sufficiently clear to show the voters intent, in the square at the right of yes or no.” Immediately to the right of the questions to be voted on shall be printed the words: “Yes” and “No” in letters not less than three-sixteenths (3/16) of an inch in height, and to the right of each a square shall be printed on the ballot in which the voter may indicate his preference. The said ballots shall be stubbed and counterfoils prepared and numbered as provided in section 34-904. Upon presenting himself at the polls to vote, an elector shall be given one of said ballots in addition to the ballot containing the names of candidates for office.

Each ballot on constitutional amendments shall be stamped the same as the official ballot for candidates with a stamp on which shall be printed the words “Official Ballot.” The judges of election shall require every voter to return to the receiving clerk the ballot on constitutional questions at the same time he returns his ballot on candidates. The ballots on constitutional questions shall be deposited in a separate ballot box from the ballots on candidates, shall be printed upon a different colored paper than the ballots for candidates, and must be folded so that the words “Official Ballot” are on the outside.

SECTION 30. That Section 34-907, Idaho Code, be, and the same is hereby amended to read as follows:

34-907. SUBMISSION OF SPECIAL QUESTIONS.—Whenever the secretary of state has duly certified to the county auditor any question to be submitted to a vote of the people the county auditor shall have said question printed upon the regular official ballot in the same manner as prescribed in section 34-905 for the printing of questions submitting constitutional amendments to a vote of the people. The county auditor shall also cause to be printed upon the regular official ballot any question required by law to be sub-
mitted to the vote of the electors of any locality and not to
the state generally at any general election: provided, how­
ever, that in all questions submitted to the voters of a munic­
ipal corporation alone it shall be the duty of the municipal
clerk to provide the necessary tickets: provided further, in
case any question is to be submitted to the voters of any
county or any locality at a time when no general election is
to be held the county auditor shall prepare ballots to be
printed and furnished for each precinct where said questions
are to be voted upon, and said ballots shall be prepared as
follows:

The ballots shall be seven (7) inches wide and shall be at­
tached to stub or counterfoil two (2) inches wide by a per­
forated line. Said ballots shall be white in color and at the
top of the ballots shall be words indicating the nature of
the proposition to be voted upon, as “county division” or
“school bond issue,” as the case may be. Below these words
and one (1) inch from the upper margin on each ballot a line
shall be printed reaching the full width thereof. From a
point one (1) inch from the right end of this line a perpen­
dicular line shall be printed reaching to the lower margin
of the ballot. In the space to the left of this perpendicular
line shall be printed the question to be submitted to the vote
of the electors, as now required by law. In the space to the
right of this perpendicular line two (2) circles, each one­
half (1/2) inch in diameter, shall be printed, one above the
other, with word “yes” to the left of the upper circle and the
word “no” to the left of the lower circle. The voter may
place a cross (X), or other suitable mark sufficiently clear
to show the voters intent, within one of these circles, and
thereby he votes. Should two (2) or more questions be sub­
mitted to a vote on the same ballot they shall be separated
from each other by a printed line running the full width of
the ballot, and immediately below said printed line shall be
the word or words indicating the nature of the question to be
voted on, as “county division” or “school bond issue,” as the
case may be, and two (2) circles, as provided above, shall
be printed in the space to the right of each question. Such
special ballots shall be of sufficient length to contain all
questions submitted, printed in long primer type. The stubs
or counterfoil shall contain the name of the county, the date
of the election and shall be numbered consecutively from
one (1) upward for each separate precinct in which said
questions are voted upon.

SECTION 31. That Section 34-1011, Idaho Code, be, and
the same is hereby amended to read as follows:
34-1011. MANNER OF VOTING—ASSISTANCE TO VOTER—PENALTY FOR DIVULGING NAME OF PERSON VOTED FOR.—On receipt of his ticket the voter shall forthwith and without leaving the inclosed space retire alone to one of the voting shelves or compartments so provided and shall prepare his ticket by marking in the appropriate margin or placing a cross (X), or other suitable mark sufficiently clear to show the voters intent, opposite the name of the candidate of his choice for each office to be filled, or by filling in or writing the name of the person for whom he wishes to vote in the blank space provided therefor under each office to be filled and following the names of the regularly nominated candidates and marking a cross (X), or other suitable mark sufficiently clear to show the voters intent, opposite such names. In voting for presidential electors he shall mark a cross (X), or other suitable mark sufficiently clear to show the voters intent, opposite the political designation of the candidates for president and vice-president for whom he wishes to vote or by writing in the names of the persons for presidential electors in the blank spaces provided therefor and marking a cross (X), or other suitable mark sufficiently clear to show the voters intent, opposite such names. In case of a question submitted to the vote of the people and appearing on the regular ballot, he shall mark in the appropriate margin or square a cross (X), or other suitable mark sufficiently clear to show the voters intent, against the answer which he desires to give. In case of questions submitted to voters of particular localities at special elections, he shall vote by marking in the appropriate margin or circle the cross (X), or other suitable mark sufficiently clear to show the voters intent, against the answer which he desires to give. Before leaving the voting shelf or compartment the voter shall fold his ticket without displaying the marks thereon so as to expose the impression of the official stamp on the back and he shall keep the same so folded until he has voted. In case of the ballot voted at a regular general election, he shall fold the same in the same manner in which it is folded by the distributing clerk before being given to the voter. After marking his ballot the voter shall hand it to one of the judges and announce his name. He shall mark his ticket or ballot without delay and shall quit said inclosed space as soon as he has voted.

No such voter shall be allowed to occupy a voting shelf or compartment already occupied by another, nor to remain within said inclosed space more than ten (10) minutes, nor to occupy a voting shelf or compartment more than five (5) minutes in case all of shelves or compartments are in use.
and other voters are waiting to occupy the same. No voter, not an election officer, whose name has been checked on the list of the election officers, shall be allowed to reenter said inclosed space during said election. It shall be the duty of the judges for the time being to secure the observance of the provisions of this section: provided, that if any registered elector, who is blind or otherwise disqualified by reason of physical infirmities rendering such voter incapable of personally marking his ballot, desires to vote, then and in that case such voter may have the assistance of any person of his choice mark and prepare his ballot for him placing an (X), or other suitable mark sufficiently clear to show the voter's intent, mark in the proper place and opposite the names of the candidates for whom such elector desires to vote. When the ballot so marked by such person is properly prepared and folded it shall be given to the elector, who shall deliver it to the proper judge to be deposited in the ballot box, as in other cases. The person assisting any such physically incapacitated elector in the preparation of his ballot must not influence or attempt to influence such voter in the selection of candidates to be voted for, and any person who has assisted any such elector who shall divulge to any person the name of any candidate for whom such elector voted shall be guilty of a misdemeanor.

SECTION 32. Title 34, Chapter 10, Idaho Code, be, and the same is hereby amended to read as follows:

34-1021. RESIDENCE—HOW DETERMINED. — The judges of election, in determining the residence of a person offering to vote, shall be governed by the following rules so far as they may be applicable:

1. That place shall be held and considered to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

2. A person shall not be considered or held to have lost his residence who shall leave his home and go into another state, territory or county of this state, for temporary purpose merely, with an intention of returning.

3. If a person remove to any other state or to any of the territories, with the intention of making it his permanent residence, he shall be considered and held to have lost his residence in this state.

4. If a person remove from one county legislative or representative district in this state to any other county in the
state with the intention of making it his permanent residence, he shall be considered and held to have lost his residence in the county from which he removed.

SECTION 33. Title 34, Chapter 10, Idaho Code, be, and the same is hereby amended to read as follows:

34-1022. OATH OF CHALLENGED PERSON.—If the challenge be not withdrawn after the person offering to vote shall have answered the questions put to him as aforesaid, one of the judges shall tender to him the following oath: “You do solemnly swear (or affirm) that you are a citizen of the United States, of the age of twenty-one (21) years; that you have been a resident of this state for six (6) months next immediately preceding this election, and have not retained a home or domicile elsewhere; that you have been for the last thirty (30) days, and now are, a resident of this county and legislative or representative district as the case may be, and that you have not voted at this election.”

SECTION 34. Title 34, Chapter 11, Idaho Code, be, and the same is hereby amended to read as follows:

34-1120. REGISTRATION AND VOTING CERTIFICATE FORM.—Any elector in the United States service shall be registered for voting at the general election as hereinafter set forth.

The county auditor shall cause to be printed on the back of the ballot envelope, hereinafter provided for, a registration and voting certificate in the following form:

REGISTRATION AND VOTING CERTIFICATE

I, ___________________________ do solemnly swear (or affirm):

(Print name)

1. That my home address is (Print)

(Number) (Street) (City) (County), Idaho;

2. That I am a citizen of the United States, of the age of 21 years, or will be on the date of the next general election;

3. That I am in the United States service in the category indicated below:
   a. A member of the Armed Forces of the United States.
   b. A member of the merchant marine of the United States.
   c. A member of a religious or welfare organization assisting members of the Armed Forces and officially attached to and serving with the Armed Forces.
   d. A civilian employee of the United States serving out-
side the territorial limits of the several states and the District of Columbia.

e. A (spouse) (dependent) of a person listed in a, b, or c above. (strike out inapplicable word) (strike out inapplicable letters).

f. A (spouse) (dependent) of and actually residing with a person described (strike out inapplicable word) in d above.

4. That immediately prior to my entry into United States service, I resided within the State of Idaho ________ months,

(Insert number)

and within the County of ____________________________, Precinct

(Insert Name of County)

Number ________________ for ____________ days (or months)

(Insert number)

and have been in such service ____________ months.

(Insert number)

5. That I have never been convicted of treason, felony, embezzlement of public funds, bartering or selling or offering to barter or sell my vote, or purchase or offer to purchase the vote of another, or other infamous crime, without thereafter being restored to the rights of citizenship; that I will not commit any act in violation of the provisions of this oath; that I have not, and will not cast any other ballot in this election within the state of Idaho or elsewhere; that I do regard the Constitution of the United States and the laws thereof, and the Constitution of Idaho and the laws thereof, as interpreted by the Courts as the Supreme law of the Land; that I expect to be absent from said County on the date of the next general election.

Signature of voter, and identification number.

Subscribed and sworn to before me this ________________ day of

____________________, 19________

Signature of officer, and identification number or other person authorized to administer oaths.

__________________________

Rank, branch of service or official title.

(Note): This certificate shall be certified by any commissioned officer in the active service of the Armed Forces, or any member of the merchant marine of the United States designated for this purpose by the Secretary of Commerce,
or any civilian official empowered by State or Federal law to administer oaths. The certificate need not state the place where it was made and no seal shall be necessary.

SECTION 35. That Section 34-1211, Idaho Code, be, and the same is hereby amended to read as follows:

34-1211. DISPOSITION OF ABSTRACTS OF VOTES. — The auditor of the county, immediately after making out abstracts of votes given in the county shall make a copy of such abstracts and deliver or transmit the same in a registered package by mail to the office of the secretary of state; the original abstracts he shall file and record in a book in his office to be kept for that purpose. He shall also certify to the abstracts and copies, and affix thereto the county seal, and the said auditor shall indorse on the back of each abstract: "Certified copy of the abstract of votes cast for governor, etc., members of the legislature, etc., United States senator, United States representative and other state officers (as the case may be) cast at the regular election in __________ county, __________, 19_______." The abstract of votes cast for members of the legislature shall, in addition, be designated by legislative district number.

SECTION 36. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect immediately upon its passage and approval.

Approved March 26, 1966.

CHAPTER 6
(H. B. No. 16)

AN ACT

AMENDING SECTION 67-404, IDAHO CODE, RELATING TO THE ORGANIZATION OF THE HOUSE OF REPRESENTATIVES; PROVIDING FOR THE SELECTION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND ESTABLISHING RULES OF PROCEDURE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-404, Idaho Code, be, and the same is hereby amended to read as follows:
67-404. ORGANIZATION OF LEGISLATURE.—At the hour of twelve o'clock M. on the day appointed for the meeting of any regular session of the legislature, the presiding officer, or in his absence the chief clerk, of each house of the last session, must call the same to order and preside until a presiding officer is chosen, or in case of the absence of both of said officers, the senior member present must perform said duties; all members-elect present having certificates of election from the secretary of state, and no other persons, have the right to participate in the organization of the respective houses; provided, however, in the event that there is a tie vote for purposes of organizing the House of Representatives then, and in that event, for the purposes of organization, the political party's candidate for Speaker of the House then having a member of its party duly elected as the Governor of the State of Idaho shall be deemed to be elected. Neither house must organize or transact any business, but must adjourn from day to day, until a majority of all the members authorized by law to be elected are present.

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

Approved March 26, 1966.
A CONCURRENT RESOLUTION

EXPRESSING THE GRATITUDE OF THE PEOPLE OF THE STATE OF IDAHO TO MAJOR BERNARD FISHER AND TO ALL OUR MEN FIGHTING IN SUPPORT OF FREEDOM THROUGHOUT THE WORLD.

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

WHEREAS, the courage and dedication of our fighting men in Viet Nam has recently been exemplified by the bravery and heroic example of Major Bernard Fisher; and

WHEREAS, the dramatic and daring rescue of a fellow pilot in the face of extreme danger was a tribute to and reaffirmation of the heroism of Major Bernard Fisher and all the men who have so gallantly risked their lives and who have so nobly died in defense of our freedom and the freedom of all people throughout the world;

NOW, THEREFORE, BE IT RESOLVED, by the Senate of the State of Idaho, the House of Representatives concurring herein, that we most gratefully express our admiration and gratitude to Major Bernard Fisher and through him to all our men serving in defense of freedom everywhere;

BE IT FURTHER RESOLVED, That the Secretary of State of the State of Idaho, is hereby authorized and directed to send copies of this Resolution to Major Bernard Fisher, and to Mrs. Bernard Fisher and to Major General Westmoreland, Commanding General, United States Forces in Viet Nam.

Passed by Senate March 15, 1966.
Passed by House March 15, 1966.
A CONCURRENT RESOLUTION

BE IT RESOLVED by the Senate of the Third Extraordinary Session of the Thirty-Eighth Session of the Legislature of the State of Idaho, the House of Representatives concurring therein, that at the hour of 6:45 p.m. on March 17, 1966, the Senate and the House of Representatives of the Third Extraordinary Session of the Thirty-Eight Session of the Legislature of the State of Idaho adjourn Sine Die.

Passed by Senate March 17, 1966.
Passed by House March 17, 1966.
A CONCURRENT RESOLUTION


"WHEREAS, the Governor has informed the House and the Senate that he desires to deliver a message to a Joint Session of the Senate and the House of Representatives in the Hall of the House of Representatives at 11:30 o'clock a.m., March 7, 1966.

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives, the Senate concurring therein that the Senate and the House meet in Joint Session, at 11:30 o'clock a.m., on March 7, 1966, for the purpose of hearing a message from the Governor."

Passed by House March 7, 1966.
Passed by Senate March 7, 1966.

A CONCURRENT RESOLUTION

PROVIDING FOR PRINTING AND INDEXING REQUIRED BY THE THIRD EXTRAORDINARY SESSION OF THE THIRTY-EIGHTH SESSION BY CONTINUING THE CONTRACTS ENTERED INTO FOR THE THIRTY-EIGHTH REGULAR SESSION.

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

WHEREAS, the Joint Printing Committee of the Senate Printing Legislative Expense and Elections Committee and
the House Printing and Legislative Expense Committee has, according to the law, entered into contracts for printing of the Legislative Calendars, Sessions Laws, Bills and Journals for the Thirty-eighth Regular Session.

BE IT RESOLVED, by the House of Representatives, the Senate concurring, that the contracts entered into by the adoption of House Concurrent Resolutions Nos. 9, 10, 12, and 14 for the Thirty-eighth Regular Session of the Idaho Legislature, will continue and be in effect during the third extraordinary session of the Legislature of the State of Idaho.

Passed by House March 9, 1966.
Passed by Senate March 11, 1966.

(H. C. R. No. 3)

A CONCURRENT RESOLUTION


WHEREAS, Section 67-601, 67-602 and 67-608 of the Idaho Code provide that the compensation of the employees of the Senate and the House of Representatives shall be fixed by concurrent resolution of the Senate and House; and

WHEREAS, It is the desire of the Senate and the House, by this concurrent resolution, to fix the compensation of the employees of the Third Extraordinary Session of the Thirty-eighth Session of the Idaho Legislature:

NOW, THEREFORE, BE IT RESOLVED by the Senate, the House of Representatives concurring therein, that the compensation of the various officers of the Senate and House of the Third Extraordinary Session of the Thirty-eighth Session of the Idaho Legislature be fixed as follows:

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<tr>
<th>Position</th>
<th>Salary</th>
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<tr>
<td>Secretary of the Senate</td>
<td>$30.00</td>
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<td>Chief Clerk and Parliamentarian (House)</td>
<td>30.00</td>
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<tr>
<td>Assistant Secretary of the Senate</td>
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</tr>
<tr>
<td>Assistant Chief Clerk (House)</td>
<td>25.00</td>
</tr>
<tr>
<td>Secretaries to the President, Speaker and</td>
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<tr>
<td>President Pro Tem</td>
<td>20.00</td>
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<tr>
<td>Sergeant-at-arms</td>
<td>25.00</td>
</tr>
<tr>
<td>Assistant Sergeant-at-Arms</td>
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</tbody>
</table>
Purchasing Agent ............................................. 20.00
Journal Clerks .............................................. 20.00
Docket Clerks ................................................ 20.00
Enrolling and Engrossing Clerks ......................... 18.00
Payroll Accountant ........................................ 18.00
Secretaries .................................................. 18.00
Clerks .................................................................. 15.00
Proof Readers ................................................... 18.00
Receptionists and Hostess ................................. 12.00
Elevator Operators .......................................... 12.00
Mail Clerks ..................................................... 12.00
Doorkeepers .................................................... 12.00
Janitors .......................................................... 12.00
Messengers ...................................................... 12.00
Pages ................................................................ 12.00
Chaplains ......................................................... 10.00
Attorneys .......................................................... 30.00
Nightwatchman .................................................. 12.00

Passed by House March 11, 1966.
Passed by Senate March 12, 1966.
SENATE JOINT MEMORIALS

(S. J. M. No. 1)

A JOINT MEMORIAL

TO THE HONORABLE PRESIDENT OF THE UNITED STATES,
THE HONORABLE SENATE AND HOUSE OF REPRESENTA­
TIVES OF THE UNITED STATES IN CONGRESS ASSEM­
BLED, THE HONORABLE SECRETARY OF THE INTERIOR,
AND THE HONORABLE SECRETARY OF AGRICULTURE.

We, your Memorialists, the members of the Senate and
House of Representatives of the State of Idaho, assembled
in the Third Extraordinary Session of the Thirty-eighth
Session thereof, do respectfully represent that:

WHEREAS, the State of Idaho has an abundance of
fertile virgin land which, with the application of water that
is available can be called upon to help feed the growing
population and the hungry people of the world; and

WHEREAS, the State of Idaho and committees of the
Congress of the United States have recognized these facts
and are presently working on legislation to create what is
known as the Southwest Idaho Water Development Project;
and

WHEREAS, we wholeheartedly endorse and commend
the concept of said proposed project; and

WHEREAS, we also believe the State of Idaho should en­
large the concept of comprehensive development of the
Snake River and its tributaries as set forth in the proposed
draft of the Southwest Idaho Water Development Project
legislation to include an emphatic declaration that the
proper development of all water projects must recognize
fully the utilization of upstream projects to beneficially ap­
ply the water to projects upstream, and the return flow
of those waters applied for re-use in projects downstream
throughout the State of Idaho; and that any legislation must
include ironclad guarantees that no waters shall be removed
from the basin of its origin for any purpose at any other
place unless such waters are surplus to any and all present
and future uses within the basin, including domestic, agri­
cultural, mining and industrial uses;
NOW, THEREFORE, BE IT RESOLVED, by the Senate, State of Idaho, the House of Representatives concurring, that we request that the Congress of the United States immediately engage in a study to prepare and complete feasibility reports, fund, and/or take whatever action is appropriate, and authorize as a unit project the development of the entire Snake River and its tributaries, under the concept of full utilization of upstream development in projects like Lower Teton, Lynn Crandall Dam, Ririe Flood Control Dam, Blackfoot Dam Raising and Refacing, American Falls Replacement, Jackson Lake Replacement (5 smaller dams in the State of Wyoming), Snake River Plains Recharge, Salmon Falls Project, Raft River-Oakley Diversion and the recharge of the downstream by return flow from such projects for downstream development of those projects specified in the Southwest Idaho Water Development Project and others that may be feasible for the complete development of the Snake River and its tributaries; we further urge the immediate funding and construction of the Lower Teton Dam; that the foregoing shall be done without obstructing or delaying the Southwest Idaho Water Development Project legislation;

BE IT FURTHER RESOLVED, That the Secretary of State of the State of Idaho, is hereby authorized and directed to send copies of this Memorial to the President of the United States, the Vice-President of the United States, the individual members of the Senate and House of Representatives in the United States Congress, the Secretary of the Department of Interior and the Secretary of the Department of Agriculture.

Passed by Senate March 9, 1966.
Passed by House March 14, 1966.

(S. J. M. No. 2)

A JOINT MEMORIAL

TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED:

We, your memorialists, the Senate and House of Representatives of the sovereign State of Idaho, hereby respectfully affirm that:
WHEREAS, our forefathers, with great wisdom and foresight, drew a world renowned document entitled the Constitution of the United States of America, and

WHEREAS, this document has withstood the onslaught of centuries, and

WHEREAS, it is therein provided that the President of these United States shall conduct the foreign affairs of this great Nation, and

WHEREAS, the Presidency of the United States embodies and holds the respect of the legitimate authority of the people of the United States,

NOW, THEREFORE, BE IT RESOLVED, by the Third Extraordinary Session of the Thirty-Eighth Session of the Legislature of the State of Idaho now in session, the Senate and House of Representatives concurring, that we most respectfully urge the Congress of the United States to recognize the confidence we hold in the constitutional authority vested in the Presidency of the United States to conduct the foreign affairs of this great Nation, and we do hereby support and endorse the policies of the Presidency in the Viet Nam Conflict.

BE IT FURTHER RESOLVED that the Secretary of State of the State of Idaho be, and he is hereby authorized and directed to forward certified copies of this memorial to the President and the Vice President of the United States, the Speaker of the House of Representatives of the Congress, and the Chairman of the Senate Foreign Relations Committee.

Passed by Senate March 10, 1966.
Passed by House March 15, 1966.
CERTIFICATE OF SECRETARY OF STATE

UNITED STATES OF AMERICA  
STATE OF IDAHO

I, ARNOLD WILLIAMS, Secretary of State 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 Third Extraordinary Session of the Thirty-eighth Session of the Idaho Legislature, which convened March 7, 1966, and adjourned March 17, 1966, as they appear from 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 25th day of March, 1966.

Arnold Williams
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.
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CHAPTER 1
(H. B. No. 1)

AN ACT

APPROPRIATING MONIES FOR THE PAYMENT OF SALARIES,
WAGES AND MILEAGE OF MEMBERS; FOR SALARIES
AND WAGES OF OFFICERS AND EMPLOYEES; FOR CAPIT­
AL OUTLAY, AND FOR ALL OTHER EXPENSES OF THE
THIRTY-NINTH SESSION OF THE LEGISLATURE; EXEMPT­
ing the Act from the provisions of the Standard
Appropriations Act of 1945; and declaring an
emergency.

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

SECTION 1. There is hereby appropriated out of any
monies in the general fund not otherwise appropriated the
sum of $600,000 or so much thereof as may be necessary for
the payment of salaries, wages and travel expenses of mem­
ers, for salaries and wages of officers and employees, for
capital outlay, and for other expenses, as indicated, of the
Thirty-ninth Session of the Legislature of the state of Idaho.

SECTION 2. Upon the certificate of the presiding officer
of the House or Senate, as the case may be, the State Auditor
is hereby authorized and directed to draw his warrant on
the general fund in payment of such salaries, wages and
mileage of members, and salaries and wages of officers and employees of said Legislature as fixed by law. All other claims shall be submitted to and passed by the State Board of Examiners.

SECTION 3. The appropriation herein made is expressly exempt from the provisions of the Standard Appropriations Act of 1945.

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

Approved January 11, 1967.

CHAPTER 2
(S. B. No. 5)

AN ACT

AMENDING SECTION 30-608, IDAHO CODE, TO PROVIDE FOR A LIMITATION OF THIRTY DOLLARS AS A PENALTY FOR RELIEF FROM FORFEITURE OF CHARTER OF ANY OF THE CORPORATIONS ENUMERATED IN SECTION 30-602, IDAHO CODE, THOSE CORPORATIONS WHICH ARE EXEMPTED BY THAT SECTION FROM THE PAYMENT OF AN ANNUAL LICENSE TAX, AND WHICH MAY BE RELIEVED FROM THE FORFEITURE OF THEIR CHARTERS UPON PAYING TO THE SECRETARY OF STATE A PENALTY OF TEN DOLLARS FOR EACH YEAR, OR PART THEREOF, THAT THEIR CHARTERS HAVE BEEN FORFEITED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 30-608, Idaho Code, be, and the same is hereby amended to read as follows:

30-608. REINSTATEMENT OF CORPORATION.—Any corporation which failed to pay the license tax and penalty required by this chapter may pay all the said license taxes and penalties prescribed by section 30-603, and the license taxes and penalties that would have accrued, if such corporation had not forfeited its charter or right to do business, and any such corporation making such payment shall be relieved from the forfeiture prescribed by this chapter, and all persons exercising the powers of any such corporation, making such payment, shall be relieved from the provisions
of section 30-610; provided, that any of the corporations, enumerated in section 30-602, which are exempted by that section from the payment of an annual license tax, may be relieved from the forfeiture of their charters upon paying to the secretary of state a penalty of ten dollars for each year, or part thereof, that their charters have been forfeited; provided, however, in no event shall said penalty exceed the total sum of Thirty Dollars. The secretary of state shall issue to every corporation so reinstated a certificate showing such reinstatement, and the date thereof, and any such corporation shall file a copy of such certificate of reinstatement with the county recorder of each county in this state in which it shall purchase, locate or hold property in the manner required by law by filing a copy of the articles of incorporation of such corporation; and no such corporation shall maintain or defend any action or proceeding in relation to property in any such county until a copy of such certificate of reinstatement is so filed in such county: provided, the rehabilitation of a corporation under the provisions of this chapter shall be without prejudice to any action, defense or right which accrued by reason of the original forfeiture: provided, that in case the name of any corporation which has suffered the forfeiture prescribed by this chapter has been adopted by any other corporation since the date of said forfeiture, or a name which so closely resembles the name of such corporation as will tend to deceive, then said corporation, having suffered said forfeiture, shall be relieved therefrom, pursuant to the terms of this section of this chapter, only upon the adoption by said corporation seeking reinstatement of a new name, and in such case, nothing in this chapter contained shall be construed as permitting such corporation to be revived, or carry on any business, under its former name, and such corporation shall have the right to use its former name or take such new name only upon filing an application therefor with the secretary of state, and upon the issuing of a certificate to such corporation by the secretary of state, setting forth the right of such corporation to take such new name, or use its former name, as the case may be.

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

CHAPTER 3
(H. B. No. 16)

AN ACT

AMENDING SECTION 61-609, IDAHO CODE, TO PROVIDE THAT THE IDAHO PUBLIC UTILITIES COMMISSION SHALL CHARGE AND COLLECT FOR COPIES OF ANY RECORDS PERTAINING TO PUBLIC UTILITIES FORTY CENTS PER HUNDRED WORDS OR PORTION THEREOF; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 61-609, Idaho Code, be and the same is hereby amended to read as follows:

61-609. Fees.—The commission shall charge and collect the following fees: For copies of papers and records not required to be certified or otherwise authenticated by the commission, six cents for each folio; for certified copies of official documents and orders filed in its office, ten cents for each folio and fifty cents for every certificate under seal affixed thereeto. For copies of papers and records, forty cents per hundred words or portion thereof.

No fees shall be charged or collected for copies of papers, records or official documents, furnished to the public officers for use in their official capacity, or for the annual reports of the commission in the ordinary course of distribution, but the commission may fix reasonable charges for publications issued under its authority.

All fees charged or collected under this section shall be paid at least once each week, accompanied by a detailed statement thereof, into the treasury of the state to the general fund.

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

CHAPTER 4
(S. B. No. 13)

AN ACT

APPROPRIATING ADDITIONAL MONIES FROM THE IDAHO PERSONNEL COMMISSION FUND TO THE IDAHO PERSONNEL COMMISSION, FOR THE PURPOSE OF PAYING SALARIES AND WAGES AND OTHER CURRENT EXPENSE FOR THE PERIOD COMMENCING JANUARY 1, 1967 AND ENDING JUNE 30, 1967, TO EXPEND FUNDS PREVIOUSLY COLLECTED FOR THE PURPOSE OF COMPLETING CLASSIFICATION OF STATE EMPLOYEES WITH RESPECT TO JOBS, TITLES AND SALARIES; EXEMPTING THIS ACT FROM THE PROVISIONS OF THE STANDARD APPROPRIATIONS ACT OF 1945; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated out of the Idaho Personnel Commission Fund of the state of Idaho the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, and other current expense for the period commencing January 1, 1967 and ending June 30, 1967:

To Whom Appropriated: Appropriations:
IDAHO PERSONNEL COMMISSION:
For: Salaries and Wages $30,000
    Other Current Expense 50,000
Total $80,000

From: Idaho Personnel Commission Fund $80,000

SECTION 2. This appropriation is additional to and supplements the appropriation previously made to the commission in Chapter 282, Idaho Session Laws of 1965. The purpose of this appropriation is to permit the Idaho Personnel Commission to expend funds previously collected by it pursuant to Chapter 289, Idaho Session Laws of 1965 to complete the classification of state employees with respect to jobs, titles and salaries.

SECTION 3. The appropriation made herein shall be exempt from the provisions of the Standard Appropriations Act of 1945.

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

Approved February 1, 1967.

CHAPTER 5
(H. B. No. 21)

AN ACT

DECLARING THE INTENT OF THE LEGISLATURE; PROVIDING THAT PLANS AND SPECIFICATIONS FOR THE CONSTRUCTION OF PUBLIC BUILDINGS SHALL PROVIDE CERTAIN FEATURES AND FACILITIES FOR THE PHYSICALLY IMPAIRED; PROVIDING EXCEPTIONS; AND, PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. It is hereby declared that the Legislature of the State of Idaho, by the passage of this Act, recognizes that there has long been a need for action by the State and the political subdivisions within the State to make all public buildings and facilities accessible to, and functional for, the physically handicapped; that the primary purpose of this Act is to encourage and direct, subject to the limitations hereafter set forth, the removal and elimination of architectural barriers to the physically handicapped in public buildings and facilities designed and planned after the effective date of this Act in order to encourage and facilitate the employment of the physically handicapped and to make public buildings accessible to and usable by the physically handicapped; that it is the intent of the Legislature that insofar as possible all buildings and facilities used by the public be accessible to, and functional for, the physically handicapped, without loss of function, space, or facility where the general public is concerned.

SECTION 2. Notwithstanding the provisions of any general or special laws to the contrary, all plans and specifications for the construction of public buildings and facilities by the State or any county, city, town, village, township, district, authority, board or any public corporation or entity, whether organized and existing under charter or general law, shall provide facilities and features for the physically handicapped to the extent deemed feasible by the contracting officer or authority of the State or said political sub-di-
visions. Insofar as is feasible in the opinion of said contracting officer or authority, such facilities shall conform with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped" (U.S. Patent A117.1-1961), as approved October 31, 1961, by the American Standards Association.

SECTION 3. This Act shall be effective July 1, 1967, but shall not apply to any plans or specifications for those public buildings or facilities for which contracts for the planning and/or designs have been awarded prior to July 1, 1967.

Approved February 2, 1967.

CHAPTER 6
(H. B. No. 26)

AN ACT

AMENDING SECTION 61-129, IDAHO CODE RELATING TO THE DEFINITION OF PUBLIC UTILITY, BY ELIMINATING THE PROVISION DECLARING WAREHOUSEMEN AS A PUBLIC UTILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 61-129, Idaho Code, be, and the same is hereby amended to read as follows:

61-129. PUBLIC UTILITY.—The term "public utility" when used in this act includes every common carrier, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, and wharfinger and warehouseman, as those terms are defined in this chapter and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act: provided, that the term "public utility" as used in this act shall cover cases both where the service is performed and the commodity delivered directly to the public or some portion thereof, and where the service is performed or the commodity delivered to any corporation or corporations, or any person or persons, who in turn, either directly or indirectly or mediately or immediately, performs the services or delivers such commodity to or for the public or some portion thereof.
SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect immediately upon its passage and approval.

Approved February 2, 1967.

CHAPTER 7
(H. B. No. 43)

AN ACT

AMENDING SECTION 33-2301, IDAHO CODE, BY ACCEPTING THE PROVISIONS AND BENEFITS OF AN AMENDMENT TO THE ACT OF CONGRESS APPROVED JUNE 2, 1920, AND ENTITLED "AN ACT TO PROVIDE FOR THE PROMOTION OF VOCATIONAL REHABILITATION OF PERSONS DISABLED IN INDUSTRY OR OTHERWISE AND THEIR RETURN TO CIVIL EMPLOYMENT"; AND DECLARING AN EMERGENCY.

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

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

33-2301. ACCEPTANCE OF FEDERAL ACT.—The state of Idaho hereby renews its acceptance of the provisions and benefits of the act of Congress, entitled "An act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment," approved June 2, 1920, as amended by P.L. 113, 78th Congress, and as further amended by P.L. 565, 83rd Congress, and by P.L. 89-333, 89th Congress, and will observe and comply with all requirements of such act.

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

Approved February 2, 1967.

CHAPTER 8
(S. B. No. 9)

AN ACT

AMENDING SECTION 33-701, IDAHO CODE, BY STRIKING
THEREFROM REFERENCES TO CHAPTER 35 OF TITLE 41, ELIMINATING THE OBLIGATION OF SCHOOL TRUSTEES TO PURCHASE INSURANCE ON SCHOOL PROPERTY THROUGH THE COMMISSIONER OF INSURANCE; AND SUBJECTING SUCH INSURANCE TO THE PROVISIONS OF SECTIONS 41-3504 AND 41-3506, IDAHO CODE.

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

SECTION 1. That Section 33-701, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

Whenever any school district other than an elementary school district has sufficient funds on deposit so to do, it may pay any allowed claim for salaries, wages or purchases by regular bank check signed by the treasurer of the district and countersigned by the chairman, or vice-chairman, of the board of trustees.

The total amount of warrants or orders for warrants drawn on any fund, together with disbursements from such fund in any other manner made, shall not exceed ninety-five per cent (95%) of the estimated income and revenue accrued or accruing to such fund for the same school year, until such income and revenue shall have been paid into the treasury to the credit of the district.

2. To invest all or part of any plant facilities reserve fund, or any fund accumulated for the payment of interest on, and the redemption of, outstanding bonds of the district in bonds or certificates of indebtedness of the United States of America, or in bonds or warrants of the state of Idaho, or in warrants or tax anticipation notes of any county or school district of the state of Idaho, when such investments shall be due and payable on or before the date any plant facilities reserve fund shall be required to be expended or any bonds, or interest thereon, of the investing district shall become payable.
Whenever in the judgment of the board of trustees, the proceeds of any bond issue should be temporarily invested pending the expenditure of such proceeds for the purposes for which such bonds were issued, the proceeds may be invested in the manner and form hereinabove prescribed. Any interest, or profits accruing from such investments shall be used for the purposes for which the bonds were issued. Unless otherwise provided by law, any interest or profits accruing from the investment of any funds shall be credited to the general fund of the district;

3. To insure any school house and other property, and the district, against any loss by fire, casualty, or liability, and the board, its officers and employees, as provided in chapter 35 of title 41, subject to the provisions of Sections 41-3504 and 41-3505, Idaho Code, and to preserve its property for the benefit of the district. In case of loss of any insured property, any proceeds from insurance may be expended in constructing a temporary or permanent structure, but no sum greater than the insurance proceeds shall be so expended except upon approval of a majority of the school district electors voting in an election called for that purpose.

If the proceeds of any insurance received by a school district by reason of loss on real property shall be less than one thousand dollars ($1,000), such proceeds may be credited to the general fund of the district;

4. To pay from the general fund of the district the expense of any member of the board incurred while traveling on the business of the board, or attending any meeting called by the state board of education or by the state superintendent of public instruction, or attending any annual or special meetings of the state school trustees association, and to pay the membership fee of the board of trustees in said association. Whenever any member of the board of trustees resides at such distance from the meeting place of the board as to require, in the judgment of the board, such member to incur extraordinary expense in traveling from his home to and from said meeting place, the board may approve payment to such member of the extraordinary expense incurred in attending any meeting of the board.

For the purpose of this paragraph, the term "expense" or "extraordinary expense" shall include allowance for mileage or actual travel expense incurred;

5. To prepare, or cause to be prepared and published, in the manner hereinafter prescribed, within sixty (60) days...
from the last day of each fiscal year, an annual statement of financial condition and report of the school district as of the end of such fiscal year, showing assets and liabilities, the amounts of money received, from what sources, the amounts expended, for what purposes, and to whom paid; such annual statement of financial condition and report to show in full the financial condition of the district, and to contain a detailed itemization of expenditures of school district funds during the fiscal year, naming each recipient and the purposes and amounts of expenditures made to each; provided, however, that if during the same fiscal year more than one (1) payment is made to the same recipient for the same purpose, the total of such payments to that recipient may be reported by purpose classification without itemization of warrants; and provided, further, that teacher salaries may be reported in gross amount, showing the number of teachers paid at each of the several stated gross salary levels in effect in the district, but without naming the individual recipients of teacher salary payments.

Nothing herein provided shall be construed as limiting any school district as to any additional or supplementary statements and reports it may elect to make for the purpose of informing the public of its financial operations, either as to form, content, method, or frequency; and if all the information required herein to be published shall have been published as provided herein at regular intervals during the fiscal year covering successive portions of the fiscal year, then such information may be omitted from the annual statement of financial condition and report for such portions of the fiscal year as already have been reported.

The annual statement of financial condition and report shall be published within the time above prescribed in one (1) issue of a newspaper printed and published within the district, or, if there be none, then in a newspaper printed and published in the county in which the school district is located, or, if more than one (1) newspaper is printed and published in said district or county, then in the newspaper most likely to give notice of the contents of such annual statement of financial condition and report to the residents of said district; provided, that if no newspaper is printed and published in the said district or county, then such statement of financial condition and report shall be published in a newspaper of general circulation most likely to give notice of the contents to the residents of said district.

The chairman, clerk and treasurer of each such school district shall certify said annual statement of financial con-
dition and report to be true and correct, and the certification shall be included in each published statement.

In the event the board of trustees of any such school district shall fail to prepare or cause to be prepared or to publish the annual statement of financial condition and report as herein required, the state board of education shall cause the same to be prepared and published, and the cost thereof shall be an obligation of such school district. One (1) copy of such annual statement of financial condition and report shall be retained in the office of the clerk of the board of school trustees, where the same shall be open at all times to examination and inspection by any person;

6. To cause to be made each year, a full and complete audit of all of the financial transactions of the district, and of the activity or student body funds, except that in elementary school districts such audit shall be made at intervals of not more than two (2) years. Any audit shall be in accordance with uniform specifications prescribed therefor by the bureau of public accounts.

The auditor shall be employed on written contract, the form of which shall be prescribed by the bureau of public accounts.

One (1) copy of the report of the audit shall be filed with the bureau of public accounts, and one (1) copy shall be filed with the state board of education, not more than ten (10) days after its acceptance by the board of trustees;

7. To file annually with the state board of education such financial and statistical reports as said state board of education may require;

8. To order and have destroyed any canceled check or warrant, or any form of claim or voucher which has been paid, at any time after five (5) years from the date the same was canceled and paid.

Approved February 4, 1967.

CHAPTER 9
(S. B. No. 22)

AN ACT

AMENDING SECTION 33-502, IDAHO CODE, RELATING TO NOM-
INATION OF SCHOOL DISTRICT TRUSTEES, BY INCREASING FROM TEN TO EIGHTEEN THE NUMBER OF DAYS PRIOR TO ELECTION BEFORE WHICH NOMINATING PETITIONS SHALL BE FILED WITH THE CLERK OF THE BOARD OF TRUSTEES; CHANGING FROM NINE TO SIXTEEN THE NUMBER OF DAYS PRIOR TO ELECTION BEFORE WHICH THE CLERK SHALL NOTIFY EACH NOMINEE WHO HAS NOT PERSONALLY FILED HIS NOMINATING PETITION; AND INCREASING FROM SEVEN TO TWELVE THE NUMBER OF DAYS PRIOR TO THE ELECTION BEFORE WHICH A NOMINEE MAY DECLINE NOMINATION.

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

SECTION 1. That Section 33-502, Idaho Code, be, and the same is hereby amended to read as follows:

33-502. NOMINATION OF TRUSTEES.—School district trustees shall be nominated by nominating petitions, each of which shall bear the name of a nominee, state the term for which nomination is made, bear the signature of not less than five (5) school district electors resident of the trustee-zone of which the nominee is resident, and be filed with the clerk of the board of trustees of the school district not less than ten (10) eighteen (18) days prior to the day of election of trustees.

Said clerk shall, not less than nine (9) sixteen (16) days prior to the day of said election, notify by mail each nominee who has not personally filed his nominating petition. Unless such nominee shall, not less than seven (7) twelve (12) days prior to the day of election, decline the nomination in writing filed with the clerk of the board of trustees, his name shall appear upon the ballot.

Approved February 4, 1967.

CHAPTER 10
(S. B. No. 29)

AN ACT

AMENDING SECTION 36-402, IDAHO CODE, RELATING TO FISH AND GAME LICENSES, BY PROVIDING THAT RESIDENT AND NONRESIDENT BOY SCOUTS IN OFFICIAL ATTENDANCE AT THE 1967 BOY SCOUT WORLD JAMBOREE OR SUBSEQUENT NATIONAL OR INTERNATIONAL ENCAMP-
MENTS AT FARRAGUT STATE PARK MAY CATCH FISH DURING SUCH ENCAMPMENT PERIOD FROM LAKE PEND OREILLE UNDER CONDITIONS DESIGNATED BY THE FISH AND GAME COMMISSION, WITHOUT PROCURING A LICENSE.

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

SECTION 1. That Section 36-402, Idaho Code, be, and the same is hereby amended to read as follows:

36-402. HUNTING, TRAPPING OR FISHING LICENSE REQUIRED—EXCEPTIONS.—It shall be unlawful for any person or persons to hunt any game whatever or trap fur-bearing animals in the state of Idaho or to fish in any of the public waters of the state without first procuring a license therefor, (unless otherwise specifically provided) and except as expressly permitted by this act as follows:

1. All children under the age of 14 years, residents of the state of Idaho may take fish during the open season and muskrats from irrigation ditches or the property upon which they live during such open season as the law provides, without procuring a license as provided by this chapter, provided that non-resident children under the age of 14 years may take fish without procuring a license as provided by this chapter if they are accompanied by a valid fishing license holder, and provided further that any fish caught by such non-resident children shall be included in the bag and possession limit of the accompanying valid license holder.

2. All Civil War veterans, Spanish-American War Veterans and persons over the age of 70 who are residents of the state of Idaho may take fish and game during open seasons as the law provides without procuring a license as provided by this chapter.

3. All blind persons who are residents of the state of Idaho may take fish during open seasons as the law provides without procuring a license as provided in this chapter.

4. Any inmate of the State Hospital North, State Hospital South, Idaho State School and Colony, and Soldiers’ Home may take fish during open seasons as the law provides without procuring a license as provided in this chapter, provided said inmate has a permit therefor from the director of the fish and game department. The director of the fish and game department 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 in-
stitution recommends the issuance of such permit and will assume full responsibility for and control over said inmate while using said permit.

5. All persons who are residents of the state of Idaho engaged in the military services of the United States, while on temporary furlough, or leave, shall be entitled upon application to the local conservation officer of the fish and game department to a temporary permit to fish and hunt for which no fee shall be charged.

6. Any person granted permission by the director of the fish and game department to kill any fur-bearing animals which are doing damage to or destroying any property, or are likely to damage or destroy any property, of such person, is exempted from the necessity of procuring such license.

7. Resident students of the Idaho Industrial Training School, under the supervision of an officer or officers of said school, during open seasons and as provided by law, shall be allowed to fish without the procuring of an Idaho fishing license.

8. All residents and nonresident Boy Scouts who are official participants in attendance at the 1967 Boy Scout World Jamboree or at subsequent national or international encampments at Farragut State Park shall be entitled, without a license, to catch fish during the encampment period from Lake Pend Oreille in such areas and such numbers as may be designated by the Idaho fish and game commission.

Approved February 4, 1967.

CHAPTER 11
(H. B. No. 14)

AN ACT

AMENDING SECTION 62-301, IDAHO CODE, RELATING TO CROSSINGS OF STATE HIGHWAYS AND RAILROADS AND THEIR ELIMINATION OR ALTERATION, BY SUBSTITUTING THE DEPARTMENT OF HIGHWAYS FOR THE DEPARTMENT OF PUBLIC WORKS; AMENDING SECTION 62-302, IDAHO CODE, RELATING TO FILING COMPLAINTS TO THE PUBLIC UTILITIES COMMISSION FOR ELIMINATION OR ALTERATION OF CROSSINGS, BY PROVIDING THAT RAIL-
ROAD COMPANIES MAY MAKE WRITTEN COMPLAINT TO THE IDAHO PUBLIC UTILITIES COMMISSION THAT AN AGREEMENT CANNOT BE REACHED AS TO THE ELIMINATION OR ALTERATION OR COSTS OF SUCH ELIMINATION OR ALTERATION OF RAILROAD CROSSINGS; AMENDING SECTION 62-303, IDAHO CODE, RELATING TO CROSSINGS OF HIGHWAYS NOT STATE HIGHWAYS AND RAILROADS AND THEIR ELIMINATION OR ALTERATION, BY PROVIDING THAT RAILROAD COMPANIES MAY MAKE WRITTEN COMPLAINT TO THE IDAHO PUBLIC UTILITIES COMMISSION THAT AN AGREEMENT CANNOT BE REACHED AS TO THE ELIMINATION OR ALTERATION OR COSTS OF SUCH ELIMINATION OR ALTERATION OF RAILROAD CROSSINGS; AMENDING SECTION 62-304, IDAHO CODE, RELATING TO FILING COMPLAINTS TO THE PUBLIC UTILITIES COMMISSION FOR ELIMINATION OR ALTERATION OF CROSSINGS, BY PROVIDING THAT WHENEVER A COMPLAINT IS MADE TO THE PUBLIC UTILITIES COMMISSION BY THE DEPARTMENT OF HIGHWAYS OR LOCAL AUTHORITIES IN THEIR RESPECTIVE JURISDICTIONS, OR RAILROAD COMPANIES, OR UPON MOTION OF THE IDAHO PUBLIC UTILITIES COMMISSION, REGARDING THE ELIMINATION OR ALTERATION OR COSTS OF SUCH ELIMINATION OR ALTERATION, THE IDAHO PUBLIC UTILITIES COMMISSION IS AUTHORIZED TO HEAR AND DETERMINE SUCH COMPLAINTS AND SHALL DETERMINE WHAT PORTION OF COSTS SHALL BE PAID BY THE PARTIES, AND PROVIDING THAT THE IDAHO PUBLIC UTILITIES COMMISSION WILL NOT BE RESPONSIBLE FOR ANY COST; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 62-301, Idaho Code, be, and the same is hereby amended to read as follows:

62-301. CROSSINGS OF STATE HIGHWAYS AND RAILROADS — ELIMINATION OR ALTERATION. — Whenever a state highway crosses or shall hereafter cross one or more railroads, and whenever the department of public-works-highways shall determine that the elimination of a grade crossing, whether by separation of grades or by relocation of the highway or railroad or both, or the reconstruction of an existing structure under or over the railroad or railroads, is necessary for public safety and convenience or for the proper construction or reconstruction of said state highway, the said department of public-works-highways shall have full authority to negotiate with and enter into an agreement with the railroad company or com-
panies, and with any other persons and authorities concerned, to provide for the method of elimination or alteration and for the division of the cost thereof between the state and the railroad company or companies and any other parties to such agreement, such cost to include all changes of highway or railroads made necessary by the existence of the crossing and by the elimination or alteration thereof, and the acquisition of any right of way required therefor.

SECTION 2. That Section 62-302, Idaho Code, be, and the same is hereby amended to read as follows:

62-302. COMPLAINT TO PUBLIC UTILITIES COMMISSION.—If the department of public works highways shall be unable to agree with the railroad company or companies upon the elimination or alteration to be made or upon the division of the cost of such elimination or alteration, said department, or railroad company or companies, shall make written complaint to the public utilities commission, setting forth the changes and alteration desired and the necessity therefor.

SECTION 3. That Section 62-303, Idaho Code, be, and the same is hereby amended to read as follows:

62-303. CROSSINGS NOT ON STATE HIGHWAYS—ELIMINATION OR ALTERATION.—Whenever a highway not a state highway crosses one or more railroads, the local authorities in their respective jurisdictions, or railroad company or companies, shall have the same authority and perform the same duties with respect to the elimination or alteration of such crossing as are granted to and required of the department of public works highways and railroad company or companies by this chapter.

SECTION 4. That Section 62-304, Idaho Code, be, and the same is hereby amended to read as follows:

62-304. HEARING AND ORDER BY PUBLIC UTILITIES COMMISSION.—Whenever a complaint is made to the public utilities commission by the department of public works highways, or by a railroad company or companies, or upon motion by the Idaho public utilities commission, or local authorities in their respective jurisdictions with respect to the elimination or alteration of a crossing of a highway with one or more railroads the said commission shall and is hereby authorized and empowered to hear and determine such complaint in accordance with the provisions of chapters 1 to 7, inclusive, of title 61, taking into consideration the necessity for such elimination or alteration and the
cost thereof, the location of any crossing and the manner in which it shall be constructed or reconstructed and maintained, or whether a crossing is to be eliminated and the provisions therefor, and shall make such order in relation thereto as shall be equitable, and shall determine what portion of the cost shall be paid by any party to the controversy: provided, that no cost shall be charged to the Idaho public utilities commission, and that no portion of the cost of eliminating or altering a crossing not on a state highway shall be ordered to be paid out of the state highway fund.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect immediately upon its passage and approval.

Approved February 6, 1967.

CHAPTER 12
(S. B. No. 1)

AN ACT

AMENDING SECTION 33-405, IDAHO CODE, RELATING TO ABSENTEE VOTING IN SCHOOL ELECTIONS, BY CHANGING FROM FIVE TO TEN THE NUMBER OF DAYS PRIOR TO AN ELECTION BEFORE WHICH THE CLERK MAY DELIVER A BALLOT TO AN ABSENT ELECTOR.

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

SECTION 1. That Section 33-405, Idaho Code, be, and the same is hereby amended to read as follows:

33-405. ABSENTEE VOTING.—For the purposes of this section the term clerk shall mean the clerk of the board of county commissioners whenever an election involves changing the boundaries of school districts, or the creation of new school districts by consolidation of districts or division of a district. In all other school elections the term clerk shall mean the clerk of the board of trustees of the school district.

In any school election, a qualified school elector who expects to be absent from the district on the day of the election, or who will be unable, because of physical disability or blindness, to go to the polling place, may vote in such election in the manner herein provided.
Any such elector may make written application to the clerk for a ballot or ballots of the kind or kinds to be voted on at such election, which application shall contain the name of the elector, the trustee zone of the district in which he resides, and his present address.

The clerk receiving such application shall, not more than five (5) ten (10) days prior to the day of the election, deliver to said applicant elector personally or shall mail to him by registered mail, postage prepaid, a ballot or ballots, one (1) of each kind thereof, to be voted on in the election, and a form of oath of qualification.

The elector shall vote in secret and shall enclose his ballot or ballots together with the form of oath of qualification executed by him, in an envelope to be supplied by the clerk, seal the same, and place thereon his name and the date the vote was cast, and shall place the said envelope in another envelope and address and mail, or deliver, the same to the clerk.

The written applications shall be kept by the clerk as a part of the records of the election and he shall, on the day of the election and before the polling places are closed, deliver to the proper board of election all such envelopes together with a list, compiled and signed by him, of the electors making application to vote in absentia.

The board of election shall verify all envelopes delivered to it by the clerk against the names appearing on the said list, open the envelopes and examine the elector's oath. If these are found to be in order, the ballots shall be removed from the envelopes and placed in the ballot box in the same manner as though the elector were personally present and voting; and the voter's name shall thereupon be subscribed in any polling book or other record kept at such election.

Approved February 6, 1967.

CHAPTER 13
(S. B. No. 28)

AN ACT

AMENDING SECTION 55-705, IDAHO CODE, RELATING TO ACKNOWLEDGEMENTS, BY DELETING THE DETAIL OF CERTAIN OFFICERS OF THE ARMED FORCES, AND PROVID-
ING IN LIEU THEREOF THAT AN OFFICER OF ANY COMPONENT OF ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES AS MAY BE DESIGNATED TO TAKE DEPOSITIONS SHALL HAVE THE POWERS ENUMERATED IN SAID SECTION.

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

SECTION 1. That Section 55-705, Idaho Code, be, and the same is hereby amended to read as follows:

55-705. BY WHOM TAKEN.—MEMBERS OF THE ARMED FORCES.—Any officer of any component of the army of the United States on active duty in federal service, commissioned in or assigned or detailed to duty with the judge advocate general's department, any staff judge advocate or acting staff judge advocate, the president of a general or special court martial, any summary court martial, the trial judge advocate or any assistant trial judge advocate of a general or special court martial, any officer designated to take a deposition, and the adjutant, assistant adjutant or personnel adjutant of any command; all commanders in chief of naval squadrons, commandants of navy yards and stations, officers commanding vessels of the navy, and recruiting officers of the navy, the adjutant and inspector, assistant adjutants and inspectors, commanding officers, and recruiting officers of the marine corps, and such officers of the regular navy and marine corps, of the naval reserves, and of the marine corps reserve, any branch of the armed forces of the United States as may be designated to take a deposition, shall have the general powers of a notary public in the administration of oaths, the execution and acknowledgment of legal instruments, the attestation of documents and all other forms of notarial acts to be executed by persons in any of the armed forces of the United States or subject to military or naval law and/or their wives and/or dependents.

Such an acknowledgment or oath, whether heretofore or hereafter so taken within or without the state of Idaho or the United States and whether with or without seal or stamp, shall have the same force and effect as an acknowledgment or oath before a notary public duly commissioned by and residing in the state of Idaho. Recital in the certificate of such officer that he holds the office stated in the certificate and that the affiant is a member of the armed forces or subject to military or naval law, or wife or dependent of such member, shall be prima facie evidence of such facts.

Approved February 6, 1967.
AN ACT

AMENDING SECTION 28-111, IDAHO CODE, RELATING TO ELECTION OF CEMETARY MAINTENANCE DISTRICT COMMISSIONERS, BY EXTENDING THE CLOSING HOUR OF POLLS FROM FIVE O'CLOCK TO SEVEN O'CLOCK.

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

SECTION 1. That Section 28-111, Idaho Code, be, and the same is hereby amended to read as follows:

28-111. ELECTION OF COMMISSIONERS.—On the first Monday of December, 1927, and every alternate year thereafter, three cemetery maintenance district commissioners shall be elected by the electors of each cemetery district as defined in section 28-104 above. The board of cemetery maintenance commissioners shall have power to make such regulations for the conduct of such election as are not inconsistent with any statutory provisions. At their meeting next preceding such election, the board of cemetery maintenance commissioners shall divide the district into three subdivisions as nearly equal in population, area and mileage as practicable, to be known as cemetery maintenance commissioners subdistricts one, two and three. Thereafter such subdivisions may be revised or modified as changes in conditions demand. Of the commissioners comprising the board at any one time, not more than one shall be an elector of the same cemetery maintenance commissioners subdistrict. At the election on the first Monday in December, 1927, commissioners from cemetery maintenance subdistricts one and two shall be elected for terms of four years, and the commissioner from cemetery maintenance subdistrict three shall be elected for a term of two years; thereafter the term of office of all commissioners shall be four years. At elections for cemetery maintenance commissioners, the polls shall be open from one o'clock in the afternoon to five-seven o'clock in the afternoon evening. Except as otherwise provided by statute, such elections and all other elections held under this law, shall be held as nearly as practicable in conformity with the general laws of the state.

Approved February 10, 1967.
CHAPTER 15
(S. B. No. 34)

AN ACT

RATIFYING, CONFIRMING, ADOPTING AND AUTHORIZING
THE INTERSTATE COMPACT FOR EDUCATION ESTAB­
LISHED BY THE EDUCATION COMMISSION OF THE
STATES; ESTABLISHING THE IDAHO EDUCATION COUN­
CIL TO REPRESENT THE STATE OF IDAHO ON SAID COM­
MISSION; DESIGNATING THE STATE BOARD OF EDUCA­
TION AS STATE AGENCY TO RECEIVE AND FILE BYLAWS
OF THE IDAHO EDUCATION COUNCIL; PROVIDING FOR
CERTAIN DISTRIBUTION BY THE SECRETARY OF STATE
OF IDAHO OF DULY AUTHENTICATED COPIES OF THIS
ACT; AND DECLARING AN EMERGENCY.

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

SECTION 1. The Interstate Compact for Education es­
tablished by the Education Commission of the States is here­
by enacted into law and entered into with all other jurisdi­
cations legally joining therein, in the form substantially as
follows:

INTERSTATE COMPACT FOR EDUCATION
ARTICLE 1—PURPOSE AND POLICY

A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and under­
standing among executive, legislative, professional, educa­
tional and lay leadership on a nationwide basis at the state
and local levels.

2. Provide a forum for the discussion, development, crys­
tallization and recommendation of public policy alterna­
tives in the field of education.

3. Provide a clearing house of information on matters
relating to educational problems and how they are being
met in different places throughout the nation, so that the
executive and legislative branches of state government and
of local communities may have ready access to the experi­
ence and records of the entire country, and so that both
lay and professional groups in the field of education may
have additional avenues for the sharing of experience and
the interchange of ideas in the formation of public policy
in education.

4. Facilitate the improvement of state and local educa­
tional systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

B. It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

C. The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation, and because the products and services contributing to the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.

ARTICLE II—STATE DEFINED

As used in this compact, "state" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE III—THE COMMISSION

A. The Education Commission of the States, hereinafter called "the commission," is hereby established. The commission shall consist of seven members representing each party state. One of such members shall be the governor; two shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the commission, six members shall be appointed and serve at the pleasure of the governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the inter-
ests of the state government, higher education, the state education system, local education, lay and professional, public and non-public educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may be not to exceed ten non-voting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

B. The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III (J).

C. The commission shall have a seal.

D. The commission shall elect annually, from among its members a chairman, who shall be a governor, a vice chairman and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

E. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.
F. The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

G. The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph (F) of this Article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

H. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

I. The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

J. The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

ARTICLE IV—POWERS

In addition to authority conferred on the commission by other provisions of the compact, the commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.

2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional
methods and standards employed or suitable for employment in public educational systems.

3. Develop proposals for adequate financing of education as a whole and at each of its many levels.

4. Conduct or participate in research of the types referred to in this Article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.

5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

ARTICLE V—COOPERATION WITH FEDERAL GOVERNMENT

A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representative shall have a vote on the commission.

B. The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

ARTICLE VI—COMMITTEES

A. To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of thirty-two members
which, subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-fourth of the voting membership of the steering committee shall consist of governors, one-fourth shall consist of legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the commission shall be elected as follows: sixteen for one year and sixteen for two years. The chairman, vice chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two term limitation.

B. The commission may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.

C. The commission may establish such additional committees as its bylaws may provide.

ARTICLE VII—FINANCE

A. The commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

B. The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise and
employ a formula which takes equitable account of the populations and per capita income levels of the party states.

C. The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III (G) of this compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to Article III (G) thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

D. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

E. The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

F. Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VIII—ELIGIBLE PARTIES; ENTRY INTO AND WITHDRAWAL

A. This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term, "governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.

C. Adoption of the compact may be either by enactment
thereof or by adherence thereto by the governor; provided that in the absence of enactment, adherence by the governor shall be sufficient to make his state a party only until December 31, 1967. During any period when a state is participating in this compact through gubernatorial action, the governor shall appoint those persons who, in addition to himself, shall serve as the members of the commission from his state, and shall provide to the commission an equitable share of the financial support of the commission from any source available to him.

D. Except for a withdrawal effective on December 31, 1967 in accordance with paragraph C of this Article, any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE IX—CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

SECTION 2. ESTABLISHING THE IDAHO EDUCATION COUNCIL.—There is hereby established the “Idaho Education Council” composed of the members of the “Education Commission of the States” representing this state, and eight other persons appointed by the governor for terms of three years. Such other persons shall be selected so as to be broadly representative of professional and lay interest within this state having the responsibilities for, knowledge with respect to, and interest in educational matters. The chairman shall be designated by the governor
from among its members. The council shall meet on the call of its chairman or at the request of a majority of its members, but in any event the council shall meet not less than three times in each year. The council may consider any and all matters relating to recommendations of the education commission of the states and the activities of the members in representing the state thereon.

SECTION 3. DESIGNATING THE STATE AGENCY TO RECEIVE AND FILE BYLAWS.—Pursuant to Article III (I) of the compact, the commission shall file a copy of its bylaws and any amendment thereto with the state board of education.

SECTION 4. Duly authenticated copies of this act shall, upon its approval, be transmitted by the secretary of state to the governor of each state, the attorney general and the secretary of state of the United States, and the Council of State Governments.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this Act shall be in full force and effect immediately upon its passage and approval.

Approved February 10, 1967.

CHAPTER 16
(H. B. No. 130)

AN ACT

AMENDING SECTION 26-1705, IDAHO CODE, AS AMENDED, BY ELIMINATING THE RESTRICTION ON THE AMOUNT OF TRUST FUNDS WHICH MAY BE DEPOSITED BY A BANK OR TRUST COMPANY ACTING AS TRUSTEE, IN SUCH BANK OR TRUST COMPANY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 26-1705, Idaho Code, be, and the same is hereby amended to read as follows:

26-1705. DEPOSIT OF TRUST FUNDS.—Funds held by any bank or trust company as trustee may be deposited, in an aggregate amount not exceeding $10,000.00 for any one trust, in such bank or trust company in its name as such trustee, in savings account or on time certificates of deposit,
bearing interest at the same rate paid other depositors on like deposits, provided that payment of such deposit is insured by the Federal Deposit Insurance Corporation, or said bank or trust company delivers to and holds in its trust department as pledge and collateral security for the payment thereof, bonds or other securities owned by it of a character constituting a lawful investment for trust funds under the provisions of this chapter, and of an aggregate market value of not less than the amount of such deposit.

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

Approved February 16, 1967.

CHAPTER 17
(H. B. No. 22)

AN ACT

AMENDING SECTION 72-1402, IDAHO CODE, RELATING TO DEFINITIONS OF THE FIREMEN'S RETIREMENT FUND, BY EXCLUDING OFFICE SECRETARIES HIRED AFTER JULY 1, 1967, FROM COVERAGE UNDER THE FIREMEN'S RETIREMENT FUND; AMENDING SECTION 72-1416, IDAHO CODE, RELATING TO INVESTMENT OF SURPLUS IN FIREMEN'S RETIREMENT FUND, BY PROVIDING FOR INVESTMENT IN THE SAME SECURITIES AND INVESTMENTS AUTHORIZED FOR INVESTMENTS BY SAVINGS BANKS; REPEALING SECTION 72-1429E, IDAHO CODE, RELATING TO RETIREMENT OF AN INCAPACITATED FIREMAN AFTER FIVE YEARS; AND AMENDING SECTION 72-1429F, IDAHO CODE, RELATING TO RETIREMENT OF AN INCAPACITATED FIREMAN AFTER TWELVE AND ONE-HALF YEARS, BY DELETING THEREFROM TWELVE AND ONE-HALF YEARS AND SUBSTITUTING FIVE YEARS.

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

SECTION 1. That Section 72-1402, Idaho Code, be, and the same is hereby amended to read as follows:

72-1402. DEFINITIONS.—The following are definitions of terms used in this act:

(A) The words "paid fireman" mean any individual, excluding office secretaries employed after July 1, 1967, who
is on the payroll of any city or town or fire district in the state of Idaho 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 accident board" means the board as authorized and created under the provisions of chapter 5 of title 72.

(C) "Workmen's compensation law" means the workmen's compensation law as authorized and created under title 72.

(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 town, or fire district in the state of Idaho in a regularly constituted fire department of a city, town, 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 town, 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, town or fire district in the state of Idaho.

(F) "State insurance fund," as used herein, means the state insurance fund created by chapter 9 of title 72, and the "director" thereof, as used herein, means the duly appointed, qualified and acting director or manager of said fund.

(G) The meaning of the term "incapacitated in a degree which prohibits efficient service" means that degree of mental or physical disability which prohibits the efficient performance of the duties of a paid fireman during a fire or conflagration.

(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 town, or fire district in the state of Idaho, in a regularly constituted fire department of a city, town, or fire district, and has actually been carried on the payroll of an Idaho fire department for the prescribed period of years.
All years of active service as herein defined before the establishment of the firemen’s retirement fund may count only toward the prescribed period of years for retirement as set out in sections 72-1429A, 72-1429B, 72-1429F, 72-1429L and 72-1429M. Before any year’s service since the establishment of the firemen’s retirement fund may count toward the prescribed period of years, the tax must have been deducted from his wage or salary and remitted as set out in sections 72-1411 and 72-1412 for that year.

SECTION 2. That Section 72-1416, Idaho Code, be, and the same is hereby amended to read as follows:

72-1416. STATE TREASURER CUSTODIAN OF FUND—INVESTMENT OF SURPLUS.—The state treasurer shall have custody of the said firemen’s retirement fund, and shall hold, deposit and control the same, subject to the uses and provisions of this act, as other state moneys are held, deposited and controlled; and surplus funds accumulating in the said fund, and not needed for its immediate uses, shall be invested as other public moneys are invested in the same securities and investments authorized for investments by savings banks, including obligations secured by mortgages or deeds of trust on real property in Idaho, which obligations, mortgages or deeds of trust are acquired through or issued by and are serviced by a qualified corporation and are guaranteed by the United States or an agency thereof, and the earnings thereof credited to the said fund. “Qualified corporation” means any corporation organized under the law of the United States or the state of Idaho, or is otherwise qualified to do business in the state of Idaho. “Acquired through, or issued and serviced by” means that the original obligation must be negotiated by, and the original obligee named be, a qualified corporation; that such obligations, participations or interest therein may be transferred to another corporation thereafter, but all advances by and receipts to the obligee of said obligations must be made through a qualified corporation, including the handling of all insurance of and taxes upon any security for such obligations; and the original corporation is not required to be or to continue as a qualified service agent.

SECTION 3. That Section 72-1429E, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 72-1429F, Idaho Code, be, and the same is hereby amended to read as follows:

72-1429F. PENSION PAYMENT—RETIREMENT OF
INCAPACITATED FIREMAN AFTER TWELVE-AND-ONE-HALF-FIVE YEARS.—Any paid fireman with not less than twelve and one-half (12½) five (5) years’ active service as defined in section 72-1402(H) as a paid fireman as defined in this act and who shall be dismissed or retired by his employer because incapacitated not in the performance of duty in a degree which prohibits efficient service, as defined under the provisions of subdivision (G) of section 72-1402 shall so long as he remains incapacitated be paid a monthly sum equal to two per cent (2%) of the average paid fireman’s salary or wage in this state for each year’s active service, which said monthly retirement sum shall vary annually according to the determination of the average paid fireman’s salary or wage in this state as set forth in section 72-1411 hereof, and shall in no event exceed fifty per cent (50%) of the average paid fireman’s salary or wage.

Approved February 18, 1967.

CHAPTER 18
(H. B. No. 76)

AN ACT
AMENDING SECTION 28-929, IDAHO CODE, RELATING TO RESTRICTIONS OF SALES BY LICENSEE OF RETAIL LIQUOR ESTABLISHMENT, BY REQUIRING PROOF OF AGE, FOR EVERY RESIDENT OF THIS STATE, BY A VALID DRIVER’S LICENSE OR AN IDENTIFICATION CARD ISSUED BY THE DEPARTMENT OF LAW ENFORCEMENT, AND PROVIDING AN EFFECTIVE DATE.

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 21 years, proof of which, for every resident of this state, shall be a valid driver’s license or an identification card issued by the department of law enforcement.
2. Any person actually, apparently or obviously intoxicated.

3. An habitual drunkard.

4. An interdicted person.

5. Any person under the age of 21 years, or other person, who knowingly misrepresents his or her qualifications for the purpose of obtaining liquor from such licensee shall be equally guilty with such licensee and shall, upon conviction thereof, be guilty of a misdemeanor.

SECTION 2. This act shall be in full force and effect from and after July 1, 1967.

Approved February 18, 1967.

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CHAPTER 19
(H. B. No. 77)

AN ACT

AMENDING SECTION 23-1013, IDAHO CODE, RELATING TO SELLING, SERVING OR DISPENSING BEER TO OR BY ANY PERSON UNDER TWENTY YEARS OF AGE, BY REQUIRING PROOF OF AGE, FOR EVERY RESIDENT OF THIS STATE, BY A VALID DRIVER'S LICENSE OR AN IDENTIFICATION CARD ISSUED BY THE DEPARTMENT OF LAW ENFORCEMENT, AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 23-1013, Idaho Code, be, and the same is hereby amended to read as follows:

23-1013. RESTRICTIONS CONCERNING AGE.—It shall be unlawful for any person to sell, serve or dispense beer to or by any person under twenty years of age, proof of which, for every resident of this state, shall be a valid driver's license or an identification card issued by the department of law enforcement.

SECTION 2. This act shall be in full force and effect from and after July 1, 1967.

Approved February 18, 1967.
CHAPTER 20
(H. B. No. 80)

AN ACT

AMENDING SECTION 63-921, IDAHO CODE, RELATIVE TO THE LEVYING OF TAXES FOR NEW TAXING DISTRICTS, BY PROVIDING THAT FIRE PROTECTION DISTRICTS ORGANIZED AND FORMED ON THE SECOND MONDAY OF FEBRUARY 1967, MAY MAKE A LEVY FOR THE YEAR 1967.

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

SECTION 1. That Section 63-921, Idaho Code, be, and the same is hereby amended to read as follows:

63-921. LEVY BY NEW TAXING UNITS—DUTIES OF AUDITOR.—No taxing district formed or organized after the second Monday of January, in any year, shall be authorized to make a levy for such year, nor shall the auditor of any county wherein such taxing district may be situated be required to extend any levy on behalf of any such taxing district upon the county rolls extended by him for such year. Provided, however, that a fire protection district organized and formed pursuant to Chapter 14 of Title 31 of the Idaho Code prior to the second Monday of February in 1967, may nevertheless make a levy for the year 1967 and the auditor of any county in which a fire protection district is so formed shall extend a levy on behalf of such fire protection district for the year 1967. No existing taxing district which shall annex any territory thereto after the second Monday of January of the current year, shall be authorized to levy a tax for such year upon the property situated in such annexed territory and such property shall in all respects be taxed as if such annexation had not taken place. Provided, however, that should any existing school district or school districts divide, consolidate or reorganize after the assessment date in any year, the board of trustees of said divided, consolidated or reorganized school district shall have the power to levy taxes and certify the levy for such year in the same manner and according to the same boundaries which the separate school districts involved in the division, consolidation or reorganization could have levied taxes had such division, consolidation or reorganization not taken place.

Approved February 18, 1967.
CHAPTER 21  
(H. B. No. 91)

AN ACT

AMENDING SECTION 48-603, IDAHO CODE, PERTAINING TO DECEPTIVE PRACTICES BY ADDING A NEW SUBSECTION TO BE DESIGNATED AS SUBSECTION (c) TO PROVIDE FOR THE ALLOWANCE OF COSTS AND ATTORNEY'S FEES TO THE PARTIES UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 48-603, Idaho Code, be, and the same is hereby amended to read as follows:

Section 48-603. Remedies.—(a) A person likely to be damaged by a deceptive trade practice of another may be granted an injunction against it under the principles of equity and on terms that the court considers reasonable. Proof of monetary damage, loss of profits, or intent to deceive is not required. Relief granted for the copying of an article shall be limited to the prevention of confusion or misunderstanding as to source.

(b) The relief provided in this section is in addition to remedies otherwise available against the same conduct under the common law or other statutes of this state.

(c) Costs shall be allowed to the prevailing party unless the court otherwise directs. The court in its discretion may award attorney's fees to the prevailing party if (1) the party complaining of a deceptive trade practice has brought an action which he knew to be groundless or (2) the party charged with a deceptive trade practice has willfully engaged in the trade practice knowing it to be deceptive.

Approved February 18, 1967.

CHAPTER 22  
(H. B. No. 92)

AN ACT

AMENDING SECTION 42-2913, IDAHO CODE, BY INCREASING THE COMPENSATION OF DRAINAGE DISTRICT COMMISSIONERS, AND BY PRESCRIBING A FIXED RATE FOR MILEAGE ALLOWANCE.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 42-2913, Idaho Code, be, and the same is hereby amended to read as follows:

42-2913. COMPENSATION. — The drainage commissioners shall receive for their services not more than ten dollars nor less than fifteen dollars per day each and their necessary traveling expenses for each day they shall actually be engaged in the business of their office. In addition, the commissioners shall each receive a mileage allowance computed at a rate of ten cents per mile for each mile driven and such allowance shall be the full amount allowed for travel expense. The commissioners shall present an itemized account, under oath, to the district court of the amounts due them respectively, which items shall be audited at least once a year by the said district court, and upon approval of the amounts, certified to be correct by said court, warrants for said amounts against the drainage district shall be issued in the usual manner as other warrants are issued: provided, that warrants issued under this section shall in addition to the usual signatures, be countersigned by the clerk of the court approving said warrants.

Approved February 18, 1967.

CHAPTER 23
(H. B. No. 94 As Amended)

AN ACT
AMENDING CHAPTER 9, TITLE 49, IDAHO CODE, BY ADDING SECTION 49-918 WHICH PROVIDES FOR THE TEMPORARY MOVEMENT OF ALFALFA HARVESTING MACHINERY DURING HOURS OF DARKNESS UNDER CERTAIN CONDITIONS.

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

SECTION 1. That Chapter 9, 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 49-918, Idaho Code, and to read as follows:

49-918. TEMPORARY MOVEMENT OF ALFALFA HARVESTING MACHINERY AFTER DARKNESS. — Notwithstanding any other provision of law, alfalfa harvesting machinery may be moved during hours of darkness
when said machinery is equipped, in addition to those requirements set forth in Chapter 8, Title 49, Idaho Code, with a flashing amber-colored light at least four inches in diameter clearly visible from in front of the machinery, a flashing red-colored light at least four inches in diameter clearly visible from the back of said machinery, and said machinery is preceded by a well-lighted pilot vehicle or flagman at least 300 feet in advance of such vehicle to give warning of the approach of said equipment.

Approved February 18, 1967.

CHAPTER 24
(H. B. No. 98)

AN ACT
AMENDING SECTION 31-836, IDAHO CODE, AUTHORIZING THE LEASE OF COUNTY PROPERTY TO HOSPITAL DISTRICTS FORMED UNDER TITLE 39, CHAPTER 13, IDAHO CODE FOR A TERM NOT TO EXCEED NINETY-NINE YEARS AT A NOMINAL RENTAL.

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

SECTION 1. That Section 31-836, Idaho Code, be, and the same is hereby amended to read as follows:

31-836. LEASE OF COUNTY PROPERTY.—Except as otherwise provided by law, the board of county commissioners may lease any property belonging to the county for a term not exceeding five (5) years at such rental as may be determined upon by the unanimous vote of such board, or said board may in its discretion lease any property belonging to the county at public auction to the highest bidder, and may enter into such leasing contracts as may be provided for by order of the board, and as herein limited; such rents shall be paid annually in advance provided, however, that the provision requiring the payment of rent in advance shall not apply to a lease to the federal or state government, a municipal corporation of this state, or any governmental agency or department; providing, however, that any hospital or hospital equipment belonging to the county may be leased for a term not exceeding twenty (20) years. Provided that the board of county commissioners may lease any property belonging to the county and not necessary for
its use to any non-profit corporation or association organized for the purpose of erecting and maintaining thereon any play field, recreation park or stadium to serve as a memorial to the deceased soldiers, sailors and marines of World War II, or to any hospital district organized under Title 39, Chapter 13, Idaho Code, for use in furthering the purposes of said district. Such lease may be for any term not to exceed ninety-nine (99) years, may provide for only a nominal rental to the county and will, by its provisions, terminate when the property so leased ceases to be used as a play field, recreation park or stadium serving as a memorial, or by the hospital district for its purposes.

Approved February 18, 1967.

CHAPTER 25
(H. B. No. 132)

AN ACT

RELATING TO POST-CONVICTION PROCEDURES; ESTABLISHING A NEW REMEDY, ITS AVAILABILITY AND CONDITIONS; PROVIDING FOR THE COMMENCEMENT OF THE PROCEEDINGS, VERIFICATION, FILING AND SERVICE; PROVIDING FOR AN APPLICATION AND ITS CONTENTS; PROVIDING FOR PAYMENT OF COSTS AND EXPENSES OF AN INDIGENT APPLICANT; PROVIDING FOR PAYMENT OF COSTS AND EXPENSES OF STATE; PROVIDING FOR PLEADINGS AND JUDGMENT ON THE PLEADINGS; PROVIDING FOR A HEARING, RECEIVING OF EVIDENCE AND ISSUANCE OF COURT ORDERS; PROVIDING FOR A WAIVER OF OR FAILURE TO ASSERT CLAIMS; ALLOWING FOR REVIEW; PROVIDING FOR UNIFORMITY OF INTERPRETATION; ESTABLISHING A SHORT TITLE; AND PROVIDING A SEVERABILITY CLAUSE.

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

SECTION 1. REMEDY — TO WHOM AVAILABLE — CONDITIONS.—(a) Any person who has been convicted of, or sentenced for, a crime and who claims:

(1) that the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this state;
(2) that the court was without jurisdiction to impose sentence;

(3) that the sentence exceeds the maximum authorized by law;

(4) that there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;

(5) that his sentence has expired, his probation, parole, or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or

(6) that the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding, or remedy: may institute, without paying a filing fee, a proceeding under this Act to secure relief.

(b) This remedy is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of an appeal from the sentence or conviction. Except as otherwise provided in this Act, it comprehends and takes the place of all other common law, statutory, or other remedies heretofore available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them.

SECTION 2. COMMENCEMENT OF PROCEEDINGS—VERIFICATION—FILING—SERVICE.—A proceeding is commenced by filing an application verified by the applicant with the clerk of the district court in which the conviction took place. An application may be filed at any time. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The Supreme Court may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the prosecuting attorney.

SECTION 3. APPLICATION—CONTENTS.—The application shall identify the proceedings in which the applicant was convicted, give the date of the entry of the judgment and sentence complained of, specifically set forth the grounds upon which the application is based, and clearly state the relief desired. Facts within the personal knowledge of the
applicant shall be set forth separately from other allegations of facts and shall be verified as provided in Section 2 of this Act. Affidavits, records, or other evidence supporting its allegations shall be attached to the application or the application shall recite why they are not attached. The application shall identify all previous proceedings, together with the grounds therein asserted, taken by the applicant to secure relief from his conviction or sentence. Argument, citations, and discussion of authorities are unnecessary.

SECTION 4. INABILITY TO PAY COSTS.—If the applicant is unable to pay court costs and expenses of representation, including stenographic, printing, witness fees and expenses, and legal services, these costs and expenses, and a court-appointed attorney shall be made available to the applicant in the preparation of the application, in the trial court, and on appeal, and paid, on order of the district court, by the county in which the application is filed.

SECTION 5. COSTS OF STATE.—All costs and expenses necessarily incurred by the state in the proceedings shall be paid by the county in which the application is filed.

SECTION 6. PLEADINGS AND JUDGMENT ON PLEADINGS.—(a) Within 30 days after the docketing of the application, or within any further time the court may fix, the state shall respond by answer or by motion which may be supported by affidavits. At any time prior to entry of judgment the court may grant leave to withdraw the application. The court may make appropriate orders for amendment of the application or any pleading or motion, for filing further pleadings or motions, or for extending the time of the filing of any pleading. In considering the application the court shall take account of substance regardless of defects of form. If the application is not accompanied by the record of the proceedings challenged therein, the respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application.

(b) When a court is satisfied, on the basis of the application, the answer or motion, and the record, that the applicant is not entitled to post-conviction relief and no purpose would be served by any further proceedings, it may indicate to the parties its intention to dismiss the application and its reasons for so doing. The applicant shall be given an opportunity to reply within 20 days to the proposed dismissal. In light of the reply, or on default thereof, the court may order the application dismissed or grant leave to file an amended application or, direct that the proceedings other-
wise continue. Disposition on the pleadings and record is not proper if there exists a material issue of fact.

(c) The court may grant a motion by either party for summary disposition of the application when it appears from the pleadings, depositions, answers to interrogatories, and admissions and agreements of fact, together with any affidavits submitted, that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

SECTION 7. HEARING — EVIDENCE — ORDER — PRESENCE OF APPLICANT.—(a) The application shall be heard in, and before any judge of, the court in which the conviction took place. A record of the proceedings shall be made and preserved. All rules and statutes applicable in civil proceedings including pre-trial, discovery and appellate procedures are available to the parties. The court may receive proof by affidavits, depositions, oral testimony, or other evidence and may order the applicant brought before it for the hearing. If the court finds in favor of the applicant, it shall enter an appropriate order with respect to the conviction or sentence in the former proceedings, and any supplementary orders as to rearraignment, retrial, custody, bail, discharge, correction of sentence, or other matters that may be necessary and proper. The court shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented. This order is a final judgment.

(b) The applicant should be produced at the hearing on a motion attacking a sentence where there are substantial issues of fact as to evidence in which he participated. The sentencing court has discretion to ascertain whether the claim is substantial before granting a full evidentiary hearing and requiring the applicant to be present.

SECTION 8. WAIVER OF OR FAILURE TO ASSERT CLAIMS.—All grounds for relief available to an applicant under this Act must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental, or amended application.
SECTION 9. REVIEW.—A final judgment entered under this Act may be reviewed by the Supreme Court of this state on appeal brought either by the applicant or by the state within 60 days from the entry of the judgment. On appeal the state shall be represented by the Attorney General.

SECTION 10. UNIFORMITY OF INTERPRETATION.—This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 11. SHORT TITLE.—This Act may be cited as the Uniform Post-Conviction Procedure Act.

SECTION 12. SEVERABILITY.—If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Approved February 18, 1967.

CHAPTER 26
(S. B. No. 19)

AN ACT

AMENDING SECTION 41-1801, IDAHO CODE, RELATING TO SCOPE OF CHAPTER ON INSURANCE, BY PROVIDING THAT THE EXCEPTIONS AS TO APPLICATION OF SAID CHAPTER SHALL NOT APPLY TO SECTION 41-1839, IDAHO CODE.

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

SECTION 1. That Section 41-1801, Idaho Code, be, and the same is hereby amended to read as follows:

41-1801. SCOPE OF CHAPTER.—This chapter applies as to all insurance contracts and annuity contracts, other than:

(1) Reinsurance.

(2) Policies or contracts not issued for delivery in this state nor delivered in this state.

(3) Wet marine and transportation insurance.
Provided, however, that the above stated exceptions shall not apply to Section 41-1839.

Approved February 18, 1967.

CHAPTER 27
(S. B. No. 30)

AN ACT

AMENDING SECTION 31-3404 AND 31-3405 DEALING WITH APPLICATION FOR COUNTY AID AND INVESTIGATION OF APPLICATION SO AS TO PROVIDE THAT THE APPLICANT MUST, IN HIS WRITTEN APPLICATION, STATE THAT THERE IS NO WORK AVAILABLE TO HIM WHICH HE IS MENTALLY AND PHYSICALLY CAPABLE OF PERFORMING AND GIVING THE RECEIVER OF THE APPLICATION AUTHORITY TO REQUIRE THE APPLICANT TO SUBMIT TO PHYSICAL AND MENTAL EXAMINATION AND TO DETERMINE IF THERE IS ANY WORK AVAILABLE TO THE APPLICANT WHICH HE IS PHYSICALLY AND MENTALLY CAPABLE OF PERFORMING.

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

SECTION 1. That Section 31-3404, Idaho Code, be, and the same is hereby amended to read as follows:

31-3404. APPLICATION FOR COUNTY AID.—Any sick or indigent person desiring aid from any county of this state, must, before such aid can be given, make a written application to the probate judge, the clerk of the board of county commissioners, or to any justice of the peace in the precinct where such applicant may reside, setting forth and describing all the property, real, person and mixed, wherever it is situated, owned in whole or in part by such applicant, or in which he or she has any legal or equitable interest; if such applicant have no available property, real or personal, and there is no work available to him which he is mentally and physically capable of performing, then he must declare his indigency and destitution, which 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: Provided, however, except in the case of 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.

SECTION 2. That Section 31-3405, Idaho Code, be, and the same is hereby amended to read as follows:

31-3405. INVESTIGATION OF APPLICATION — CERTIFICATE.—It is the duty of the probate judge, clerk of the board of county commissioners, or the justice of the peace to whom such application is made, to immediately investigate the grounds of such application, and for such purpose he may require the applicant to submit to physical and mental examination to be performed by the county physician or by someone else approved by the county commissioners at the expense of the county, and require the applicant, and such other persons as may be deemed necessary, to testify under oath, and if such officer is fully satisfied that said applicant is really sick, indigent and in destitute circumstances, that there is no work available to him which he is mentally and physically capable of performing, and would suffer unless aided by the county, he must file a certificate to that effect with the clerk of the board of county commissioners of such county, and in case said board of county commissioners is not in regular session at the time of the date of such certificate, the officer to whom said application is made may, in his discretion, authorize the applicant to be placed in the poor house or hospital of the county, or, if the county is not provided with a poor house or hospital, he may authorize the expenditure of any sums not exceeding the sum of forty dollars ($40.00) in the aggregate, to provide for the immediate necessities of such applicant, and must present his bill for such expenditure 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.

Approved February 18, 1967.

CHAPTER 28
(S. B. No. 35, As Amended)

AN ACT
AMENDING SECTION 22-2718, IDAHO CODE, RELATING TO CREATION AND POWERS OF THE SOIL CONSERVATION

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

SECTION 1. That Section 22-2718, Idaho Code, be, and the same is hereby amended to read as follows:

22-2718. STATE SOIL CONSERVATION COMMISSION.—A. There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in this act, the state soil conservation commission to consist of three members, to be appointed by the governor and serve during his pleasure. The commission may invite the secretary of agriculture of the United States of America to appoint one person to serve with the above mentioned members as an advisory member of the commission. There is hereby established and created the state soil conservation commission which shall perform all functions conferred upon it by this chapter. The commission shall consist of five members appointed by the governor, but no more than three members shall be a member of the same political party. The term of office of each commission member shall be five years; except that upon July 1, 1967, the governor shall appoint one member for a term of one year, one member for a term of two years, one member for a term of three years, one member for a term of four years and one member for a term of five years. From and after the initial appointment the governor shall appoint a member of the commission to serve in office for a term of five years commencing upon July 1 of
that year. A vacancy which occurs in an unexpired term shall be filled for its remainder by the governor's appointment. Any commissioner may be removed during his term of office by the governor. Any commissioner so removed shall have notice of the same in writing, specifying the reasons for the removal. Each vacancy on the commission shall be filled by appointment by the governor. Such appointments shall be confirmed by the senate. The commission may invite the state conservationist of the United States Department of Agriculture Soil Conservation Service, the president of the Idaho association of soil conservation districts and the Dean of the College of Agriculture of the University of Idaho or his designated representative to serve as non-voting advisory members of the commission. The commission shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules as may be necessary for the execution of its functions under this act.

B. The state soil conservation commission may employ an administrative officer and such technical experts and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. The commission may call upon the attorney-general of the state for such legal services as it may require, or may employ its own counsel. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. It shall be supplied with suitable office accommodations, and shall be furnished with the necessary supplies and equipment. Upon request of the commission, for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning shall insofar as may be possible under available appropriation, and having due regard to the needs of the agency to which the request is directed, assign or detail to the commission members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the commission may request.

C. The commission shall designate its chairman, and may from time to time, change such designation. A majority of the commission shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. The chairman and members of the commission shall receive no compensation for
their services on the commission, but shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the commission. The commission shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

D. In addition to the duties and powers hereinafter conferred upon the state soil conservation commission, it shall have the following responsibilities:

(1) To offer such assistance as may be appropriate to the supervisors of soil conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs.

(2) To keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized hereunder, and to facilitate and interchange of advice and experience between such districts and cooperation between them.

(3) To coordinate the progress of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation.

(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this State, in the work of such districts.

(5) To disseminate information throughout the state concerning the activities and programs of the soil conservation districts in areas where their organization is desirable.

Approved February 18, 1967.

CHAPTER 29
(S. B. No. 40)

AN ACT
AMENDING SECTION 22-3404, IDAHO CODE, RELATING TO REGISTRATION UNDER THE ECONOMIC POISON ACT, BY
DELETING THAT PORTION CONCERNING REGISTRATION UNDER PROTEST AND SUBSTITUTING NEW MATERIAL TO PROVIDE THAT REGISTRATION MAY BE REFUSED OR SUSPENDED, AND TO PROVIDE FOR NOTICE, HEARING AND JUDICIAL REVIEW OF SUCH REFUSAL OR SUSPENSION UNDER THE IDAHO ADMINISTRATIVE PROCEDURE ACT.

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

SECTION 1. That Section 22-3404, Idaho Code, be, and the same is hereby amended to read as follows:

22-3404. REGISTRATION.—(a) Every economic poison which is distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered in the office of the commissioner, and such registration shall be renewed annually; provided, that products which have the same formula, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison; and additional names and labels shall be added by supplement statements during the current period of registration; and provided, further, that any economic poison imported into this state, which is subject to the provisions of any federal act providing for the registration of economic poisons and which has been duly registered under the provisions of said act, may, in the discretion of the commissioner, be exempted from registration under this act, when sold or distributed in the unbroken immediate container in which it was originally shipped. The registrant shall file with the commissioner a statement including

1. the name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant;

2. the name of the economic poison;

3. a complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it including directions for use; and

4. if requested by the commissioner a full description of the tests made and the results thereof upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information
which is different from that furnished when the economic poison was registered or last re-registered.

(b) The registrant shall pay an annual fee of $5.00 for each economic poison registered, such fee to be paid to the department of agriculture for deposit with the state treasurer and to be credited to the economic poison fund of the department of agriculture to be used only for carrying out the provisions of this act; provided, however, that any registrant may register annually any number of brands after the payment of annual fees aggregating $300.00.

(c) The commissioner, whenever he deems it necessary in the administration of this act, may require the submission of the complete formula of any economic poison. If it appears to the commissioner that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of section 22-3403 of this act, he shall register the article.

(d) If it does not appear to the commissioner that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this act, he shall notify the registrant of the manner in which the article, labeling or other material required to be submitted fail to comply with the act so as to afford the registrant an opportunity to make the necessary corrections. If, upon receipt of such notice, the registrant insists that such corrections are not necessary and requests in writing that the article be registered, the commissioner shall register the article, under protest, and each registration shall be accompanied by a warning, in writing, to the registrant of the apparent failure of the article to comply with the provisions of this act. In order to protect the public, the commissioner, on his own motion, may at any time cancel the registration of an economic poison and in lieu thereof issue a registration under protest in accordance with the foregoing procedure. In no event shall registration of an article, whether or not protested, be construed as a defense for the commission of any offense prohibited under section 22-3403 does not make the corrections, the commissioner may refuse to register the article. The commissioner, in accordance with the procedures specified herein, may suspend or cancel the registration of an economic poison whenever it does not appear that the article or its labeling complies with the provisions of this act. Whenever an application for registration is refused or the commissioner proposes to
suspend or cancel a registration, notice of such action shall be given to the applicant or registrant who shall have thirty days from the date of such notice to request a hearing on the proposed action of the commissioner. The hearing shall be conducted by the commissioner, or his designee, for the purpose of receiving evidence relevant and material to the issues, following the conclusion of which the commissioner shall issue an order with findings of fact and notify the applicant or registrant thereof. All proceedings under this section will be handled in accordance with the Idaho Administrative Procedure Act as a contested case. Any person who will be adversely affected by such order may obtain judicial review thereof as provided for in the Idaho Administrative Procedure Act.

(e) Notwithstanding any other provision of this act, registration is not required in the case of an economic poison shipped from one plant within this state to another plant within this state operated by the same person.

Approved February 18, 1967.

CHAPTER 30
(S. B. No. 54)

AN ACT

AMENDING SECTION 49-903, IDAHO CODE, TO REMOVE SPEED RESTRICTIONS ON CERTAIN VEHICLES OR COMBINATION OF VEHICLES AND PROVIDE FOR THE FLAGGING OF CERTAIN VEHICLES, BOTH FRONT AND REAR.

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

SECTION 1. That Section 49-903, Idaho Code, be, and the same is hereby amended to read as follows:

49-903. SPEED LIMITS FOR VEHICLES REGULATED ACCORDING TO WEIGHT AND TIRE EQUIPMENT. a. It shall be unlawful to operate any freight carrying vehicle or combination of vehicles, the gross weight of which, with or without load is 10,000 pounds or more, on a public highway at a rate of speed in excess of forty-five miles per hour.

b. a. It shall be unlawful to operate any vehicle equipped with other than pneumatic tires on a public highway at a
rate of speed in excess of twenty miles per hour for vehicles having a gross weight of not more than 10,000 pounds, and twelve miles per hour for vehicles having a gross weight of more than 10,000 pounds: provided, that no truck or trailer vehicle equipped with tires made wholly or partly of metal shall be operated at a speed in excess of six miles per hour and shall be flagged both front and rear of the vehicle, or combination of vehicles.

Approved February 18, 1967.

CHAPTER 31  
(S. B. No. 72)  
AN ACT  
AMENDING SECTION 6-306, IDAHO CODE, RELATING TO JURISDICTION OF THE PROBATE COURT IN FORCIBLE ENTRY AND UNLAWFUL DETAINER ACTIONS, BY INCREASING THE JURISDICTIONAL LIMIT FROM $500 TO $750; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 6-306, Idaho Code, be, and the same is hereby amended to read as follows:

6-306. JURISDICTION OF PROBATE COURT.—The probate court of the county in which the property, or some part of it, is situated, has jurisdiction of proceedings under this chapter when the whole amount of the rent and damages claimed does not exceed $500-$750.

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

Approved February 18, 1967.

CHAPTER 32  
(H. B. No. 82)  
AN ACT  
AMENDING SECTION 49-748, IDAHO CODE, RELATING TO VE-
HICLES STOPPING AT RAILROAD CROSSINGS; BY PROVIDING THAT THE DEPARTMENT OF HIGHWAYS OR LOCAL AUTHORITIES SHALL PLACE STOP SIGNS AT ALL RAILROAD GRADE CROSSINGS UNLESS SUCH SIGN SHALL CONSTITUTE A GREATER HAZARD.

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

SECTION 1. That Section 49-748, Idaho Code, be, and the same is hereby amended to read as follows:

49-748. ALL VEHICLES MUST STOP AT CERTAIN GRADE CROSSINGS.—Wherever a highway crosses or shall hereafter cross one or more railroads at grade, the department of highways and local authorities with the approval of the department of highways are hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat, shall place and maintain a stop sign, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing. Placement of such stop signs shall be mandatory; provided, however, that when in the determination of the department of highways or local authorities a stop sign at a given crossing would constitute a greater hazard than its absence, mandatory placement shall be deemed waived. When such stop signs are erected the driver of any vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and shall proceed only upon exercising due care.

Approved February 25, 1967.

CHAPTER 33
(S. B. No. 95)

AN ACT

ESTABLISHING THE STAR GARNET AS THE OFFICIAL STATE STONE, OR STATE GEM, OF THE STATE OF IDAHO.

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

SECTION 1. The star garnet is hereby declared to be the official state stone, or state gem, of the State of Idaho.

Approved February 25, 1967.
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CHAPTER 34
(S. B. No. 168)

AN ACT
RELATING TO THE DEBT INCURRING POWERS OF IDAHO TAXING BODIES AND POLITICAL SUBDIVISIONS; STATING LEGISLATIVE POLICY; PROVIDING FOR REFERENCE TO THE 1966 ASSESSMENT ROLLS TO DETERMINE DEBT INCURRING POWERS OF TAXING BODIES AND POLITICAL SUBDIVISIONS UNTIL THE 1967 ASSESSMENT ROLLS BECOME AVAILABLE, FOR CERTIFICATES OF COUNTY AUDITORS EVIDENCING ASSESSED VALUATIONS, FOR EFFECT OF CERTIFICATES OF COUNTY AUDITORS, FOR THE APPLICATION OF THIS ACT, FOR THE VALIDATION OF BONDS ISSUED AND DELIVERED, ELECTIONS HELD, AND ALL PROCEEDINGS, RESOLUTIONS AND ORDINANCES HERETOFORE TAKEN AND ADOPTED IN CONNECTION WITH PROPOSED BOND ISSUES; AND DECLARING AN EMERGENCY.

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

SECTION 1. STATEMENT OF LEGISLATIVE POLICY.—It is hereby found, determined and declared by the legislature of the State of Idaho that in order to facilitate the orderly completion and construction of public buildings and projects in the state of Idaho, it is necessary to establish the basis upon which all taxing bodies and political subdivisions of the state which have the power to issue bonds and incur debt, shall determine their debt incurring power until the assessment roll for the year 1967 becomes available in the several counties of the state.

SECTION 2. The debt incurring power of each taxing body and political subdivision of this state which is granted the power to incur debt and issue, sell and deliver bonds or other evidences of indebtedness shall, until the pertinent assessment roll for the year 1967 becomes complete and equalized, be determined by reference to the assessed valuation of taxable property within the boundaries of each such taxing body or political subdivision, as such assessed valuation appeared on the equalized and completed assessment roll of the county in which each such taxing body or political subdivision is located for the year 1966 and on file in the office of the county auditor of such county prior to February 2, 1967. The certificate of the county auditor certifying the assessed valuation of taxable property located within the boundaries of any taxing district or political subdivision in the state of
Idaho which has authority to incur debt, issue, sell or deliver bonds or other evidences of indebtedness according to the complete and equalized assessment roll for 1966 on file in the office of the county auditor prior to February 2, 1967, shall be conclusive evidence of the assessed valuation of taxable property in said taxing body or other political subdivision for debt incurring purposes and such certificate may be relied upon by each such taxing body or political subdivision and by the purchasers and subsequent holders of bonds issued thereby in determining the debt incurring power of such taxing body or other political subdivision under the applicable limitation upon the incurring of debt and the issuance of bonds or other evidence of indebtedness. Any bonds or other evidences of indebtedness hereafter issued by any such taxing body or political subdivision shall not be held invalid by any court of competent jurisdiction in the state of Idaho if such bonds were issued, sold or delivered in reliance upon the debt incurring power thereof as shown by the certificate of the county auditor with respect to the 1966 assessment roll as herein provided. This act shall not apply in any instance where there is pending on the effective date of this act in any county any litigation or suit against said county, or any elected official thereof, challenging the assessment roll of said county for the year 1966 on the ground of the lack of uniformity of taxation or assessment of taxable property within the boundaries of the taxing body or political subdivision proposing to issue the bonds concerned.

SECTION 3. It is hereby expressly found and determined that all bonds heretofore issued, sold and delivered by every taxing body or political subdivision in the state of Idaho where reliance was had upon the assessment roll of any county for the year 1966 in the determination of the debt incurring power thereof, and all elections heretofore conducted and all proceedings, ordinances, resolutions and actions heretofore taken and adopted in connection with any bonds so proposed to be issued, sold or delivered by any such taxing body or political subdivision, are hereby ratified, confirmed and approved, except where there is litigation pending on the effective date of this act with respect to the validity thereof.

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

Approved February 25, 1967.
CHAPTER 35
(H. B. No. 106)

AN ACT
AMENDING SECTION 37-602, IDAHO CODE, RELATING TO FEE FOR TESTING GLASSWARE USED FOR MAKING BUTTER-FAT TESTS OF MILK SAMPLES, BY INCREASING THE FEE TO FIVE CENTS (5¢) PER PIECE OF GLASSWARE IN LIEU OF THREE CENTS (3¢) PER PIECE OF GLASSWARE.

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

SECTION 1. That Section 37-602, Idaho Code, be, and the same is hereby amended to read as follows:

37-602. FEE FOR TESTING GLASSWARE.—For all testing of glassware by the said department of dairy husbandry or its agent, a fee of five cents shall be paid by the owner of said glassware so examined, and said fee shall be used by the department of dairy husbandry to defray the cost of testing such glassware.

Approved February 25, 1967.

CHAPTER 36
(H. B. No. 108)

AN ACT
REPEALING SECTION 37-223, IDAHO CODE, RELATING TO DEFINITION OF DRY MILK SOLIDS OR DEFATTED MILK SOLIDS.

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

SECTION 1. That Section 37-223, Idaho Code, be, and the same is hereby repealed.

Approved February 25, 1967.

CHAPTER 37
(H. B. No. 127)

AN ACT
RELATING TO ANADROMOUS FISH; PROVIDING FOR A COM-
PACT BETWEEN THE STATES OF WASHINGTON, OREGON AND IDAHO RELATIVE TO ANADROMOUS FISH IN THE WATERS OF THE COLUMBIA AND SNAKE RIVERS AND PROVIDING FOR THE RATIFICATION THEREOF.

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

SECTION 1. Should Congress by virtue of the authority vested in it under article 1, section 10, of the Constitution of the United States, providing for compacts and agreements between states ratify the following as a definite compact and agreement between the states of Washington, Oregon and Idaho, then, and in that event, there shall exist between the states of Washington, Oregon and Idaho a compact and agreement, the purport of which shall be substantially as follows:

All laws and regulations now existing or which may be necessary for regulation, protecting or preserving anadromous fish in the waters of the Columbia River from its mouth to the mouth of the Snake River and the waters of the Snake River from its mouth to the mouth of the Salmon River, shall be made, changed, altered and amended in whole or in part by a majority vote of delegates from each of the three said states, said delegates to consist of one representative each from the Washington Department of Game, Washington Department of Fisheries, Oregon Fish Commission, Oregon Game Commission, and the Idaho Fish and Game Department or their successors.

Approved February 25, 1967.

CHAPTER 38
(H. B. No. 146)

AN ACT
AMENDING SECTION 25-131, IDAHO CODE, RELATING TO SHEEP COMMISSION FUND, BY INCREASING THE MAXIMUM LEVY FOR SUCH FUND FROM FORTY TO FIFTY MILLS.

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

SECTION 1. That Section 25-131, Idaho Code, be, and the same is hereby amended to read as follows:

25-131. SHEEP COMMISSION FUND — ANNUAL
LEVY—APPROPRIATION.—The board of county commissioners at the time of the annual levy of taxes must, at the request of the board, levy the rate of tax recommended by the board, not to exceed forty-five mills on the dollar, on all sheep assessed in their respective counties according to the assessed valuation of the same, the said tax to be collected as other taxes and paid to the state treasurer. All moneys received from said tax shall be deposited in the state treasury by the state treasurer to the credit of a special fund hereby created to be known as the "sheep commission fund."

In addition thereto, the said fund shall consist of any appropriations made by the legislature for the use of and expenditure by said board. All fees of every kind collected under the provisions of this act, or under any rules and regulations made pursuant to the provisions of this act, shall be deposited in the state treasury in the manner hereinabove described. The moneys in said special fund are hereby appropriated for the use and expenditure of said board in carrying out the provisions of this act and the rules and regulations made herein and said fund is hereby declared to be a continuing fund.

All the moneys received by the state board of sheep commissioners from that portion of the special levy which is made to carry on the predatory animal work shall be expended by the sheep commission in the respective districts comprising the counties where such tax is levied and collected less the actual and necessary administrative costs for carrying out the provisions of this act. Any and all moneys received by such fund for predatory animal work except as herein otherwise provided shall be expended by the sheep commission within the district or districts specified by the party or agency providing such funds and any trust fund must be held inviolate for the purposes of the trust.

Approved February 25, 1967.
OF ADMINISTRATIVE ASSISTANT OF THE COURTS AND TO AUTHORIZE THE SUPREME COURT TO APPOINT AND FIX THE COMPENSATION OF SUCH ADMINISTRATIVE ASSISTANT; AMENDING SECTION 1-612, IDAHO CODE, TO DELETE THE WORD "COORDINATOR" AND INSERT IN LIEU THEREOF "ADMINISTRATIVE ASSISTANT," AND TO PROVIDE ADDITIONAL DUTIES OF SUCH ADMINISTRATIVE ASSISTANT; AMENDING SECTION 1-613, IDAHO CODE, TO DELETE THE WORD "COORDINATOR" AND INSERT IN LIEU THEREOF "ADMINISTRATIVE ASSISTANT"; AMENDING SECTION 1-614, IDAHO CODE, TO DELETE THE WORD "COORDINATOR" AND INSERT IN LIEU THEREOF "ADMINISTRATIVE ASSISTANT" AND TO REQUIRE ALL JUDGES, AND OTHER OFFICERS OF THE COURTS TO COMPLY WITH REQUESTS OF SUCH ADMINISTRATIVE ASSISTANT; AMENDING SECTION 1-615, IDAHO CODE, TO AUTHORIZE THE SUPREME COURT TO PROVIDE ASSISTANTS AND CLERICAL ASSISTANCE TO THE ADMINISTRATIVE ASSISTANT AS MAY BE DEEMED NECESSARY TO PERFORM HIS DUTIES; AND TO PROVIDE AN EFFECTIVE DATE THEREOF.

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

SECTION 1. That Section 1-611, Idaho Code, be, and the same is hereby amended to read as follows:

1-611.—(a) There is hereby established the Office of the Coordinator—Administrative Assistant of the courts of the State of Idaho.

(b) Beginning with the effective date of sections 1-611-1-615, one of the justices of the Supreme Court shall serve as Coordinator, without additional compensation. The designation of the Coordinator shall be by a majority of the justices. The term of service by the justice so designated shall be two (2) years, except that the term of the first one designated shall expire December 31, 1959. In the event the office becomes vacant at any time, the Chief Justice may designate one of the justices to serve for the unexpired term. The Supreme Court shall appoint and fix the compensation of the Administrative Assistant, he to devote his full time to the duties of such office and to serve at the pleasure of the court.

SECTION 2. That Section 1-612, Idaho Code, be, and the same is hereby amended to read as follows:

1-612.—The Coordinator—Administrative Assistant, acting
under the supervision and direction of the Supreme Court, shall:

(a) Procure data from time to time and as of the close of each calendar year with respect to these matters: the business transacted by the various district courts of Idaho; the state of their dockets; the needs, if any, for assistance to expedite the handling of judicial business pending in the district courts; and such other matters as, in the judgment of the Supreme Court, bear on the work and the administration of the judicial system of the state.

(b) Report to the Supreme Court from time to time concerning the need for assistance in the handling of pending business in any district court of Idaho, and recommended means for meeting the need.

(c) Report to the Supreme Court and the Governor for each calendar year, as of the close of the year, concerning the data procured as provided in (a) above and as to the work of the Coordinator’s Administrative Assistant’s office, one copy of each report to be made public by filing with the clerk of the Supreme Court, one to be furnished to the Board of Commissioners of the Idaho State Bar, and one to the Legislative Counsel; and report to the Supreme Court on these data at such other times as may be requested by the Chief Justice.

(d) Examine the administrative and business methods and systems employed in the offices of the judges, clerks and other officers of the courts related to and serving the courts, and make recommendations to the Supreme Court for improvement.

(e) Formulate and submit to the Supreme Court recommendations for the improvement of the judicial system.

SECTION 3. That Section 1-613, Idaho Code, be, and the same is hereby amended to read as follows:

1-613.—Whenever the Coordinator’s Administrative Assistant’s report indicates that there is need for judicial assistance in any district court, the Supreme Court, with the approval of the Governor, shall assign to that court any district judge for a fixed period or for specific purposes. Any judge so assigned shall serve without additional compensation, but shall be paid all reasonable expenses actually incurred by him in the performance of his duties hereunder, including reasonable expenses of travel and sustenance when required to perform duties outside the city of his residence.
SECTION 4. That Section 1-614, Idaho Code, be, and the same is hereby amended to read as follows:

1-614. (a) The district judges, clerks and other officers of the district courts shall comply with the requests made by the coordinator administrative assistant for the inspection, standardization, and improvement of the records and systems employed in the offices of the district judges, clerks and other officers of the district courts, in furtherance of section 1-612.

(b) It shall be the duty of the district judges, clerks and other officers of the district courts, when requested by the coordinator administrative assistant, to report promptly on all matters within the scope of (a) of section 1-612 on which a report is requested. The coordinator administrative assistant shall have access to the official records of the judge, clerk and other officers of any district court at all reasonable times in the performance of his duties under this act.

SECTION 5. That Section 1-615, Idaho Code, be, and the same is hereby amended to read as follows:

1-615. It shall be the duty of the clerk of the The Supreme Court to may provide such assistants and clerical assistance to the Coordinator Administrative Assistant as he requires, but the Coordinator, with the approval of the Supreme Court, may employ such additional clerical assistance as he determines to be as may be deemed necessary to perform the duties and responsibilities imposed on him by this Act.

SECTION 6. This act shall be and become effective on and after the first day of July, 1967.

Approved February 25, 1967.

CHAPTER 40
(H. B. No. 205)

AN ACT

AMENDING SECTION 26-1001, IDAHO CODE, AS AMENDED, BY REQUIRING A BANKING CORPORATION REQUESTING AUTHORITY TO ESTABLISH A BRANCH BANKING OFFICE, TO PAY TO THE DEPARTMENT OF FINANCE AN INVESTIGATION FEE BASED UPON THE DEPARTMENT OF FI-
NANCE'S COST OF EXAMINATION AND INVESTIGATION, WHICH AMOUNT SHALL NOT BE LESS THAN ONE HUNDRED DOLLARS ($100.00) NOR MORE THAN ONE THOUSAND DOLLARS ($1000.00).

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

SECTION 1. That Section 26-1001, Idaho Code, as amended, be, and the same hereby is amended to read as follows:

26-1001. BRANCH BANKS—RIGHT TO MAINTAIN—REQUIREMENTS.—No bank shall maintain any branch bank office except as hereinafter provided. Any corporation organized under the laws of Idaho and authorized to engage in the banking and/or trust business may, with the approval of the commissioner of finance, establish and operate branch banking offices for the transaction of its business within the limits of the city, town, or village, in which it is situated, or at any point within this state: Provided, that such corporation shall have a paid-in capital stock of not less than $100,000 and a surplus fund, paid-in or earned, in the amount of not less than twenty per cent (20%) of its capital stock. The provisions of section 26-201, being section 6 of chapter 133 of the laws of 1925, shall not apply to any corporation operating branch banking offices, but no such corporation shall establish or maintain branch banking offices unless its paid-in capital stock shall, in the aggregate, amount to at least $25,000 for each of the banking offices, and from and after the effective date of this act no new branch bank or new branch office of any bank shall be established unless the corporation establishing the same has a paid-in and unimpaired capital stock in an amount not less than the minimum capital stock now required by subsections (c) (d) of section 36 of title 12 of the United States Code as amended by section 23 of the Bank Act of 1933, being an Act of Congress approved June 16, 1933, for a national banking association establishing and operating new branches outside the city, town or village in which such association is situated. No unit bank hereafter organized and operating at a point where there are other operating banks, state or national, shall be permitted to be acquired for the purpose of establishing a branch banking office or a branch bank until said unit bank shall have been in operation as a unit bank for a period of five (5) years.

Any banking corporation, applying to the commissioner of finance for authority to establish a branch banking office, shall pay to the department of finance a fee based upon the
cost of the investigation of said application; provided, that such fee shall not be less than one hundred dollars ($100.00) nor more than one thousand dollars ($1000.00).

Approved February 25, 1967.

CHAPTER 41
(H. B. No. 208)

AN ACT
AMENDING SECTION 26-801, IDAHO CODE, BY PROVIDING THAT THE DEPARTMENT OF FINANCE MAY, UPON A DETERMINATION THAT THE INTERNAL AUDITING PROCEDURES ARE INADEQUATE OR DEFICIENT, REQUIRE THE DIRECTORS OF A BANK TO OBTAIN AN INDEPENDENT AUDIT OF THE BANK CONDUCTED BY AN INDEPENDENT, LICENSED, CERTIFIED PUBLIC ACCOUNTANT AT THE BANK'S OWN EXPENSE AND DELIVERED TO THE DEPARTMENT A CERTIFIED COPY OF SAID AUDIT, AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 26-801, Idaho Code, be, and the same is hereby amended to read as follows:

26-801. BOOKS AND ACCOUNTS.—Whenever it appears to the department of finance that any bank does not keep books and accounts in such manner as to enable it to readily ascertain the true condition of such bank, or such books and accounts are not such as to eliminate the probability, as far as possible, of loss through dishonesty of its officers or employees, or otherwise, the department shall have power to require the officers of such bank or any of them, to open and keep such books or accounts as the department may, in its discretion, determine and prescribe for the purpose of keeping accurate and convenient records of the transactions and accounts of such bank.

The directors of any bank shall, within ten days from receipt by the bank of a written statement from the department of finance that said bank's internal auditing procedures are inadequate or deficient in any respect in the opinion of said department, retain, at the bank's sole expense, an independent licensed certified public accountant, designated by the commissioner of finance, to forthwith make an
audit of said bank, and upon completion thereof a certified copy of said audit shall be delivered to the department of finance.

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

Approved February 25, 1967.

CHAPTER 42
(S. B. No. 48)

AN ACT

AMENDING CHAPTER 22 OF TITLE 22, IDAHO CODE, RELATING TO REGULATION OF COMMERCIAL SPRAYERS AND DUSTERS, PARTICULARLY SECTIONS 22-2208, 22-2209, 22-2210, 22-2211, 22-2212, 22-2213, 22-2214, 22-2216, 22-2218, 22-2224, 22-2225 AND 22-2227 TO PROVIDE FOR REGULATION UNDER SAID ACT OF COMMERCIAL APPLICATION OF DEFOILANTS, DESICCANTS AND PLANT REGULATORS AND DEFINING SAID TERMS; AND AMENDING SECTION 22-2211, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF AGRICULTURE MAY ADOPT REGULATIONS CONCERNING DISPOSAL OF AND RE-USE OF EMPTY CONTAINERS.

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

SECTION 1. That Section 22-2208, Idaho Code, be, and the same is hereby amended to read as follows:

22-2208. DECLARATION OF PURPOSE. — The purpose of this act is to regulate in the public interest, the custom application of insecticides, fungicides, and herbicides, defoliants, desiccants and plant regulators. A great many materials have been discovered or synthesized which are valuable for the control of insects, fungi, and weeds; and for regulating, defoliating or desiccating the growth of useful plants. However, such materials may injure health, property, or wildlife by drifting or being applied in a careless manner. Therefore it is deemed necessary to provide for regulation of the custom application of insecticides, fungicides and herbicides, defoliants, desiccants and plant regulators.

SECTION 2. That Section 22-2209, Idaho Code, be, and the same is hereby amended to read as follows:
22-2209. DEFINITIONS.—For the purpose of this act —
(a) The term "insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects.

(b) The term "fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.

(c) The term "herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

(d) The term "insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, often winged forms, as, for example, beetles, bugs, bees and flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks and centipedes.

(e) The term "fungi" means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.

(f) The term "weed" means any plant which grows where not wanted.

(g) The term "person" means any individual, firm, partnership, association, corporation, company, joint stock association, or body politic, or any organized group of persons whether incorporated or not; and includes any trustee, receiver, assignee, or other similar representative thereof.

(h) The term "commissioner" means the commissioner of agriculture of the state of Idaho.

(i) The term "custom application of insecticides, fungicides, herbicides, defoliants, desiccants and plant regulators" means any application of insecticides, fungicides, herbicides, defoliants, desiccants and plant regulators for hire.

(j) The term "aircraft" means any contrivance now known or hereafter invented, used or designed for navigation of, or flight in, the air.

(k) The term "ground equipment" means any machine
or device (other than aircraft), for use on land or water, designed for, or adaptable to, use in applying insecticides, fungicides, herbicides, defoliants, desiccants and plant regulators as sprays, dusts, aerosols, or fogs, or in other forms.

(1) Public hearing shall constitute a public meeting after ten days notice in no less than three newspapers having a general circulation in the state of Idaho.

(m) The term “plant regulator” means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants and soil amendments.

(n) The term “defoliant” means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(o) The term “desiccant” means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

SECTION 3. That Section 22-2210, Idaho Code, be, and the same is hereby amended to read as follows:

22-2210. LICENSES.—(a) No person shall engage in above soil custom application of insecticides, fungicides, herbicides, defoliants, desiccants and plant regulators within the state of Idaho at any time without a license issued by the commissioner, provided that this requirement shall not apply to any farmer or grower using or spraying any chemicals upon his own property or upon the property of another farmer or grower, when the same is done without any consideration other than exchange of labor and equipment. Application for a license shall be made to the commissioner and said applicant receiving a license shall pay an annual fee not exceeding ten dollars ($10.00) therefor. Each such license shall expire on December 31, following its date of issue. Each application for a license shall contain the following information:

(1) Name and address of the person applying for a license;

(2) Names and addresses of the officers, partners, principal stockholders, or other individuals belonging to or con-
nected with the applicant if the applicant for a license is a firm, partnership, association, corporation, or other business unit;

(3) Whether the applicant has been previously licensed to perform custom application of insecticides, fungicides, or herbicides, defoliants, desiccants and plant regulators in this state or any other state, and, if so, the date or dates such licenses were obtained, also if the applicant has ever had a license refused or revoked in this state or any state, or a bond or insurance policy cancelled.

(b) If the commissioner finds the applicant qualified, the commissioner shall issue a license to perform custom application of insecticides, fungicides, and herbicides, defoliants, desiccants and plant regulators within the state of Idaho. The license may restrict the applicant to the use of a certain type or types of equipment or materials if the commissioner finds that the applicant is qualified to use only such type or types. If a license is not issued as applied for, the commissioner shall inform the applicant in writing of the reasons therefor. The commissioner may refuse to license any operator who has ever had a license refused or revoked for any reason, either in this state or in any other state or territory, or has had a bond or insurance policy indemnifying the public against injuries arising from dusting or spraying cancelled.

(c) The commissioner may suspend, pending inquiry, for not longer than ten days, and, after opportunity for a hearing, may revoke or modify the provisions of any license issued under this section, if he finds that the licensee is no longer qualified, has engaged in fraudulent business practices in the custom application of insecticides, fungicides, or herbicides, defoliants, desiccants and plant regulators, or has made any custom application in a faulty, careless, or negligent manner, or has violated any of the provisions of this act or regulations made thereunder.

(d) The commissioner may in his discretion after an investigation issue a license without examination to a non-resident who is licensed in another state substantially in accordance with the provisions of this act.

(e) Any person aggrieved by any action of the commissioner may obtain a review thereof by filing in the district court within 30 days of notice of the action a written petition praying that the action of the commissioner be set aside. A copy of such petition shall forthwith be delivered.
to the commissioner, and within 10 days thereafter the com-
missioner shall certify and file in the court a transcript of
any record pertaining thereto, including a transcript of evi-
dence received, whereupon the court shall have jurisdiction
to affirm, set aside or modify the action of the commissioner,
except that the findings of the commissioner as to the facts,
if supported by substantial evidence, shall be conclusive.

SECTION 4. That Section 22-2211, Idaho Code, be, and
the same is hereby amended to read as follows:

22-2211. REGULATIONS. — Any person within the
state of Idaho engaged in the custom application of insecti-
cides, fungicides, herbicides, defoliants, desiccants and
plant regulators shall conform to the following regulations:

(a) Keep reasonably well informed as to the proper cli-
matic conditions and shall not apply sprays or dusts when
the wind velocity is in such proportion as to cause a drift of
any spray or dust which may cause damage beyond the
property rights of the person or persons receiving the bene-
fits of the application.

(b) Destroy by burning all insecticide cartons, bags, or
containers immediately after emptying the contents. The
department of agriculture shall by regulation provide for
disposal of or re-use of empty container of insecticides, fun-
gicides, defoliants, desiccants and plant regulators.

(c) The commissioner shall require a reasonable bond or
insurance policy from each applicant, under such rules and
regulations as he may prescribe, with respect to custom ap-
plication of insecticides, fungicides, herbicides, defoliants,
desiccants and plant regulators.

SECTION 5. That Section 22-2212, Idaho Code, be, and
the same is hereby amended to read as follows:

22-2212. INSPECTION.—The commissioner may pro-
vide for inspection of any equipment or of any device or
apparatus used for custom application of insecticides, fun-
gicides, herbicides, defoliants, desiccants and plant regu-
lators and may require proper repairs or other changes be-
fore its further use for custom application.

SECTION 6. That Section 22-2213, Idaho Code, be, and
the same is hereby amended to read as follows:

22-2213. MATERIALS AND METHODS OF APPLI-
CATION.—The commissioner may, by regulation after pub-
lic hearing, prescribe materials or methods to be used and
prohibit the use of materials or methods in custom application of insecticides, fungicides, defoliants, desiccants and plant regulators to the extent necessary to protect public health or to prevent injury, by reason of the drifting, washing or application of such materials, to desired plants or animals, on property other than that owned or leased by the person for whom the materials are applied. In issuing such regulations, the commissioner shall give consideration to the pertinent research finding and recommendations of the agricultural experiment station of the University of Idaho relative to all matters technical in materials and methods.

SECTION 7. That Section 22-2214, Idaho Code, be, and the same is hereby amended to read as follows:

22-2214. REPORTS.—The commissioner may by regulation require any licensee to maintain such records and furnish reports giving such information with respect to particular application of insecticides, fungicides, herbicides, defoliants, desiccants and plant regulators and such other relevant information as the commissioner may deem necessary.

SECTION 8. That Section 22-2216, Idaho Code, be, and the same is hereby amended to read as follows:

22-2216. INFORMATION.—The commissioner may, in cooperation with the agricultural experiment station of the University of Idaho publish information regarding injury which may result from improper application or handling of insecticides, fungicides, herbicides, defoliants, desiccants and plant regulators and methods and precautions designed to prevent such injury and setting forth recommended methods and materials to be used.

SECTION 9. That Section 22-2218, Idaho Code, be, and the same is hereby amended to read as follows:

22-2218. EXEMPTIONS.—This act shall not apply to custom application of insecticides, fungicides, herbicides, defoliants, desiccants and plant regulators to prevent, destroy, repel or mitigate insects or fungi within or under buildings or within vehicles, ships, aircraft, or other means of transporting persons or property by land, water, or air.

SECTION 10. That Section 22-2224, Idaho Code, be, and the same is hereby amended to read as follows:

22-2224. RESTRICTED AREAS FOR USE OF 2, 4-D AND RELATED HERBICIDES AND INSECTICIDES
AND FUNGICIDES—DEfolIANTS—DESICCANTS—PLANT REGULATORS ESTABLISHED.—The commissioner of agriculture is authorized to define areas or zones within the state where specific restrictions on the use of 2, 4-D and related herbicides, and insecticides, and fungicides, defoliants, desiccants and plant regulators are necessary to prevent injury to animals, beneficial insects and pollinating insects and pollinating insects, or crops and is further authorized to establish special regulations regulating or prohibiting such use in these areas. The procedure for this shall be as prescribed in Section 22-2225.

SECTION 11. That Section 22-2225, Idaho Code, be, and the same is hereby amended to read as follows:

22-2225. PROCEDURE FOR ESTABLISHING RESTRICTED AREA—PROPOSAL—NOTICE—HEARING. —The commissioner of agriculture upon his own initiative, or upon the petition of a number of owners, lessees or operators of land in an area within a county or two or more contiguous counties in the state may, if it is deemed necessary, issue a proposal to establish a designated restricted area. The proposal shall set forth the boundaries of the area and the special regulations proposed to govern the use of 2, 4-D and related herbicides, and insecticides, and fungicides, defoliants, desiccants and plant regulators in the area. After notice by the commissioner, stating the time and place, and published once each week for two weeks before the hearing in a newspaper of general circulation in the area affected, the commissioner shall hold a public hearing at a place in reasonable proximity to the proposed area. As soon as possible after completion of the hearing, the commissioner shall by order make public his action in defining a restricted area and establishing the special regulations applicable thereto or refusing to take such action. Such order shall be based on substantial evidence of record at the hearing and shall include findings on which it is based; provided, however, that whenever twenty-five (25) landowners, qualified to vote under section 22-2226 in a referendum, shall sign a petition requesting that a referendum be held, the commissioner shall conduct a referendum as set forth in section 22-2226.

SECTION 12. That Section 22-2227, Idaho Code, be, and the same is hereby amended to read as follows:

22-2227. REGULATIONS PRESCRIBING TIME AND CONDITIONS OF USE IN RESTRICTED AREA. — The regulations authorized in section 22-2224 may prescribe the
time when and the conditions under which 2, 4-D and related herbicides, and insecticides, and fungicides, defoliants, desiccants and plant regulators may be used in any restricted area and may limit or prohibit their use in such area except under a special permit by the commissioner.

Approved February 25, 1967.

CHAPTER 43
(S. B. No. 41)

AN ACT

PROVIDING FOR REGULATION OF THE SALE AND DISTRIBUTION OF COMMERCIAL FERTILIZERS IN THIS STATE BY THE IDAHO DEPARTMENT OF AGRICULTURE; DEFINING PRODUCTS AND TERMS DEALT WITH UNDER THIS ACT; PROVIDING FOR REGISTRATION OF PRODUCTS; LABELING OF PRODUCTS AND TAGGING OF CONTAINERS AND BULK PRODUCTS WITH GUARANTEED ANALYSIS; PROVIDING FOR GUARANTEED ANALYSIS; PROVIDING FOR REGISTRATION FEE AND TONNAGE FEE AND DISPOSITION AND USE OF SUCH MONEY; PROVIDING FOR ENFORCEMENT OF THIS ACT BY THE DEPARTMENT OF AGRICULTURE BY TAKING OF SAMPLES, ANALYSIS OF SAMPLES, STOP SALE ORDERS, OR SEIZURE AND CONDEMNATION, AND PROHIBITING CERTAIN ACTIONS; PROVIDING FOR CRIMINAL PROVISIONS AND INJUNCTIVE RELIEF; PROVIDING FOR REGULATIONS GENERALLY AND REGULATIONS AS TO PENALTY PROVISIONS FOR FAILING TO MEET GUARANTEED ANALYSIS; PROVIDING FOR EXEMPTION FROM THE ACT OF EXCHANGES BETWEEN MANUFACTURERS; PROVIDING FOR COOPERATION WITH OTHER AGENCIES; PROVIDING A SAVING CLAUSE; PROVIDING FOR AN EFFECTIVE DATE OF JANUARY 1, 1968; AND PROVIDING FOR REPEAL OF CHAPTER 6, TITLE 22, IDAHO CODE, ON DECEMBER 31, 1967.

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

SECTION 1. This act shall be known as the "Commercial Fertilizer Law of 1967".

SECTION 2. The act shall be administered by the department of agriculture of the state of Idaho hereinafter referred to as the "Department".
SECTION 3. When used in this act:

(a) "Commercial fertilizer" means any substance containing one or more recognized plant nutrients and which is used for its plant nutrient content and/or which is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum and manipulated animal and vegetable manures.

(b) A "specialty fertilizer" is a commercial fertilizer distributed primarily for non-farm use, such as home gardens, lawn, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries.

(c) The term "brand" means a term, design, or trade mark used in connection with one or several grades of commercial fertilizer.

(d) The term "bulk fertilizers" means commercial fertilizer distributed in a non-packaged form.

(e) "Guaranteed analysis" means the minimum percentage of plant nutrients claimed in the following order and form:

- Total nitrogen (N) __________________ percent
- Available phosphoric acid (P₂O₅) ____________ percent
- Soluble potash (K₂O) _________________ percent

The "guaranteed analysis" may also include elemental guarantees for phosphorus (P) and potassium (K).

(1) For unacidulated mineral phosphatic materials and basic slag, the guaranteed analysis shall contain both total and available phosphoric acid (P₂O₅) and the degree of fineness. For bone, tankage, manipulated animal and vegetable manures, and other organic phosphatic materials, (P₂O₅) the guaranteed analysis shall contain total phosphoric acid (P₂O₅).

(2) Guarantees for plant nutrients other than nitrogen, phosphorus and potassium shall be as permitted or required by regulation of the department. The guarantees for such other nutrients shall be expressed in the form of the element.

(3) The guaranteed analysis for limes shall include the percentage of calcium or magnesium expressed as their carbonate; the minimum total neutralizing power expressed in terms of calcium carbonate; and the percentage of material that will pass respectively a one hundred mesh, sixty mesh, and ten mesh sieve.
(4) In a commercial fertilizer where the principal constituent is calcium sulphate (gypsum), the percentage of calcium sulphate \((\text{CaSO}_4 \cdot 2\text{H}_2\text{O})\) shall be given along with the percentage of total sulphur.

(f) The term "grade" means the percentages of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash stated in whole numbers in the same terms, order and percentages as in the "guaranteed analysis".

(g) "Total nutrients" means the sum of the percentages of the grade expressed as a whole number on the same basis as guaranteed.

(h) "Lime" means a substance or a mixture of substances, the principal constituent of which is calcium and/or magnesium carbonate, hydroxide, or oxide, singly or combined.

(i) "Ton" means the net weight of two thousand pounds avoirdupois.

(j) "Percent" or "percentage" means the percentage by weight.

(k) "Department" means the department of agriculture of the state of Idaho or its duly authorized representative.

(l) "Person" means a natural person, individual, firm, partnership, corporation, company, society, or association.

(m) "Customer-formula fertilizer" means a mixture of commercial fertilizer and/or materials of which each batch is mixed according to the specific instructions of the final purchaser.

(n) "Registrant" means the person who registers commercial fertilizer under the provisions of this act.

(o) "Official sample" means any sample of commercial fertilizer taken by the department and designated as "official" by the department.

(p) The term "distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends commercial fertilizer, or who offers for sale, sells, barters, or otherwise supplies commercial fertilizer in this state.

SECTION 4. The department shall administer, enforce, and carry out the provisions of this act and may adopt rules necessary to carry out its purposes. The adoption of rules
shall be subject to public hearing as prescribed by the Idaho Administrative Procedure Act, as enacted or hereafter amended.

SECTION 5. (1) Each brand and grade of commercial fertilizer shall be registered before being distributed in this state. Companies planning to mix customer-formula fertilizers shall include the statement "Customer-Formula Grade Mixes" under the column headed grades on the brand registration application form. The application for registration shall be submitted to the department on forms furnished by the department, and shall be accompanied by a fee of twenty-five (25) dollars per brand, except that those brands or grades sold in packages of 25 pounds or less shall be registered at a fee of twenty-five (25) dollars each. Upon approval by the department, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31st of each year. The application shall include the following information:

(a) The brand name;
(b) Declaration of guaranteed analysis of formulations to be sold;
(c) The name and address of the registrant;
(d) The sources from which the guaranteed plant nutrients are derived;
(e) A label or labels which shall comply with Section 7 of this act shall accompany said application.

(2) A distributor shall not be required to register any grade of commercial fertilizer which is already registered under this act by another person.

(3) A distributor shall not be required to register each brand of a customer-formula fertilizer: Provided, that such grade shall be distributed under a registered brand.

(4) If an application for renewal of the brand registration provided for in this section is not filed prior to January 1st of any one year, a penalty of ten dollars ($10.00) shall be assessed after February 1st of that year and added to the original fee and shall be paid by the applicant before the renewal brand registration shall be issued: Provided, that such penalty shall not apply if the applicant furnished an affidavit that he has not distributed this brand subsequent to the expiration of his prior registration.

SECTION 6. The department shall examine the registra-
tion application form and labels for conformance with the requirements of this act. If the application and appropriate labels are in proper form and contain the required information, the particular brand and grade of commercial fertilizer shall be registered by the department and a certificate of registration shall be issued to the applicant. The department may refuse registration, or cancel the registration, of any brand or grade of commercial fertilizer, the distribution of which would be in violation of any provisions of this act.

SECTION 7. (1) Any commercial fertilizer distributed in this state in containers shall have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

(a) The net weight or gallonage;
(b) The brand and grade;
(c) The name and address of the registrant, or manufacturer, or both; and
(e) The sources from which the guaranteed plant nutrients are derived.

(2) If distributed in bulk, a written or printed statement of the information required by items (a), (b), (c), (d) and (e), of the subsection (1) above shall accompany delivery and be supplied to the purchaser at the time of delivery.

(3) Each delivery of a customer-formula fertilizer shall be subject to containing those ingredients specified by the purchaser, which ingredients shall be shown on the statement or invoice with the amount contained therein, and a record of all invoices of customer-formula grade mixes shall be kept by the registrant for a period of six months and shall be available to the department upon request: Provided, that each delivery shall be accompanied by either a statement, invoice, a delivery slip, or a label if bagged, containing the following information: The net weight or gallonage; the brand; the guaranteed analysis or evidence of grade which may be stated to the nearest tenth of a percent or to the next lower whole number; the name and address of the registrant, or manufacturer, or both; the name and address of the purchaser; and the sources from which the guaranteed plant nutrients are derived.

SECTION 8. (1) In addition to the registration fee provided for in this act, every person, firm or corporation engaged in the manufacture and/or sale of any commercial fertilizer in this state shall pay to the commissioner of agri-
culture of the state of Idaho an inspection fee of ten (10) cents per ton on every ton of commercial fertilizer manufactured for sale, offered for sale or sold within the state of Idaho to defray the expenses incurred under this act. The commissioner of agriculture may promulgate all necessary rules and forms for the payment and collection of such inspection fees, including but not limited to, rules and forms requiring that the manufacturers of any commercial fertilizer remit all said inspection fees.

(2) In computing the tonnage on which the inspection fee must be paid, sales and exchanges of commercial fertilizers to fertilizer manufacturers, sales of commercial fertilizers in packages weighing twenty-five (25) pounds net or less and sales of commercial fertilizers for shipment to points outside this state may be excluded.

SECTION 9. (1) Each person made responsible by this act for the payment of inspection fees for commercial fertilizers sold in this state shall file a report with the department on December 31st and June 30th of each year showing the number of tons of such commercial fertilizer sold during the six calendar months immediately preceding the date the report is due. The department may accept sales records or other records accurately reflecting the tonnage sold in verifying such reports. The proper inspection fee shall be remitted with the report.

(2) Inspection fees which are due and owing and have not been remitted to the department within thirty days following the due date shall have a late-collection fee of ten percent, but not less than five (5) dollars, added to the amount due when payment is finally made. The assessment of this late-collection fee shall not prevent the department from taking any other action as provided for in this act.

(3) The individual report required by subsection (1) hereof shall not be open for public inspection and it shall be a misdemeanor for any person to divulge any information given in such report which would reveal the business operation of the person making the report; Provided, that nothing contained in this subsection shall be construed to prevent or make unlawful the use of information concerning the business operation of a person as provided for in Sections 11 and 15 of this act or in any action, suit, or proceeding instituted under the authority of this act, including any civil action for collection of unpaid inspection fees, which action is hereby authorized and which shall be as an action at law in the name of the director of the department.
SECTION 10. (1) It shall be the duty of the department to inspect, sample, make analysis of, and test commercial fertilizers distributed within this state at such time and place and to such an extent as it may deem necessary to determine whether such fertilizers are in compliance with the provisions of this act. The department is authorized to stop any commercial vehicle transporting fertilizers on the public highways and direct it to the nearest scales approved by the department to check weights of fertilizers being delivered. The department is also authorized, upon presentation of proper identification, to enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to commercial fertilizers and to records relating to their distribution.

(2) The methods of sampling and analysis shall be those adopted by the department from officially recognized sources, after consultation with the industry and after due notice and public hearing.

(3) The department, in determining for administrative purposes whether a fertilizer is deficient in any component or total nutrients, shall be guided solely by the official sample as defined in Section 3 (o) of this act and obtained and analyzed as provided for in this section.

(4) When the inspection and analysis of an official sample has been made, the results of analysis shall be forwarded by the department to the distributor and manufacturer, and to the purchaser on request. If requested and within 30 days the department shall furnish to the distributor and/or manufacturer a portion of the sample concerned.

(5) In case the analyses of samples made by the qualified chemist, or his agent, indicates deficiencies in the fertilizer examined, below guaranteed analysis, in excess of the tolerances specified under Section 11 of this act, he shall immediately notify the manufacturer and/or distributor of such fertilizer of the results of his analyses. The manufacturer or seller of such fertilizer may, upon request, obtain from the chemist a portion of the sample(s) in question. If he fails to agree with the analyses of the chemist, he may request an umpire who shall be one of a list of not less than three public chemists of recognized ability in fertilizer analyses, who shall be named by the chemist. Such umpire analyses shall be made at the expense of the manufacturer or seller requesting the same. In case the umpire shall agree more closely with the chemist, the figures of the
the latter shall be considered correct, and in case the umpire shall agree more closely with the figures of the manufacturer or distributor, then the figures of the manufacturer or distributor shall be considered correct.

(6) Analysis of an official sample by the department shall be accepted as prima facie evidence by any court of competent jurisdiction.

SECTION 11. (1) If the analysis shall show that any commercial fertilizer falls short of the guaranteed analysis in any plant nutrient, micro nutrient, or in total nutrients, a penalty shall be assessed in favor of the department at the rate of three times the value of the deficiency when the deficiency exceeds the tolerances established by regulations.

(2) All penalties assessed under this section or any regulation hereunder on any one commercial fertilizer, represented by the sample analyzed, shall be paid to the department within three months after the date of notice from the department to the registrant. The department shall deposit the amount of the penalty into the "Commercial Feed and Fertilizer Fund" account.

(3) Nothing contained in this section or any regulation hereunder shall prevent any person from appealing to a court of competent jurisdiction for a judgment as to the justification of such penalties imposed under subsections (1) and (2) above.

(4) Penalties payable as provided for in subsections (1) and (2) above or any regulation hereunder shall in no manner be construed as limiting the consumer's right to bring a civil action in damage against the registrant paying said penalties.

SECTION 12. For the purpose of initially determining the commercial values to be applied under the provisions of Section 11 of this act, the department shall determine from the registrant's sales invoices the values per pound, charged for nitrogen, available phosphoric acid, soluble potash, and other plant nutrients. The values so determined shall be used in determining and assessing penalties.

SECTION 13. Any commercial fertilizer is misbranded for the purposes of this act if it carries a false or misleading statement on the container, or the label attached to the container, or if false or misleading statements concerning the fertilizer are disseminated in any manner or by any means.
SECTION 14. It shall be unlawful for any person to:

(1) Distribute a misbranded commercial fertilizer;

(2) Fail, refuse, or neglect to place upon or attach to each container of distributed commercial fertilizer a label containing the information required by this act;

(3) Fail, refuse, or neglect to deliver to a purchaser of bulk commercial fertilizer a statement containing the information required by this act;

(4) Distribute a brand of commercial fertilizer which has not been registered with the department; or

(5) Distribute commercial fertilizers containing viable seeds unless serving a desirable purpose and appropriately labeled.

SECTION 15. The department shall publish at least annually and in such form as it may deem proper:

(1) Information concerning the distribution of commercial fertilizers and

(2) Results of analyses based on official samples as compared with the analyses guaranteed.

SECTION 16. The department may issue and enforce a written or printed “stop sale, use or removal” order to the owner or custodian of any lot of commercial fertilizer to hold said commercial fertilizer at a designated place when the department finds such fertilizer is being offered or exposed for sale in violation of any of the provisions of this act, until this act has been complied with and said commercial fertilizer is released by order in writing of the department. The department shall release the commercial fertilizer so withdrawn when the owner or custodian has complied with the provisions of this act.

SECTION 17. Any lot of commercial fertilizer not in compliance with the provisions of this act shall be subject to seizure on complaint of the department to a court of competent jurisdiction in the area in which said commercial fertilizer is located. In the event the court finds the said commercial fertilizer to be in violation of this act and orders the condemnation of said commercial fertilizer, it shall be disposed of in any manner consistent with the quality of the commercial fertilizer and the laws of the state: Provided, that in no instance shall the disposition of said commercial fertilizer be ordered by the court without first giving the
claimant an opportunity to apply to the court for release of said commercial fertilizer or for permission to process or relabel said commercial fertilizer to bring it into compliance with this act.

SECTION 18. (1) Any person who violates any provision of this act or regulation made pursuant thereto shall be guilty of a misdemeanor, and the fines collected shall be disposed of as provided under Section 19 of this act.

(2) Nothing in this act shall be considered as requiring the department to report for prosecution or to cancel the registration of a brand or grade or to stop the sale of fertilizers for violations of this act, when violations are of a minor character, and/or when the department believes that the public interest will be served and protected by a suitable notice of the violation in writing.

(3) It shall be the duty of each prosecuting attorney to whom any violation of this act is reported, to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the department reports a violation of this act for such prosecution, an opportunity shall be given the distributor to present his view in writing or orally to the department.

(4) The department is hereby authorized to apply for, and the court authorized to grant, a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this act or any rule or regulation promulgated under this act, notwithstanding the existence of any other remedy at law. Any such injunction shall be issued without bond.

SECTION 19. All monies received by the commissioner of agriculture from the registration of various brands of commercial fertilizers and from the payment to him of monies derived from the inspection fee charged of ten (10) cents 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 monies 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 commissioner of agriculture, 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".

SECTION 20. The director may cooperate with and enter into agreements with other governmental agencies, whether of this state, other states, or agencies of the federal government, and with private associations, in order to carry out the purposes and provisions of this act.

SECTION 21. The enactment of this act shall not have the effect of terminating, or in any way modifying any liability, civil or criminal, which shall already be in existence on the effective date of this act.

SECTION 22. Sections 22-601 through 22-612 inclusive, Idaho Code, and all other laws and parts of laws in conflict with or inconsistent with the provisions of this act are hereby repealed on the 31st day of December, 1967.

SECTION 23. If any clause, sentence, paragraph, or part of this act shall for any reason be judged invalid by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 24. Nothing in this act shall be construed to restrict or avoid sales or exchanges of commercial fertilizers to each other by importers, manufacturers, or manipulators who mix fertilizer materials for sale or as preventing the free and unrestricted shipments of commercial fertilizer to manufacturers or manipulators who have registered their brands as required by the provisions of this act.

SECTION 25. The effective date of this Act is from and after the first day of January, 1968.

Approved February 25, 1967.
CHAPTER 44
(S. B. No. 73)

AN ACT
AMENDING SECTION 19-2316, IDAHO CODE, RELATING TO POLLING OF JURIES, BY DELETING THEREFROM THE WORDS "FIVE-SIXTHS" AND INSERTING IN LIEU THEREOF THE WORDS "EACH JUROR"; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 19-2316, Idaho Code, be, and the same is hereby amended to read as follows:

19-2316. POLLING THE JURY.—When a verdict is rendered and before it is recorded, the jury may be polled at the request of either party, in which case they must be severally asked whether it is their verdict; and if each juror answer in the affirmative, then the verdict shall be recorded; but if a less number answer in the affirmative, the jury must be sent out for further deliberation.

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

Approved February 25, 1967.

CHAPTER 45
(S. B. No. 92)

AN ACT
AMENDING SECTION 37-1930, IDAHO CODE, RELATING TO ESTABLISHMENT OF REGULATIONS FOR MEAT PACKING PLANTS AND MEAT INSPECTION SO AS TO INCLUDE BUFFALO WITHIN THE DEFINITION OF THE WORD MEAT.

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

SECTION 1. That Section 37-1930, Idaho Code, be, and the same is hereby amended to read as follows:

37-1930. ESTABLISHMENT OF STANDARDS AND REGULATIONS.—The commissioner of agriculture is au-
Authorized to establish official standards, adopt and enforce regulations dealing with plant construction and equipment, sanitation and operation practices ante-mortem and post-mortem inspection of meat food animals, processing of meat and meat food products, packaging-wrapping, labeling and transportation of such products, tanking, denaturing and disposal of condemned carcasses, portions thereof, and meat and food products derived therefrom, marking of such products after inspection, re-inspection and preparation of meat and meat food products, qualification and training of inspectors, and all other matters pertaining to the slaughter, processing and inspection of animals for food in any establishment using the state meat inspection service as provided in sections 37-1928 and 37-1929 hereof. Whenever used in this act the word meat shall mean meat from cattle, buffalo, swine, sheep, goats or horses. In no case shall the standards and regulations herein authorized be above those required in the regulations governing meat inspection of the United States department of agriculture; provided, however, that the commissioner of agriculture may, in his discretion, waive any standards and regulations of the United States department of agriculture pertaining to plant construction. None of the provisions of this act, except that provision pertaining to licenses and license fees, shall apply to or affect any place to which inspection of meat, meat by-products, and meat food products is maintained by the United States department of agriculture, or to meat, meat by-products, or meat food products held, sold or offered for sale in this state which have been inspected under the supervision of the United States department of agriculture.

Approved February 25, 1967.

CHAPTER 46
(H. B. No. 105)

AN ACT
AMENDING SECTION 37-801, IDAHO CODE, RELATING TO GRADES OF QUALITY OF MILK, BY STRIKING PARAGRAPH 3, SUBSECTION (2) WHICH STATES THAT THE USE OF SUCH QUALITY GRADES IS PURELY VOLUNTARY BY PERSONS WHO SELL MILK OR MILK PRODUCTS; REPEALING SECTION 37-809, IDAHO CODE, RELATING TO ADOPTION OF GRADE STANDARDS ESTABLISHED BY FEDERAL DE-
PARTMENTS; REPEALING SECTION 37-812, IDAHO CODE, RELATING TO CRIMINAL SANCTIONS FOR VIOLATIONS OF THIS CHAPTER; AND REPEALING SECTION 37-813, IDAHO CODE, RELATING TO THE EFFECTIVE DATE OF REGULATIONS ADOPTED BY THE DEPARTMENT OF AGRICULTURE.

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

SECTION 1. That Section 37-801, Idaho Code, be, and the same is hereby amended to read as follows:

37-801. USE OF GRADE TERMS RESTRICTED.—Hereafter no person shall use the terms “grade A,” “grade B,” “grade C,” or combinations or multiples of the letters “a,” “b,” and “c,” or any term similar thereto when used to indicate quality on packages or containers containing milk, or milk products or on or in connection with such products themselves, except as follows:

(1) In regard to milk or cream and pursuant to the terms of an ordinance of any incorporated city that legally has adopted and passed a grade A ordinance regulating the production, handling, distribution and sale of milk or cream within such city, provided said ordinance meets the requirements of the “Standard Milk Ordinance” recommended by the Idaho state board of health and provided further that the said ordinance is properly enforced by such city. Semi-annual surveys made by the state board of health shall provide a basis for determining whether proper enforcement is being accomplished.

(2) In all cases not covered by subsection (1) hereof the use of the grade or quality designations herein mentioned shall be unlawful unless such person is licensed to use the same by the state board of health of the state of Idaho.

In the case of milk or milk products not covered by the provisions of subsection (1) hereof, the board shall establish grades which shall be the same as those established by the United States public health service and approved by the United States department of agriculture.

The grades established for milk and milk products pursuant to authority mentioned in this subsection shall be entirely voluntary and no person shall be required to use the same except those who so desire and who voluntarily apply for and receive a license under this chapter.

Nothing in this chapter shall be construed to prohibit the use of any registered or copyrighted brand or trade-
mark, design or device pursuant to the provisions of any laws of this state or any other state or of the District of Columbia or the United States, provided such use is not in conflict with this chapter.

SECTION 2. That Section 37-809, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 37-812, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 37-813, Idaho Code, be, and the same is hereby repealed.

Approved February 25, 1967.

CHAPTER 47
(H. B. No. 18)

AN ACT
AMENDING SECTION 41-2103, IDAHO CODE, BY ADDING THERETO A NEW SUBSECTION TO BE DESIGNATED (9), PROVIDING INSURED WITH A FREE CHOICE OF MEDICAL DOCTORS OR OPTOMETRISTS TO PERFORM OPTOMETRIC SERVICES.

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

SECTION 1. That Section 41-2103, Idaho Code, be, and the same is hereby amended to read as follows:

41-2103. SCOPE AND FORMAT OF POLICY.—No policy of disability insurance shall be delivered or issued for delivery to any person in this state unless it otherwise complies with this code, and complies with the following:

(1) The entire money and other considerations therefor shall be expressed therein;

(2) The time when the insurance takes effect and terminates shall be expressed therein;

(3) It shall purport to insure only one (1) person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family, who shall be deemed the policy holder, any two (2) or more eligible members of that family, including husband, wife, dependent children or any children under a specified
age which shall not exceed nineteen (19) years and any other person dependent upon the policyholder;

(4) The style, arrangement and overall appearance of the policy shall give no undue prominence to any portion of the text, and every printed portion of the text of the policy and of any endorsements or attached papers shall be plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten (10) point with a lower case unspaced alphabet length not less than one hundred and twenty (120) point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions);

(5) The exceptions and reductions of indemnity shall be set forth in the policy and, other than those contained in sections 41-2105 to 41-2127, inclusive, of this chapter, shall be printed, at the insurer's option, either included with the benefit provisions to which they apply, or under an appropriate caption such as "Exceptions," or "Exceptions and Reductions," except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies;

(6) Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof;

(7) The policy shall contain no provision purporting to make any portion of the charter, rules, constitution or by-laws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner;

(8) When the policy provides payment for medical or surgical expense to the insured, on a reimbursement basis, or otherwise, the insured shall be entitled to a free choice of medical doctor to perform said services, or the free choice of a podiatrist if the latter is authorized by law to perform the particular medical or surgical services covered under the terms of said policy;

(9) When the policy provides for payment for the expense of services that are within the lawful scope of practice of a duly licensed optometrist, on a reimbursement basis or
otherwise, the insured shall be entitled to a free choice of medical doctor or optometrist to perform such services.

Approved February 28, 1967.

CHAPTER 48
(S. B. No. 3)

AN ACT

DECLARING THE PURPOSES AND POLICY OF THIS ACT; ESTABLISHING THE IDAHO COMMISSION ON THE ARTS AND HUMANITIES; SPECIFYING THE NUMBER OF MEMBERS, QUALIFICATIONS, TERM OF OFFICE, MANNER OF APPOINTMENT OF MEMBERS OF SAID COMMISSION; PROVIDING THAT MEMBERS ARE NOT TO RECEIVE COMPENSATION; PROVIDING FOR THE EMPLOYMENT OF EMPLOYEES BY SAID COMMISSION; PRESCRIBING THE DUTIES AND POWERS OF SAID COMMISSION; AUTHORIZING SAID COMMISSION TO RECEIVE AND DISBURSE FUNDS RECEIVED FROM THE NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES; PROVIDING FOR THE TRANSFER OF ALL THE FUNCTIONS AND POWERS POSSESSED BY THE TEMPORARY COMMISSION ON THE ARTS AND HUMANITIES TO BE TRANSFERRED TO THE COMMISSION CREATED BY THIS ACT; PROVIDING FOR THE TRANSFER OF ANY FUNDS IN THE CUSTODY OF THE TEMPORARY COMMISSION ON THE ARTS AND HUMANITIES TO THE COMMISSION CREATED BY THIS ACT; PROVIDING THAT ALL FUNDS TRANSFERRED TO THE COMMISSION CREATED BY THIS ACT AND ALL GIFTS, CONTRIBUTIONS AND BEQUESTS OF FUNDS, AND ANY FUNDS RECEIVED FROM THE NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES, TO BE EXEMPT FROM THE STANDARD APPROPRIATIONS ACT OF 1945; PROVIDING FOR THE DELIVERY OF ALL BOOKS AND RECORDS OF THE TEMPORARY COMMISSION ON THE ARTS AND HUMANITIES TO THE COMMISSION CREATED BY THIS ACT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. It is hereby found that there is an increasing appreciation and interest in the practice and enjoyment of the arts, that our citizens are becoming aware, due to in-
creasing leisure time, of a broader and richer life through artistic endeavors, that there is need to improve the cultural environment of our state for our young people, and that growth of our industry, commerce and agriculture will be enhanced by cultural development.

It is hereby declared to be the policy of the state to encourage the development of our artistic and cultural life and to join with all persons and institutions concerned with the arts to insure that the role of the arts in our communities will grow and play an ever more significant part in the welfare and educational experience of our citizens.

SECTION 2. There is hereby created and established within the executive branch of the state government a state commission, to be known as the Idaho Commission on the Arts and Humanities, to consist of twenty (20) members, representative of the public, 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 3. The term of office of each member shall be six (6) years; provided, however, that of the members first appointed, seven (7) shall be appointed for terms of two (2) years, seven (7) for terms of four (4) years, and six (6) for terms of six (6) years. No member of the commission who serves a full six (6) year term shall be eligible for reappointment during a one (1) year period following the expiration of his term. 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. The chairman shall be the chief executive officer of the commission. 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 not receive any compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the commission at the rate allowed by law for state employees.

SECTION 4. Subject to the approval of the commission, the chairman may employ, and at pleasure remove, such
officers, experts, and other employees as may be needed and fix their compensation within the amounts made available for such purposes.

SECTION 5. The duties of the commission shall be:

(1) To stimulate and encourage throughout the state the study and presentation of the performing and fine arts and public interest and participation therein;

(2) To make such surveys as may be deemed advisable of public and private institutions engaged within the state in artistic and cultural activities, including but not limited to, music, theatre, dance, creative writing, painting, sculpture, architecture, and allied arts and crafts, and to make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

(3) To take such steps as may be necessary and appropriate to encourage public interest in the cultural heritage of our state and to expand the state's cultural resources;

(4) To encourage and assist freedom of artistic expression essential for the well-being of the arts;

(5) To support and strengthen the interest in and the growth of the humanities.

SECTION 6. The commission is hereby authorized and empowered to hold public and private hearings, to enter into contracts, within the limit of funds available therefor, with individuals, organizations and institutions for services furthering the educational objectives of the commission's programs; to enter into contracts, within the limit of funds available therefor, with local and regional associations for cooperative endeavors furthering the educational objectives of the commission's programs; to accept gifts, contributions, and bequests of funds from individuals, foundations, corporations, and other organizations or institutions, for the purpose of furthering the educational objectives of the commission's programs; to make and sign any agreements and to do and perform any acts that may be necessary to carry out the purposes of the Act.

SECTION 7. The commission is the official agency of this state to receive and disburse any funds made available by the National Foundation on the Arts and Humanities.

SECTION 8. All of the functions and powers possessed
by and all of the obligations and duties of the temporary “Commission on the Arts and Humanities” created on March 26, 1966, by executive order of the Governor of the State of Idaho, are hereby transferred and assigned to, assumed by and devolved upon, the Idaho Commission on the Arts and Humanities created by this Act.

All appropriations to or any funds in the custody and control of the temporary “Commission on the Arts and Humanities” to the extent of remaining unexpended or unencumbered, and balances thereof, whether allocated or unallocated, and whether obligated or unobligated, are hereby transferred to and made available for the use and expenditure by the Idaho Commission on the Arts and Humanities, for the same purpose for which originally appropriated or for which the funds were received, and shall be payable on vouchers furnished or approved by the chairman or vice-chairman of the Idaho Commission on the Arts and Humanities.

All funds in the custody or control of the temporary “Commission on the Arts and Humanities” and subject to transfer to the Idaho Commission on the Arts and Humanities, all gifts, contributions and bequests of funds to the commission, and any funds received from the National Foundation on the Arts and Humanities by the commission, are hereby declared exempt from the provisions of the Standard Appropriations Act of 1945.

Payments for liabilities incurred by the temporary “Commission on the Arts and Humanities” and for liabilities to be incurred in completing its affairs, shall also be made on vouchers or certificates approved by the chairman or vice-chairman of the Idaho Commission on the Arts and Humanities.

The chairman of the temporary “Commission on the Arts and Humanities” shall deliver to the chairman of the Idaho Commission on the Arts and Humanities all books, papers, records, and properties of the temporary state commission.

The Idaho Commission on the Arts and Humanities shall be deemed and held to constitute the continuation of the temporary “Commission on the Arts and Humanities” and not a different agency or authority.

SECTION 9. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the in-
valid provisions or application, and to this end the provisions of this Act are severable.

SECTION 10. An emergency existing therefor, which emergency is hereby declared to exist, this Act shall be in full force and effect immediately upon its passage and approval.

Approved February 28, 1967.

CHAPTER 49
(S. B. No. 14, As Amended)

AN ACT
AMENDING SECTION 61-805, IDAHO CODE, TO PROVIDE THAT THE FAILURE BY ANY COMMON OR CONTRACT CARRIER TO REGISTER AT LEAST ONE POWER UNIT IN ANY CALENDAR YEAR SHALL BE PRIMA FACIE EVIDENCE OF A FAILURE TO OPERATE.

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

SECTION 1. That Section 61-805, Idaho Code, be, and the same is hereby amended to read as follows:

61-805. FAILURE TO OPERATE ON WHOLE ROUTE UNLAWFUL—EXCEPTIONS.—Except as otherwise expressly provided, it shall be unlawful for any common carrier or contract carrier as defined in this chapter to fail or refuse to operate on the whole of the route except in case of emergencies due to act of God or unavoidable accidents or casualties, or in case such route becomes impassable or in case it becomes necessary to make temporary detours.

The failure of any common or contract carrier, as defined by this chapter, to register at least one power unit required to be registered as provided in Section 61-811, Idaho Code, in any calendar year as a contract or common carrier, shall be prima facie evidence of a failure to operate for that calendar year.

Approved February 28, 1967.
AN ACT
AMENDING SECTION 63-105R, IDAHO CODE, RELATING TO THE EXEMPTION FROM TAXATION OF PERSONAL PROPERTY, BY PROVIDING THAT AGRICULTURAL CROPS, WHETHER GROWING OR HELD FOR USE OR SALE, SHALL BE EXEMPT FROM PROPERTY TAXATION WHILE THE LEGAL AND EQUITABLE TITLE REMAINS IN THE PRODUCER.

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

SECTION 1. That Section 63-105R, Idaho Code, be, and the same is hereby amended to read as follows:

63-105R. PROPERTY EXEMPT FROM TAXATION—GROWING CROPS.—The following property is exempt from taxation: Growing Agricultural crops, whether growing or held for use or sale, while the legal and equitable title remains with the producer, fruits and nut-bearing trees and grape vines, except as the value of the land may be increased on account of said trees and vines growing thereon; provided that nothing herein contained shall be construed to exempt standing timber or nursery stock under this section.

Approved March 1, 1967.

CHAPTER 51
(H. B. No. 68 As Amended in the Senate)

AN ACT
REPEALING AND RE-ENACTING CHAPTER 8, TITLE 1, IDAHO CODE, RELATED TO JUDICIAL DISTRICTS, BY PROVIDING FOR SEVEN JUDICIAL DISTRICTS, BY PROVIDING FOR THE NUMBER OF DISTRICT JUDGES IN EACH JUDICIAL DISTRICT, AND BY PROVIDING FOR THE RESIDENT CHAMBERS OF DISTRICT JUDGES; REQUIRING A DISTRICT JUDGE RESIDE AT RESIDENT CHAMBERS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 8, Title 1, Idaho Code, be, and the same is hereby repealed and re-enacted to read as follows:
1-801. NUMBER OF JUDICIAL DISTRICTS—NUMBER OF JUDGES—RESIDENT CHAMBERS.—The state is divided into seven judicial districts described in this chapter. The number of district judges for each judicial district shall be as described by this chapter. The resident chambers of a district judge within a judicial district shall be as described in this chapter.

1-802. FIRST DISTRICT—NUMBER OF JUDGES—RESIDENT CHAMBERS.—(1) The first judicial district shall consist of the counties of Boundary, Bonner, Kootenai, Shoshone and Benewah.

(2) The first judicial district shall have three district judges.

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

(a) One resident chambers shall be established in Bonner County;

(b) One resident chambers shall be established in Kootenai County;

(c) One resident chambers shall be established in Shoshone County.

1-803. SECOND DISTRICT—NUMBER OF JUDGES—RESIDENT CHAMBERS.—(1) The second judicial district shall consist of the counties of Latah, Clearwater, Nez Perce, Lewis and Idaho.

(2) The second judicial district shall have three district judges.

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

(a) One resident chambers shall be established in Latah County;

(b) One resident chambers shall be established in Nez Perce County;

(c) One resident chambers shall be established in Idaho County.

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

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

(a) One resident chambers shall be established in Washington County;

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

1-805. FOURTH DISTRICT—NUMBER OF JUDGES—RESIDENT CHAMBERS.—(1) The fourth judicial district shall consist of the counties of Valley, Boise, Ada and Elmore.

(2) The fourth judicial district shall have four district judges.

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

(a) Four resident chambers shall be established in Ada County.

1-806. FIFTH DISTRICT—NUMBER OF JUDGES—RESIDENT CHAMBERS.—(1) The fifth judicial district shall consist of the counties of Blaine, Camas, Gooding, Lincoln, Jerome, Minidoka, Cassia and Twin Falls.

(2) The fifth judicial district shall have four district judges.

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

(a) One resident chambers shall be established in Camas or Gooding County;

(b) One resident chambers shall be established in Cassia or Minidoka County;

(c) Two resident chambers shall be established in Twin Falls County.

1-807. SIXTH DISTRICT—NUMBER OF JUDGES—RESIDENT CHAMBERS.—(1) The sixth judicial district shall consist of the counties of Power, Bannock, Caribou, Bear Lake, Franklin and Oneida.

(2) The sixth judicial district shall have three district judges.
(3) Resident chambers of the district judges of the sixth judicial district shall be established as follows:

(a) One resident chambers shall be established in Caribou County;

(b) Two resident chambers shall be established in Bannock County.

1-808. SEVENTH DISTRICT—NUMBER OF JUDGES—RESIDENT CHAMBERS.—(1) The seventh judicial district shall consist of the counties of Lemhi, Custer, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bonneville and Bingham.

(2) The seventh judicial district shall have four district judges.

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

(a) One resident chambers shall be established in Madison County;

(b) One resident chambers shall be established in Bingham County;

(c) Two resident chambers shall be established in Bonneville County.

SECTION 2. District judges shall actually reside at the place designated as resident chambers.

SECTION 3. This act shall be in full force and effect from and after July 1, 1967.

Approved March 1, 1967.

CHAPTER 52
(H. B. No. 78 As Amended in the Senate)

AN ACT

AMENDING SECTION 31-3212, IDAHO CODE, RELATING TO THE FEE SCHEDULE IN HABEAS CORPUS PROCEEDINGS, BY PROVIDING THAT ALL TRANSCRIPTS NECESSARY FOR AN APPEAL UPON A HABEAS CORPUS CASE BE PAID FOR BY THE APPELLANT UNLESS THE APPELLANT IS AN INDIGENT; AND DECLARING AN EMERGENCY.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 31-3212, Idaho Code, be, and the same is hereby amended to read as follows:

31-3212. EXCEPTIONS TO FEE SCHEDULE—HA-BEAS CORPUS—STATE A PARTY—COST OF TRAN-SRIPTS.—No fee or compensation filing or recording fee of any kind must be charged or received by any county officer mentioned in this chapter for duties performed or services rendered in proceedings in habeas corpus; nor shall any county officer charge any fee against, or receive any compensation whatever from, the state for any services rendered in any action or proceeding in which the state of Idaho, or any state board, or state officer in his official capacity, is a party.

In habeas corpus cases on appeal to the supreme court of the state of Idaho, wherein applicant-appellant is restrained of his liberty by any public officer, the transcript for use on said appeal will be paid for by the appellant, but if the appellant be indigent, it will be paid for in the manner as provided in Section 1-1105(2), Idaho Code. In habeas corpus cases on appeal to the supreme court of the state of Idaho, wherein the custody of children is in controversy, the appellant, unless he or she be indigent, shall pay for the record on appeal, as in other civil matters. If the appellant be indigent, the transcript will be paid for as provided in Section 1-1105(2), Idaho Code.

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

Approved March 1, 1967.

CHAPTER 53
(H. B. No. 102)

AN ACT

AMENDING SECTION 37-702, IDAHO CODE, RELATING TO DEFI-NITION OF TERMS FOR PROVISIONS CONCERNING PAS-TEURIZATION OF MILK AND MILK PRODUCTS, BY PRO-VIDING THE BOARD OF HEALTH THE AUTHORITY TO PROMULGATE THE NECESSARY DEFINITIONS FOR TERMS USED IN LIEU OF THE ENUMERATED DEFINI-
TIONS; AMENDING SECTION 37-707, IDAHO CODE, RELATING TO STANDARDS OF EQUIPMENT AND SANITATION, BY REMOVING THE REQUIREMENT ENUMERATED IN SUBSECTION (p) WHICH STATES THAT ALL MILK COLLECTED AND DELIVERED MUST BE DONE WITHIN TWO HOURS OR COOLED TO 70° F. AND BY REMOVING THE REQUIREMENT OF PASTEURIZING MILK WITHIN 2 HOURS AFTER RECEIPT IF NOT COOLED TO 50° F. IMMEDIATELY; AND REPEALING SECTION 37-704, IDAHO CODE, RELATING TO CERTIFICATES OF COMPLIANCE ISSUED TO MILK PASTEURIZING PLANTS BY THE STATE BOARD OF HEALTH.

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

SECTION 1. That Section 37-702, Idaho Code, be, and the same is hereby amended to read as follows:

37-702. DEFINITIONS.—(a) For the purposes of this chapter "pasteurized" shall mean the process of heating every particle of milk or milk products to at least 143 degrees Fahrenheit and holding at such temperature for at least 30 minutes, or heating every particle of milk or milk products to at least 160 degrees Fahrenheit and holding at such temperature for at least 15 seconds, in approved and properly operated equipment, provided however that nothing contained in this definition shall be construed as limiting the authority of the administrator of health to approve, and make effective under the chapter, any process of pasteurization which shall have been demonstrated to him to be equally efficient.

(b) For the purposes of this chapter "milk" shall mean the lacteal secretion obtained from the complete milking of one or more healthy cows or other mammal excluding that obtained 15 days before and 4 days after parturition.

(c) For the purposes of this chapter "milk products" shall mean and include cream, sour cream, homogenized milk, goat milk, vitamin D milk, buttermilk, skimmed milk, reconstituted or recombined milk or cream, milk beverages, and any other product made by the addition of any substance to milk; provided however, that nothing in this chapter shall apply to pasteurized butter or processed milk products other wise regulated by the laws of the state of Idaho.

(d) For the purposes of this chapter "milk pasteurizing plant" shall mean any place, structure or building, wherein milk is received for pasteurizing for packaging for sale or resale as pasteurized market milk or milk products.
For the purposes of this chapter the definitions of "milk", "milk products" and related terms shall be promulgated by the board of health.

SECTION 2. That Section 37-707, Idaho Code, be, and the same is hereby amended to read as follows:

37-707. STANDARDS FOR EQUIPMENT AND SANITATION.—From and after the effective date of this act all milk pasteurizing plants in the state of Idaho shall comply with the following standards for equipment and sanitation:

(a) The floors of all rooms in which milk or milk products are handled or stored or in which milk utensils are washed shall be constructed of concrete or other equally impervious and easily cleaned material and shall be smooth, properly drained, provided with trapped drains, and kept clean.

(b) Walls and ceilings of rooms in which milk or milk products are handled or stored or in which milk utensils are washed shall be painted and shall have a smooth, washable, light-colored surface and shall be kept clean.

(c) Unless other effective means are provided to prevent the access of flies, all openings into the outer air shall be effectively screened and doors shall be self-closing.

(d) All rooms shall be well lighted and ventilated.

(e) Milk-plant operations shall be so located and conducted as to prevent any contamination of the milk or the cleaned equipment. There shall be separate rooms for (a) the pasteurizing, processing, cooling, and bottling operations, and (b) the washing and bactericidal treatment of containers. Cans of raw milk shall not be unloaded directly into the pasteurizing room. Pasteurized milk or milk products shall not be permitted to come in contact with equipment with which unpasteurized milk or milk products have been in contact, unless such equipment has first been thoroughly cleaned and subjected to bactericidal treatment. Rooms in which milk, milk products, cleaned utensils, or containers are handled or stored shall not open directly into any stable or living quarters. The pasteurization plant shall be used for no other purpose than the processing of milk.
and milk products and the operations incident thereto, except as may be approved by the state board of health.

(f) Every milk pasteurization plant shall be provided with toilet facilities conforming with recommendations of the state board of health. Toilet rooms shall not open directly into any room in which milk, milk products, equipment, or containers are handled or stored. The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept in a clean condition, in good repair, and well ventilated. In case privies or earth closets are permitted and used, they shall be separate from the building, and shall be of a sanitary type constructed and operated and maintained so that the waste is inaccessible to flies and does not pollute the surface soil or contaminate any water supply.

(g) The water supply shall be easily accessible, adequate, and of a safe, sanitary quality.

(h) Convenient handwashing facilities shall be provided, including warm running water, soap, and approved sanitary towels. The use of a common towel is prohibited.

(i) All piping used to conduct milk or milk products shall be “sanitary milk piping” of a type which can be easily cleaned with a brush. Pasteurized milk and milk products shall be conducted from one piece of equipment to another only through sanitary milk piping.

(j) All multi-use containers and equipment with which milk or milk products come in contact shall be constructed in such manner as to be easily cleaned and shall be kept in good repair. The manufacture, packing, transportation, and handling of single-service containers and container caps and covers shall be conducted in a sanitary manner.

(k) All wastes shall be properly disposed of.

(l) All milk and milk products containers and equipment, except single-service containers, shall be thoroughly cleaned after each usage. All containers shall be subjected to an approved bactericidal process after each cleaning and all equipment immediately before each usage. When empty and before being returned to a producer by a milk plant each container shall be effectively cleaned and subjected to bactericidal treatment.

(m) After bactericidal treatment all bottles, cans, and other multi-use milk or milk-products containers and equipment shall be stored in such manner as to be protected from contamination.
(n) Between bactericidal treatment and usage, and during usage, containers and equipment shall not be handled or operated in such manner as to permit contamination of the milk.

(o) Milk-bottle caps or cap stock, parchment paper for milk cans, and single-service containers shall be purchased and stored only in sanitary tubes and cartons, respectively, and shall be kept therein in a clean dry place.

(p) If milk is delivered to a milk plant or receiving station for pasteurization or separation, it must be delivered within 2 hours after completion of milking or cooled to 70°F, or less, and maintained at that temperature until delivered. All milk and milk products received for pasteurization shall immediately be cooled in approved equipment to 50°F, or less and maintained at that temperature until pasteurized, unless they are to be pasteurized within 2 hours after receipt, and all pasteurized milk and milk products shall be immediately cooled in approved equipment to an average temperature of 50°F, or less. Average cooling temperature shall be taken to mean the arithmetic average, of the respective temperature of the last four consecutive samples, taken upon separate days.

(q) Packaging and capping or sealing of milk and milk products shall be done at the place of pasteurization in approved mechanical equipment only. Hand capping is prohibited.

(r) Overflow milk or milk products shall not be sold for human consumption.

(s) The state board of health or physicians authorized by it shall examine and take a careful morbidity history of every person employed in a pasteurization plant, or about to be employed, whose work brings him in contact with the production, handling, storage, or transportation of milk, milk products, containers, or equipment. If such examination or history indicates that such person may be a carrier of or infected with the organisms of typhoid or paratyphoid fever or any other communicable diseases likely to be transmitted through milk, he shall secure appropriate specimens of body discharges and cause them to be examined in a laboratory approved by him or by the state board of health for such examination and if the results indicate that such person is or may be a carrier of such disease, such person shall be barred from such employment.

(t) All persons coming in contact with milk, milk prod-
ucts, containers, or equipment shall wear clean outer garments and shall keep their hands clean at all times while thus engaged.

(u) All vehicles used for the transportation of milk or milk products shall be so constructed and operated as to protect their contents from the sun and from contamination. All vehicles used for the transportation of milk or milk products in their final delivery containers shall be constructed with permanent tops and with permanent or rolldown sides and back, provided that openings of the size necessary to pass the delivery man may be permitted in the sides or back for loading and unloading purposes. All vehicles shall be kept clean, and no substance capable of contaminating milk or milk products shall be transported with milk or milk products in such manner as to permit contamination. All vehicles used for the distribution of milk or milk products shall have the name of the distributor prominently displayed. The immediate surroundings of the milk plant shall be kept in a neat, clean condition.

SECTION 4. That Section 37-704, Idaho Code, be, and the same is hereby repealed.

Approved March 1, 1967.

CHAPTER 54
(H. B. No. 107 As Amended)

AN ACT
AMENDING SECTION 37-301, IDAHO CODE, RELATING TO THE LIST OF DAIRYMEN SELLING MILK TO THE ESTABLISHMENT, BY STRIKING THE REQUIREMENT THAT THIS LIST MUST BE POSTED FOR THE BENEFIT OF THE PUBLIC BY MILK BUYERS; REPEALING AND RE-ENACTING SECTION 37-302, IDAHO CODE, RELATING TO THE INSPECTION AND RATING OF DAIRIES BY THE STATE BOARD OF HEALTH; AMENDING SECTION 37-308, IDAHO CODE, RELATING TO PACKAGING OR BOTTLING MILK, BY ADDING THE PROVISIONS THAT THIS PACKAGING OR BOTTLING BE CONSISTENT WITH STATE BOARD OF HEALTH REGULATIONS; AMENDING SECTION 37-314, IDAHO CODE, RELATING TO CONDITIONS WHICH SHALL BY LAW CONSTITUTE ADULTERATED MILK, BY PROVIDING THAT MILK SHALL BE ADULTERATED WHEN THE BACTERIA COUNT EXCEEDS
100,000 PER CUBIC CENTIMETER IN LIEU OF A BACTERIA COUNT OF OVER 200,000 PER CUBIC CENTIMETER AND PROVIDING AN EXCEPTION FOR THE MANUFACTURING AND SALE OF LOW FAT MILK; REPEALING SECTION 37-303, IDAHO CODE, RELATING TO THE EXCLUSION OF POOR MILK FROM SALE; REPEALING SECTION 37-304, IDAHO CODE, RELATING TO SANITARY CONDITIONS OF DELIVERY VEHICLES; REPEALING SECTION 37-305, IDAHO CODE, RELATING TO THE REQUIREMENT THAT ALL DELIVERY VEHICLES BE COVERED; REPEALING SECTION 37-319, IDAHO CODE, RELATING TO CONDITIONS WHEN SKIM MILK IS SALEABLE; REPEALING SECTION 37-320, IDAHO CODE, RELATING TO STANDARDS FOR THE SALE OF SKIM MILK; REPEALING SECTION 37-321, IDAHO CODE, RELATING TO EXEMPTION OF MANUFACTURERS USING SKIM MILK TO SECTION 37-320.

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

SECTION 1. That Section 37-301, Idaho Code, be, and the same is hereby amended to read as follows:

37-301. NAMES OF DAIRYMEN TO BE POSTED.—All wholesale dairymen and other persons having stationary places of business, keeping and offering for sale milk, shall at all times keep the name or names of the dairyman or dairymen, from whom the milk on sale shall have been obtained, posted in a conspicuous place where such milk may be sold or kept for sale.

SECTION 2. That Section 37-302, Idaho Code, be, and the same is hereby repealed and reenacted to read as follows:

37-302. DAIRIES TO BE INSPECTED.—It shall be the duty of the state board of health to cause to be visited as frequently as it may deem necessary all dairies supplying dealers and consumers with milk, and inspect the same. A copy of the inspection report shall be left with the owner and such information given as will assist the producer to improve the sanitary conditions or remedy such defects as the inspection report indicates. A copy of the inspection report shall be kept on file in the office of the board.

SECTION 3. That Section 37-308, Idaho Code, be, and the same is hereby amended to read as follows:

37-308. MILK MUST BE BOTTLED OR PACKAGED IN PAPER CARTONS.—No person, firm or corporation shall give, furnish, sell or offer for sale, or deliver any milk or market milk products in quantities of one gallon and less
except in sanitary bottles or paper cartons, sealed with suitable cap or stopper, which are consistent with the requirements of the state board of health regulations.

SECTION 4. That Section 37-314, Idaho Code, be, and the same is hereby amended to read as follows:

37-314. MILK DEEMED TO BE ADULTERATED.— Milk shall be deemed to be adulterated in any one of the following cases:

1. Milk containing more than eighty-nine per cent of water or fluid.

2. Milk containing less than 8.25 per cent of milk solids other than fat.

3. Milk containing less than three and twenty-five hundredths per cent of butterfat, when offered in retail trade for human consumption.

4. Milk drawn from animals within fifteen days before or five days after parturition.

5. Milk drawn from animals fed on any substance in a state of putrefaction or rottenness or any unwholesome food.

6. Milk drawn from cows kept in a crowded, insanitary or unhealthy condition.

7. Milk which has been diluted with water or any other fluid, or to which has been added, or into which has been introduced, any foreign substance whatever, except fresh cream, or skimmed milk or vitamins may be added in amounts and by methods approved by the state board of health.

8. Milk containing any pathogenic bacteria.

9. Milk containing any boracic or salicylic acid, formaldehyde, or other foreign chemical, or any preservative whatsoever.

10. Milk containing bacteria of any kind more than 200,000 per cubic centimeter.

11. Milk drawn from any cow having a disease or from any cow or cows in a herd which contains any diseased cattle, or from a cow or cows in a herd the attendants of which are afflicted with or have been exposed to any communicable disease.

12. Milk which shows a dark grey, black or other sedi-
ment at the bottom of any bottle or other vessel in which it is contained.

Provided, however, that milk classified as low fat milk (containing two per cent or less butterfat) shall not be deemed adulterated under this section if manufactured and sold under regulations or definitions of the department of health.

**SECTION 5.** That Section 37-303, Idaho Code, be, and the same is hereby repealed.

**SECTION 6.** That Section 37-304, Idaho Code, be, and the same is hereby repealed.

**SECTION 7.** That Section 37-305, Idaho Code, be, and the same is hereby repealed.

**SECTION 8.** That Section 37-319, Idaho Code, be, and the same is hereby repealed.

**SECTION 9.** That Section 37-320, Idaho Code, be, and the same is hereby repealed.

**SECTION 10.** That Section 37-321, Idaho Code, be, and the same is hereby repealed.

Approved March 1, 1967.

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**CHAPTER 55**

(H. B. No. 137)

AN ACT

AUTHORIZING A STUDY AND PLAN FOR DEVELOPING A GRADUATE SCHOOL OF MEDICINE; DECLARING THE PUBLIC POLICY; CREATING THE IDAHO MEDICAL EDUCATION STUDY COMMISSION AND AUTHORIZING ITS APPOINTMENT; PROVIDING FOR CONDUCTING OF THE STUDY AND PLAN AND FOR ITS REPORT TO THE STATE BOARD AS DEFINED IN SECTION 33-101, IDAHO CODE, AND THE FORTIETH LEGISLATURE; PROVIDING POWERS OF THE COMMISSION; AND DECLARING AN EMERGENCY.

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

**SECTION 1.** DECLARATION OF POLICY.—Whereas, there has been an explosion in the knowledge of diagnostic and treatment techniques for personal health care, and funds
have been made available to pay for personal health care even at the lowest income levels; and, whereas, Idaho is primarily a rural and semi-rural area critically short of the necessary trained personnel and facilities for providing adequate personal health care to its citizens,

NOW, THEREFORE, it is hereby declared to be the public policy of the state of Idaho, that the state board, as defined in Section 33-101, Idaho Code, as the official governing body for higher education investigate the development and operation of a graduate school of medicine and fully explore the relationship of said school to existing institutions of higher education, the Veterans Administration, existing government and non-government hospitals, and existing and potential teaching facilities. Said investigation to be conducted by a commission hereinafter created.

SECTION 2. CREATION OF COMMISSION, APPOINTMENT.—There is hereby created a commission to effect the purpose of this act. Said commission to be known as the Idaho Medical Education Study Commission shall consist of two members of the state board appointed by it, one member of the Senate appointed by the President pro tempore, one member of the House appointed by the Speaker of the House, and four members appointed by the Governor, two of whom shall be physicians and/or surgeons chosen from a list of at least four (4) nominated by the Idaho State Medical Association and two of whom shall be representatives of the general public. Said commission shall be appointed on or before May 1, 1967, and shall commence its studies promptly thereafter. Said commission shall terminate upon presentation of its report through the state board to the Fortieth Legislature.

The commission shall be convened upon the call of the state board and shall elect from its membership a chairman and a vice-chairman. It shall then certify to the secretary of state the names of the officers and of the members of said commission.

If, at any time prior to the report of the commission, there should occur a vacancy in its membership by reason of death, resignation or otherwise, such vacancy shall be filled in the same manner in which the original appointment was made and the name of such new member shall be certified to the secretary of state.

SECTION 3. DIRECTION TO DEVELOP THE STUDY, A PLAN, AND REPORT.—The Idaho Medical Education Study Commission is hereby authorized and directed to con-
duct or cause to be conducted a study which may include the development of plans for the location, financing, construction, and operation of a graduate school of medicine, in accordance herewith. Said study to include a time schedule for development of said medical school and a projection of the costs of operating and maintaining for the first four biennia. Said commission shall make a report in writing on or before November 1, 1968, to the state board for its approval. The state board shall in turn submit the report to the Fortieth Legislature with its recommendations for further legislative action.

SECTION 4. POWERS OF THE COMMISSION, FINANCING.—In effecting the purpose of this act, the Idaho Medical Education Study Commission shall have the power to appoint a planning director who shall be qualified to supervise the activities of the study and who shall be the executive secretary of said commission. The commission is hereby authorized and directed to employ said planning director and is authorized to employ a staff as may be needed and to purchase services and supplies within the limits of funds appropriated to the state board for the execution of the purposes of this act. Members of said commission shall serve without compensation but shall be reimbursed for their actual expenses incurred in discharge of their duties as members of the commission.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect immediately upon its passage and approval.

Approved March 1, 1967.

CHAPTER 56
(H. B. No. 164)

AN ACT
AMENDING CHAPTER 1, TITLE 49, IDAHO CODE, RELATING TO REGISTRATION OF MOTOR VEHICLES, BY ADDING ONE NEW SECTION THERETO, FOLLOWING SECTION 49-127A, IDAHO CODE, TO BE KNOWN AND DESIGNATED AS SECTION 49-127B, PROVIDING A DEFINITION OF COMMERCIAL VEHICLE, JURISDICTION, FLEET, AND PRECEDING YEAR WHEN USED IN THE SECTION, PROVIDING THAT
ANY OWNER ENGAGED IN OPERATING ONE OR MORE FLEETS MAY, IN LIEU OF THE REGISTRATION FEES IMPOSED BY SECTION 49-127 (PARTS 4 AND 5), REGISTER EACH FLEET FOR OPERATION BY FILING AN APPLICATION WITH THE DEPARTMENT, PROVIDING THAT THE APPLICATION SHALL CONTAIN IN ADDITION TO THE TOTAL FLEET MILES, IN-STATE MILES, A DESCRIPTION AND IDENTIFICATION OF EACH VEHICLE OF SUCH FLEET SUCH OTHER INFORMATION PERTINENT TO VEHICLE REGISTRATION AS THE DEPARTMENT MAY REQUIRE, PROVIDING THAT THE APPLICATION SHALL BE SUPPORTED BY A FEE PAYMENT AND PROVIDING A METHOD FOR COMPUTATION OF THE FEE PAYMENT, PROVIDING THAT AN APPLICANT FOR PROPORTIONAL REGISTRATION OF ANY FLEET, THE NONMOTOR 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 SUCH NONMOTOR VEHICLES SEPARATELY IN HIS APPLICATION AND PAY THE FEES THEREFOR IN ACCORDANCE WITH SUCH 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, PROVIDING FOR THE REGISTRATION AND ISSUANCE OF A LICENSE PLATE OR PLATES FOR EACH VEHICLE LISTED IN THE APPLICATION UPON PAYMENT OF THE FEES REQUIRED UNDER SUBSECTION (c) AND AN ADDITIONAL IDENTIFICATION CHARGE OF $2.00 PER VEHICLE AND PROVIDING THAT A REGISTRATION CARD SHALL BE CARRIED IN OR UPON THE IDENTIFIED VEHICLE AT ALL TIMES, PROVIDING THAT VEHICLES SO REGISTERED AND IDENTIFIED SHALL BE DEEMED TO BE FULLY LICENSED AND REGISTERED IN THIS STATE FOR ANY TYPE OF MOVEMENT OR OPERATION, EXCEPT THAT IN THOSE INSTANCES IN WHICH A GRANT OF AUTHORITY IS REQUIRED FOR INTRASTATE MOVEMENT OR OPERATION, NO SUCH VEHICLE SHALL BE OPERATED IN INTRASTATE COMMERCE IN IDAHO UNLESS THE OWNER THEREOF HAS BEEN GRANTED INTRASTATE AUTHORITY OR RIGHTS BY THE PUBLIC UTILITIES COMMISSION AND UNLESS SAID VEHICLE IS BEING OPERATED IN CONFORMITY WITH SUCH RIGHTS, PROVIDING THAT RIGHTS EXTENDED UNDER THIS ACT SHALL BE EXTENDED UNDER THE CONDITION THAT EACH FLEET VEHICLE PROPORTIONALLY REGISTERED UNDER THE
AUTHORITY OF THIS ACT SHALL BE PROPORTIONALLY OR OTHERWISE PROPERLY REGISTERED IN AT LEAST ONE OTHER JURISDICTION DURING THE PERIOD FOR WHICH IT IS PROPORTIONALLY REGISTERED IN THIS STATE, PROVIDING A METHOD OF PROPORTIONALLY REGISTERING VEHICLES ACQUIRED BY THE OWNER AFTER THE COMMENCEMENT OF THE REGISTRATION YEAR AND SUBSEQUENTLY ADDED TO A PROPORTIONALLY REGISTERED FLEET, PROVIDING FOR THE WITHDRAWAL OF A VEHICLE FROM A PROPORTIONALLY REGISTERED FLEET AND NOTIFICATION OF SUCH WITHDRAWAL TO THE DEPARTMENT, PROVIDING THAT THE DEPARTMENT SHALL DETERMINE THE IN-STATE AND TOTAL FLEET MILES TO BE USED IN COMPUTING THE FEE PAYMENT FOR THE FLEET, PROVIDING THAT THE DEPARTMENT MAY REFUSE TO ACCEPT PROPORTIONAL REGISTRATION APPLICATIONS FOR THE REGISTRATION OF VEHICLES BASED IN ANOTHER JURISDICTION IF THE DEPARTMENT SHALL FIND THAT SUCH OTHER JURISDICTION DOES NOT GRANT SIMILAR REGISTRATION PRIVILEGES TO FLEET VEHICLES BASED IN OR OWNED BY RESIDENTS OF THIS STATE, PROVIDING THAT 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 YEARS FOLLOWING THE YEAR OR PERIOD UPON WHICH SAID APPLICATION IS BASED, PROVIDING THAT THE OWNER AGREES TO MAKE SUCH RECORDS ACCESSIBLE TO THE DEPARTMENT, PROVIDING THAT NO ASSESSMENT FOR DEFICIENCY OR CLAIM FOR CREDIT MAY BE MADE FOR ANY PERIOD FOR WHICH RECORDS ARE NO LONGER REQUIRED, PROVIDING THAT ANY SUMS FOUND TO BE DUE AND OWING SHALL BEAR INTEREST OF SIX PERCENT FROM DATE WHEN THEY SHOULD HAVE BEEN PAID UNTIL THE DATE OF ACTUAL PAYMENT AND IF THERE IS A DELIBERATE AND WILFUL INTENT TO EVADE THE REQUIREMENTS OF APPROPRIATE PAYMENT UNDER SUBSECTION (C) (2) A PENALTY OF TEN PERCENT SHALL BE ASSESSED, PROVIDING THAT A VEHICLE SHALL NOT BE REQUIRED TO BE PROPORTIONALLY REGISTERED IF IT IS OTHERWISE REGISTERED IN THIS STATE FOR OPERATION IN WHICH IT IS ENGAGED, PROVIDING THAT THE DEPARTMENT MAY ENTER INTO AGREEMENTS WITH OTHER STATES FOR PROPORTIONAL REGISTRATION OF COMMERCIAL VEHICLES AS PROVIDED IN THIS SECTION, PROVIDING THAT THE DEPARTMENT MAY ADOPT AND PROMULGATE RULES AND REGULATIONS TO EFFECTUATE THE SEC-
TION, PROVIDING THAT THE ACT SHALL BE A PART OF AND SUPPLEMENTAL TO THE MOTOR VEHICLE REGISTRATION LAW OF THIS STATE, AND PROVIDING THAT IF ANY PART OF THE ACT IS DECLARED UNCONSTITUTIONAL THE REMAINDER SHALL NOT BE AFFECTED AS A RESULT OF SAID PART BEING HELD UNCONSTITUTIONAL OR INVALID.

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

SECTION 1. That Chapter 1, Title 49, Idaho Code, be, and the same is hereby amended by adding one new section there­to following Section 49-127A, to be known and designated as Section 49-127B, to read as follows:

49-127B. PROPORTIONAL REGISTRATION OF COMMERCIAL VEHICLES.—

(a) As used in this Section:

"Commercial vehicle" means any vehicle which is operated in more than one state and used for the transportation of persons for hire, compensation or benefit, or designed or used primarily for the transportation of property; "Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country and a state or province of a foreign country; "Fleet" means three or more commercial vehicles at least two of which are motor vehicles;

"Preceding year" means a period of 12 consecutive months fixed by the department which period shall be within the 16 months immediately preceding the commencement of the registration or license year for which proportional registration is sought; and the department in fixing such period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(b) Any owner engaged in operating one or more fleets may, in lieu of the registration fees imposed by Section 49-127 (parts 4 and 5), register each fleet for operation in this state by filing an application with the department which shall contain the following information and such other information pertinent to vehicle registration as the department may require:

(1) Total fleet miles. This shall be the total number of miles operated in all jurisdictions during the preceding year by the motor vehicles in such fleet during said year.
(2) In-state miles. This shall be the total number of miles operated in this state during the preceding year by such motor vehicles in such fleets during said year.

(3) A description and identification of each vehicle of such fleet which is to be operated in this state during the registration year for which proportional fleet registration is requested, and, as determined by the department, the vehicle unit number of each fleet vehicle as assigned by the owner.

(c) The application for each fleet shall, at the time and in the manner required by the department, be supported by a fee payment computed as follows:

(1) Divide in-state miles by total fleet miles.

(2) Determine the total amount necessary to register each and every vehicle in the fleet for which registration is required based on the regular annual fees prescribed by Section 49-127 (parts 4 and 5).

(3) Multiply the sum obtained under subsection (c) (2) hereof by the quotient obtained under subsection (c) (1) hereof.

(d) The applicant for proportional registration of any fleet, the nonmotor 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 such nonmotor vehicles separately in his application and compute and pay the fees therefor in accordance with such 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.

(e) The department shall register the vehicle so described and identified and may issue a license plate or plates or distinctive sticker or other suitable identification device for each vehicle listed in the application upon payment of the fees required under subsection (c) and an additional identification charge of $2.00 per vehicle. A registration card shall be issued for each proportionally registered vehicle appropriately identifying the same 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.

Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type
of movement or operation, except that, in those instances in which a grant of authority is required for intrastate movement or operation, no such vehicle shall be operated in intrastate commerce in this state unless the owner thereof has been granted intrastate authority or rights by the Public Utilities Commission and unless said vehicle is being operated in conformity with such authority or rights.

(f) The right to the privilege and benefits of proportional registration of fleet vehicles extended by this act, or by any contract, agreement, arrangement or declaration made under the authority of this act, shall be subject to the condition that each fleet vehicle proportionally registered under the authority of this act also shall be proportionally or otherwise properly registered in at least one other jurisdiction during the period for which it is proportionally registered in this state.

(g) 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 such fleet for such registration period to the annual registration fees due with respect to such vehicles for the remainder of the registration year.

(h) If any vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered under the provisions of this act, the owner of such 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 such other identification devices which have been issued with respect to such vehicle as the department may deem advisable.

(i) The initial application for proportional registration of a fleet shall state the mileage data with respect to such fleet for the preceding year in this and other jurisdictions. If no operations were conducted with such fleet during the preceding year, the application shall contain a full statement of the proposed method of operation and estimates of annual mileage in this state and other jurisdictions. The department shall determine the in-state and total fleet miles to be used in computing the fee payment for the fleet. The department may evaluate and adjust the estimate in the application if it is not satisfied as to the correctness thereof.

(j) The department may refuse to accept proportional registration applications for the registration of vehicles
based in another jurisdiction if the department shall find that such other jurisdiction does not grant similar registration privileges to fleet vehicles based in or owned by residents of this state.

(k) Any owner whose application for proportional registration has been accepted shall preserve the records on which the application is based for a period of four (4) years following the year or period upon which said application is based. Upon request of the department, the owner agrees to make such records accessible to the department for audit as to accuracy of computations and payments and assessments of deficiencies or allowances for credit. The department may make arrangements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any such owner or exchange of audit information. No assessment for deficiency or claim for credit may be made for any period for which records are no longer required. Any sums found to be due and owing upon audit shall bear interest of six percent from the date when they should have been paid until the date of actual payment. If the audit discloses a deliberate and willful intent to evade the requirements of appropriate payment under subsection (c) (2), a penalty of ten percent shall also be assessed.

(l) Nothing contained in this act relating to proportional registration of fleet vehicles shall be construed as requiring any vehicle to be proportionally registered if it is otherwise registered in this state for the operation in which it is engaged including, but not by way of limitation, regular registration or temporary trip permit.

(m) The department may enter into agreements with other states on behalf of the state of Idaho for proportional registration of commercial vehicles in the manner provided for in this section for the purpose of facilitating the administration thereof. In addition it may conclude arrangement or agreements with other states for the exchange of information for audit and enforcement activities in connection with such proportional registration. The department may adopt and promulgate such rules and regulations as it shall deem necessary to effectuate and administer the provisions of this section and the registration of fleet vehicles under this section shall be subject to the rights, terms and conditions granted or contained in any applicable agreement made by the department under the authority of this section.

(n) This act shall be, and construed as, a part of and
supplemental to the motor vehicle registration law of this state.

(o) If any phrase, clause, subsection or section of this act shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the legislature would have enacted this act without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of the act shall not be affected as a result of said part being held unconstitutional or invalid.

Approved March 1, 1967.

CHAPTER 57
(H. B. No. 182)

AN ACT

PROVIDING FOR EMERGENCY MANAGEMENT OF RESOURCES; DESIGNATING THIS ACT AS THE POST-ATTACK RESOURCE MANAGEMENT ACT; DECLARING THE PURPOSE OF THE ACT; DEFINING TERMS; AUTHORIZING THE GOVERNOR TO ESTABLISH A STATE EMERGENCY RESOURCE PLANNING COMMITTEE AND THE OFFICE OF STATE EMERGENCY PLANNING DIRECTOR; GIVING THE GOVERNOR GENERAL DIRECTION AND CONTROL OF EMERGENCY RESOURCES MANAGEMENT WITHIN THIS STATE; AUTHORIZING THE GOVERNOR TO COOPERATE WITH THE FEDERAL GOVERNMENT, OTHER STATES AND PRIVATE AGENCIES; AUTHORIZING THE GOVERNOR TO MAKE, AMEND OR RESCIND NECESSARY RULES, REGULATIONS AND ORDERS; AUTHORIZING THE GOVERNOR, FOLLOWING AN ATTACK, TO DECLARE BY ORDER THE EXISTENCE OF A POST-ATTACK RECOVERY AND REHABILITATION EMERGENCY; AUTHORIZING THE GOVERNOR, DURING SUCH AN EMERGENCY, TO CONTROL THE USE, SALE OR DISTRIBUTION OF FOOD, FEED, FUEL, CLOTHING AND OTHER COMMODITIES, MATERIALS, GOODS OR SERVICES, TO PRESCRIBE AND DIRECT ACTIVITIES CONCERNING THE USE, CONSERVATION, SALVAGE AND PREVENTION OF WASTE OF MATERIALS, SERVICES AND FACILITIES, AND TO TAKE SUCH OTHER ACTION AS MAY BE NECESSARY FOR THE MANAGEMENT OF RESOURCES FOLLOWING AN ATTACK; PROVIDING FOR FILING OF RULES, REGULATIONS OR ORDERS WITH THE SECRETARY OF STATE OR WITH THE CLERK OF THE DISTRICT COURT;
PROVIDING THAT AUTHORITY GRANTED TO THE GOVERNOR SHALL BE EXERCISED OVER THE ENTIRE STATE; PROVIDING THAT THE GOVERNOR'S AUTHORITY HEREIN GRANTED SHALL BE TERMINATED BY A RESOLUTION ADOPTED BY THE LEGISLATURE, AND PROVIDING ANY SUCH ORDER SHALL AUTOMATICALLY TERMINATE AFTER SIX MONTHS AND MAY NOT BE ISSUED AGAIN UNLESS APPROVED BY THE LEGISLATURE; PROVIDING THAT EVERY SUCH ORDER SHALL BE SUBJECT TO REVIEW BY THE STATE SUPREME COURT; AND PROVIDING PENALTIES.

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

SECTION 1. This Act may be cited as the "Post-Attack Resource Management Act."

SECTION 2. (a) The legislature recognizes that an attack upon the United States is a possibility; that such attack might be of unprecedented size and destructiveness; that a considerable period of time may elapse after an attack before federal operational control over the management of resources can be instituted; and that federal planning and activities with respect to post-attack recovery and rehabilitation necessarily are predicated on the ability of the states and their political subdivisions to prepare for and respond promptly to the problems created by an attack. Therefore, it is hereby found and declared to be necessary:

(1) To create an office of Emergency Resource Management for the execution of a plan for emergency resource management;

(2) To confer upon the Governor and upon the executive heads of governing bodies of political subdivisions of the state the emergency powers provided herein.

(b) It is further declared to be the purpose of this act and the policy of this state that all resource management functions of this state be coordinated to the maximum extent with the comparable functions of the federal government, of other states and localities, and of private agencies to the end that the most effective preparation and use may be made of available manpower, resources, and facilities in an emergency.

SECTION 3. (a) "Emergency Resources Management Plan" shall mean that plan prepared by the Idaho Emergency Resources Planning Committee, approved by the federal office of Emergency Planning and adopted by the Gov-
ernor, which sets forth the organization, administration, and functions for the emergency management by the state government of essential resources and economic stabilization within the state. Such plan shall provide an emergency organization and emergency administrative policies and procedures for the conservation, allocation, distribution, and use of essential resources available to the state following a civil defense emergency such as an attack upon the United States. It shall be supplemental to the National Plan for Emergency Preparedness adopted by the President of the United States, and shall become operative upon the establishment of a civil defense emergency. To the extent that the federal government is either incapable of or not prepared to conduct its emergency resources management program, the state plan will substitute for and replace the federal program until such time as the federal program becomes effective in the state.

(b) "Enemy Attack" means an actual attack by a foreign nation by hostile air raids, or other forms of warfare, upon this state or any other state or territory of the United States.

(c) "Political subdivision" shall mean any county or city in the state.

SECTION 4. (a) The Governor may establish a State Emergency Resource Planning Committee (hereinafter referred to as the "State Committee") and the office of State Emergency Planning Director (hereinafter referred to as the "Director"), and appoint to serve at his pleasure the members of such State Committee and the Director.

(b) The State Committee shall consist of the Governor, who shall be Chairman, the Director, other state officials designated by the Governor, and persons representative of industry, commerce, labor, agriculture, civic, governmental, and professional groups designated by the Governor. In the absence of the Governor, the Director shall act as chairman.

SECTION 5. (a) The Governor shall have general direction and control of the Emergency Resources Management within this state and all officers, boards, agencies, individuals, or groups established under the Emergency Resource Management Plan.

(b) In performing his duties under this act, the Governor is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the emergency management of resources.
(c) In performing his duties under this act, and to effect its policies and purpose, the Governor is further authorized and empowered to make, amend, and rescind the necessary orders, rules, and regulations to carry out the provisions of this act within the limits of authority conferred upon him herein, with due consideration of the emergency resources management plans of the federal government.

SECTION 6. (a) Following an attack, the Governor, if he finds such action necessary to deal with the danger to the public safety caused thereby or to aid in the post-attack recovery or rehabilitation of the United States or any part thereof, shall declare by order the existence of a post-attack recovery and rehabilitation emergency. Any such order shall be ineffectual, unless the Legislature is then in session or the Governor simultaneously issues an order convening the Legislature in special session within forty-five days.

(b) During the period when the order issued pursuant to subsection (a) of this section is in force, or during the continuance of any emergency declared by the President of the United States or the Congress calling for post-attack recovery and rehabilitation activities, subject to the limitations set forth in this act, and in a manner consistent with any rules, regulations, or orders and policy guidance issued by the federal government, the Governor may issue, amend and enforce rules, regulations, and orders to:

(1) control, restrict, and regulate by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation or other means the use, sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods or services;

(2) prescribe and direct activities in connection with but not limited to use, conservation, salvage, and prevention of waste of materials, services, and facilities, including production, transportation, power, and communication facilities, training and supply of labor, utilization of industrial plants, health and medical care, nutrition, housing, including the use of existing and private facilities, rehabilitation, education, welfare, child care, recreation, consumer protection, and other essential civil needs; and

(3) take such other action as may be necessary for the management of resources following an attack.

(c) All rules, regulations and orders issued pursuant to authority conferred by this act shall have the full force and effect of law during the continuance of an order or declara-
tion of emergency as contemplated by this section, when a copy of the rule, regulation, or order is filed in the office of the Secretary of State or, if issued by a local or area official, when filed in the office or offices of the clerk of the district court. If, by reason of destruction or disruption attendant upon or resulting from attack, the filing requirements of this subsection cannot be met, public notice by such means as may be available shall be deemed a complete and sufficient substitute. All existing laws, ordinances, rules, regulations, and orders inconsistent with the provisions of this act, or any rule, regulation or order issued under the authority thereof, shall be inoperative during the period of time and to the extent such inconsistency exists.

(d) Any authority exercised pursuant to an order or emergency contemplated by this section may be exercised with respect to the entire territory over which the Governor or other official, as the case may be, has jurisdiction, or as to any specified part thereof.

(e) The Governor's power and authority to issue an order following an attack shall be terminated by the passage of a resolution of the Legislature or by declaration of the termination of the emergency by the President or by the Congress: provided that the order shall terminate automatically six months after issuance and a similar order may not be issued unless concurrence is given thereto by a resolution of the Legislature.

SECTION 7. Every order and the facts related therein issued under this act shall be subject to judicial inquiry by the state supreme court as to the existence of the facts underlying the issuance of the order and whether such action was reasonable under the circumstances.

SECTION 8. Any person violating any of the rules, regulations or orders adopted and promulgated under section 6 of this act shall, upon conviction thereof, be subject to a fine not to exceed $1,000.00 or to a term of imprisonment of not to exceed six months, or both such fine and imprisonment.

Approved March 1, 1967.
RESERVING FROM SALE CERTAIN STATE LANDS IN GOODING COUNTY, IDAHO; AUTHORIZING THE STATE BOARD OF LAND COMMISSIONERS TO LEASE THE SAME FOR PUBLIC PURPOSES; AND DECLARING AN EMERGENCY.

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

SECTION 1. The following described state lands are hereby reserved from sale so long as the same shall be used for a hospital or other public purposes and maintained by public authority:

A tract of land in Gooding County, Idaho, in part of the E 1/2 of the SW 1/4 of the NW 1/4 of Sec. 5, T. 6 S., R. 15 E. B.M., or more particularly described as follows:

Beginning at the NW corner of Block 149 Woodworth Addition to the town of Gooding, according to the plat thereof on file in the office of the County Recorder of Gooding County, Idaho; thence South 115 feet along the East line of Montana Street to the true point of beginning; thence South 335 feet along the East line of Montana Street; thence East 570 feet parallel with the South line of 11th Avenue to the West line of Oregon Street extended; thence North 335 feet along the West line of Oregon Street extended; thence West 570 feet to the point of beginning.

SECTION 2. The State Board of Land Commissioners is hereby authorized to lease the lands described in Section 1 hereof for a hospital or other public purposes, upon such terms and conditions as the Board may determine best in the interests of the State or to exchange said lands for other lands of a tax-supported agency or unit of the State of Idaho or the United States, in accordance with law.

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

Approved March 1, 1967.
CHAPTER 59
(S. B. No. 79)

AN ACT

AMENDING SECTION 31-1903, IDAHO CODE, BY INCLUDING AIR NAVIGATION FACILITIES AMONG THE PURPOSES FOR WHICH COUNTIES MAY ISSUE BONDS.

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

SECTION 1. That Section 31-1903, Idaho Code, be, and the same is hereby amended to read as follows:

31-1903. BUILDING, ROAD AND BRIDGE BONDS.—
When the interests of the county require it and the board of commissioners of the county deem it for the public good to bond the county to fund or refund the outstanding obligations or indebtedness of the county or bond the county for the purpose of acquiring funds for purchasing a site and erecting a courthouse and jail, a public auditorium or a jail thereon, or for the construction or repair of roads or bridges, or to assist any city or village in said county in constructing a free bridge over any navigable stream within, or partly within, or adjoining, the limits of any such city or village, or for purchasing, improving and equipping air navigation facilities as defined in Chapter 4, Title 21, Idaho Code, which facilities may be wholly or partly within or without the limits of such county, or wholly or partly within or without the state of Idaho, or for any one or more of said purposes, and the indebtedness or liability of the county that may be created by the bonding, funding or refunding aforesaid, or in purchasing a site and erecting a courthouse and jail, a public auditorium or a jail thereon, and for the construction or repair of roads or bridges, or for assisting any city or village in the construction of any such free bridge as aforesaid, or for purchasing, improving and equipping air navigation facilities, or for any one or more of said purposes, exceeds the income or revenue of the county for that year, the board of commissioners may issue bonds of the county as provided by sections 31-1901 and 31-1902, and by the "municipal bond law" of the state of Idaho: provided, that the issuance of such bonds, except funding or refunding bonds, be first authorized by a vote of two-thirds ($2/3$) of the qualified electors of the county, voting at an election held for that purpose, as hereinafter provided and as provided in the "municipal bond law" and, provided, further, that before the board of county commissioners shall issue any bonds to fund or refund the indebtedness of the county as
in the section provided, they shall deduct from the legal indebtedness of the county, at the time of the issue of said bonds, the cash on hand in the county treasury applicable to the discharge of said indebtedness, and may issue bonds for the remainder of the indebtedness.

Approved March 1, 1967.

CHAPTER 60
(S. B. No. 46)

AN ACT

AMENDING SECTION 27-1909, IDAHO CODE, RELATING TO THE MAXIMUM DISCOUNT OR INTEREST RATE CHARGEABLE ON INSTALMENT LOAN CONTRACTS, BY INCREASING THE PRINCIPAL LOAN SUM ON WHICH SAID RATE IS APPLICABLE TO THE SUM OF THREE THOUSAND FIVE HUNDRED DOLLARS ($3,500.00); AMENDING SECTION 27-1910, IDAHO CODE, BY INCREASING THE PRINCIPAL LOAN SUM, ON WHICH A LATE CHARGE MAY BE COLLECTED, TO THE SUM OF THREE THOUSAND FIVE HUNDRED DOLLARS ($3,500.00); AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 27-1909, Idaho Code, be, and the same is hereby amended to read as follows:

27-1909. MAXIMUM DISCOUNT OR INTEREST RATE CHARGEABLE ON MONTHLY INSTALMENT LOAN CONTRACTS.—Notwithstanding the provisions of section 27-1905, Idaho Code, the parties to an instalment loan contract may agree on an interest rate as provided in said section 27-1905, or, in lieu of such interest rate, they may agree in writing to add to or deduct in advance from the entire initial principal amount of money due or to become due on any monthly instalment loan contract other than a contract secured by real property, in an amount not to exceed two thousand dollars ($2,000), three thousand five hundred dollars ($3,500.00), which shall be repayable in two or more monthly instalments, a discount interest charge, provided that the maximum discount interest charge thereon shall be not in excess of six per cent (6%) discount per annum. All charges on such instalment loan contracts repayable in monthly instalments where the principal amount
of money due is in excess of two thousand dollars ($2,000), three thousand five hundred dollars ($3,500.00) and on all loans of two thousand dollars ($2,000), three thousand five hundred dollars ($3,500.00) or less repayable other than in monthly installments may be discounted by the lender at a rate not to exceed the maximum simple interest rate set forth in section 27-1905, Idaho Code.

SECTION 2. That Section 27-1910, Idaho Code, be, and the same is hereby amended to read as follows:

27-1910. LATE CHARGE ON OVERDUE MONTHLY INSTALMENTS — INTEREST CHARGE ON FINAL JUDGMENT. — In the event that a monthly instalment, on any instalment loan contract in the principal amount of two thousand dollars ($2,000), three thousand five hundred dollars ($3,500.00) or less, becomes sixteen (16) days or more past due, the holder may collect a late charge in the amount of four per cent (4%) of the monthly instalment, provided that each such late charge may not exceed the sum of four dollars ($4.00) for each past due instalment. Any final judgment rendered on an instalment loan contract shall bear interest at the legal rate of interest on judgments until fully satisfied.

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

Approved March 1, 1967.

CHAPTER 61
(S. B. No. 91)

AN ACT

AMENDING CHAPTER 25 OF TITLE 41, IDAHO CODE, RELATING TO CASUALTY INSURANCE CONTRACTS, BY ADDING FOUR NEW SECTIONS, FOLLOWING SECTION 41-2501, TO BE KNOWN AND DESIGNATED AS SECTIONS 41-2502, 41-2503, 41-2504 AND 41-2505, MAKING IT MANDATORY THAT POLICIES OF AUTOMOBILE OR MOTOR VEHICLE INSURANCE PROVIDE EACH POLICYHOLDER WITH COVERAGE FOR BODILY INJURY OR DEATH BY UNINSURED MOTOR VEHICLES, WHICH COVERAGE MAY BE REJECTED BY THE INSURED ONLY IN WRITING; DEFINING "UNINSURED MOTOR VEHICLE", WHICH SHALL COVER IN-
SOLVENCY OF ITS INSURER; PROVIDING THAT THE INSURER'S INSOLVENCY PROTECTION APPLIES TO INSOLVENCY WITHIN ONE YEAR AFTER AN ACCIDENT; GIVING RIGHT OF SUBROGATION TO THE INSURER MAKING PAYMENT UNDER THIS LAW AGAINST UNINSURED PARTIES LEGALLY LIABLE FOR THE BODILY INJURY OR DEATH, OF IF PAYMENT IS REQUIRED BY AN INSOLVENCY, THEN RIGHT OF SUBROGATION SHALL BE ONLY AGAINST THE INSOLVENT INSURER OR ITS RECEIVER.

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

SECTION 1. That Chapter 25 of Title 41, Idaho Code, be, and the same is hereby amended by adding a new section thereto, following Section 41-2501, to be known and designated as Section 41-2502, and to read as follows:

41-2502. No policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any natural person arising out of the ownership, maintenance or use of a motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, in limits for bodily injury or death as set forth in Section 49-1505, Idaho Code, as amended from time to time, under provisions approved by the commissioner of insurance, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom; provided, however, that the named insured shall have the right to reject such coverage, which rejection must be in writing; and provided further, such coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer.

SECTION 2. That Chapter 25 of Title 41, Idaho Code, be, and the same is hereby amended by adding a new section thereto, following Section 41-2502, to be known and designated as Section 41-2503, and to read as follows:

41-2503. For the purposes of this coverage, the term "uninsured motor vehicle" shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency.
SECTION 3. That Chapter 25 of Title 41, Idaho Code, be, and the same is hereby amended by adding a new section thereto, following Section 41-2503, to be known and designated as Section 41-2504, and to read as follows:

41-2504. An insurer's insolvency protection shall be applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year after such an accident. Nothing herein contained shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to its insureds than is provided hereunder.

SECTION 4. That Chapter 25 of Title 41, Idaho Code, be, and the same is hereby amended by adding a new section thereto following Section 41-2504, to be known and designated as Section 41-2505, and to read as follows:

41-2505. In the event of payment to an insured under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such insured against any person or organization legally responsible for the bodily injury for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer. Whenever an insurer shall make payment under the coverage required by this section and which payment is occasioned by an insolvency, such insurer's right of recovery or reimbursement shall not include any rights against the insured of said insolvent insurer, but such paying insurer shall have the right to proceed directly against the insolvent insurer or its receiver, and in pursuance of such right such paying insurer shall possess any rights which the insured of the insolvent company might otherwise have had, if the insured of the insolvent insurer had personally made the payment.

Approved March 1, 1967.
CHAPTER 62
(S. B. No. 7 As Amended)

AN ACT

AMENDING SECTION 49-2401, IDAHO CODE, ADDING NEW MOTORCYCLE OR MOTOR SCOOTER DEALER, MOBILE HOME DEALER, MANUFACTURER OF MOTOR VEHICLES OR A MANUFACTURER, DISTRIBUTOR, FACTORY BRANCH OR DISTRIBUTOR BRANCH REPRESENTATIVE AS REQUIRED TO BE LICENSED; AMENDING SECTION 49-2402, IDAHO CODE, ADDING DEFINITIONS FOR ADDITIONAL LICENSEES REQUIRED UNDER THIS ACT; AMENDING SECTION 49-2403, IDAHO CODE, TO CLARIFY THE LANGUAGE THEREOF WITH RESPECT TO LICENSEES; AMENDING SECTION 49-2404, IDAHO CODE, PROVIDING FOR TWO (2) ADDITIONAL MEMBERS FOR A TOTAL OF SEVEN (7) TO THE ADVISORY BOARD AND PROVIDING FOR THEIR APPOINTMENT, TERMS OF OFFICE AND PROVIDING FOR REASONABLE TRAVELING EXPENSES FOR THE ADVISORY BOARD; AMENDING SECTION 49-2407, IDAHO CODE, PROVIDING AND ADDING ADDITIONAL CLASSES OF LICENSES REQUIRED FOR MOTORCYCLE OR MOTOR SCOOTER DEALERS LICENSE, MOBILE HOME DEALERS LICENSE, MOTOR VEHICLE MANUFACTURERS LICENSE, DISTRIBUTOR, FACTORY BRANCH, DISTRIBUTOR BRANCH LICENSE AND REPRESENTATIVE OF DISTRIBUTORS OR FACTORY BRANCH LICENSE; AMENDING SECTION 49-2408, IDAHO CODE, PROVIDING FOR LICENSE FEE REQUIREMENTS FOR ADDITIONAL CLASSES OF LICENSES AND PROVIDING THAT SUPPLEMENTAL LICENSE FOR ADDITIONAL ESTABLISHED PLACES OF BUSINESS SHALL BE ISSUED WITHOUT FEE; AMENDING SECTION 49-2409, IDAHO CODE, PROVIDING FOR DEALERS BONDS REQUIRED FOR ADDITIONAL CLASSES OF LICENSES; AMENDING SECTION 49-2410 IDAHO CODE, CLARIFYING THE LANGUAGE THEREIN TO APPLY TO ALL CLASSES OF LICENSES UNDER THIS ACT; AMENDING SECTION 49-2411, IDAHO CODE, CLARIFYING THE LANGUAGE THEREIN TO APPLY TO ALL CLASSES AS NOW DEFINED UNDER THIS ACT; AMENDING SECTION 49-2412, IDAHO CODE, CLARIFYING THE LANGUAGE TO APPLY TO ALL LICENSED DEALERS HEREIN DEFINED AND PROVIDING FOR SALESMAN'S LICENSE CARD TO SET FORTH NAME OF EMPLOYER; AMENDING SECTION 49-2413, IDAHO CODE, TO CLARIFY THE LANGUAGE THEREOF AS TO ALL DEALER LICENSEES APPLICABLE TO THIS ACT; AND AMENDING SECTION 49-2414, IDAHO CODE, PROVIDING CERTAIN
ACTS BY ADDITIONAL LICENSEE CLASSIFICATIONS TO BE UNLAWFUL.

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

SECTION 1. That Section 49-2401, Idaho Code, be, and the same is hereby amended to read as follows:

49-2401. UNLICENSED MOTOR VEHICLE DEALERS AND SALESMEN PROHIBITED.—It shall be unlawful for any person to act as a motor vehicle dealer, used motor vehicle dealer, or motor vehicle salesman, without having first procured a license to be issued by the department of law enforcement, and after June 30, 1967, it shall be unlawful for any person to act as a new motorcycle or motor scooter dealer, used motorcycle or motor scooter dealer, mobile home dealer, manufacturer of motor vehicles or a manufacturer, distributor, factory branch, or distributor branch representative without first having procured a license to be issued by the department of law enforcement.

SECTION 2. That Section 49-2402, Idaho Code, be, and the same is hereby amended to read as follows:

49-2402. DEFINITIONS.—The following words and phrases, when used in this act, shall, for the purpose of this act, have the meaning respectively ascribed as follows:

(1) “Motor vehicle” shall mean every vehicle intended primarily for use and operation on the public highways which is self-propelled; and every vehicle intended primarily for operation on the public highways which is not driven or propelled by its own power, but which is designed either to be attached to and become a part of, or to be drawn by a self-propelled vehicle; but not including farm tractors and other machines and tools used in the production, harvesting and care of farm products.

(2) “Person” shall mean every natural person, firm, copartnership, association or corporation.

(3) “Motor vehicle dealer” shall mean any person engaged in the business of selling or exchanging new or new and used motor vehicles, or who buys and sells, or exchanges three (3) or more new or new and used motor vehicles in any one (1) calendar year.

(4) “Used motor vehicle dealer” shall mean any person engaged in the business of selling or exchanging used motor vehicles, or who buys and sells, or exchanges three (3) or more used motor vehicles in any one (1) calendar year.
No insurance company, finance company, public utilities company, or other person coming into possession of any motor vehicle as an incident to its regular business who shall sell such vehicle, or who shall sell such vehicle under any contractual rights it may have with respect thereto shall be considered a motor vehicle dealer or used motor vehicle dealer under the terms and provision of subsections (3) and (4) of this section.

(5) "Motor vehicle salesman" shall mean any person, who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any motor vehicle dealer or used motor vehicle dealer or other licensee as in this act provided to sell, purchase or exchange or to negotiate for the sale, purchase or exchange of motor vehicles, motorcycles, motor scooters or mobile homes.

(6) "Commissioner" shall mean the commissioner of law enforcement of this state.

(7) "Department" shall mean the department of law enforcement of this state acting directly or through its duly authorized officers and agents.

(8) "Principal place of business" shall mean a site or location devoted mostly and mainly to the business for which the motor vehicle dealer or used motor vehicle dealer is licensed, sufficiently designated to admit of definite description with space thereon or contiguous thereto adequate to permit the display of one or more new or new and used motor vehicles, on which there shall be located or erected permanent enclosed building or structure large enough to accommodate the office or offices of the dealer and to provide a safe place to keep the books and other records of the business of such dealer, at which site or location the principal portion of such dealer's business shall be conducted and the books and records thereof kept and maintained. 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 provision of this act unless the entire ground floor of such hotel, apartment house, or rooming house building or such dwelling house be devoted principally to and occupied for commercial purposes and the office or offices of the dealer be located on the ground floor thereof. In no event shall premises devoted principally to the business of a gasoline service station be considered a
“principal place of business” within the terms and provisions of this act.

(9) “New motorcycle or motor scooter dealer” shall mean any person who has a franchise from a manufacturer of motorcycles or motor scooters who is engaged in the business of selling or exchanging new or new and used motorcycles or motor scooters or who buys and sells or exchanges three (3) or more new or new and used motorcycles or motor scooters in any one (1) calendar year.

(10) “Used motorcycle or motor scooter dealer” shall mean any person engaged in the business of selling or exchanging used motorcycles or motor scooters or who buys and sells three (3) or more used motorcycles or motor scooters in any one (1) calendar year. Provided, however, that no insurance company, bank or finance company, public utility company, or other person coming into possession of any motorcycle or motor scooter as an incident to its regular business who shall sell such vehicles under any contractual rights it may have with respect thereto shall be considered to be a new and used motorcycle or motor scooter dealer under the terms and provisions of this act.

(11) “Mobile home dealer” shall mean any person engaged in the business of selling or exchanging new or new and used mobile homes, or who buys or sells or exchanges three (3) or more new or new and used mobile homes in any one (1) calendar year.

(12) “Manufacturer” shall mean every person engaged in the business of constructing or assembling motor vehicles, of a type subject to registration under the motor vehicle act, at an established place of business within the state. Provided, however, the term “manufacturer” shall not include mobile home manufacturer.

(13) “Distributor” shall mean any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of motor vehicles to distribute motor vehicles in this area, and who in whole or in part sells or distributes new motor vehicles to motor vehicle dealers or who maintains distributor representatives.

(14) “Factory branch” shall mean a branch office maintained by a person, firm, association, corporation or trust, who manufacturers or assembles motor vehicles for the sale of motor vehicles to distributors, or for the sale of motor vehicles to motor vehicle dealers, or for directing or supervising, in whole or in part, its representatives.
(15) "Distributor branch" shall mean a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(16) "Factory representative" shall mean any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a manufacturer of motor vehicles or by a factory branch for the purpose of making or promoting a sale of his, its, or their motor vehicles, or for supervising or contacting his, its, or their dealers or prospective dealers.

(17) "Distributor representative" shall mean any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of motor vehicles for the purpose of making or promoting the sale of his, its, or their motor vehicles, or for supervising or contacting his, its, or their dealers or prospective dealers.

(18) "Franchise" shall mean contract or agreement between a motor vehicle dealer and a manufacturer of new motor vehicles or its distributor or factory branch by which the dealer is authorized to engage in the business of selling any specified make or makes of new motor vehicles.

SECTION 3. That Section 49-2403, Idaho Code, be, and the same is hereby amended to read as follows:

49-2403. ADMINISTRATION — POWERS AND DUTIES.—The commissioner of law enforcement and the advisory board hereinafter defined, are hereby charged with the administration of this act. For the purpose of administering this act, the commissioner and advisory board shall have the following powers and duties:

(1) From time to time to promulgate, amend, and repeal such reasonable rules and regulations, not inconsistent with this act and the laws of the state of Idaho, as the commissioner and advisory board shall deem necessary, to carry out the purposes of this act. To define and prohibit by regulation, any practice which is found to be deceptive. The commissioner shall cause a public hearing to be held on any proposed regulation. The commissioner, with approval of the advisory board, is further empowered:

(2) To employ, subject to the laws of the state of Idaho, such clerks, deputies, and assistants as he may consider necessary to discharge the duties imposed upon him by this
act, and to designate the duties of such clerks, deputies and assistants.

(3) To issue, and, for reasonable cause shown, to refuse to issue to any applicant therefor, any license authorized by this act. The commissioner shall not refuse to issue to any applicant therefor, other than a partnership or corporation, any license provided for herein if such applicant shall have complied with the terms and provisions of this act and the rules and regulations promulgated by the commissioner pursuant to the authority herein conferred upon him relating to the conduct of the type of business for which application for a license is made; unless it shall first be made to appear that the applicant was previously the holder of a license hereunder which was revoked or suspended, as provided in section 49-142 of the Idaho Code, which license in the case of revocation was never reissued by the commission, or which in the case of suspension was never reinstated, or unless the applicant, though never licensed under the terms and provisions of this act, has been convicted in a court of record in this state of violation of some one or more of the terms and provisions of this act or of a rule or regulation promulgated by the commissioner under the authority herein conferred upon him. If the applicant for a license be a partnership or a corporation, the commissioner may refuse to issue a license to such applicant where he determines: That one or more of the partners, if the applicant be a partnership, or one or more of the stockholders or officers of the corporation, if a corporation be the applicant, was previously the holder of a license, issued under the authority of this act, which was revoked or suspended, which license in the case of revocation was never reissued or in the case of suspension was never reinstated, or that one or more of such partners, stockholders, or officers, as the case may be, though not previously the holder of a license, was convicted in a court of record in the state of Idaho of a violation of one or more of the provisions of this act or of a rule or regulation promulgated by the commissioner under the authority herein conferred upon him; and that by reason of the facts and circumstances touching the organization, control, and management of the partnership or corporation business it is likely that the policy of such business will be directed, controlled, or managed by individuals who, by reason of their conviction of a violation of the provisions of this act, would be ineligible for a license and that by licensing such corporation or partnership the purposes of this act would likely be defeated.

(4) For just cause shown, to revoke, or to suspend on
such terms and conditions and for such period of time as to
the commissioner shall appear fair and just, any license
or licenses issued under and pursuant to the terms and pro-
visions of this act. No such license shall be revoked or sus-
pended except that it shall first be shown that the licensee
has violated one or more of the terms and provisions of this
act, or of a rule or regulation promulgated by the commis-
sioner under the power and authority herein conferred
upon him.

(5) He shall have the power on his own motion and he
shall upon the sworn complaint of any person investigate
any suspected or alleged violation by any licensee hereunder
of any of the terms and provisions of this act or of any rule
or regulation promulgated by the commissioner under the
authority herein conferred upon him.

(6) To prescribe the forms to be used for applications
for licenses to be issued under the provisions of this act and
to require of such applicants, as a condition precedent to the
issuance of such license, such information touching on and
concerning the applicant's fitness to be licensed hereunder
as he may consider necessary. Every application for a motor-
vehicle dealer's license or used motor vehicle dealer's li-
censee's license shall contain, in addition to such informa-
tion as the commissioner may require, a statement of the
following facts:

(a) The name and residence address of the applicant and
the trade name, if any, under which he intends to conduct
his business; and if the applicant be a copartnership, the
name and residence address of each member thereof, wheth-
er a limited or general partner, and the name under which
the partnership business is to be conducted; and if the ap-
plicant be a corporation, the name of the corporation and
the name and address of each of its principal officers and
directors.

(b) A complete description, including the city, town, or
village with the street and number, if any, of the principal
place of business and such other and additional place or
places of business as shall be operated and maintained by
the applicant in conjunction with the principal place of
business.

(c) If the application be for a motor vehicle dealer's li-
cense, the name or names of the new motor vehicle or ve-
hicles that the applicant has been enfranchised to sell or
exchange and the name or names and addresses of the man-
manufacturer or distributor who has enfranchised the applicant.

(d) The names and addresses of the persons who shall act as salesmen under the authority of the license, if issued.

(7) To require that a motor vehicle dealer's or used motor vehicle dealer's licensee's principal place of business and such other sites or location as may be operated and maintained by such dealers' licensees in conjunction with their principal place of business have erected or posted thereon such signs or devices providing information relating to the dealer's licensee's name, the location and address of such dealer's licensee's principal place of business, the type of license held by the dealer-licensee and the number thereof, as the commissioner shall consider necessary to enable any person doing business with such dealer-licensee to identify him properly; and for this purpose to determine the size and shape of such signs or devices, the lettering thereon, and other details thereof, and to prescribe rules and regulations for the location thereof.

(8) To provide for regular meetings of the advisory board, to be held not less frequently than semi-annually, and from time to time to call special meetings thereof; providing that notices of all regular and special meetings of the advisory board shall by the commissioner be mailed to all members thereof at the last known address of each, not less than five (5) days prior to the date on which such meeting shall be held.

SECTION 4. That Section 49-2404, Idaho Code, be, and the same is hereby amended to read as follows:

49-2404. ADVISORY BOARD.—(1) There is hereby created an advisory board, to consist of five (5) members; three (3) members to be appointed from licensed dealers selling less than 200 new motor vehicles during the calendar year next prior to appointment, with the remaining two (2) members appointed from licensed dealers selling more than 200 new motor vehicles during the calendar year next prior to appointment. The board shall act pursuant to its powers above enumerated and assist and advise the commissioner in the administration and enforcement of this act. The governor shall appoint five (5) members of the board, with regard to the recommendations of the executive committee or board of directors of the Idaho Automobile Dealers Association. The term of office of each member of said board shall be three (3) years, excepting that of the members of said board first appointed, two (2) shall be appointed to
hold office until the first day of July, 1966, two (2) until the first day of July, 1967, and one (1) until the first day of July, 1968. On and after June 30, 1967, two (2) additional members to the advisory board shall be created and added for a total advisory board to consist of seven (7) members, of which two (2) additional members, one (1) shall be a licensed mobile home dealer and one (1) shall be a licensed used motor vehicle dealer. The governor shall appoint such two (2) additional members of the board, with regard to the recommendations of the executive committee or board of directors of the Idaho Automobile Dealers Association. The term of office of such two (2) additional members shall be for three (3) years, excepting those members first appointed shall be appointed to hold office until the first day of July, 1968. Vacancies occurring on the board other than by the expiration of the term, shall be filled for the unexpired term only. Each member of the board shall serve until his successor is appointed and qualified. The members of the advisory board shall serve without compensation. The members of the advisory board shall be entitled to their reasonable traveling expenses incurred in the performance of their duties, all of said payments shall be paid from the motor vehicle fund of the state of Idaho as part of the expenses of administering this act. A majority of the members of the advisory board shall constitute a quorum, the presence of which at any meeting thereof duly called by the commissioner shall have full and complete power to act upon and resolve in the name of the board any matter, thing or question referred to it by the commissioner, or which, by reason of any provisions of this act, it has power to determine.

(2) The advisory board on the first day of each July, or as soon thereafter as is practicable, shall elect a chairman, vice-chairman, secretary and assistant secretary from among its members, who shall hold office until their successors are elected. As soon as the board shall elect its officers, the secretary so elected shall certify the results of such election to the commissioner. The chairman shall preside at all meetings of the board and the secretary shall make a record of the proceedings thereof which shall be preserved in the office of the commissioner. If the chairman be absent from any meeting of the advisory board, his duties shall be discharged by the vice-chairman, and if the secretary be absent therefrom, his duties shall be discharged by the assistant secretary. All members of the advisory board shall be entitled to vote on any question, matter, or thing which properly comes before it.
SECTION 5. That Section 49-2407, Idaho Code, be, and the same is hereby amended to read as follows:

49-2407. CLASSES OF LICENSES.—Licenses issued under the provisions of this act shall be the following classes:

(1) Motor vehicle dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new and used motor vehicles or both. This form of license shall permit the persons named therein who shall be owners or part owners of the business of the licensee to act as motor vehicle salesman.

(2) Used motor vehicle dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging used motor vehicles only. This form of license shall permit the persons named therein who shall be owners or part owners of the business of the licensee to act as motor vehicle salesmen.

(3) Motor vehicle salesman’s license. This license shall permit the licensee to engage in the activities of a motor vehicle salesman as defined in subsection (5) under the preceding paragraph 49-2402 "DEFINITIONS."

(4) New motorcycle or motor scooter dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new or used motorcycles or motor scooters or both. This form shall permit the persons named therein who shall be owners or part owners of the business of the licensee to act as new or used motor vehicle salesmen.

(5) Used motorcycle or used motor scooter dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging used motorcycles or used motor scooters only. This form of license shall permit the persons named therein who shall be the owners or part owners of the business of the licensee to act as motor vehicle salesmen.

(6) Mobile home dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new or used mobile homes or both. This form of license shall permit the persons named therein who shall be owners or part owners of the business of the licensee to act as motor vehicle salesmen.

(7) Motor vehicle manufacturers license. This license shall permit the licensee to engage in the business of con-
structing or assembling motor vehicles, of the type subject to registration under the motor vehicle act of the state of Idaho at an established place of business within this state.

(8) Distributor, factory branch, distributor branch. This license shall permit the licensee to engage in the business of selling and distributing motor vehicles, parts, and accessories to their franchised dealers.

(9) Representative (factory branch or distributor, etc.). This license shall permit the licensee to engage in the business of contacting his respective authorized dealers, for the purpose of making or promoting the sale of his, its, or their motor vehicles, parts, and accessories.

(10) Pending the satisfaction of the department that the applicant has met the requirements under this chapter, it may issue a temporary permit to any applicant for a license. A temporary permit shall not exceed a period of 90 days while the department is completing its investigation and determination of all facts relative to the qualifications of the applicant to such a license. Such temporary permit shall terminate when the applicant's license has been issued or refused.

(11) 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 be such as may, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department of the information contained therein.

SECTION 6. That Section 49-2408, Idaho Code, be, and the same is hereby amended to read as follows:

49-2408. FEES — FUNDS — EXPENSES — EXPIRATION OF LICENSES.—(1) To pay the expenses of administering and enforcing this act, the commissioner shall collect with each application for each class of license, the following fees:

(a) Motor vehicle dealer's license, sixty dollars ($60.00).

(b) Used motor vehicle dealer's license, sixty dollars ($60.00).

(c) Motor vehicle salesman's license, five dollars ($5.00).
(d) New motorcycle or motor scooter dealer's license, thirty five dollars ($35.00).

(e) Used motorcycle or motor scooter dealer's license, thirty five dollars ($35.00).

(f) Mobile home dealer's license, sixty dollars ($60.00).

(g) Motor vehicle manufacturer's license, sixty dollars ($60.00).

(h) Distributor-factory branch-distributor branch license, sixty dollars ($60.00).

(i) Representative's license, twenty-five dollars ($25.00).

(2) All such fees shall be paid over to the state treasurer and shall be kept in the motor vehicle fund of the state of Idaho. The expenses of said department and the expenses incurred in enforcing this act shall be paid from said fund.

(3) Such licenses, if the same shall not have been suspended or revoked, as provided is this act, shall be in effect to the first day of January next following the date of issuance thereof and shall then expire. Upon the expiration of such license, unless by suspension or revocation, the same may be renewed upon the payment of the fees specified here-in to accompany applications, and such renewals shall be made from year to year as a matter of right.

(4) A supplemental license shall be secured by any licensee for each established additional place of business maintained by such licensee which supplemental license shall be issued without payment of an additional fee.

(5) When an applicant or licensee is conducting more than one category of business as defined in Section 49-2402 subsections (3), (4), (9), (10), and (11), such applicant or licensee shall be issued a license which shall include each such category and shall pay only one fee in the sum of sixty dollars ($60.00).

SECTION 7. That Section 49-2409, Idaho Code, be, and the same is hereby amended to read as follows:

49-2049. DEALERS AND USED VEHICLE DEALER'S BOND.—(1) Before any motor vehicle dealer's license or used motor vehicle dealer's license, or mobile home dealer's license shall be issued by the commissioner to any applicant therefor, the said applicant shall procure and file with the commissioner good and sufficient bond in the amount of ten thousand dollars ($10,000) with corporate surety there-
on, duly licensed to do business within this state, approved as to form by the attorney general of this state, and conditioned that said applicant shall not practice any fraud, make any fraudulent representation or violate any of the provisions of this act in the conduct of the business for which he is licensed.

(2) Before any new motorcycle or motor scooter dealer's license or used motorcycle or motor scooter dealer's license shall be issued by the commissioner to any applicant therefor, the said applicant shall procure and file with the commissioner good and sufficient bond in the amount of five thousand dollars ($5,000.00) with corporate surety thereon, duly licensed to do business within this state, approved as to form by the attorney general of the state, and conditioned that said applicant shall not practice any fraud, make any fraudulent misrepresentation or violate any of the provisions of this act in the conduct of the business for which he is licensed.

SECTION 8. That Section 49-2410, Idaho Code, be, and the same is hereby amended to read as follows:

49-2410. MOTOR VEHICLE SALESMAN'S BOND.—Before any motor vehicle salesman's license shall be issued by the commissioner to any applicant therefor, the said applicant shall procure and file with the commissioner a good and sufficient bond, in the amount of two thousand dollars ($2,000) with corporate surety thereon, duly licensed to do business within this state, approved as to form by the attorney general of the state, and conditioned that said applicant shall perform his duties as an automobile salesman without fraud or fraudulent representation and without the violation of any of the provisions of this act. The provisions of this section shall not apply to the persons designated or named in the motor vehicle dealer's license or the used-motor vehicle dealer's license of the licensee business to act as motor vehicle salesman.

SECTION 9. That Section 49-2411, Idaho Code, be, and the same is hereby amended to read as follows:

49-2411. RIGHT OF ACTION FOR LOSS BY FRAUD —PROCESS.—(1) If any person shall suffer any loss or damage by reason of any fraud practiced on him or fraudulent representation made to him by a licensed dealer or one of such dealer's salesmen acting for the dealer, in his behalf, or within the scope of the employment of such salesman, or shall suffer any loss or damage by reason of the violation by such dealer or salesman of any of the provisions of this
act, such person shall have a right of action against such dealer, his automobile-salesman, and the sureties upon their respective bonds.

(2) A motor vehicle dealer's license or a used motor vehicle dealer's licensee's license or a renewal of either of said licenses shall not be issued to any applicant therefor unless and until such applicant shall file with the commissioner a good and sufficient instrument in writing in which he shall appoint the commissioner as the true and lawful agent of said applicant upon whom all process may be served in any action or actions which may thereafter be commenced against said applicant arising out of any claim for damages suffered by any firm, person, association or corporation by reason of the violation of said applicant of any of the terms and provisions of this act or any condition of the dealer's bond. The applicant shall stipulate and agree in said appointment that any process directed to said applicant in such a case which is served upon the commissioner, or in the event of his absence from his office, upon any employee of the state in charge of the office of such commissioner, shall be of the same legal force and effect as if served upon said applicant personally. Said applicant shall further stipulate and agree in writing that the agency created by said appointment shall continue for and during the period covered by any license that may be issued and so long thereafter as the applicant may be made to answer in damages for a violation of this act or any condition of his bond, as aforesaid. The instrument appointing the commissioner as the agent for the applicant for service of process shall be acknowledged by the applicant before an officer authorized to take and certify acknowledgments under the laws of this state. In any case wherein the licensee be served with process by service thereof upon the commissioner, three (3) copies of said process shall be left with said commissioner. Not later than two (2) days after the service of said process upon him, the commissioner shall mail one (1) copy thereof to the licensee at his principal place of business, as the same appears of record in the office of the commissioner, postpaid, by registered mail with request for return receipt. One (1) copy shall be mailed to the surety on the applicant's bond at the address of the surety given in said bond, postpaid and registered with request for return receipt. The remaining copy shall be retained on file with the commissioner; provided, that where the licensee is served with process by service thereof upon the commissioner, the licensee shall have and be allowed thirty (30) days from and after the service thereof within which to answer any complaint or other pleading
which may be filed in said cause. For the purpose of venue
where the licensee is served with process thereof upon the
commissioner, the service shall be deemed to have been
made upon the licensee in the county in which he has or last
had his principal place of business.

SECTION 10. That Section 49-2412, Idaho Code, be, and
the same is hereby amended to read as follows:

49-2412. DISPLAY, FORM AND CUSTODY OF DEALER'S LICENSE.—The commissioner 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 commissioner shall prepare and deliver a pocket card, which card shall certify that the person whose name appears
thereon is a licensed motor vehicle dealer, used motor vehicle
dealer or motor vehicle salesman, as the case may be, and each motor vehicle salesman's card shall also contain
the name and address of the dealer employing him, and each and every salesman shall on request display his card.

SECTION 11. That Section 49-2413, Idaho Code, be, and
the same is hereby amended to read as follows:

49-2413. NOTICE OF CHANGE OF ADDRESS OR STATUS.—(1) The commissioner shall not issue a motor
vehicle dealer's license or used motor vehicle dealer's license
to any applicant therefor who has not a principal place of business as is defined in this act. Should the motor vehicle
dealer or used motor vehicle dealer change the site or location
of his principal place of business, he shall immediately upon making such change so notify the commissioner and
thereupon a new license shall be granted for the unexpired portion of the term of such license at no additional fee.
Should a motor vehicle dealer or used motor vehicle dealer, for any reason whatsoever, cease to be in possession of a
principal place of business, as defined in subsection (8) under the preceding section 49-2402 "DEFINITIONS," from
and on which he conducts the business for which he is licensed, he shall immediately so notify the commissioner and
upon demand therefor by the commissioner shall deliver up unto that officer such dealer's license, which shall be held
and retained until it shall be made to appear to the commissioner that such licensee has again come into possession of
a principal place of business, whereupon such dealer's license shall be reissued to him, without charge. Nothing in
this act contained shall be construed to prevent a motor vehicle dealer or used motor vehicle dealer from conducting
the business for which such dealer is licensed at one or more
sites or locations not contiguous to such dealer's principal place of business but operated and maintained in conjunction therewith.

(2) Should the motor vehicle dealer change to, or add another franchise for the sale of new motor vehicles, or cancel or, for any cause whatever, otherwise lose a franchise for the sale of new motor vehicles, he shall immediately so notify the commissioner, who shall, in the case of a cancellation or loss of franchise, thereupon determine whether or not by reason thereof such dealer should be licensed as a used motor vehicle dealer, in which case the commissioner shall take up and the motor vehicle dealer shall deliver unto him such dealer's license and the commissioner shall thereupon issue to such dealer a used motor vehicle dealer's license. Upon the cancellation or loss of a franchise to sell new motor vehicles and the relicensing of such dealer as a used motor vehicle dealer, such dealer may continue in the business for which a motor vehicle dealer is licensed for a time, not exceeding six (6) months from the date of the relicensing of such dealer, to enable such dealer to dispose of the stock of new motor vehicles which he had on hand at the time of such relicensing, but not otherwise.

SECTION 12. That Section 49-2414, Idaho Code, be, and the same is hereby amended to read as follows:

49-2414. UNLAWFUL ACTS BY LICENSEE.—It shall be unlawful and a violation of this act for the holder of any license issued under the terms and provisions hereof:

(1) To intentionally publish or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products sold or furnished by a licensed dealer.

(2) To violate any of the terms and provisions of this act or any of the rules and regulations promulgated by the commissioner under the authority herein conferred upon him.

(3) To knowingly purchase, sell or otherwise acquire or dispose of a stolen motor vehicle.

(4) To violate any law of the state respecting commerce in motor vehicles or any lawful rule or regulation respecting commerce in motor vehicles promulgated by any licensing or regulating authority now existing or hereafter created by the laws of the state.

(5) To engage in the business for which such licensee is
licensed without having in force and effect a good and suf­

(6) For any licensed motor vehicle dealer or used motor vehicle dealer to engage in the business for which such dealer is licensed without at all times maintaining a principal place of business as required by this act.

(7) For any licensee to engage in a type of business respecting the selling or exchanging of new or new and used motor vehicles, or new or new and used motorcycles or motor scooters, or new and used mobile homes for which he is not licensed.

(8) It shall be unlawful and a violation of this act, for a manufacturer of motor vehicles, distributor, distributor branch or factory branch or other representative thereof to either induce or attempt to induce by means of coercion, inti­

(a) To accept delivery of any motor vehicle or vehicles, parts, or accessories therefor, or any other commodity or commodities, including advertising material which shall not have been ordered by said motor vehicle dealer;

(b) To order or accept delivery of any motor vehicle with special features, appliances, accessories, or equipment not included in the list price of said motor vehicles as publicly advertised by the manufacturer thereof.

(c) To order from any person, firm, association, corporation or trust, any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever.

(d) To enter into any agreement with such manufacturer, distributor, distributor branch or factory branch, or rep­

(e) To refuse to deliver to any motor vehicle dealer hav­

(e) To refuse to deliver to any motor vehicle dealer hav­

ing a franchise or contractual arrangement for the retail sale of new and unused motor vehicles sold or distributed by said manufacturer, distributor, distributor branch or factory branch, any such motor vehicle, publicly advertised for immediate delivery within sixty (60) days after such dealers order shall have been received.
(f) To unfairly without due regard to the equities of said dealer and without just provocation, cancel a franchise of any motor vehicle dealer. The non-renewal of a franchise or selling agreement without just provocation or cause shall be deemed an evasion of this paragraph and shall constitute an unfair cancellation.

(9) (A) No manufacturer of motor vehicles, distributor, distributor branch, or factory branch or other representative thereof shall induce or coerce or attempt to induce or coerce any retail dealer or prospective retail dealer in this state to sell, assign or transfer any retail installment sales contract, obtained by such dealer in connection with the sale by him in this state of a vehicle manufactured or sold by such manufacturer of motor vehicles, distributor, distributor branch or factory branch, to a specified sales finance company or class of such companies, or to any other specified person by any of the accounts or means hereinafter set forth, namely:

(1) By any statement, suggestion, promise or threat that such manufacturer, distributor, distributor branch, factory branch or representative thereof will in any manner benefit or injure such dealer, whether such statement, suggestion, threat or promise is express or implied or made directly or indirectly.

(2) By any act that will benefit or injure such dealer.

(3) By any contract, or any express or implied offer of contract, made directly or indirectly to such dealer, for handling such vehicles, on the condition that such dealer sell, assign or transfer his retail installment contract thereon, in this state to a specified sales finance company or class of such companies or to any other specified person.

(B) Any such statements, threats, promises, acts, contracts or offers of contracts, set forth in Paragraph (A) of this sub-section are declared unfair trade practices and unfair competition and against the policies of this state and are unlawful and are prohibited.

(10) Nothing in this chapter shall be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative or any other person, whether or not licensed under this act, from requiring performance of a written contract entered into with any licensee hereunder, nor shall the requirement of such performance constitute a violation of any of the provisions of this chapter; provided, however, any such contract, or the
terms thereof, requiring performance, shall have been there­tofore freely entered into and executed between the contract­ing parties.

Approved March 8, 1967.

CHAPTER 63
(H. B. No. 27)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL FUND OF THE STATE OF IDAHO TO PAY THE CLAIM OF THE COUNTY OF LEMHI; EXCEPTING THE ACT FROM THE PROVISIONS OF THE STANDARD APPROPRIATIONS ACT OF 1945; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated from the general fund the sum of $2,106.43 to the county of Lemhi for the overpayment of state ad valorem taxes for the years of 1960 and 1961.

SECTION 2. The appropriation herein made is expressly exempt from the provisions of the Standard Appropriations Act of 1945.

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

Approved March 8, 1967.

CHAPTER 64
(H. B. No. 34)

AN ACT

AMENDING SECTION 18-7301, IDAHO CODE, BY PROVIDING THAT PERSONS SHALL BE FREE FROM DISCRIMINATION BECAUSE OF SEX; AND, AMENDING SECTION 18-7303, IDAHO CODE, BY PROVIDING THAT PERSONS SHALL NOT BE DENIED THE RIGHT TO WORK BECAUSE OF SEX
EXCEPT WHERE SEX IS A BONA FIDE OCCUPATIONAL QUALIFICATION REASONABLY NECESSARY TO THE NORMAL OPERATION OF THE BUSINESS.

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

SECTION 1. That Section 18-7301, Idaho Code, be, and the same is hereby amended to read as follows:

18-7301. FREEDOM FROM DISCRIMINATION CONSTITUTES A CIVIL RIGHT.—The right to be free from discrimination because of race, creed, color, sex, or national origin is recognized as and declared to be a civil right. This right shall include, but not be limited to:

(1) The right to obtain and hold employment without discrimination.

(2) The right to the full enjoyment of any of the accommodations, facilities or privileges of any place of public resort, accommodation, assemblage or amusement.

SECTION 2. That Section 18-7303, Idaho Code, be, and the same is hereby amended to read as follows:

18-7303. DENIAL OF RIGHT TO WORK OR ACCOMMODATIONS A MISDEMEANOR.—Every person shall be guilty of a misdemeanor who denies to any other person because of race, creed, color, sex, or national origin the right to work: (a) by refusing to hire, (b) by discharging, (c) by barring from employment, or (d) by discriminating against such person in compensation or in other terms or conditions of employment; and every person or who denies to any other person because of race, creed, color, sex, or national origin, the full enjoyment of any of the accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage, or amusement, shall be guilty of a misdemeanor provided, however, that denial of the right to work on the basis of sex shall be permissible in situations where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the business.

Approved March 8, 1967.
CHAPTER 65
(H. B. No. 100 As Amended in the Senate)

AN ACT

AMENDING SECTION 45-702, IDAHO CODE, BY EXTENDING THE TIME FOR FILING A LIEN FROM TEN DAYS TO NINETY DAYS; AND PERMITTING ANY OFFICER OF A HOSPITAL, AND NOT JUST THE EXECUTIVE OFFICER, TO FILE A STATEMENT PERFECTING A LIEN.

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

SECTION 1. That Section 45-702, Idaho Code, be, and the same is hereby amended to read as follows:

45-702. PERFECTING LIEN — STATEMENT OF CLAIM—CONTENTS—FILING.—In order to perfect such lien, the executive officer or agent of such hospital, before, or within ten ninety (90) days after, such person shall have been discharged therefrom, shall file in the office of the recorder of the county in which such hospital shall be located a verified statement in writing setting forth the name and address of such patient, as it shall appear on the records of such hospital, the name and location of such hospital, and the name and address of the executive officer or agent of such hospital filing the lien, the dates of admission to and discharge of such patient therefrom, the amount claimed to be due for such hospital care, and, to the best of claimant's knowledge, the names and addresses of all persons, firms, or corporations claimed by such injured person or the legal representative of such person, to be liable for damages arising from such injuries; such claimant shall also, within one day after the filing of such claim or lien, mail a copy thereof, postage prepaid, to each person, firm, or corporation so claimed to be liable for such damages, at the address so given in such statement. The filing of such claim or lien shall be notice thereof to all persons, firms or corporations liable for such damages, whether or not they are named in such claim or lien.

Approved March 8, 1967.
AN ACT

AMENDING SECTION 37-407, IDAHO CODE, RELATING TO FEES AND ASSESSMENTS TO BE COLLECTED FROM DAIRY PROCESSORS FOR INSPECTIONS, BY INCREASING THE MAXIMUM LIMIT OF CHARGES FOR INSPECTION TO 2½ MILLS IN LIEU OF 1½ MILLS; AMENDING SECTION 37-410, IDAHO CODE, RELATING TO STANDARDS FOR HOLDING AND COOLING TANKS, BY SUBSTITUTING THE PROPER NAME FOR THE FEDERAL REGULATIONS WHICH ARE REFERRED TO IN SUBSECTION C; AMENDING SECTION 37-411, IDAHO CODE, RELATING TO STANDARDS FOR TRANSPORTATION TANKS, BY SUBSTITUTING THE PROPER NAME FOR THE FEDERAL REGULATIONS AND STANDARDS WHICH ARE REFERRED TO IN SUBSECTION A.

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

SECTION 1. That Section 37-407, Idaho Code, be, and the same is hereby amended to read as follows:

37-407. FEES AND ASSESSMENTS TO BE COLLECTED FROM DAIRY PROCESSORS.—Whenever an inspection of any dairy product is made by the department of agriculture, or whenever permanent or temporary inspectors or employees are used by said department for the purpose of enforcing or promulgating an inspection or sanitary program for any dairy product, the department is authorized to fix, assess and collect or cause to be collected from the dairy processors, fees or assessments for such services when they are performed by such employees or agents of the department, such fees to be on a uniform basis in an amount reasonably necessary to cover the cost of such inspection and the administration of this section of the act; provided, however, that the department shall so adjust the fees to be collected under this section as to meet the expenses necessary for this inspection service only, all of said fees to be used for this purpose alone; and provided further, that in no event shall the fees or assessments exceed one and one-half (1½) two and one-half (2½) mills per pound butter-fat received by processors. All such fees and moneys collected or received by the department, its employees or agents under this act shall be deposited in the "dairy industry and inspection fund" which fund is hereby created. All moneys coming into said fund are hereby appropriated to the de-
partment of agriculture to be used in the inspection required by law to be made of the dairy industry and dairy products.

SECTION 2. That Section 37-410, Idaho Code, be, and the same is hereby amended to read as follows:

37-410. STANDARDS FOR HOLDING AND COOLING TANKS.—The following standards are hereby adopted relating to farm holding and/or cooling tanks:

A. Each producer desiring to install a farm holding and/or cooling tank shall obtain approval from the commissioner of agriculture of the department of agriculture of the state of Idaho or his duly authorized representative, and shall furnish the following information to said commissioner:

1. Tank make, model, and capacity.

2. A sketch (approximately to scale) of the milk room floor plan showing location of tank, outlet of tank, wall opening for milk conductor tubing, other milk house equipment and access area for tank truck approach.

B. The milk house and/or milk room shall have a concrete floor of smooth finish easily cleanable.

C. Farm tanks and all equipment used in connection therewith shall comply with the United States department of public health Sanitary Standards by Symbol Administrative Council, 3A standards in effect at the time of the passage of this act.

D. The farm tank shall be located in the milk room so as to provide not less than 36" clearance on all working sides of the tank. Provided, however, that in the case of producers using tanks at the time of the enactment of this act clearances as specified above may be waived by the commissioner if the producer demonstrates his ability to keep the interior and exterior surfaces of the tank and the walls and floors of the milk house in a clean condition. All tanks shall be located so as to provide at least 6 inches of clearance between the floor and bottom of tanks, except that a 4 inch minimum clearance is acceptable if the bottom slopes upward at least 6 inches in a horizontal distance of 12 inches. Remote compressors which are located in milk rooms shall be so installed as to be easily cleanable. Floor drains shall be trapped and shall not be located under the farm tank.

E. A fixed, properly encased opening not less than 6 inches above the floor of the milk house or the outside loading plat-
form, whichever is higher, shall be provided in an exterior wall of the milk house on the side closest to the tank outlet to accommodate the milk conductor tubing used to pump the milk from the farm tank to the truck tank. Such openings shall not be less than 6 inches or more than 8 inches in size and shall be provided with a flat, tight, self-closing device.

F. When electricity is the motive power for the milk transport tank milk pump, a lock type electrical connection with ground and weather proof type receptacle located on the outside of the building with a switch box located on the inside of the building shall be provided.

G. Water for washing farm tanks shall be from an approved supply and shall be under pressure. Hoses for washing the milk house and the bulk tank shall be used for no other purpose and be stored on a rack convenient to the bulk tank. An automatic hot water storage tank (pressure type) shall be provided and shall be not less than 30 gallons capacity and equipped with a thermostat capable of maintaining water temperature at least 140°F. Extra capacity higher temperature, or both shall be provided for CIF installations, off peak heating, and milk house heating or other hot water usages. Gas heaters, if used, shall be properly vented.

H. Adequate evenly distributed artificial light, not placed directly over the tank, shall be provided and shall be so located that cleaning will be easily accomplished. Adequate lighting may be obtained by providing two 150 watt flood lamps about one foot from the ends of the tank and a 100 watt bulb over the wash vats.

I. Farm tanks shall be protected from overhead contamination.

J. The truck approach shall be properly graded and surfaced to prevent pooling of water at the point of loading. Adequate artificial light shall be provided to illuminate this area to facilitate loading during hours when natural light is insufficient. This area shall be provided with a concrete slab or an asphalt surface of sufficient size to effectively protect the milk conducting hose from contamination.

K. Cleaning and bactericidal treatment shall conform to regulations adopted by the department of agriculture. Farm tanks shall be thoroughly cleaned after each use, and then prior to the next milking exposed to 200 parts per million of residual chlorine. In cases where farm tanks are equipped with removable drop pipes, a vat large enough and
low enough for the washing and sanitizing of this equip­
ment shall be provided. Chemical sprayers are recom­
mended for sanitizing farm tanks and if utilized, shall be 
used for no other purpose.

I. Indicating thermometers on all farm tanks shall be 
kept in proper operating condition. The driver shall possess 
an accurate approved type thermometer to enable him to 
check the indicating thermometers of the farm bulk tanks. 
The department of agriculture, using an approved type ther­
rometer, shall check, periodically, the indicating thermom­
eter on farm bulk tanks to determine its accuracy.

M. Abnormal milk, adulterated milk and milk containing 
objectionable odors shall not be added to the farm tank. 
The sampler and/or tester shall check the milk for ab­
normalities before pumping the milk to the tank truck. 
The entire supply of milk in the farm tank shall be rejected 
if such milk is detected.

N. Milk in farm tanks must be cooled to 40° Fahrenheit, 
or lower. The cooling process must be such that the milk 
will be cooled to 50° Fahrenheit within one hour after milking 
and to 40° Fahrenheit within the second hour. The addi­
tion of later milkings must not raise the temperature above 
50° Fahrenheit.

O. All steps necessary shall be employed to prevent the 
contamination of milk handled through bulk farm pick up. 
This shall pertain to all phases of this type of milk hand­
ling. The bulk farm tank and accessories shall be used for 
no other purpose than the handling of milk and the opera­
tions incident thereto.

SECTION 3. That Section 37-411, Idaho Code, be, and 
the same is hereby amended to read as follows:

37-411. STANDARDS FOR TRANSPORTATION 
TANKS.—The following standards are hereby adopted re­
ating to transportation tanks:

A. The transportation tank and accessories in the milk 
handling operation shall comply with the requirements of 
the

B. Suitable facilities, including hot and cold running 
water, detergent, brushes, sanitizers, and sanitizing equip­
ment, a concrete floor with proper drainage and waste dis-
posal shall be provided for washing and sanitizing of transportation tanks. Unless the truck is to be used within a few hours of the washing operation the sanitizing of the tank shall be omitted until just before the tank truck is to be used. During the interim the tank truck shall be protected from contamination by closing port holes, etc. Since the tank truck may be sanitized on a different date and at a different time from cleaning and washing operation, a tag shall provide space for recording this information. The washing, sanitizing and maintenance of the transportation tank and accessories shall be the responsibility of the processor or milk hauler. The department of agriculture shall be informed in writing designating the person responsible for the cleaning, sanitizing and maintenance of the transportation tank.

C. The transportation tank and all accessories shall be thoroughly rinsed after each usage and shall be thoroughly cleaned and sanitized daily and the tank tagged and sealed with a tag attached indicating that the tank has been washed and/or sanitized. This tag shall also contain the name of the person doing the work and the date on which the work was done. The tag shall be removed by the hauler at his first pickup and shall be retained at the receiving plant for a minimum of 30 days.

D. Single lengths of durable, non-toxic, flexible milk conductor tubing used for conveying milk from the farm tank to the transportation tank shall not exceed 8 feet. The inside diameter of milk conductor tubing shall not be less than 1/2 inches. If two lengths of tubing are used, they shall be connected either by the use of sanitary couplings or a piece of 3A sanitary tubing with clamps which can be removed without tools. The connections between the pump and the vehicle tank, and between the pump and the milk conductor tubing shall remain assembled except when dismantled for cleaning. The open end of the milk tubing shall be capped with an approved protective cap at all times except when loading or unloading. The outlet valve, milk pump and the milk conductor tubing and samples shall be enclosed in a properly drained, insulated, dust tight cabinet.

E. The transportation tank and the accessories shall be used for no other purpose than the handling of milk unless such other use is approved by the department of agriculture.

Approved March 8, 1967.
CHAPTER 67
(H. B. No. 142 As Amended in the Senate)

AN ACT
CREATING A JUDICIAL COUNCIL, PROVIDING FOR THE MEMBERSHIP, TERMS OF OFFICE AND FILLING OF VACANCIES OF SAID COUNCIL; PROVIDING FOR THE DUTIES OF SAID COUNCIL; PROVIDING PROCEDURE FOR THE REMOVAL, DISCIPLINE AND RETIREMENT OF JUDICIAL OFFICERS; PROVIDING FOR THE COMPENSATION AND EXPENSES OF MEMBERS OF SAID COUNCIL.

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

SECTION 1. There is hereby created a judicial council which shall consist of seven members. Three attorney members, one of whom shall be a district judge, shall be appointed by the board of commissioners of the Idaho state bar with the consent of the senate. Three non-attorney members shall be appointed by the governor with the consent of the senate. If any of the above appointments be made during a recess of the senate, they shall be subject to consent of the senate at its next session. The term of office for an appointed member of the judicial council shall be six years, except that of the members first appointed, one attorney member and one non-attorney member shall each serve for two years, one attorney member and one non-attorney member shall each serve for four years, and one attorney member and one non-attorney member shall each serve for six years; thereafter, appointments shall be made for six year terms. Vacancies shall be filled for the unexpired term in like manner. Appointments shall be made with due consideration for area representation and not more than three of the appointed members shall be from one political party. The chief justice of the supreme court shall be the seventh member and chairman of the judicial council. No member of the judicial council, except a judge or justice, may hold any other office or position of profit under the United States or the state. The judicial council shall act by concurrence of four or more members and according to rules which it adopts.

SECTION 2. The judicial council shall:

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

(2) Make reports to the supreme court and legislature at intervals of not more than two years;
(3) Submit to the governor the names of not less than two nor more than four qualified persons for each vacancy in the office of justice of the supreme court or district judge, one of whom shall be appointed by the governor;

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

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

SECTION 3. A justice of the supreme court or judge of any district court, in accordance with the procedure prescribed in this section, may be disciplined or removed for willful misconduct in office or willful and persistent failure to perform his duties or habitual intemperance, or he may be retired for disability seriously interfering with the performance of his duties, which is, or is likely to become of a permanent character. The judicial council may, after such investigation as the council deems necessary, order a hearing to be held before it concerning the removal, discipline or retirement of a justice or a judge, or the council may in its discretion request the supreme court to appoint three special masters, who shall be justices or judges, to hear and take evidence in any such matters, and to report their findings to the council. If, after hearing, or after considering the record and the findings and report of the masters, the council finds good cause therefore, it shall recommend to the supreme court the removal, discipline or retirement, as the case may be, of the justice or judge.

The supreme court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal, discipline or retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired pursuant to other provisions of law. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order.

All papers filed with and the proceedings before the judicial council or masters appointed by the supreme court, pursuant to this section, shall be confidential, and the filing of papers with and the giving of testimony before the commission or the masters shall be privileged; but no other publication of such papers or proceedings shall be privileged in any action for defamation except that (a) the record filed by the council in the supreme court continues privileged
and upon such filing loses its confidential character and (b) a writing which was privileged prior to its filing with the council or the masters does not lose such privilege by such filing. The judicial council shall by rule provide for procedures under this section. A justice or judge who is a member of the council or supreme court shall not participate in any proceedings involving his own removal, discipline or retirement.

This section is alternative to, and cumulative with, the removal of justices and judges by impeachment, and the original supervisory control of members of the judicial system by the supreme court.

SECTION 4. Each member of the judicial council, except a judge or justice, shall receive an honorarium of twenty-five dollars per day for each day spent in actual attendance in meetings of the judicial council. Members of the council shall be reimbursed for actual expenses necessarily incurred in attending meetings and in the performance of official duties.

Approved March 8, 1967.

CHAPTER 68
(H. B. No. 155)

AN ACT


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

SECTION 1. There is hereby appropriated out of the State Highway Fund of the State of Idaho the sum of $2,770.61 to Owen S. Smith for the purpose of reimbursing Owen S. Smith for damages to his Caterpillar tractor while working in emergency slide removal on U. S. Highway No. 12, on December 23, 1964.

SECTION 2. The appropriation herein made is expressly exempt from the provisions of the Standard Appropriations
Act of 1945, the provisions of Section 67-3509 and the pro-
visions of Sections 67-3516 to 67-3523, inclusive, Idaho Code.

SECTION 3. An emergency existing therefor, which
emergency is hereby declared to exist, this act shall take
effect and be in full force and effect from and after its pas-
sage and approval.

Approved March 8, 1967.

CHAPTER 69
(H. B. No. 159)

AN ACT
RELATING TO CRIMES AND PUNISHMENTS WITH RESPECT
TO MAKING OR POSSESSING ANY INSTRUMENT, APPA-
RATUS, EQUIPMENT, OR DEVICE DESIGNED, ADAPTED OR
WHICH CAN BE USED TO OBTAIN TELECOMMUNICATION
SERVICE IN VIOLATION OF SECTIONS 18-3113 TO 18-3116,
IDAHO CODE, INCLUSIVE, AND SECTION 18-3120, IDAHO
CODE, OR TO CONCEAL OR TO ASSIST ANOTHER TO CON-
CEAL FROM ANY SUPPLIER OF TELECOMMUNICATION
SERVICE OR FROM ANY LAWFUL AUTHORITY THE EXIST-
ENCE OR PLACE OF ORIGIN OR OF DESTINATION OF ANY
TELECOMMUNICATION; OR TO ONE WHO SELLS, LEASES,
GIVES OR OTHERWISE TRANSFERS TO ANOTHER OR OF-
FERS OR ADVERTISES FOR SALE OR LEASE, ANY SUCH
INSTRUMENT, APPARATUS, EQUIPMENT, OR DEVICE AS
DESCRIBED IN THIS ACT, OR THE PLANS OR INSTRUC-
TIONS FOR MAKING OR ASSEMBLING THE SAME; PRO-
VIDING FOR THE DETERMINATION OF VIOLATIONS UN-
DER THIS ACT AND PRESCRIBING THE PENALTIES FOR
SUCH VIOLATION.

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

SECTION 1. Any person who:

(a) makes or possesses any instrument, apparatus, equip-
ment, or device designed, adapted or which can be used,

(1) to obtain telecommunication service in violation
of Sections 18-3113 to 18-3116, Idaho Code, in-
clusive, and Section 18-3120, Idaho Code, or

(2) to conceal, or to assist another to conceal from
any supplier of telecommunication service or
from any lawful authority the existence or place of origin or of destination of any telecommunication; or

(b) sells, leases, gives, or otherwise transfers to another, or offers or advertises for sale, or lease, any instrument, apparatus, equipment, or device described in paragraph (a) (1), or plans or instructions for making or assembling the same; under circumstances evincing an intent to use or employ such instrument, equipment, or device, or to allow the same to be used or employed, for a purpose described in paragraph (a) (1) or (a) (2), or knowing or having reason to believe that the same is intended to be so used, or that the aforesaid plans or instructions are intended to be used for making or assembling such instrument, apparatus, equipment, or device, shall be guilty of a misdemeanor and punishable therefor as provided by law, or if he has been previously convicted of a like offense, in this or any other state or federal jurisdiction, he shall be guilty of a felony and punishable therefor as provided by law.

Approved March 8, 1967.

CHAPTER 70
(H. B. No. 163)

AN ACT

IDAHO, PROVIDING THAT THE STATE SHALL NOT BE LIABLE FOR THE ACTS OR OMISSIONS OF THE COMMISSION, ITS MEMBERS, OFFICERS, AGENTS OR EMPLOYEES; PROVIDING FOR THE LEVY OF AN ASSESSMENT ON SPECIFIED CHERRIES, FOR THE TIME OF PAYMENT, AND COLLECTION PROCEDURES; ESTABLISHING PROCEDURES FOR INCREASING THE ASSESSMENT OR ELIMINATION OF EXEMPTIONS; PROVIDING FOR THE ESTABLISHMENT OF THE "IDAHO CHERRY COMMISSION FUND" AND FOR THE PAYMENT OF COLLECTED ASSESSMENTS INTO THE FUND, AND THE PAYMENT OF EXPENSES, COSTS AND SALARIES OUT OF THE FUND; PROVIDING PENALTIES FOR VIOLATION OF THE PROVISIONS OF THIS ACT; PROVIDING FOR THE CONSTRUCTION OF THIS ACT; AND DECLARING AN EMERGENCY.

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

SECTION 1. It is to the best interests of all the people of the state of Idaho that the abundant and natural resources of Idaho be protected, fully developed and uniformly distributed. It is in the public interest and within the exercise of the police power of the state to protect the public health; prevent fraudulent practices; provide the means for the development of markets; production research; and new product development and promotion of the cherry industry. Cherries as used in this act means sweet cherries.

SECTION 2. There is hereby created an Idaho cherry commission to be thus known and designated. The commission shall be composed of three practical cherry growers and two practical cherry dealers. The sixth member of the commission shall be the Commissioner of Agriculture, ex officio without vote.

The three grower members shall be citizens and residents of this state over the age of twenty-five years, each of whom is and has been actively engaged in the growing and producing of cherries within the state of Idaho and a major portion of his income from cherries has been derived from growing cherries.

The two dealer members shall be persons who, either individually or as executive officers of a corporation, firm, partnership, association or cooperative organization are and have been actively engaged as dealers of cherries within the state of Idaho, are citizens and residents of this state, are over the age of twenty-five years and a major portion of their income from cherries has been derived from handling,
packing, shipping, buying or selling cherries or acting as sales or purchasing agent, broker, or factor of cherries.

The qualifications of members of the commission as herein set forth must continue during their term of office. No member of the commission shall receive any salary or other compensation but each member of the commission shall receive the sum of fifteen dollars ($15.00) per day for each day spent in actual attendance in meetings of the commission and such allowance for traveling expense in attending meetings of the commission as is allowed other state employees for traveling expenses.

SECTION 3. Definitions as used in this act, unless the context requires otherwise:

(1) "Commission" means the Idaho cherry commission.

(2) "Grower" means any land owner personally engaged in growing cherries, a tenant personally engaged in growing cherries or both the owner and tenant jointly, and includes a person, partnership, association, corporation, cooperative organization, trust, sharecropper, or any and all other business units, devices and arrangements that grow cherries.

(3) "Dealer" means any person, partnership, association, corporation, cooperative or other business unit or device who first handles, packs, ships, buys or sells cherries or who acts as sales or purchasing agent, broker or factor of cherries.

(4) "Ship" means to load cherries into any mode of conveyance for transport in the channels of trade or to market.

(5) "Processor" and "processing plant" means every person, partnership, association, corporation, cooperative or other business unit or device to whom and every place to which cherries are delivered for drying, freezing, dehydrating, canning, pressing, powdering, extracting, cooking and for use in producing a product or manufacturing a manufactured product.

(6) "District No. 1" shall consist of the following counties: Gem, Boise, Valley, Custer and Lemhi.

(7) "District No. 2" shall consist of the following counties: Canyon, 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, Payette, Washington, Adams, Idaho, Lewis, Nez Perce,
Clearwater, Latah, Benewah, Shoshone, Kootenai, Bonner and Boundary.

(8) "Person" means any partnership, association, corporation, cooperative or other business unit or device.

SECTION 4. Grower and dealer members of the commission shall be selected as follows:

(a) Two grower members shall be nominated for each grower vacancy that occurs from which the governor shall appoint one. The first nominees shall be nominated in the following manner: The cherry committee of the Idaho Horticultural Society shall conduct meetings in each of the two districts referred to in Section Three of this act, and at such meetings the growers shall nominate two growers for each district and one additional grower at large. The cherry committee of the Idaho Horticultural Society shall call a general meeting of the Idaho cherry dealers at such time and place as shall be decided by the committee for the purpose of nominating four dealers, representative of the two districts defined in subparagraphs (6) and (7) of Section 3 of this act. Notice of the meetings for the nominations of growers shall be by publication in one newspaper published in the major cherry producing county of the district in which said nominations are to be made, and the notice shall be published in two issues of such newspapers, the first approximately thirty days and the second approximately ten days before said meeting. The notice shall state the purpose, time and place of said meeting. All meetings held for the selection of nominees shall be held prior to March 31 of the year the appointment or appointments are to be made.

(b) After the original appointments to the commission all subsequent appointments shall be conducted in the same manner, except that the meetings shall be called and conducted by the commission.

(c) The governor shall select from the nominees for each district and the nominees at large one grower member and from the four nominees for dealers, two members, as required by this act.

(d) The governor shall appoint five persons to the commission based upon the nominating petitions. Three shall be growers and two shall be dealers, but each dealer nominee must be from a different district.

The first members of the commission shall draw lots to
determine their respective terms of office. Two of the original members shall serve for one year; two of the original members shall serve for two years; and one of the original members shall serve for three years. The term of office of members of the commission thereafter shall be three years. Provided, however, that both dealer members of the commission’s terms of office shall not expire during the same year.

Members of the commission may not serve more than two consecutive terms. Upon serving two consecutive terms and the lapse of one full term, such member may again be nominated and appointed to the commission.

In the event there are vacancies in the commission through death, resignation or removal, it shall be the duty of the growers and dealers as provided in Section 4, to submit to the governor at least two qualified names for each grower vacancy and two qualified names for each dealer vacancy for the district in which the vacancy occurred. The governor shall make the appointment or appointments to fill the vacancy.

SECTION 5. The Idaho cherry commission shall have, but is not limited to, the following powers and duties:

1. To elect a chairman and such other officers as it deems advisable.

2. To appoint and employ, and at its pleasure discharge, all necessary agents, employees and professional and other personnel, including experts in agriculture and the publicizing of the products thereof, and to prescribe their duties and fix their compensation.

3. To establish offices and incur expense and enter into contracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this act.

4. To find new markets for cherries and cherry products.

5. To give, publicize and promulgate reliable information showing the value of cherries and cherry products for any purpose for which they are found useful and profitable.

6. To make public and encourage the wide-spread national and international use of cherries and cherry products.

7. To investigate and participate in studies of the problems peculiar to the growers of cherries in the state of Idaho.

8. To take such action as to the commission seems nec-
necessary or advisable in order to promote the sale of cherries and to protect the cherry industry.

(9) To enter into such contracts as may be necessary or advisable.

(10) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state of Idaho.

(11) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state, or the United States, engaged in work or activity similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education, product protection, publicity and reciprocal enforcement of these objectives.

(12) To investigate and prosecute in the name of the state of Idaho violations of this act; to investigate and prosecute in the name of the state of Idaho any suit or action for the collection of assessments as hereinafter provided, or to protect brands, marks, packages, brand names or trademarks being promoted by the commission.

(13) To do any and all things that will promote the sale of cherries.

(14) To keep an accurate record of all its dealings, which shall be open to inspection and audit by the state auditor.

(15) To sue and be sued.

(16) To adopt and from time to time alter, rescind, modify and/or amend all proper and necessary rules, regulations and orders for the exercise of its powers and performance of its duties under this act.

SECTION 6. The commission shall provide for and conduct a comprehensive and extensive research, advertising and educational campaign as continuous as the crop, sales and market condition reasonably require. It will investigate and ascertain the needs of growers, conditions of the market and extent to which the public convenience and necessity require research and advertising to be conducted.

SECTION 7. The commission may accept grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this act, which may be speci-
fied as a condition of any grant, donation or gift. All funds received under the provisions of this act shall be paid to the Idaho cherry commission and shall be deposited into the “Idaho Cherry Commission Fund” which is hereby created in the office of the state treasurer; the moneys to be kept in the “Idaho Cherry Commission Fund” and are hereby appropriated out of the fund and made available for defraying the expenses of this commission in carrying out the provisions of this act.

SECTION 8. The commission may require the administrator or any agent or employee appointed by the commission to give a bond payable to the state of Idaho in the amount and with the security and containing the terms and conditions the commission describes. The cost of the bond is an administrative expense under this act.

SECTION 9. The state of Idaho is not liable for the acts or omissions of the commission or any member thereof, or any officer, agent or employee thereof.

SECTION 10. There is hereby levied upon all cherries grown annually in this state and all cherries packed as Idaho cherries an assessment of $5.00 a ton. Provided, however, this section shall not apply to cherries shipped to a processing plant for processing, nor shall it apply to any person, dealer or grower who sells less than one thousand pounds of cherries in any marketing year. Provided, however, the exemption for shipment or sales to a processing plant for processing may be eliminated by a referendum mail ballot vote conducted by the commission among the cherry growers of this state, and provided further, the vote is approved by a two-thirds vote of the growers of fifty percent or more of the acreage represented in the voting. All moneys collected hereunder shall be expended to effectuate the purposes and object of this act.

SECTION 11. The assessments shall be paid by the grower and shall be due on or before the time when such cherries are first handled in the primary channels of trade and shall be paid at such times as the commission may by rule or regulation prescribe, but not later than sixty days from the date on which the cherries were handled in the primary channels of trade.

The commission shall by rule or regulation prescribe the method whereby the grower remits the assessment, and for that purpose may require the grower to file with the commission his sworn statement containing the information
concerning all cherries grown, handled, packed, shipped, or processed by him, and the amount of tax due.

SECTION 12. Every dealer and grower shall keep a complete and accurate record of all cherries handled, packed, shipped or processed by him. The record shall be in such form and contain such information as the commission by rule or regulation prescribes, and shall be preserved for a period of two years and be subject to inspection at any time upon demand of the commission or its agents.

SECTION 13. If it appears from an investigation that the revenue from the assessment levied hereunder is inadequate to accomplish the purposes of this act, the commission shall file with the Commissioner of Agriculture a report showing the necessity of the industry, extent and probable costs of the required research, market promotion and advertising, extent of public convenience, interest and necessity, and probable revenue from the assessment desired to be levied. It shall thereupon increase the assessment to a sum not to exceed $10.00 a ton; but no increase in such assessment shall become effective unless the same shall first be referred by the commission on a referendum mail ballot to the cherry growers of this state, and be approved by two-thirds vote of the growers of fifty percent or more of the acreage represented in the voting.

SECTION 14. Each dealer and/or grower shall at such times as the commission may by rule or regulation require, file with the commission a return under oath, on forms to be furnished by the commission stating the quantity of cherries grown, packed, handled, shipped or processed by him, during the period prescribed by the commission. The return shall contain such further information as the commission may require.

SECTION 15. The commission may inspect the premises and records of any grower, carrier, handler, packer, dealer or processor for the purposes of enforcing this act and the collection of the assessment.

SECTION 16. Any person who violates or aids in violation of any provision of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $300.00 or imprisonment not to exceed six months, or both.

SECTION 17. This act shall be liberally construed and if any part or portion thereof be declared invalid, or the application thereof to any person, circumstance or thing is de-
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declared invalid, the validity of the remainder of this act
and/or the applicability thereof to any person, circum-
stance or thing shall not be affected thereby, and it is the
intention of the legislature to preserve any and all parts of
this act if possible.

SECTION 18. An emergency existing therefor, which
emergency is hereby declared to exist, this Act shall be in
full force and effect from and after its passage and approval.

Approved March 8, 1967.

CHAPTER 71
(H. B. No. 175)

AN ACT
AMENDING SECTION 40-2709, IDAHO CODE, TO EXPAND USE
OF HIGHWAY TAX LEVIES TO INCLUDE COSTS OF HIGH-
WAY CONSTRUCTION AND COSTS OF ACQUISITION OF
RIGHTS OF WAY ON COUNTY SECONDARY HIGHWAYS.

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

SECTION 1. That Section 40-2709, Idaho Code, be, and
the same is hereby amended to read as follows:

40-2709. AUTHORITY AND PROCEDURE FOR TAX
LEVIES.—The county commissioners of a county highway
system, the commissioners of a countywide highway dis-
trict, and the commissioners of highway districts or good
roads districts are hereby empowered and authorized, for
the purpose of construction and maintenance of roads and
bridges under their respective jurisdictions, to make the
following highway tax levies as applied to the assessed
valuation of their districts:

1. One dollar ($1.00) on each one hundred dollars ($100)
of assessed valuation for construction and maintenance of
roads and bridges; provided that if such levy is made upon
property within the limits of any incorporated city, town or
village, fifty per cent (50%) thereof shall be apportioned
to such incorporated city, town or village.

2. A special levy of thirty cents (30c) on each one hun-
dred dollars ($100) of assessed valuation, said levy to be
for the specific purposes of matching state and federal road
funds; acquiring rights of way for county secondary high-

ways, and for construction, fencing and engineering costs necessary in connection with the building of said secondary highways. No part of this levy shall be apportioned to any incorporated city, town or village.

3. An additional special levy of twelve cents (12¢) on each one hundred dollars ($100) of assessed valuation, said levy to be for the specific purpose of construction and maintenance of bridges only, no part of which shall be apportioned to any incorporated city, town or village.

The tax levies authorized by this section shall be certified to the county auditor of the county in which such levies are made and at the same time that other tax levies are certified for other county purposes and shall be collected by the same officers and in the same manner as any other state and county taxes are collected, and paid into the county treasury and apportioned to the districts or taxing units in the amount that their respective levies produced, exclusive of ordinary collection fees to the county and the proper apportionment to the incorporated cities, towns and villages.

The total levies for construction and maintenance of roads and bridges, secondary road matching funds and construction and maintenance of bridges only, shall not exceed one dollar and forty-two cents ($1.42) on each one hundred dollars ($100) of such assessed valuation.

Approved March 8, 1967.

CHAPTER 72
(H. B. No. 177)

AN ACT
RESERVING FROM SALE CERTAIN STATE LANDS IN ADA COUNTY, IDAHO; AUTHORIZING THE STATE BOARD OF LAND COMMISSIONERS TO LEASE THE SAME FOR PUBLIC RECREATIONAL PURPOSES; AND DECLARING AN EMERGENCY.

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

SECTION 1. The following described state lands are hereby reserved from sale so long as the same shall be used for the purpose of a golf course or other recreational purpose maintained by public authority:
A tract of land in Ada County, Idaho, in the SW ¼ of Sec. 13, T. 3 N., R. 2 E. B.M. to wit:
Beginning at the center of Sec. 13, T. 3 N., R. 2 E., thence South on the ½ Sec. line 36,955 chains (2439.03 ft.) to the center of the O. S. L. Ry., the Real Place of Beginning; thence N. 38°09' W. along center of said Ry. 4.358 chains (287.62 ft.); thence N. 32°02' West along the center of said Ry. 39.817 chains (2627.92 ft.) to the E. & W. ¼ Sec. line, N. 89°27' W. along said E. & W. ¼ Sec. line 11.444 chains (753.30 ft.) to bank of river; thence S. 8°10' E. 0.95 chains (62.70 ft.); thence S. 15°07' E. 1.70 chains (112.20 ft.); thence S. 6°22' W. 3.35 chains (221.10 ft.); thence S. 3°40' W. 1.40 chains (92.40 ft.); thence S. 6°45' E. 260 chains (171.60 ft.); thence S. 12°45' E. 8.30 chains (547.80 ft.); thence S. 24°08' E. 4.90 chains (323.40 ft.); thence S. 32°02' E. 1.40 chains (92.40 ft.); thence S. 61°02' E. 6.50 chains (429.00 ft.); thence S. 72°45' E. 13.50 chains (881.00 ft.); thence S. 51°58' E. 14.815 chains (977.79 ft.) ; thence to the N. & S. ¼ Sec. line, thence N. 0°00' 2.636 chains (173.97 ft.) to the Place of Beginning, containing 52.60 acres, more or less, exclusive of a strip fifty (50) feet wide on the West side of the railway, together with all ditches and water rights connected therewith.

SECTION 2. The State Board of Land Commissioners is hereby authorized to lease the lands described in Section 1 hereof for golf course or other recreational purposes, upon such terms and conditions as the Board may determine best in the interests of the State or to exchange said lands for other lands of a tax-supported agency or unit of the State of Idaho or the United States, in accordance with law.

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

Approved March 8, 1967.

CHAPTER 73
(H. B. No. 187)

AN ACT
AMENDING SECTION 33-601, IDAHO CODE, TO RAISE FROM ONE THOUSAND DOLLARS TO TWO THOUSAND FIVE
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-601, Idaho Code, be, and the same is hereby amended to read as follows:

33-601. REAL AND PERSONAL PROPERTY — ACQUISITION, USE OR DISPOSAL OF SAME.—The board of trustees of each school district shall have the following powers and duties:

1. To rent to or from others, school buildings or other property used, or to be used, for school purposes;

2. To contract for the acquisition, purchase, construction or repair of any school building, other property, or equipment, necessary for the operation of the school district. No such contract shall be executed which entails the expenditure of one thousand dollars ($1,000) or more without notice first being given by posting, and publishing twice in the manner required by section 33-401. The board of trustees may let the contract to the lowest responsible bidder, or reject any bid, or reject all bids and post and publish notice for bids, as before. If, thereafter, no satisfactory bid is received, the board may proceed under its own direction, subject to the approval of the state board of education;

3. To designate and purchase any site necessary for school purposes or in the operation of the district, or remove any building, or dispose of any site. In elementary school districts, except upon removal for highway purposes, a site may be designated or changed only after approval of two-thirds (2/3) or more of the electors voting at the annual meeting;

4. To convey by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district in any property, real or personal. In elementary school districts, except such conveyance as is authorized by subsection 6 of this section, any of the transactions authorized in
this subsection shall be subject to the approval of two-thirds ($\frac{2}{3}$) or more of the electors voting at the annual meeting.

Prior to such sale or conveyance, the board shall have the property appraised by three (3) disinterested residents of the district, which appraisal shall be entered in the records of the board of trustees. The property may be sold at public auction or by sealed bids, as the board of trustees shall determine, to the highest cash bidder. Notice of the time and the conditions of such sale shall be posted, and published twice, and proof thereof made, in accordance with section 33-401, except that when the appraised value of the property is less than three hundred dollars ($300), one (1) single notice by publication shall be sufficient and the property shall be sold by sealed bids.

The board of trustees may accept the highest bid, may reject any bid, or reject all bids and have new appraisals made and again post and publish notice for bids, as before. If, thereafter, no satisfactory bid is made and received, the board may proceed under its own direction to sell and convey the property, subject to the approval of the state board of education. In no case shall any property of the school district be sold for less than its appraisal;

5. To enter into contracts with any city or village located within the boundaries of the school district for the joint purchase, construction, development, maintenance and equipping of playgrounds, ball parks, swimming pools, and other recreational facilities upon property owned either by the school district or the city or village;

6. To convey rights of way and easements for highway, public utility, and other purposes over, upon or across any school property and, when necessary to the use of such property for any such purpose, to authorize the removal of school buildings to such new location, or locations, as shall be determined by the board of trustees, and such removal shall be made at no cost or expense to the school district;

7. To authorize the use of any school building of the district as a community center, or for any public purpose, and to establish a policy of charges, if any, to be made for such use.

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

Approved March 8, 1967.
AN ACT

AMENDING SECTION 45-1506, IDAHO CODE, VERIFYING COSTS AND EXPENSES AFTER DEFAULT, AND CLARIFYING THE ALLOWANCE OF ATTORNEY'S FEES.

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

SECTION 1. That Section 45-1506, Idaho Code, be, and the same is hereby amended to read as follows:

45-1506. MANNER OF FORECLOSURE—NOTICE—SALE.—(1) A trust deed may be foreclosed in the manner provided in this section.

(2) Subsequent to recording notice of default as hereinbefore provided, and at least 120 days before the day fixed by the trustee for the trustee's sale, notice of such sale shall be given by registered or certified mail to the last known address of the following persons or their legal representatives, if any:

(a) The grantor in the trust deed and any person requesting notice of record as hereinafter provided.

(b) Any successor in interest of the grantor where his interest appears of record, or where the trustee or the beneficiary has actual notice of such interest or where the successor in interest is in possession of the property.

(c) Any lessee or other person in possession of or occupying the property.

(d) Any person having a lien or interest subsequent to the interest of the trustee in the trust deed where such lien or interest appears of record or where the trustee or the beneficiary has actual notice of such lien or interest.

(3) The disability, insanity or death of any person to whom notice of sale is to be given under subsection (2) of this section shall not delay or impair in any way the trustee's right under a trust deed to proceed with a sale under such deed, provided the notice of sale required under subsection (2) of this section has been mailed as provided by law for service of summons upon incompetents or to the administrator or executor of the estate of such person.
(4) The notice of sale shall set forth:

(a) The names of the grantor, trustee and beneficiary in the trust deed.

(b) A description of the property covered by the trust deed.

(c) The book and page of the mortgage records or the recorder's instrument number where the trust deed is recorded.

(d) The default for which the foreclosure is made.

(e) The sum owing on the obligation secured by the trust deed.

(f) The date, time and place of the sale which shall be held at a designated time after 9:00 a.m. and before 4:00 p.m., Standard Time, and at a designated place in the county or one of the counties where the property is located.

(5) If there be occupants of the said real property such notice shall be personally served upon them in the manner in which a summons is served and, if the real property be vacant then such notice shall be posted in a conspicuous place on the said premises.

(6) A copy of the notice of sale shall be published in a newspaper of general circulation in each of the counties in which the property is situated once a week for four successive weeks, making four publishings in all, with the last publication to be at least 30 days prior to the day of sale.

(7) An affidavit of mailing notice of sale and an affidavit of posting (when required) and publication of notice of sale as required by subsection 6 of this section shall be recorded in the mortgage records in the counties in which the property described in the deed is situated at least 20 days prior to the date of sale.

(8) The sale shall be held on the date and at the time and place designated in the notice of sale. The trustee shall sell the property in one parcel or in separate parcels at auction to the highest bidder. Any person, including the beneficiary under the trust deed, may bid at the trustee's sale. The attorney for such trustee may conduct the sale and act in such sale as the auctioneer of trustee.

(9) The purchaser at the sale shall forthwith pay the price bid and upon receipt of payment the trustee shall exe-
cute and deliver the trustee’s deed to such purchaser, provided that in the event of any refusal to pay purchase money, the officer making such sale shall have the right to resell or reject any subsequent bid as provided by law in the case of sales under execution.

(10) The trustee’s deed shall convey to the purchaser the interest in the property which the grantor had, or had the power to convey, at the time of the execution by him of the trust deed together with any interest the grantor or his successors in interest acquired after the execution of such trust deed.

(11) The purchaser at the trustee’s sale shall be entitled to possession of the property on the tenth day following the sale, and any persons remaining in possession thereafter under any interest except one prior to the deed of trust shall be deemed to be tenants at sufferance.

(12) Whenever all or a portion of any obligation secured by a deed of trust which has become due by reason of a default of any part of that obligation, including taxes, assessments, premiums for insurance or advances made by a beneficiary in accordance with the terms of the deed of trust, the grantor or his successor in interest in the trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any person having a subordinate lien or encumbrance of record thereon, at any time within one hundred fifteen days of the recording of the notice of default under such deed of trust, if the power of sale therein is to be exercised, or otherwise at any time prior to the entry of a decree of foreclosure, may pay to the beneficiary or their successors in interest, respectively, the entire amount then due under the terms of the deed of trust and the obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of such obligation and trustee’s or attorney’s fees actually incurred, not exceeding $50.00 in case of sale under a deed of trust and attorney’s fees as may be provided in the promissory note) other than such portion of the principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust shall be reinstated and shall be and remain in force and effect, the same as if no acceleration had occurred.

Approved March 8, 1967.
CHAPTER 75
(H. B. No. 207)

AN ACT

AMENDING SECTION 26-207, IDAHO CODE, AS AMENDED, BY INCREASING THE AMOUNT OF THE FEE REQUIRED TO BE PAID BY A BANKING CORPORATION APPLYING FOR AUTHORITY TO DO BUSINESS IN IDAHO FROM ONE HUNDRED FIFTY DOLLARS ($150.00) TO AN AMOUNT BASED ON THE DEPARTMENT OF FINANCE'S COST OF EXAMINATION AND INVESTIGATION, WHICH AMOUNT SHALL NOT BE LESS THAN ONE HUNDRED FIFTY DOLLARS ($150.00) NOR MORE THAN ONE THOUSAND DOLLARS ($1000.00), AND BE PAID WHEN DEMANDED BY THE DEPARTMENT OF FINANCE.

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

SECTION 1. That Section 26-207, Idaho Code, as amended, be, and hereby is amended to read as follows:

26-207. AUTHORIZATION NECESSARY TO DO BUSINESS.—No bank shall transact any business except such as is incidental or necessarily preliminary to its organization without the written approval of the commissioner of finance and without his written certificate stating that it has complied with the provisions of this act, and all the requirements of law, and that it is authorized to transact, within this state, the business of banking.

To obtain such permit, such corporation shall file with the department of finance the following:

a. A copy of its articles of incorporation, certified by the county recorder of the county in which its principal place of business is located.

b. Satisfactory proof that its entire capital stock plus ten per cent has been paid in cash or property as provided in sections 26-205 and 26-206.

c. The names and addresses of its officers and directors.

d. The names and addresses of all subscribers to its capital stock and the amounts subscribed by each.

e. A financial statement of each and every subscriber to its capital stock, sworn to under oath, on forms to be provided by the department of finance, from which it must appear that each subscriber owns property, in his or her
own name, not exempt from execution, of the value over and above any liens or encumbrances thereon, of at least three times the amount of such subscriber's subscription to such capital stock.

f. The oath of each and every director as provided in this chapter.

g. The affidavit of its directors to the effect that said corporation has complied with all the provisions of this chapter required to authorize it to commence business.

Upon filing the foregoing, it shall be the duty of the department of finance to immediately examine into the condition of said bank, ascertaining whether or not the capital has been paid in and whether such bank has complied with all the provisions of the law required to entitle it to engage in the business of banking. It shall also ascertain from the best sources of information at its command whether the character and general fitness of the persons named as stockholders and officers are such as to command the confidence of the community in which such bank is proposed to be located. The department of finance shall collect a fee on demand from such corporation in the sum of one hundred fifty dollars which fee shall not be less than one hundred fifty ($150.00) nor more than one thousand dollars ($1000.00) based upon the cost of such examination and investigation, which said fee shall be deposited with the department together with all other documents and instruments required by this section to be filed with the department. If, upon such examination, it appears that said bank is lawfully entitled to commence business, and the directors and officers are competent to engage in the banking or banking and trust business, and its stockholders are such as to command the confidence of the community, and if, in the opinion of the commissioner of finance the organization of the bank is justified, the department of finance shall forthwith issue to such bank a certificate, under its official seal, as provided in this section.

If the department has reason to believe that the stockholders have formed the same for any other than the legitimate business contemplated by this chapter, it shall withhold such certificate, and it may withhold the issuance of such certificate to a bank seeking to engage in business in a village, city or community which in its judgment does not justify or warrant a new or additional bank.

Approved March 8, 1967.
AN ACT

AMENDING SECTION 43-318, IDAHO CODE, RELATING TO SALE OF PERSONAL PROPERTY OF IRRIGATION DISTRICTS, BY PERMITTING THE SALE OF REAL PROPERTY AS WELL.

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

SECTION 1. That Section 43-318, Idaho Code, be, and the same is hereby amended to read as follows:

43-318. SALE OF PERSONAL OR REAL PROPERTY —PROCEDURE.—Personal or real property of an irrigation district may be sold by its board of directors whenever the board finds and by resolution declares that the district no longer has use therefor. This procedure shall be exclusive of the procedure provided in Section 43-321, Idaho Code, for sale of lands within the district upon failure to pay irrigation district assessments.

1. If, in the opinion of the board, such property does not exceed $500 in value, it may sell the same without independent appraisal, notice or competitive bids.

2. Personal or real property exceeding $500 in value shall first be appraised by three disinterested freeholders of the district, who shall be selected by the board. It may then be sold at public or private sale to the highest bidder for cash at not less than its appraised value, after due notice.

3. Notice of sale shall describe the property, the appraised value thereof (by separate items, if so appraised), and the time, place and condition of sale.

4. If the appraised value does not exceed $1,000.00, notice of sale shall be posted in three public places in each of the election precincts in the district (one of which shall be the office of the board) at least ten days before the date of sale.

5. If the appraised value of the property exceeds $1,000.00 notice shall be posted as set forth in subdivision 4 above and in addition shall be published in a weekly newspaper, published or having a general circulation in the district, once each week during the four weeks preceding the date of sale.

Approved March 8, 1967.
CHAPTER 77
(H. B. No. 259)

AN ACT


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

SECTION 1. There is hereby appropriated out of the Wheat Commission fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay, refunds of erroneous receipts, and payment as agent, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
WHEAT COMMISSION:
For: Salaries and Wages $49,500
Travel Expense 21,300
Other Current Expense 287,700
Capital Outlay 1,000
Refunds of Erroneous Receipts 500
Payment as Agent

Total $360,000

From: Wheat Commission Fund $360,000

Approved March 8, 1967.

CHAPTER 78
(H. B. No. 260)

AN ACT

APPROPRIATING MONIES FROM THE BEAN MARKETING AND PRODUCTION FUND TO THE BEAN COMMISSION FOR THE

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

SECTION 1. There is hereby appropriated out of the Bean Marketing and Production fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay, refunds of erroneous receipts, and payment as agent, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
BEAN COMMISSION:
For: Salaries and Wages $15,500
Travel Expense 10,000
Other Current Expense 144,000
Capital Outlay
Refunds of Erroneous Receipts 500
Payment as Agent
Total $170,000

From: Bean Marketing and Production Fund $170,000

Approved March 8, 1967.

CHAPTER 79
(H. B. No. 261)

AN ACT

APPROPRIATING MONIES FROM THE LIVESTOCK DISEASE CONTROL FUND TO THE COMMISSIONER OF AGRICULTURE FOR LIVESTOCK DISEASE CONTROL FOR THE PURPOSE OF PAYING SALARIES AND WAGES, TRAVEL EXPENSE, OTHER CURRENT EXPENSE, CAPITAL OUTLAY, AND REFUNDS OF ERRONEOUS RECEIPTS, FOR THE PERIOD COMMENCING JULY 1, 1967, AND ENDING JUNE 30,

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

SECTION 1. There is hereby appropriated out of the Livestock Disease Control fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay, and refunds of erroneous receipts, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
COMMISSIONER OF AGRICULTURE FOR LIVESTOCK DISEASE CONTROL:
For: Salaries and Wages $295,000
Travel Expense 40,000
Other Current Expense 85,000
Capital Outlay 30,000
Refunds of Erroneous Receipts 200
Total $450,200
From: Livestock Disease Control Fund $450,200

Approved March 8, 1967.

CHAPTER 80
(H. B. No. 262)

AN ACT


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

SECTION 1. There is hereby appropriated out of the Commercial Feed and Fertilizer fund the following sums of
money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay, and refunds of erroneous receipts, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated:  
COMMISSIONER OF AGRICULTURE  
FOR COMMERCIAL FEED AND FERTILIZER:

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From: Commercial Feed and Fertilizer Fund $211,000

Approved March 8, 1967.

CHAPTER 81  
(H. B. No. 263)

AN ACT


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

SECTION 1. There is hereby appropriated out of the Bee Inspection fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, and other current expense, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated:  
COMMISSIONER OF AGRICULTURE  
FOR BEE INSPECTION:
CHAPTER 82
(H. B. No. 264)

AN ACT


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

SECTION 1. There is hereby appropriated out of the Egg Inspection fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay, and refunds of erroneous receipts, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated:

COMMISSIONER OF AGRICULTURE FOR EGG INSPECTION:

For:  Salaries and Wages $73,000
       Travel Expense 26,000
       Other Current Expense 20,450
       Capital Outlay 500
       Refunds of Erroneous Receipts 50

Total $120,000

From: Egg Inspection Fund $120,000

Approved March 8, 1967.
CHAPTER 83  
(H. B. No. 266)  
AN ACT  

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

SECTION 1. There is hereby appropriated out of the Economic Poison fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay, and refunds of erroneous receipts, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated:  
COMMISSIONER OF AGRICULTURE FOR EXAMINATION OF ECONOMIC POISONS:

For:  
Salaries and Wages $21,400  
Travel Expense 5,000  
Other Current Expense 5,200  
Capital Outlay 3,150  
Refunds of Erroneous Receipts 100  
Total $34,850

From: Economic Poison Fund $34,850

Approved March 8, 1967.

CHAPTER 84  
(H. B. No. 267)  
AN ACT  
APPROPRIATING MONIES FROM THE HONEY ADVERTISING FUND TO THE HONEY ADVERTISING COMMISSION FOR

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

SECTION 1. There is hereby appropriated out of the Honey Advertising fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, and other current expense, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Honey Advertising Commission:
Appropriations:
For: Salaries and Wages $100
     Travel Expense 750
     Other Current Expense 5,000

Total $5,850

From: Honey Advertising Fund $5,850

Approved March 8, 1967.

CHAPTER 85
(H. B. No. 268)

AN ACT


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

SECTION 1. There is hereby appropriated out of the Pea and Lentil Commission fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current ex-
pense, capital outlay, and refunds of erroneous receipts, of
the agency herein named, for the period commencing July
1, 1967, and ending June 30, 1969; subject to the provisions
of the Standard Appropriations Act of 1945:

To Whom Appropriated:

PEA AND LENTIL COMMISSION:

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<td>Salaries and Wages</td>
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<td>Capital Outlay</td>
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<td>Refunds of Erroneous Receipts</td>
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Total $135,200

From: Pea and Lentil Commission Fund $135,200

Approved March 8, 1967.

CHAPTER 86
(H. B. No. 269)

AN ACT

APPROPRIATING MONIES FROM THE APPLE COMMISSION
FUND TO THE APPLE COMMISSION FOR THE PURPOSE
OF PAYING SALARIES AND WAGES, TRAVEL EXPENSE,
OTHER CURRENT EXPENSE, AND REFUNDS OF ERRO-
NEOUS RECEIPTS, FOR THE PERIOD COMMENCING JULY
1, 1967, AND ENDING JUNE 30, 1969; SUBJECT TO THE PRO-
VISIONS OF THE STANDARD APPROPRIATIONS ACT OF
1945.

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

SECTION 1. There is hereby appropriated out of the Ap-
ple Commission fund the following sums of money, or so
much thereof as may be necessary, for the purpose of paying
salaries and wages, travel expense, other current expense,
and refunds of erroneous receipts, of the agency herein
named, for the period commencing July 1, 1967, and ending
June 30, 1969; subject to the provisions of the Standard Ap-
propriations Act of 1945:

To Whom Appropriated:

APPLE COMMISSION:

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Total
CHAPTER 87
(H. B. No. 270)

AN ACT


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

SECTION 1. There is hereby appropriated out of the Agriculture Inspection fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay, refunds of erroneous receipts, and payments as agent, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
COMMISSIONER OF AGRICULTURE FOR AGRICULTURE INSPECTION:
For: Salaries and Wages $38,096
Travel Expense 6,000
Other Current Expense 10,000
Capital Outlay 1,000
Refunds of Erroneous Receipts 100
Payments as Agent 12,000
CHAPTER 88
(H. B. No. 162)

AN ACT


Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. That Chapter 30, Title 22, Idaho Code, be, and the same is hereby repealed and reenacted to read as follows:

22-3001. DECLARATION OF POLICY.—It is to the best interest of all the people of the state of Idaho that the abundant and natural resources of Idaho be protected, fully developed and uniformly distributed. It is in the public interest and within the exercise of the police power of the state to protect the public health; to prevent fraudulent practices; to provide the means for the development of markets; production research; and new product development and promotion of the prune industry.

22-3002. There is hereby created an Idaho prune commission, to be thus known and designated. The commission shall be composed of three practical prune growers and two practical prune dealers. The sixth member of the commission shall be the commissioner of agriculture, ex officio without vote.

The three grower members shall be citizens and residents of this state, over the age of twenty-five years, each of whom is and has been actively engaged in the growing and producing of prunes within the state of Idaho, and a major portion of his income from prunes has been derived from growing prunes.

The two dealer members shall be persons who, either individually or as executive officers of a corporation, firm, partnership, association or cooperative organization are and have been actively engaged as dealers of prunes within the state of Idaho, are citizens and residents of this state; are over the age of twenty-five years, and a major portion of their income from prunes has been derived from handling, packing, shipping, buying or selling prunes, or acting as sales or purchasing agent, broker or factor of prunes.

The qualifications of members of the commission as herein set forth must continue during their term of office. No member of the commission shall receive any salary or other compensation but each member of the commission shall receive the sum of fifteen dollars ($15.00) per day for each day spent in actual attendance in meetings of the commission and such allowance for traveling expenses in attending meetings of the commission as is allowed other state employees for traveling expenses.

22-3003. Definitions used in this act, unless the context requires otherwise:
(1) "Commission" means the Idaho prune commission.

(2) "Grower" means any land owner personally engaged in growing prunes, a tenant personally engaged in growing prunes, or both the owner and the tenant jointly, and includes a person, partnership, association, corporation, cooperative organization, trust, sharecropper, or any and all other business units, devices and arrangements, that grow prunes.

(3) "Dealer" means any person, partnership, association, corporation, cooperative or other business units and devices who handles, packs, ships, buys or sells prunes, or who acts as sales or purchasing agent, broker or factor of prunes.

(4) "Ship" means to load prunes into any mode of conveyance for transport in the channels of trade or to market.

(5) "Processor" and "processing plant" means every person, partnership, association, corporation, cooperative or other business units and devices to whom and every place to which prunes are delivered for drying, freezing, dehydrating, canning, pressing, powdering, extracting, cooking, and for use in producing a product or manufacturing a manufactured article.

(6) "District No. 1" shall consist of the following counties: Canyon, 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 and Bingham.

(7) "District No. 2" shall consist of the following counties: Gem, Boise, Valley, Custer and Lemhi.

(8) "District No. 3" shall consist of the following counties: Payette, Washington, Adams, Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Shoshone, Kootenai, Bonner and Boundary.

(9) "Person" means any partnership, association, corporation, cooperative or other business units or devices.

(10) "Prunes" means Italian type prunes, including all prunes and/or plums that are required by the Idaho and United States standards for Italian type prunes to have specified percentages of purple color, which shall include but be not limited to Italian, Demaris and Witherspoon varieties.

22-3004. Grower and dealer members of the commission shall be selected as follows:
(a) Two grower members shall be nominated for each grower vacancy that occurs, from which the governor shall appoint one. The first nominees shall be nominated in the following manner: The prune committee of the Idaho Horticultural Society shall conduct meetings in each of the three districts referred to in Section 22-3003 of this act, and at such meetings the growers shall nominate two growers for each district. The prune committee of the Idaho Horticultural Society shall call a general meeting of the prune dealers of the state of Idaho at such time and place as shall be decided by the committee for the purpose of nominating four dealers, representative of the three districts defined in sub-paragraphs (6), (7) and (8) of Section 22-3003 of this act. Notice of the meetings for the nomination of growers shall be by publication in one newspaper published in the major prune producing county of the district in which said nominations are to be made, and the notice shall be published in two issues of such newspaper, the first to be approximately thirty days and the second approximately ten days before said meeting. The notice shall state the purpose, time and place of said meeting. All meetings held for the selection of nominees shall be held prior to March 31 of the year the appointment or appointments are to be made.

(b) After the original appointments to the commission all subsequent appointments shall be conducted in the same manner, except that the meetings shall be called and conducted by the commission.

(c) The governor shall select from the nominees for each district one grower member and from the four nominees for dealers, two members, as required by this act.

(d) The governor shall appoint five persons to the commission, based upon the nominating petitions. Three shall be growers and two shall be dealers, but each dealer nominee must be from a different district.

The first members of the commission shall draw lots to determine their respective terms of office. Two of the original members shall serve for one year; two of the original members shall serve for two years; and one of the original members shall serve for three years. The term of office of members of the commission thereafter shall be three years. Provided, however, that both dealer members of the commission's terms of office shall not expire during the same year.

Members of the commission may not serve more than two
consecutive terms. Upon serving two consecutive terms and the lapsing of one full term, such member may again be nominated and appointed to the commission.

In the event there are vacancies in the commission, through death, resignation or removal, it shall be the duty of the growers and dealers as provided in Section 22-3304 to submit to the governor at least two qualified names for each grower vacancy, and two qualified names for each dealer vacancy for the district in which the vacancy occurred. The governor shall make the appointment or appointments to fill the vacancy.

22-3005. The Idaho prune commission shall have, but is not limited to, the following powers and duties:

(1) To elect a chairman and such other officers as it deems advisable.

(2) To appoint and employ, and at its pleasure discharge, all necessary agents, employees and professional personnel and other personnel, including experts in agriculture and the publicizing of the products thereof, and to prescribe their duties and fix their compensation.

(3) To establish offices and incur expense and enter into contracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this act.

(4) To find new markets for prunes and prune products.

(5) To give, publicize and promulgate reliable information showing the value of prunes and prune products for any purpose for which they are found useful and profitable.

(6) To make public and encourage the wide-spread national and international use of prunes and prune products.

(7) To investigate and participate in studies of the problems peculiar to the growers of prunes in the state of Idaho.

(8) To take such action as to the commission seems necessary or advisable in order to promote the sale of prunes and to protect the prune industry.

(9) To enter into such contracts as may be necessary or advisable.

(10) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state of Idaho.
(11) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state, or the United States, engaged in work or activity similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education, product protection, publicity and reciprocal enforcement of these objectives.

(12) To investigate and prosecute in the name of the state of Idaho violations of this act; to investigate and prosecute in the name of the state of Idaho any suit or action for the collection of assessments as hereinafter provided, or to protect brands, marks, packages, brand names or trademarks being promoted by the commission.

(13) To do any and all things that will promote the sale of prunes.

(14) To keep an accurate record of all its dealings, which shall be open to inspection and audit by the state auditor.

(15) To sue and be sued.

(16) To adopt and from time to time alter, rescind, modify and/or amend all proper and necessary rules, regulations and orders for the exercise of its powers and performance of its duties under this act.

22-3006. The commission shall provide for and conduct a comprehensive and extensive research, advertising and educational campaign as continuous as the crop, sales and market conditions reasonably require. It will investigate and ascertain the needs of growers, conditions of the market and extent to which public convenience and necessity require research and advertising to be conducted.

22-3007. The commission may accept 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 shall be paid to the Idaho prune commission and shall be deposited into the "Idaho Prune Commission Fund", and are hereby appropriated out of the fund and made available for defraying the expenses of the commission in carrying out the provisions of this act.

All moneys now deposited in the "Prune Advertising Development Fund" and all moneys due and owing to said fund shall be transferred to the "Idaho Prune Commission
Fund” and appropriated out of the fund in the same manner as funds to be hereinafter collected.

22-3008. The commission may require the administrator, or any agent or employee appointed by the commission, to give a bond payable to the state of Idaho in the amount, and with the security and containing the terms and conditions the commission prescribes. The cost of the bond is an administrative expense under this act.

22-3009. The state of Idaho is not liable for the acts or omissions of the commission or any member thereof, or any officer, agent or employee thereof.

22-3010. There is hereby levied upon all prunes grown annually in this state and all prunes packed as Idaho prunes, an assessment of two and one-half cents per one-half bushel basket or thirty pound carton, or eight and one-half cents per hundred weight in other containers. Provided, however, this action shall not apply to prunes shipped to a processing plant for processing, nor shall it apply to any person, dealer or grower who sells less than one thousand pounds of prunes in any marketing year. Provided, however, the exemption for shipments or sales to a processing plant for processing may be eliminated by a referendum mail ballot vote conducted by the commission among the prune growers of this state, and provided further, if the vote is approved by a two-thirds vote of the growers of fifty percent or more of the acreage represented in the voting. All moneys collected hereunder shall be expended to effectuate the purposes of this act.

22-3011. The assessments shall be paid by the grower and shall be due on or before the time when such prunes are first handled in the primary channels of trade and shall be paid at such times as the commission may by rule or regulation prescribe, but not later than sixty days from the date on which the prunes were handled in the primary channels of trade.

The commission shall by rule or regulation prescribe the method whereby the grower remits the assessment, and for that purpose may require the grower to file with the commission his sworn statement containing the information concerning all prunes grown, handled, packed, shipped or processed by him, and the amount of tax due.

22-3012. Every dealer and grower shall keep a complete and accurate record of all prunes handled, packed, shipped or processed by him. The record shall be in such form and
contain such information as the commission by rule or regulation prescribes, and shall be preserved for a period of two years, and be subject to inspection at any time upon demand of the commission or its agents.

22-3013. If it appears from an investigation that the revenue from the assessment levied hereunder is inadequate to accomplish the purposes of this act, the commission shall file with the commissioner of agriculture a report showing the necessity of the industry, extent and probable costs of the required research, market promotion and advertising, extent of public convenience, interest and necessity and probable revenue from the assessment desired to be levied. It shall thereupon increase the assessment to a sum not to exceed five cents per one-half bushel basket or thirty pound carton, or seventeen cents per hundredweight in other containers; but no increase shall be made prior to filing of said report and finding. Provided, however, that no increase in such assessment shall become effective unless the same shall first be referred by the commission on a referendum mail ballot of the prune growers of this state and be approved by two-thirds vote of the growers of fifty percent or more of the acreage represented in the voting.

22-3014. Each dealer and/or grower shall, at such times as the commission may by rule or regulation require, file with the commission a return under oath, on forms to be furnished by the commission, stating the quantity of prunes grown, packed, handled, shipped or processed by him, during the period prescribed by the commission. The return shall contain such further information as the commission may require.

22-3015. The commission may inspect the premises and records of any growers, handler, packer, dealer or processor for the purposes of enforcing this act and the collection of the assessment.

22-3016. Any person who violates or aids in violation of any provision of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $300.00, or imprisonment not to exceed six months, or both.

22-3017. This act shall be liberally construed and if any part or portion thereof be declared invalid, or the application thereof to any person, circumstance or thing is declared invalid, the validity of the remainder of this act, and/or the applicability thereof to any person, circumstance or thing
shall not be affected thereby, and it is the intention of the legislature to preserve any and all parts of this act if possible.

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

Approved March 8, 1967.

CHAPTER 89
(S. B. No. 164)

AN ACT


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

SECTION 1. There is hereby appropriated out of the General Fund of the State of Idaho, to the Board of Regents of the University of Idaho, the following sum of money or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay, for the period commencing July 1, 1967 and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
TO THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR GENERAL EXPENSE:
For: Total $21,459,127.00
Less Other Income 3,052,776.00
From the General Fund $18,406,351.00

This bill became a law without the signature of the Governor, effective March 11, 1967.
CHAPTER 90
(S. B. No. 165)

AN ACT


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

SECTION 1. There is hereby appropriated out of the General Fund of the State of Idaho, the following sum of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated:

STATE BOARD OF EDUCATION
AS BOARD OF TRUSTEES OF
IDAHO STATE UNIVERSITY:

For: Total $13,813,637.00
Less Other Income 2,063,637.00

From the General Fund $11,750,000.00

This bill became a law without the signature of the Governor, effective March 11, 1967.

CHAPTER 91
(H. B. No. 19)

AN ACT

AMENDING SECTION 41-3403, IDAHO CODE, BY FURTHER DEFINING THE TERM "PARTICIPANT PHYSICIAN" TO INCLUDE LICENSED OPTOMETRISTS AS WELL AS MEDICAL DOCTORS AND PODIATRISTS; AND AMENDING SECTION
41-3408, IDAHO CODE, BY PROVIDING THAT A MEDICAL SERVICE CORPORATION AT ALL TIMES SHALL BE READY AND WILLING TO ENTER INTO SERVICE AGREEMENTS WITH OPTOMETRISTS PRACTICING WITHIN THE SERVICE AREA OF SAID CORPORATION IN THE EVENT IT PROVIDES OR PROPOSES TO PROVIDE OPTOMETRIC SERVICES TO ITS SUBSCRIBERS.

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

SECTION 1. That Section 41-3403, Idaho Code, be, and the same is hereby amended to read as follows:

41-3403. DEFINITIONS.—For the purposes of this chapter:

(1) "Health care service" means any service rendered to an individual for diagnosis, relief, or treatment of any injury, ailment or bodily condition.

(2) "Service corporation" means a corporation providing all or part of one or more health care services for subscribers thereto in exchange for periodic prepayments in identifiable amount by or as to such subscribers.

(3) A "medical service corporation" is one so providing principally medical and/or surgical services.

(4) A "hospital service corporation" is one so providing principally hospital services.

(5) "Service agreement" is a contract between a service corporation and a physician or hospital under which the physician or hospital agrees to render all or part of one or more health care services to subscribers of the service corporation.

(6) "Subscriber's contract" is that between the service corporation and its subscriber under which all or part of one or more health care services is to be rendered to or on behalf of the subscriber by a physician or hospital that has entered into a service agreement with such corporation covering such services.

(7) "Participant hospital" is one which has entered into a service agreement with a service corporation.

(8) "Participant physician" is one who has entered into a service agreement with a service corporation and shall include medical doctors, podiatrists and optometrists duly licensed to practice under the laws of the state of Idaho.

(9) "Physician" includes also "surgeon."
SECTION 2. That Section 41-3408, Idaho Code, be, and the same is hereby amended to read as follows:

41-3408. QUALIFICATIONS FOR CERTIFICATE OF AUTHORITY.—The commissioner shall not issue or permit to exist a certificate of authority to be or act as a service corporation, as to any corporation not fulfilling the following qualifications:

(1) Must be incorporated as provided in section 41-3406 as either a medical service corporation, or as a hospital service corporation, or as a combined medical and hospital service corporation.

(2) Must intend to and actually conduct its business in good faith as a nonprofit corporation.

(3) If a hospital service corporation it must have in force at all times while so authorized, service agreements with participant hospitals located in the areas of the subscribers' residences, convenient as to location and sufficient as to capacity and facilities reasonably to furnish the hospital services provided or proposed to be provided by the corporation to its subscribers.

(4) If a medical service corporation, it must have in force service agreements with participant physicians located in the areas of the subscribers' residences convenient as to location and sufficient in numbers and facilities reasonably to furnish the medical and surgical services provided or proposed to be provided by the corporation to its subscribers. Said medical service corporation shall be ready and willing at all times to enter into service agreements with all physicians (including optometrists, in the event such corporation provides or proposes to provide to its subscribers services that are within the lawful scope of practice of a duly licensed optometrist) qualified under the laws of the state of Idaho who desire to become participant physicians and who practice within the general area served by said medical service corporation.

(5) If a newly formed corporation, it must possess sufficient available working funds to pay all reasonably anticipated costs of acquisition of new business and operating expenses, other than payment for hospital or medical services, for a period of not less than the six (6) months next following the date of issuance of the certificate of authority, if issued.
(6) Must fulfill all other applicable requirements of this chapter.

This Bill became a law without the signature of the Governor effective March 11, 1967.

CHAPTER 92
(H. B. No. 67)

AN ACT
REPEALING IDAHO CODE, SECTIONS 63-324 THROUGH 63-333 KNOWN AS THE "FOREST LAND AND TIMBER TAX LAW"; PROVIDING THAT SUCH PROPERTY SHALL BE ASSESSED AS ALL OTHER PROPERTY IS ASSESSED; MAKING REPEAL RETROACTIVE; AND DECLARING AN EMERGENCY.

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

SECTION 1. DECLARATION OF INTENTION.—It is hereby declared to be the intention of the Legislature that the "Forest Land and Timber Tax Law" be repealed retroactively to the date of its enactment so that during that period and in the future, the type of property which is covered by that act shall be assessed as other real and personal property is assessed.

SECTION 2. ASSESSMENT FOR TAX YEARS 1966 AND 1967.—Property subject to "Forest Land and Timber Tax Law" for tax years 1966 and 1967 shall be regularly assessed and shall not be assessed under the terms of this act.

SECTION 3. REPEAL.—Sections 63-324, 63-325, 63-326, 63-327, 63-328, 63-329, 63-330, 63-331, 63-332 and 63-333 are hereby repealed retroactively to the assessment date for the tax year 1966.

SECTION 4. EMERGENCY DATE. — An emergency existing therefor, which emergency is hereby declared to exist, this Act shall be in full force and effect immediately upon its passage and approval retroactively to the assessment date of the tax year 1966 in order that the purposes expressed in the Declaration of Intention above may be accomplished.

This Bill became a law without the signature of the Governor effective March 11, 1967.
CHAPTER 93
(H. B. No. 31 As Amended in the Senate)

AN ACT

AMENDING SECTION 33-2703, IDAHO CODE, BY DELETING THE WORD “SHALL” AND INSERTING THE WORD “MAY” AND DELETING THE WORD “ALL” AND INSERTING THE WORD “ANY” AND BY PROVIDING FOR THE COUNTY COMMISSIONERS TO FINALLY DETERMINE AND FIX DISTRICT BOUNDARIES; AMENDING CHAPTER 27 OF TITLE 33, IDAHO CODE, BY ADDING A NEW SECTION THERETO, FOLLOWING SECTION 33-2704, TO BE KNOWN AND DESIGNATED AS SECTION 33-2704A, TO PROVIDE FOR NOTICE, HEARING AND PROCEDURES AFTER HEARING FOR THE CREATION OF LIBRARY DISTRICTS; AMENDING SECTION 33-2705, IDAHO CODE, BY PROVIDING NOTICE AND PUBLIC HEARING PRIOR TO HOLDING AN ELECTION FOR A LIBRARY DISTRICT AND INCLUDING THE NAME OF THE PROPOSED LIBRARY DISTRICT ON THE BALLOT; AMENDING SECTION 33-2722, IDAHO CODE, RELATING TO ALTERNATE METHODS OF ORGANIZING A LIBRARY DISTRICT, BY DELETING THE FIRST ALTERNATE METHOD SET FORTH IN SAID SECTION, AND BY PROVIDING IN THE ALTERNATE METHOD REMAINING, FOR NOTICE, PUBLIC HEARING, CANVASS OF PETITIONS AND RESOLUTION BY THE COUNTY COMMISSIONERS AS PROVIDED IN SECTION 33-2704A; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-2703, Idaho Code, be, and the same is hereby amended to read as follows:

33-2703. LIBRARY DISTRICTS—TERRITORY—LIMITATIONS.—A library district may be organized by vote of the qualified electors of the proposed district in an election called and held as provided by this chapter, with the following limitations:

a. The district may include incorporated or unincorporated territory or both, in one or more counties, but in any county in which the proposed district may lie it shall—may include—shall—may include—any of the area thereof except as may be excluded by this section, and as finally fixed and determined by the board of county commissioners.

b. The territory of the district shall be continuous, and no territory of an incorporated municipality shall be divided.
c. In the initial organization of the district, any governmental unit maintaining a tax-supported public library shall be excluded.

d. If, subsequent to the organization of a library district, any area thereof is annexed to a municipality which maintains a tax-supported library, such area shall cease to be a part of the library district and the board of trustees of said municipality shall so notify the board of county commissioners.

SECTION 2. That Chapter 27 of Title 33, Idaho Code, be, and the same is hereby amended by adding a new Section thereto, following Section 33-2704, to be known and designated as Section 33-2704A, and to read as follows:

33-2704A. NOTICE AND PUBLIC HEARING.—

a. When such petition or petitions are presented to the board of county commissioners and filed in the office of the clerk of such board, the board shall set the time for a hearing, which time shall be not less than three (3) nor more than six (6) weeks from the date of the presentation and filing of the petition. Notice of the time of hearing shall be published by said board once a week for two (2) weeks previous to the time set for the hearing, in a newspaper of general circulation within the county in which the proposed district is situated.

b. Said notice shall state that a library district is proposed to be organized, giving the proposed boundaries and name thereof, and that any resident elector or any taxpayer owning real property within the proposed boundaries of the proposed district may appear and be heard in regard to:

(1) the form of the petition;

(2) the genuineness of the signatures;

(3) the legality of the proceedings; and,

(4) any other matters in regard to the creation of the library district.

c. No later than five (5) days after the hearing, the board of county commissioners shall make an order thereon with or without modification, based upon the public hearing and their determination of whether such proposed library district would be in keeping with the declared public policy of the State of Idaho in regard to library districts as more particularly set forth in section 33-2701; and, shall accordingly fix the boundaries and certify the name of such proposed
district in the order granting such petition. The boundaries so fixed shall be the boundaries of said district after its organization is completed as provided by this act.

SECTION 3. That Section 33-2705, Idaho Code, as amended, be and the same is hereby amended to read as follows:

33-2705. CONDUCT OF ELECTION.—Upon the receipt of such petition or petitions the clerk of the board of county commissioners shall file the original in his office, and said board shall within thirty (30) days enter an order that an election be called within the proposed library district for the purpose of voting on the creation of the district, and the date for this election shall be not later than sixty (60) days after the receipt of said petition or petitions. Upon the county commissioners having made the order referred to in subparagraph c, section 33-2704A, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held for the purpose of determining whether or not the proposed library district shall be organized under the provisions of sections 33-2704 and 33-2704A. The date of this election shall be not later than sixty (60) days after the issuance of the above mentioned order. Whenever more than one petition is presented to the county commissioners calling for an election to create library districts, the first presented shall take precedence. Notice of said election shall be given, the election shall be conducted, and the returns thereof canvassed as provided for elections for the consolidation of school districts. The ballot shall contain the word "(Name) Library District—Yes" and "(Name) Library District—No," each followed by a box wherein the voter may express his choice by marking a cross "X". The board or boards of election shall make returns and certify the results to the boards of county commissioners within three (3) days after the election, and said board shall, within seven (7) days after the election, canvass the returns. If a majority of all votes cast be in the affirmative, the board shall enter an order declaring the library district established and designating its boundaries and name.

SECTION 4. That Section 33-2722, Idaho Code, be, and the same is hereby amended to read as follows:

33-2722. ALTERNATE METHOD OF ORGANIZING A LIBRARY DISTRICT.—An alternate method of organizing a library district may be initiated upon a petition or petitions, signed by resident electors equal in num-
ber to fifty-one per cent (51%) of those voting in the last gubernatorial election in the area involved.

Each petition shall be verified by an elector, which verification shall state that the affiant knows that all of the parties whose names are signed to the petition are electors of the proposed district and that their signatures to the petition were made in his presence. The verification may be made before any notary public.

Each petition shall give the name of the proposed district and describe the boundaries thereof.

On the filing with the clerk of the board of county commissioners of the county in which the proposed district is located, of such petition or petitions requesting the creation of a library district, the board of county commissioners shall thereupon by resolution declared that a petition to create a library district has been filed with the board and shall thereupon comply with subparagraphs a. and b., section 33-2704A, direct the clerk to give notice by publication in a newspaper of general circulation printed within the county, once a week for not less than two (2) weeks, to the effect that a hearing on the petition to create a library district within the stated boundaries will be held by the board of county commissioners on a date named in such notice. The date of the hearing shall be not less than three (3) weeks, nor more than six (6) weeks, from the date of the first publication of such notice.

The board shall meet on the day fixed, and canvass the petition or petitions for the purpose of determining if such petition or petitions have been signed by the required number of electors residing within the area concerned, may appear and object to the content of the petition, or the genuineness of the signatures, or object on the ground that the required number of electors has not signed the petition, or may make any other objections as to the legality of the proceedings of the board.

Upon the date fixed for the hearing the board of county commissioners shall canvass the petition or petitions for the purpose of determining that such petition or petitions have been signed by the required number of resident electors. The county commissioners shall make, after the hearing, a resolution in compliance with subparagraph c, section 33-2704A; such resolution shall be duly recorded and complete the creation of the district.

After considering the petitions and hearing and consider...
ing the objections, if any, the board shall, if it deems the petitions in proper form and signed by the requisite number of electors, create a library district by an order duly spread upon its minutes.

Within five (5) days from entry of the order creating a library district, the board of county commissioners shall appoint the members of the first board of trustees, who shall serve until the next annual election of trustees and until their successors are elected and qualified.

A library district established under this section shall in all succeeding matters function in accordance with provisions regarding the government of library districts as prescribed in this chapter.

SECTION 5. SEVERABILITY.—If any provisions of any Section of Title 33, Chapter 27, as amended, is held invalid, such invalidity shall not affect other provisions of Title 33, Chapter 27, as amended, which can be given effect without the invalid provision and to this end the provisions of said Title 33, Chapter 27, as amended, are declared to be severable.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1967.

CHAPTER 94
(H. B. No. 133 As Amended, As Amended in the Senate)

AN ACT
AMENDING CHAPTER 7 OF TITLE 32, IDAHO CODE, BY ADDING A NEW SECTION THERETO, FOLLOWING SECTION 32-710, IDAHO CODE, TO BE DESIGNATED AS SECTION 32-710A, IDAHO CODE, REQUIRING THAT ALL CHILD SUPPORT PAYMENTS ORDERED BY A DECREE OF DIVORCE OR SEPARATE MAINTENANCE BE MADE TO THE CLERK OF THE DISTRICT COURT IN WHICH SUCH DECREE WAS ENTERED, OR AS OTHERWISE ORDERED BY THE COURT, PROVIDING FOR THE DISPOSITION OF SUCH PAYMENTS AND FOR THE ENFORCEMENT OF SUCH DECREES.

Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. That Chapter 7 of Title 32, Idaho Code, be, and the same is hereby amended by adding a new section thereto, following Section 32-710, Idaho Code, to be designated as Section 32-710A, Idaho Code, to read as follows:

32-710A. All payments ordered pursuant to Section 32-710 shall be paid to the clerk of the district court which entered the decree requiring same, unless otherwise ordered by said court, and shall thereupon be transmitted by said clerk to the person or persons entitled thereto by virtue of said decree. Said clerk shall notify the prosecuting attorney of the county in which said district court is located of any failure to comply with the terms of payment specified by any such decree, and said prosecuting attorney shall be responsible for enforcing said decree either directly if the person required to pay resides in said county, or through the Uniform Reciprocal Enforcement of Support Act if the person required to pay resides outside the state, or shall forward the information concerning same to the prosecuting attorney of any other county in the state where the person required to pay resides, who shall thereupon initiate action to enforce same.

Approved March 11, 1967.

CHAPTER 95
(H. B. No. 153)

AN ACT
AMENDING TITLE 31, CHAPTER 14, IDAHO CODE, BY ADDING A NEW SECTION THERETO IDAHO CODE, TO BE KNOWN AND DESIGNATED AS SECTION 31-1411A, PROVIDING FOR THE CONSOLIDATION OF FIRE PROTECTION DISTRICTS, THE TRANSFER OF THE PROPERTY AND OBLIGATIONS OF THE CONSOLIDATING DISTRICTS TO THE CONSOLIDATED DISTRICTS, PROVIDING FOR NOTICE AND ELECTION FOR CONSOLIDATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 31, Chapter 14, Idaho Code, be, and the same is hereby amended by adding a new Section thereto, to be known as Section 31-1411A, to read as follows:

31-1411A. CONSOLIDATION OF DISTRICTS HEARING—PROTEST—ELECTION.—Any fire protec-
tion district may consolidate with one (1) or more existing fire protection districts subject to the following procedure and with the following effects:

(a) If, in the opinion of the board of any fire protection district, it would be to the advantage of said district to consolidate with one (1) or more other existing fire protection districts, the said board shall cause to be prepared an agreement for consolidation which shall among other things provide:

(1) The name of the proposed consolidated fire protection district.

(2) That all property of the districts to be consolidated shall become the property of the consolidated district.

(3) That all debts of the districts to be consolidated shall become the debts of the consolidated district.

(4) That the existing commissioners of the districts to be consolidated shall be the commissioners of the consolidated district until the next election, said election to be held pursuant to the terms of Section 31-1410, Idaho Code, at which three (3) commissioners shall be elected. Commissioners from fire protection subdistricts one (1) and two (2) shall be elected for terms of four (4) years, and the commissioner from fire protection subdistrict three (3) shall be elected for a term of two (2) years.

(5) That the employees of the consolidated fire protection district shall be selected from the employees of the fire protection districts being consolidated, which employees shall retain the seniority rights under their existing employment contracts.

(b) After approval of said agreement of consolidation by each of the fire protection district boards involved, the boards of commissioners of each fire protection district shall hold a hearing not less than ten (10) nor more than thirty (30) days thereafter, and shall cause notice of said hearing, designating the time and place, to be published in at least one (1) issue of a newspaper of general circulation within the district not less than five (5) days prior to such hearing. Any person supporting or objecting to such petition shall be heard at such meeting, if in attendance, and at the close of such hearing said board shall approve or reject the agreement of consolidation. If each board approves the agreement of consolidation, the agreement shall become effective and the consolidation of said district complete thirty (30)
days after such approval unless within such thirty (30) days a petition signed by five percent (5%) of the qualified electors of one of the fire protection districts objecting to such consolidation be filed with the secretary of such district. In the event of such objection, election shall be held as provided in Section 31-1405, Idaho Code, except that the question shall be “consolidation of ___________ fire protection district, yes”, or “consolidation of ___________ fire protection district, no”, or words equivalent thereto. If more than one-half ($\frac{1}{2}$) of the votes cast are yes, the agreement shall become effective. If more than one-half ($\frac{1}{2}$) of the votes cast are no, the agreement shall be void and of no effect; and no new consolidation shall be proposed for at least six (6) months following the date of the consolidation election.

(c) Upon the agreement of consolidation becoming effective, the board of the consolidated fire protection district shall file a certified copy of the agreement with the county recorder of each county in which such district is situated, and shall comply with the provisions of Section 63-2215, Idaho Code. The consolidated district shall thereafter have the same rights and obligations as any other fire protection district organized under the statutes 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 immediately upon its passage and approval.

Approved March 11, 1967.

CHAPTER 96
(H. B. No. 154)

AN ACT

APPROPRIATING ONE HUNDRED FOURTEEN THOUSAND ($114,000) DOLLARS OR SUCH AMOUNT THEREOF AS MAY BECOME AVAILABLE FROM FUNDS MADE AVAILABLE TO THE DEPARTMENT OF EMPLOYMENT OF THE STATE OF IDAHO PURSUANT TO SECTION 903 OF THE FEDERAL SOCIAL SECURITY ACT, AS AMENDED, FOR THE PURCHASE OF REAL PROPERTY AND THE CONSTRUCTION OF OFFICE BUILDINGS, AND PROVIDING THAT THE APPROPRIATION BE MADE PURSUANT TO THE PROVI-
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 Federal Social Security Act, as amended, the sum of One Hundred Fourteen Thousand ($114,000) Dollars, or such amount thereof as may become available as its share of funds allocated under the provisions of said section 903 of the Federal Social Security Act, as amended, to be used for the following purpose:

PURPOSE: Purchase of real property and the construction of office buildings to be used by the Department of Employment of the State of Idaho as authorized by section 72-1348 (d), Idaho Code, as amended.

SECTION 2. No part of the money hereby appropriated may be obligated after the expiration of the two-year period beginning with the date of enactment of this act.

SECTION 3. The amount obligated pursuant to this act during any twelve-month period beginning on July 1 and ending on June 30 shall not exceed the aggregate of all amounts credited to this state's account pursuant to section 903 of the Social Security Act, as amended, during such twelve-month period and the four (4) preceding twelve-month periods, less the aggregate of moneys obligated for administrative purposes and paid out for benefits and charged against the moneys thus credited to this state's account during such five (5) twelve-month periods.

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

Approved March 11, 1967.
AS SECTION 45-1004, IDAHO CODE, PROVIDING FOR RECORDING OF INSTRUMENTS CONTAINING MASTER FORMS OF CLAUSES OF MORTGAGES AND DEEDS OF TRUSTS; PROVIDING FOR INDEXING OF SAME; PERMITTING INCORPORATION THEREOF BY REFERENCE IN MORTGAGES AND DEEDS OF TRUST; PROVIDING FOR RECORDING OF INSTRUMENTS INCORPORATING MASTER FORMS; AND PROVIDING THAT FOR PURPOSES OF CERTAIN RECORDING LAWS THE MASTER FORM SHALL BE DEEMED A CONVEYANCE.

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

SECTION 1. That Chapter 10 of Title 45, Idaho Code, be, and the same is hereby amended by adding a new section thereto, following Section 45-1003, to be known and designated as Section 45-1004, Idaho Code, and to read as follows:

45-1004. (1) An instrument containing a form or forms of covenants, conditions, obligations, powers, and other clauses of a mortgage or deed of trust may be recorded in the office of the county recorder of any county, and the recorder of such county, upon the request of any person, on tender of the lawful fees therefor, shall record the same. Every such instrument shall be entitled on the face thereof as a “Master form recorded by . . . (name of person causing the instrument to be recorded).” Such instrument need not be acknowledged or proved or certified to be entitled to record.

(2) When any such instrument is recorded, the recorder shall index it under the name of the person causing it to be recorded in the manner provided for miscellaneous instruments relating to real property.

(3) Thereafter any of the provisions of such master form instrument may be incorporated by reference in any mortgage or deed of trust of real property situated within this state, if such reference in the mortgage or deed of trust states that the master form instrument was recorded in the county in which the mortgage or deed of trust is offered for record, the date when and the book and page where such master form instrument was recorded, and that a copy of such master form instrument was furnished to the person executing the mortgage or deed of trust. The recording of any mortgage or deed of trust which has so incorporated by reference therein any of the provisions of a master form instrument recorded as provided in this section shall have like effect as if such provisions of the master
form so incorporated by reference had been set forth fully in the mortgage or deed of trust.

(4) Whenever a mortgage or deed of trust is presented for recording on which is set forth matter purporting to be a copy or reproduction of such master form instrument or part thereof, identified by its title as hereinabove provided and stating the date when it was recorded and the book and page where it was recorded, preceded by the words “do not record” or “not to be recorded,” and plainly separated from the matter to be recorded as a part of the mortgage or deed of trust in such manner that it will not appear from a photographic reproduction of any page containing any part of the mortgage or deed of trust, such matter shall not be recorded; in such case the recorder shall record only the mortgage or deed of trust apart from such matter and shall not be liable for so doing, any other provisions of law to the contrary notwithstanding.

(5) For the purpose of any provision of law relating to fees for recording, entering or indexing, or relating to searches, furnishing of certified copies, reproduction, or destruction of records, or to any other matter pertaining to the powers and duties of recorders, except the manner of indexing thereof, the master form instrument herein provided for shall be deemed a conveyance.

Approved March 11, 1967.

CHAPTER 98
(H. B. No. 215)

AN ACT
REPEALING SECTION 1007A, TITLE 33, IDAHO CODE, RELATING TO THE ADJUSTMENT OF THE SECONDARY GRADES SPARSITY FACTOR OF CONTIGUOUS HIGH SCHOOL OPERATING DISTRICTS AS COMPUTED IN THE FOUNDATION PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. That Section 33-1007A, Idaho Code, be, and the same is hereby repealed.

SECTION 2. This act shall be in full force and effect from and after July 1, 1967.

Approved March 11, 1967.
CHAPTER 99
(H. B. No. 265)

AN ACT

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

SECTION 1. There is hereby appropriated out of the Potato and Onion fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay, and refunds of erroneous receipts, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
POTATO AND ONION COMMISSION: For: Salaries and Wages $ 72,100 Travel Expense 35,750 Other Current Expense 2,572,775 Capital Outlay 2,000 Refunds of Erroneous Receipts 1,000 Total $2,683,625 From: Potato and Onion Fund $2,683,625

Approved March 11, 1967.

CHAPTER 100
(H. B. No. 280)

AN ACT
AMENDING CHAPTER 20, TITLE 33, IDAHO CODE, BY ADDING A NEW SECTION THERETO, TO BE KNOWN AND DESIGNATED AS SECTION 33-2009, IDAHO CODE, WHICH SHALL REQUIRE SCHOOL DISTRICTS ANNUALLY TO REPORT TO
THE STATE BOARD OF EDUCATION THE NUMBER OF, AND THE PER PUPIL COST OF EDUCATING EXCEPTIONAL CHILDREN AND PROJECT LONG-RANGE PLANS FOR SPECIAL EDUCATION IN THE DISTRICT.

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

SECTION 1. That Chapter 20, Title 33, Idaho Code, be, and the same is hereby amended by adding a new section thereto, to be known and designated as Section 33-2009, Idaho Code, and to read as follows:

33-2009. ESTIMATE OF NUMBER AND COST OF EDUCATING EXCEPTIONAL CHILDREN AND PROJECTED SPECIAL EDUCATION PLANS.—The board of trustees of each school district in the state shall each year on or before the tenth day of July report to the state board of education the number of exceptional children as defined in Section 33-2002, Idaho Code, and as further defined and described by the state board of education, residing within the district who are entitled to school privileges as exceptional children and shall compute the average district per pupil cost of providing special education for such children along with the projected plans and anticipated cost of providing special education during the following year and shall certify such to the state board of education. The trustees shall periodically, as requested by the state board of education, submit projected long range plans and a progress report of special education as provided within the district or jointly with another school district.

Approved March 11, 1967.

CHAPTER 101
(S. B. No. 128)

AN ACT

AMENDING TITLE 1, CHAPTER 11, IDAHO CODE, BY ADDING THERETO SECTION 1-1109, FOLLOWING SECTION 1-1108, IDAHO CODE; TO AUTHORIZE APPOINTMENT OF A TEMPORARY DEPUTY COURT REPORTER FOR A RETIRED DISTRICT JUDGE OR JUSTICE OF THE SUPREME COURT HOLDING DISTRICT COURT; TO PROVIDE THE DUTIES OF, COMPENSATION, TRAVEL AND SUBSISTENCE EXPENSES FOR SUCH DEPUTY COURT REPORTER.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 11, Title 1, Idaho Code, be, and the same is hereby amended by adding a new section thereto, following Section 1-1108, to be known and designated as Section 1-1109, and to read as follows:

1-1109.—Should any retired district judge or justice of the Supreme Court hold district court in any county at the request of the district court thereof, or of the governor, or of the chief justice, and when any such request is made or approved by the chief justice, the senior district judge of the district shall appoint a temporary deputy court reporter for such justice or judge holding district court in compliance with and pursuant to the provisions of Section 1-1108, Idaho Code. Such temporary deputy court reporter shall comply with all provisions of Chapter 11, Title 1, Idaho Code, and shall receive such compensation as is authorized by order of the Supreme Court, together with travel expenses and subsistence expenses incurred while absent from the city of his residence, in accordance with the provisions of “The Standard Travel Pay and Allowance Act of 1949”. Compensation shall be paid for the days of such temporary deputy court reporter is actually engaged in performance of his duties; such temporary deputy court reporter shall also be entitled to charge and receive for services in the preparation of transcripts only the fees allowed by law therefor.

Approved March 11, 1967.

CHAPTER 102
(S. B. No. 129)

AN ACT
AMENDING SECTION 1-402, IDAHO CODE, RELATING TO FEES CHARGED BY THE CLERK OF THE SUPREME COURT FOR A COPY OF RECORD, OPINION OF THE COURT OR OTHER PAPER; PROVIDING SUCH FEE SHALL BE SET BY ORDER OF THE SUPREME COURT, BUT IN AN AMOUNT NOT LESS THAN THE ACTUAL COST OF PREPARING THE COPY.

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

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

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

For filing transcript on appeal in each civil case appealed to the Supreme Court, twelve dollars, to be paid by appellant, such fee to be in full for all services rendered or to be rendered in filing papers, entering orders or judgments, recording opinion, issuing process and sending down remittitur, unless after the decision of the court has been rendered a petition for rehearing be presented, when a fee of five dollars shall be paid by the petitioner for filing such petition; for filing an application for any writ commencing an original action in said court, other than writs in habeas corpus or criminal proceedings, ten dollars, to be paid by the party presenting the application, in full for all services rendered or to be rendered, as hereinbefore designated, unless after the decision of the court a petition for rehearing be presented, when a fee of five dollars shall be paid by the petitioner for filing such petition; for each certificate given at request, and under seal, fifty cents; for copy of record, opinion of the court or other paper, fifteen cents per folio for first copy, and an amount not to exceed twelve and one-half cents per folio, to be fixed by order of the court, for second or carbon copies: an amount to be set by order of the Supreme Court, but an amount not less than the actual cost of preparing the copy; providing, that one copy of every opinion or decision of the court shall be forthwith mailed to each litigant or his counsel in the suit or proceeding free of charge; for certificate of admission as an attorney including seal, oath and order, two dollars; for administering oaths or affirmations, including jurat, twenty-five cents; for taking an acknowledgment or proof of a deed or other instrument, including seal and writing of the certificate, fifty cents.

Approved March 11, 1967.

CHAPTER 103
(S. B. No. 140)

AN ACT

APPROPRIATING MONEYS FROM THE BAR COMMISSION FUND TO THE BAR COMMISSION FOR THE PURPOSE OF PAYING SALARIES AND WAGES, TRAVEL EXPENSE, OTHER CUR-

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

SECTION 1. There is hereby appropriated from the Bar Commission Fund of the state of Idaho to the Bar Commission, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
BAR COMMISSION:
For: Salaries and Wages $42,516.00
Travel Expense 18,800.00
Other Current Expense 18,592.00
Capital Outlay 92.00
Total $80,000.00

From: Bar Commission Fund $80,000.00

Approved March 11, 1967.

CHAPTER 104
(S. B. No. 141)

AN ACT


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

SECTION 1. There is hereby appropriated from the Athletic Fund of the state of Idaho to the Athletic Commission,
the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense and other current expense of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
ATHLETIC COMMISSION:
For: Salaries and Wages $5,100.00
Travel Expense 1,800.00
Other Current Expense 700.00
Total $7,600.00

From: Athletic Fund $7,600.00

Approved March 11, 1967.

CHAPTER 105
(S. B. No. 142)

AN ACT


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

SECTION 1. There is hereby appropriated from the Occupational License Fund of the state of Idaho to the Occupational License Bureau, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and refunds of erroneous receipts of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.
CHAPTER 106
(S. B. No. 143)

AN ACT


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

SECTION 1. There is hereby appropriated from the Electrical Board Account of the state of Idaho to the Electrical Board, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and refunds of erroneous receipts of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
ELECTRICAL BOARD:
For: Salaries and Wages $157,418.00
       Travel Expense 67,045.00
       Other Current Expense 35,775.00

Total $240,121.00

Approved March 11, 1967.
CHAPTER 107
(S. B. No. 144)

AN ACT


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

SECTION 1. There is hereby appropriated from the Industrial Administration Fund of the state of Idaho to the Industrial Accident Board, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:    Appropriations:
INDUSTRIAL ACCIDENT BOARD:    
For:    Salaries and Wages $243,026.00
       Travel Expense 7,800.00
       Other Current Expense 69,850.00
       Capital Outlay 9,150.00
       Total $329,826.00
CHAPTER 108
(S. B. No. 145)

AN ACT
AMENDING SECTION 1-503, IDAHO CODE, RELATING TO PREPARATION OF DECISIONS OF THE SUPREME COURT FOR PUBLICATION; ELIMINATING THEREFROM A SYNOPOSIS OF THE BRIEFS OF COUNSEL AND A TABLE OF CASES CITED.

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

SECTION 1. That Section 1-503, Idaho Code, be, and the same is hereby amended, to read as follows:

1-503. PREPARATION OF DECISIONS. — The decisions shall be prepared for publication by giving the title to each case, a syllabus of the points decided, and the names of the counsel appearing in the Supreme Court in the case, and synopsis of the briefs with reference to such standard reports and text books as have a special bearing upon the points decided, and each volume shall contain, at the end thereof, a full and comprehensive index alphabetically arranged, and there shall be prefixed thereto a table of cases decided, a table of cases cited, and a table of statutes and constitutional provisions construed.

Approved March 11, 1967.

CHAPTER 109
(S. B. No. 148)

AN ACT
APPROPRIATING MONEYS FROM THE BOARD OF MEDICINE FUND TO THE STATE BOARD OF MEDICINE FOR THE

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

SECTION 1. There is hereby appropriated from the Board of Medicine Fund of the state of Idaho to the State Board of Medicine, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense and other current expense of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:  
STATE BOARD OF MEDICINE:  
For:  
Salaries and Wages $23,200.00  
Travel Expense 6,800.00  
Other Current Expense 6,000.00  
Total $36,000.00  
From: Board of Medicine Fund $36,000.00  
Approved March 11, 1967.

CHAPTER 110  
(S. B. No. 149)

AN ACT


Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. There is hereby appropriated from the Board of Nursing Fund of the state of Idaho to the Board of Nursing, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and refunds of erroneous receipts of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
BOARD OF NURSING: For: Salaries and Wages $71,200.00
Travel Expense $12,000.00
Other Current Expense $41,206.00
Capital Outlay $2,000.00
Refunds of Erroneous Receipts $1,000.00
Total $127,406.00

From: Board of Nursing Fund $127,406.00

Approved March 11, 1967.

CHAPTER 111
(S. B. No. 150)

AN ACT


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

SECTION 1. There is hereby appropriated from the Public Works Contractor License Fund of the state of Idaho to the Public Works Contractors License Board, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense,
other current expense and refunds of erroneous receipts of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
PUBLIC WORKS CONTRACTORS LICENSE BOARD:
For: Salaries and Wages $70,340.00
      Travel Expense 3,200.00
      Other Current Expense 30,810.00
      Refunds or Erroneous Receipts 1,000.00

Total $105,350.00

From: Public Works Contractors License Fund $105,350.00

Approved March 11, 1967.

CHAPTER 112
(S. B. No. 152)

AN ACT


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

SECTION 1. There is hereby appropriated from the State Board of Accountancy Fund of the state of Idaho to the Board of Accountancy, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and refunds of erroneous receipts of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.
CHAPTER 113  
(S. B. No. 153)  
AN ACT  

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

SECTION 1. There is hereby appropriated from the Professional Engineers Fund of the state of Idaho to the Board of Engineering Examiners, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and refunds of erroneous receipts of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.
Capital Outlay __________________________ 1,750.00
Refunds of Erroneous Receipts ______ 75.00

Total ________________________________ $50,455.00

From: Professional Engineers Fund ______ $50,455.00

Approved March 11, 1967.

CHAPTER 114
(S. B. No. 154)

AN ACT

PROVIDING THAT AN ARREST MAY BE MADE WITH A COPY OF THE WARRANT, CERTIFIED TO BE TRUE AND CORRECT BY THE MAGISTRATE ISSUING THE ORIGINAL; AND DECLARING AN EMERGENCY.

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

SECTION 1. Any arrest that may be lawfully made with an original warrant, may be made with a copy thereof, certified by the issuing magistrate to be a true and correct copy of the original warrant that is in his possession.

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

Approved March 11, 1967.

CHAPTER 115
(H. B. No. 144)

AN ACT

DEFINING WORDS AND PHRASES; TRANSFERRING THE FUNDS, ASSETS, LIABILITIES, DUTIES, OBLIGATIONS AND RIGHTS OF THE BOARD OF TRUSTEES AND MEMBERS OF THE TEACHERS RETIREMENT SYSTEM TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM EFFECTIVE JULY 1, 1967; ABOLISHING THE BOARD OF TRUSTEES OF
THE TEACHERS SYSTEM; PROVIDING THAT THE RETIREMENT, DISABILITY, DEATH AND SEPARATION BENEFITS PROVIDED BY THE TEACHERS RETIREMENT SYSTEM SHALL BE THE OBLIGATION OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; ABOLISHING THE FUNDS OF THE TEACHERS RETIREMENT SYSTEM AND TRANSFERRE Ding THE ASSETS OF THAT SYSTEM TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; PROVIDING THE CONDITIONS FOR CONTRIBUTIONS PURSUANT TO WHICH MEMBERSHIP SERVICE RETIREMENT ALLOWANCE MAY BE GRANTED CERTAIN SCHOOL EMPLOYEES FROM JULY 1, 1965 to JULY 1, 1967; PROVIDING THAT ACCUMULATED TEACHER MEMBER CONTRIBUTIONS OF TEACHER MEMBERS MADE PRIOR TO JULY 1, 1965 SHALL BE REPAYED TO THEM PRIOR TO JANUARY 1, 1968 FROM THE PUBLIC EMPLOYEE RETIREMENT FUND AND PROVIDING FURTHER THAT REMAINING CONTRIBUTIONS SHALL BE ACCUMULATED CONTRIBUTIONS WITH LIMITATIONS AND PROVIDING FOR A SUPPLEMENTAL TEACHERS SERVICE RETIREMENT ALLOWANCE FROM JULY 1, 1965 TO JULY 1, 1967; PROVIDING THAT ALL SCHOOL DISTRICTS, PUBLIC JUNIOR COLLEGE DISTRICTS AND BOISE COLLEGE SHALL BECOME EMPLOYERS PURSUANT TO THE PROVISIONS OF CHAPTER 13, TITLE 59, IDAHO CODE, ON JULY 1, 1967 EXCEPT AS OTHERWISE PROVIDED IN THIS ACT; PROVIDING FOR MEMBERSHIP IN THE SYSTEM OF ALL EMPLOYEES OF SUCH EMPLOYERS SUBJECT TO CERTAIN EXCLUSIONS AND EXCEPTIONS; PROVIDING THAT THE STATE TREASURER SHALL TRANSFER FROM THE PUBLIC SCHOOL INCOME FUND TO THE PUBLIC EMPLOYEE RETIREMENT FUND A SUM EQUAL AND EQUIVALENT TO EMPLOYER CONTRIBUTIONS REQUIRED WITH RESPECT TO SCHOOL EMPLOYEES WITH LIMITATIONS THEREON; PROVIDING THAT CERTAIN SCHOOL EMPLOYEES AND ANNUITANTS OF THE TEACHERS SYSTEM SHALL BECOME ELIGIBLE FOR SERVICE OR DISABILITY RETIREMENT ON JANUARY 1, 1968, WITHOUT MEMBERSHIP SERVICE THROUGH EQUIVALENT CONTRIBUTIONS; PROVIDING THAT THE PUBLIC EMPLOYEE RETIREMENT BOARD MAY AMEND ITS TRUST AGREEMENT WITH THE FUNDING AGENT TO COMPLY WITH THE REQUIREMENTS OF THIS ACT; PROVIDING THAT BENEFITS PAID TEACHER MEMBERS WHO BECOME ELIGIBLE FOR BENEFITS UNDER THE PUBLIC EMPLOYEE RETIREMENT SYSTEM SHALL NEVER BE LESS THAN THOSE THEY WOULD HAVE RECEIVED OR THEIR BENEFICIARIES WOULD HAVE RECEIVED FROM THE TEACHERS RETIREMENT SYSTEM;
AMENDING SECTION 63-3638, IDAHO CODE, RELATING TO SALES TAX FUND, ITS CREATION, SALES TAX REFUND FUND, AND APPROPRIATION, BY DELETING SUBSECTION (d) AND REFERENCE MADE THERETO IN SUBSECTION (g) REFERRING TO APPROPRIATIONS TO TEACHER'S RETIREMENT SYSTEM AND RENUMBERING THE SUBSECTIONS; REPEALING SECTIONS 33-1301 THROUGH 33-1337, IDAHO CODE; DECLARING AN EFFECTIVE DATE; AND PROVIDING A SAVINGS CLAUSE.

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

SECTION 1. Definitions: As used in this act, each of the terms defined shall have the meaning given in this section or in Section 59-1302, Idaho Code, unless a different meaning is clearly required by the context.

(a) "Accumulated teacher member contributions" means the sum of all amounts deducted from the compensation of a teacher member on or before July 1, 1965 and credited to his individual account in the savings annuity savings fund, together with interest credited to said account to such date.

(b) "Board" means the retirement board of the employee system.

(c) "Date of establishment" means July 1, 1967 for school employees.

(d) "Funding agent" means the funding agent of the employee system.

(e) "Prior service" means any period, prior to July 1, 1965, of military service or of employment for the State of Idaho or any political subdivision or other employer as defined by this act of each school employee who is an active member or in military service or on leave of absence on the date of establishment.

(f) "Employee system" means the retirement system created by and existing through the provisions of Chapter 13, Title 59, Idaho Code.

(g) "School employee" means any employee of any school district or any public junior college district or Boise College including each member of the teachers system, subject to the provisions of section 59-1302(14), Idaho Code, but shall not include any person who is an annuitant of the teachers system.
(h) "Teacher member" means a member of the teachers system on July 1, 1967, subject to the provisions of section 59-1302, (14), Idaho Code.

(i) "Teachers system" means the retirement system created by and existing through Chapter 13, Title 33, Idaho Code.

SECTION 2. All of the funds, assets, liabilities, duties, obligations and rights of the board of trustees and members of the teachers system shall be transferred to and integrated with the employee system on July 1, 1967. The board of trustees of the teachers system is by this act abolished. Benefits payable to annuitants and beneficiaries of the teachers system shall become the obligation of the employee system on July 1, 1967 and shall be paid in the same amount as established by the teachers system. The funds of the teachers system are by this act abolished. Cash on hand in said funds shall be deposited by the state treasurer in the clearing account of the employee system. Evidence of indebtedness arising from invested money of said funds shall be transferred by the custodians thereof to the funding agent. The money and property of said funds shall become the money and property of the employee system.

SECTION 3. If, prior to July 1, 1968, a school employee and his employer make the contributions each would have made had the employee been an active member of the employee system during the period July 1, 1965 to July 1, 1967, but excluding any portion of such period that he was a member of the teachers system, the employee contribution shall be used for the purpose of determining all benefits under the employee system.

SECTION 4. Accumulated teacher member contributions, unless previously withdrawn, shall be paid to teacher members prior to January 1, 1968, by the board from the clearing account of the employee system. All remaining contributions shall be considered as accumulated contributions as defined in Section 59-1302(3), Idaho Code, except that they shall not be used in the computation of the membership service retirement allowance as defined in Section 59-1319 (6), Idaho Code. A supplemental teacher service retirement allowance shall be credited for each month of service of any teacher member between July 1, 1965 and July 1, 1967 during which the teacher member was a member of the teachers system. The annual amount of such supplemental teacher service retirement allowance for each year of service shall be equal to the sum of 1% of that part of the teacher
member's annual salary on the date of establishment which is not in excess of $4800.00 and 2% of the balance of his annual salary.

SECTION 5. All school districts, public junior college districts and Boise College shall become employers pursuant to the provisions of Chapter 13, Title 59, Idaho Code, on July 1, 1967 except as herein otherwise provided. School employees shall become members pursuant to the provisions of Chapter 13, Title 59, Idaho Code, on July 1, 1967, except as herein otherwise provided. Provided, however, that teacher members employed by the Agricultural Extension Service of the College of Agriculture of the University of Idaho shall be deemed to be employees of the State of Idaho notwithstanding the provisions of Section 59-1302 (14) (e), Idaho Code, and may elect to participate or be excluded as members of the system in accordance with rules of the board.

SECTION 6. By the 15th day of each month, the board shall request the state auditor to transfer from the public school income fund to the public employee retirement fund a sum in lieu of and equivalent to employer contributions required with respect to school employees on the basis of salaries paid school employees during the previous month as certified by the board to the state treasurer. Such sums of money shall be taken from legislative appropriations in support of public schools in said public school income fund. No income from the public school fund shall ever be used for such purposes.

SECTION 7. A school employee placed on leave of absence on or after March 29, 1965, who had met the requirements for service or disability retirement on the date of commencement of leave of absence, except for the requirement of six months of membership service, shall be eligible for service or disability retirement on January 1, 1968 by contributing to the employee system pursuant to rules of the board an amount equal to the sum such person would have contributed during six months of membership service computed on the basis of the salary such person received on the date of commencement of leave of absence. This contribution shall be in lieu of the requirement of six months of membership service. The amount so contributed shall not be included in the computation of disability or service retirement allowance.

SECTION 8. A person who became an annuitant of the teachers system on or after March 29, 1965, and who had
met the requirements for service or disability retirement on the date such person became an annuitant, except for the requirement of six months of membership service, shall be eligible for service or disability retirement on January 1, 1968 by contributing to the employee system pursuant to rules of the board an amount equal to the sum such person would have contributed during six months of membership service computed on the basis of the salary such person received on the date such person became an annuitant. This contribution shall be in lieu of the requirement of six months of membership service. The amount so contributed shall not be included in the computation of disability or service retirement allowance.

SECTION 9. The board may amend its trust agreement with the funding agent to comply with the requirements of this act.

SECTION 10. Benefits paid teacher members who became eligible for benefits under the employee system shall never be less than the benefits such teacher members would have received as annuitants or that their beneficiaries would have received from the teachers system if the systems had not been integrated.

SECTION 11. That Section 63-3638, Idaho Code, be, and the same is hereby amended to read as follows:

63-3638. SALES TAX FUND—CREATION—SALES TAX REFUND—APPROPRIATIONS. — (a) There is hereby created in the office of the state treasurer and subject to his control and custody a fund to be known and designated as the “Sales Tax Fund.”

(b) All moneys collected under this act shall be paid by the tax collector into the sales tax fund.

(c) There is hereby appropriated to the tax collector of the state of Idaho from said fund the amount of one million dollars ($1,000,000) for the biennium 1965-1967 for the purpose of administering this act. Any funds so provided and not used for the administration of this act shall, at the conclusion of each fiscal year, be paid into the sales tax fund.

(d) An amount equal to the sum that would be raised by applying a one mill levy against the sum of the equalized assessed value of all taxable property in the state and the total assessments on subsequent personal property rolls for the year next preceding as certified by the state tax com-
mission is hereby appropriated and shall be paid annually to the service annuity accumulation fund of the teachers' retirement system, provided by section 33-1828, Idaho Code.

(ed) One million dollars ($1,000,000) per biennium is hereby continuously appropriated and set aside and shall be paid from the sales tax fund to the permanent building fund; provided by section 57-1108, Idaho Code.

(ef) An amount equal to the sum required to be certified by the state auditor to the state tax commission pursuant to section 59-1115, Idaho Code, in each biennium is hereby continuously appropriated and set aside and shall be paid from the sales tax fund to the social security trust fund established by section 59-1106, Idaho Code.

(ef) The payments required by subsection (d) of this section shall be made periodically but not less frequently than semiannually. The payments required by subsections (c), (ed), and (ef) of this section shall be made periodically but no less frequently than quarterly.

(eg) An amount equal to five per centum (5%) of the amount deposited in the sales tax fund, but not in excess of two hundred and fifty thousand dollars ($250,000), shall be retained in this fund as a "Sales Tax Refund Fund" for the purpose of repaying overpayments made under this act and for the purpose of paying any other erroneous receipt illegally assessed or collected, penalties collected without authority and taxes and other amounts unjustly assessed, collected, or which are excessive in amount, and there is hereby appropriated from this fund so much thereof as may be necessary for the payment of the refunds herein provided for.

(gh) Any moneys remaining in the sales tax fund over and above those necessary to meet and reserve for payments under subsections (c), (d), (e), (f) and (eg) of this section shall be paid periodically, but no less frequently than quarterly, to the general fund.

(gh) The appropriations herein provided shall not be subject to the provisions of the "Standard Appropriations Act of 1945."

SECTION 12. That Sections 33-1301 through 33-1337, Idaho Code, be, and the same are hereby repealed.

SECTION 13. The effective date of this act shall be July 1, 1967.
SECTION 14. The provisions of this act shall be severable and if any phrase, clause, sentence, or provision of this act is declared to be unconstitutional or the applicability thereof to any agency, person or circumstance is held invalid, the constitutionality of this act and the applicability thereof to the agency, person or circumstance shall, with respect to all severable matters, not be affected thereby. It is the legislative intent that the provisions of this act be reasonably and liberally construed.

Approved March 14, 1967.

CHAPTER 116
(H. B. No. 243)

AN ACT

AMENDING SECTION 63-105 R, IDAHO CODE, AND ADDING NEW SECTIONS 63-105 Y AND 63-105 Z TO CHAPTER 1, TITLE 63, IDAHO CODE, TO DEFINE BUSINESS INVENTORY AND TO EXEMPT SAME FROM TAXATION OVER A FOUR-YEAR PERIOD COMMENCING JANUARY 1, 1968; AMENDING SECTION 63-3638, IDAHO CODE, BY ADDING NEW SUBSECTIONS TO PROVIDE FOR THE TRANSFER OF FUNDS FROM THE SALES TAX FUND TO ALL COUNTIES IN THE STATE FOR DISTRIBUTION TO ALL TAXING DISTRICTS IN THE COUNTIES; PROVIDING FORMULAS FOR DETERMINING PERCENTAGES OF SALES TAX FUND TO GO TO ALL COUNTIES AND TO TAXING DISTRICTS IN COUNTIES; REPEALING SECTION 63-1208, IDAHO CODE, AND REPEALING CHAPTER 16 OF TITLE 63, IDAHO CODE, RELATING TO THE ASSESSMENT OF MIGRATORY LIVESTOCK.

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

SECTION 1. That Section 63-105 R, Idaho Code, be, and the same is hereby amended to read as follows:

63-105 R. PROPERTY EXEMPT FROM TAXATION — GROWING CROPS.—The following property is exempt from taxation: Growing crops, fruits and nut-bearing trees and grape vines, except as the value of the land may be increased on account of said trees and vines growing thereon; provided that nothing herein contained shall be construed to exempt standing timber or nursery stock under this section.
SECTION 2. That Chapter 1, Title 63, Idaho Code, be, and the same is hereby amended by adding two new sections thereto following Section 63-105 X to be known and designated as Sections 63-105 Y and 63-105 Z and to read as follows:

63-105 Y. Commencing on January 1, 1971 the following property is exempt from taxation: business inventory. For the purpose of this Section, “business inventory” means all items of tangible personal property described as:

(1) All livestock, fur-bearing animals, fish, fowl and bees.

(2) All nursery stock, stock-in-trade, merchandise, products, finished or partly finished goods, raw materials, supplies, containers and other personal property which is held for sale or consumption in the ordinary course of the taxpayer's manufacturing, farming, wholesale jobbing, or merchandising business.

63-105 Z. Business inventory as defined in Section 63-105 Y shall be exempt from ad valorem taxation as follows:

(a) Commencing on January 1, 1968 and for the taxable year 1968 twenty-five per cent (25%) of such property shall be exempt from ad valorem taxation.

(b) Commencing on January 1, 1969 and for the taxable year 1969 fifty per cent (50%) of such property shall be exempt from ad valorem taxation.

(c) Commencing on January 1, 1970 and for the taxable year 1970 seventy-five per cent (75%) of such property shall be exempt from ad valorem taxation.

(d) Commencing on January 1, 1971 and for the taxable year 1971 and for each year thereafter said business inventory shall be exempt from all ad valorem taxation as provided in Section 63-105 Y.

SECTION 3. That Section 63-3638, Idaho Code, be, and hereby is amended to read as follows:

63-3638. SALES TAX FUND — CREATION—SALES TAX REFUND FUND — APPROPRIATIONS. — (a) There is hereby created in the office of the state treasurer and subject to his control and custody a fund to be known and designated as the “Sales Tax Fund.”

(b) All moneys collected under this act shall be paid by the tax collector into the sales tax fund.
(c) There is hereby appropriated to the tax collector of the state of Idaho from said fund the amount of one million dollars ($1,000,000) for the biennium 1965-1967 for the purpose of administering this act. Any funds so provided and not used for the administration of this act shall, at the conclusion of each fiscal year, be paid into the sales tax fund.

(d) An amount equal to the sum that would be raised by applying a one-mill levy against the sum of the equalized assessed value of all taxable property in the state and the total assessments on subsequent personal property rolls for the year next preceding as certified by the state tax commission is hereby appropriated and shall be paid annually to the service annuity accumulation fund of the teachers' retirement system, provided by section 33-1323, Idaho Code.

(e) One million dollars ($1,000,000) per biennium is hereby continuously appropriated and set aside and shall be paid from the sales tax fund to the permanent building fund, provided by section 57-1108, Idaho Code.

(f) An amount equal to the sum required to be certified by the state auditor to the state tax commission pursuant to section 59-1115, Idaho Code, in each biennium is hereby continuously appropriated and set aside and shall be paid from the sales tax fund to the social security trust fund established by section 59-1106, Idaho Code.

(g) The payments required by subsection (d) of this section shall be made periodically but not less frequently than semiannually. The payments required by subsections (c), (e), and (f) of this section shall be made periodically but not less frequently than quarterly.

(h) (1) Five per cent (5%) of the total amount collected and deposited in the sales tax fund during the year commencing on July 1, 1968, is hereby appropriated and shall be paid from the sales tax fund during the year commencing on July 1, 1968, to the county treasurer of each county periodically but no less frequently than quarterly in amounts to be determined under the provisions of subsection (i) of this act.

(2) Ten per cent (10%) of the total amount collected and deposited in the sales tax fund during the year commencing on July 1, 1969, is hereby appropriated and shall be paid from the sales tax fund during the year commencing on July 1, 1969, to the county treasurer of each county periodically
but no less frequently than quarterly in amounts to be determined under the provisions of subsection (i) of this act.

(3) Fifteen per cent (15%) of the total amount collected and deposited in the sales tax fund during the year commencing on July 1, 1970, is hereby appropriated and shall be paid from the sales tax fund during the year commencing on July 1, 1970, to the county treasurer of each county periodically but no less frequently than quarterly in amounts to be determined under the provisions of subsection (i) of this act.

(4) Twenty per cent (20%) of the total amount collected and deposited in the sales tax fund during the year commencing on July 1, 1971, is hereby appropriated and shall be paid from the sales tax fund during the year commencing on July 1, 1971, and during each and every year thereafter to the county treasurer of each county periodically but no less frequently than quarterly in amounts to be determined in accordance with the provisions of subsection (i) of this act.

(i) The state tax commission shall compute the percentage that the average amount of taxes collected from assessments for the years 1965, 1966 and 1967 on the personal property described as business inventory in Section 63-105 Y for each county bears to the average total amount of taxes collected from assessments for said years on the personal property described as business inventory in Section 63-105 Y for all counties in the state. Such percentage so determined for each county shall be applied to the amount of sales tax fund appropriated under subsection (h) herein and the resulting sum shall be paid to the county treasurer of each county for distribution to each taxing district in the county as follows:

(1) The county commissioners in each county shall compute the percentage that the average amount of taxes collected from assessments for the years 1965, 1966 and 1967 on the personal property described as business inventory in Section 63-105 Y for each taxing district in the county bears to the average total amount of taxes collected from assessments for said years on the personal property described as business inventory in Section 63-105 Y for all taxing districts in said county. Such percentage so determined for each taxing district in the county shall be applied to the county's proportionate share of said sales tax fund and the resulting amount shall be distributed to each taxing dis-
strict in the county periodically but no less frequently than quarterly by the county auditor.

(2) The monies set aside and appropriated to the county treasurer out of the sales tax fund above may be considered by the counties and other taxing districts and budgeted against at the same time, in the same manner and in the same year as revenues from taxation on all classes of personal property which these monies replace.

(j) An amount equal to five per centum (5%) of the amount deposited in the sales tax fund, but not in excess of two hundred and fifty thousand dollars ($250,000), shall be retained in this fund as a “Sales Tax Refund Fund” for the purpose of repaying overpayments made under this act and for the purpose of paying any other erroneous receipt illegally assessed or collected, penalties collected without authority and taxes and other amounts unjustly assessed, collected, or which are excessive in amount, and there is hereby appropriated from this fund so much thereof as may be necessary for the payment of the refunds herein provided for.

(k) Any moneys remaining in the sales tax fund over and above those necessary to meet and reserve for payments under subsections (c), (d), (e), (f) and (j) of this section shall be paid periodically, but no less frequently than quarterly, to the general fund.

(l) The appropriations herein provided shall not be subject to the provisions of the “Standard Appropriations Act of 1945.”

SECTION 4. That Section 63-1208, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Chapter 16 of Title 63, Idaho Code, be, and the same is hereby repealed.

Approved March 15, 1967.

CHAPTER 117
(H. B. No. 151)

AN ACT
AMENDING TITLE 72, CHAPTER 13, IDAHO CODE, TO ESTABLISH AN INDIVIDUAL BASE PERIOD FOR CLAIMANTS OF
UNEMPLOYMENT INSURANCE BENEFITS AND ADD AND CONFORM CERTAIN PROVISIONS RELATED THERETO, AND TO ALTER CERTAIN OTHER CONTRIBUTION AND BENEFIT PROVISIONS BY: AMENDING SECTION 72-1306, IDAHO CODE, DEFINING THE TERM BASE PERIOD AS THE FIRST FOUR OF THE LAST FIVE CALENDAR QUARTERS PRECEDING THE BENEFIT YEAR; AMENDING SECTION 72-1308, IDAHO CODE, DEFINING BENEFIT YEAR AS FIFTY-TWO OR FIFTY-THREE WEEKS AFTER A VALID CLAIM IS FILED; AMENDING SECTION 72-1312, IDAHO CODE, ELIMINATING RETIREMENT PAYMENTS RECEIVED FOR SERVICE IN THE ARMED FORCES AND UNEMPLOYMENT BENEFITS EARNED AFTER RETIREMENT FROM THE DEFINITION OF WAGES IN COMPUTING UNEMPLOYMENT BENEFITS AND FURTHER DEFINING RETIREMENT BENEFITS; AMENDING SECTION 72-1313, IDAHO CODE, REDEFINING COMPUTATION DATE; AMENDING SECTION 72-1315, IDAHO CODE, DEFINING COVERED EMPLOYER AS HAVING PAID $300.00 OR MORE IN A CALENDAR QUARTER AFTER JUNE 30, 1967; AMENDING SECTION 72-1319, IDAHO CODE, REQUIRING AN ELIGIBLE EMPLOYER TO HAVE HAD THREE YEARS OF BENEFIT LIABILITY UNLESS HE IS A NEW EMPLOYER, FOR AND AFTER THE YEAR 1969; ADDING A NEW SECTION FOLLOWING SECTION 72-1327, IDAHO CODE, TO BE KNOWN AS SECTION 72-1327A, IDAHO CODE, DEFINING A VALID CLAIM; AMENDING SECTION 72-1351, IDAHO CODE, PROVIDING A DATE CERTAIN FOR DETERMINING EXPERIENCE RATING, PROVIDING THE CONTRIBUTION RATE OF A NEW EMPLOYER BE GIVEN THE SUCCESSOR OF AN EMPLOYER WITH A DEFICIT RATE UNDER CERTAIN CONDITIONS; AMENDING SECTION 72-1352, IDAHO CODE, PROVIDING FOR TERMINATION OF EMPLOYER COVERAGE WHERE ESTIMATED QUARTERLY PAYROLL WILL NOT EXCEED $300.00; AMENDING SECTION 72-1367, IDAHO CODE, REQUIRING THAT BASE PERIOD WAGES BE EARNED FROM A COVERED EMPLOYER, PROVIDING A DATE CERTAIN FOR THE COMPUTATION OF AVERAGE WEEKLY WAGE BASED ON WAGES IN COVERED EMPLOYMENT, PROVIDING A DATE CERTAIN FOR THE NEW MAXIMUM BENEFIT AMOUNT, ELIMINATING RETIREMENT PAYMENTS RECEIVED FOR SERVICE IN THE ARMED FORCES AND UNEMPLOYMENT BENEFITS EARNED AFTER RETIREMENT FROM THE DEFINITION OF WAGES IN COMPUTING UNEMPLOYMENT BENEFITS, FURTHER DEFINING RETIREMENT BENEFITS, PROVIDING FOR COMPUTATION OF UNEMPLOYMENT BENEFITS ON PERCENTAGE WHERE INDIVIDUAL BENEFIT CLAIMANT WOULD
BE FOUND INELIGIBLE IN CERTAIN CASES; AMENDING SECTION 72-1367A, IDAHO CODE, REDEFINING THE METHOD AND FORMULA FOR INSTITUTING TEMPORARY UNEMPLOYMENT COMPENSATION BENEFITS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 72-1306, Idaho Code, as amended, be, and the same is hereby amended to read as follows:

72-1306. BASE PERIOD.—The term "base period" means the calendar year next first four of the last five completed calendar quarters immediately preceding the beginning of a benefit year.

SECTION 2. That Section 72-1308, Idaho Code, as amended, be, and the same is hereby amended to read as follows:

72-1308. BENEFIT YEAR.—The term "benefit year" means the period beginning with the first day of the first week in July of each year and ending with the day preceding the first day of the first week in July of each subsequent year. It shall mean a period of 52 consecutive weeks beginning with the first day of the week in which an individual files a new valid claim for benefits; except that the benefit year shall be 53 weeks if the filing of a new valid claim would result in overlapping any quarter of the base year of a previously filed new claim. A subsequent benefit year cannot be established until the expiration of the current benefit year.

SECTION 3. That Section 72-1312, Idaho Code, as amended, be, and the same is hereby amended to read as follows:

72-1312. COMPENSABLE WEEK.—(a) A week of unemployment with respect to which an eligible benefit claimant shall be entitled to benefits shall be known as a compensable week; provided, however, that no person shall be deemed to be unemployed while he is attending a regular established school excluding night school, except where he has been assigned to a refresher or special training course by the director.

(b) A compensable week of a benefit claimant shall be a week of either no work or less than full-time work—

(1) all of which occurred within this benefit year; and
(2) with respect to which benefits have not been paid to him; and

(3) in which he complied with all of the personal eligibility conditions prescribed in section 72-1366; and

(4) in which the total wages payable to him for less than full-time work performed in such week amounted to less than one and one-half times his weekly benefit amount; provided, however, that for the purpose of this section all payments received by a benefit claimant for his retirement under the Federal Old Age and Survivors Insurance Act or a retirement plan in which an employer has paid all or a part of the cost shall be treated as wages; amounts which a benefit claimant receives or would receive if claimed after normal retirement for his primary benefits under the Federal Old Age and Survivors Insurance Act or a retirement plan in which his employer has paid all or a part of the cost shall be treated as wages, but this provision shall not apply to retirement payments received as a result of service in the armed forces of the United States; or monetary entitlement under section 72-1367, accruing as a result of covered employment after retirement; and

(5) all of which occurred after a waiting period as defined in section 72-1329.

SECTION 4. That Section 72-1313, Idaho Code, as amended, be, and the same is hereby amended to read as follows:

72-1313. COMPUTATION DATE.—The term “computation date” means the date which is the end of the benefit year June 30 preceding the commencement of the calendar year for which a covered employer’s contribution 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). Whenever the terms “fiscal years ending on the computation date,” “fiscal years immediately preceding the computation date,” or “fiscal years ending on such date” are used in the Employment Security Law, they shall refer to the fiscal years ending on June 30, if it is the computation date, or the last June 30 which precedes the computation date, if June 30 is not the computation date.

SECTION 5. That Section 72-1315, Idaho Code, as amended, be, and the same is hereby amended to read as follows:
72-1315. COVERED EMPLOYER.—The term “covered employer” means:

(a) An employer as defined in section 72-1320, who in any calendar quarter after June 30, 1967, pays or becomes liable to pay for services in covered employment wages of $150.00 or more.

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

SECTION 6. That Section 72-1319, Idaho Code, as amended, 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 had covered employment in each of the calendar years within such qualifying period, 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 rate because of such minor delinquency would be inequitable.

(b) “Qualifying period” shall be the period of two (2) consecutive fiscal years ending on the computation date, except that no employer shall be eligible for a reduced contribution rate if his record shows that he has reported no covered employment for either of the two (2) calendar years preceding the computation date. Three 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 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 (1) 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 7. That Chapter 13 of Title 72, Idaho Code, be, and the same is hereby amended by adding a new section thereto, following Section 72-1327, to be known and designated as Section 72-1327A, and to read as follows:

72-1327A. VALID CLAIM.—The term "valid claim" shall mean any application for benefits which is found to be eligible as provided in section 72-1367, and which has been filed in accordance and consistent with this act and such rules and regulations as the Director may prescribe.

SECTION 8. That Section 72-1351, Idaho Code, as amended, 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 contribution rate shall be determined in the manner set forth below for the calendar year 1963 and for each calendar year thereafter:

(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 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 occurring 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 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 Column B of the table in paragraph (5) of this subsection. Each of such groups shall be identified by the rate class number listed in Column A which is directly opposite the figures listed in Column B which represent the percentage limits of each group. Each employer on the schedules shall be assigned that contribution rate listed in Column C which is directly opposite the rate class in which such employer's cumulative payroll amount falls.

(4) (i) If the grouping of rate classes requires the inclusion of exactly one-half (½) 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 (½) 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 (1) 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 rate specified for such class, notwithstanding the provisions of paragraph (3) of this subsection.

(5) If, as of the computation date, the ratio of the unencumbered balance available in the employment security fund for the payment of benefits to the total payroll as reported for the fiscal year ending on such date is less than 4.75 per centum but is not less than 4.25 per centum, contribution rates for eligible and deficit employers shall be determined in accordance with the tables set out herein.

(i) If, as of the computation date, the ratio of the unencumbered balance available in the employment security fund for the payment of benefits to the total payroll as reported for the fiscal year ending on such date is not less than 5.75 per centum, contribution rates for eligible and deficit employers shall be reduced by subtracting .6 per centum from each contribution rate listed in the following tables; provided, however, that in no event shall a deficit employer's rate be reduced below 2.7 per centum.

(ii) If, as of the computation date, the ratio of the un-
encumbered balance available in the employment security fund for the payment of benefits to the total payroll as reported for the fiscal year ending on such date is less than 5.75 per centum but is not less than 5.25 per centum, contribution rates for eligible and deficit employers shall be reduced by subtracting .4 per centum from each contribution rate listed in the following tables; provided, however, that in no event shall a deficit employer's rate be reduced below 2.7 per centum.

(iii) If, as of the computation date, the ratio of the unencumbered balance available in the employment security fund for the payment of benefits to the total payroll as reported for the fiscal year ending on such date is less than 5.25 per centum but is not less than 4.75 per centum, contribution rates for eligible and deficit employers shall be reduced by subtracting .2 per centum from each contribution rate listed in the following tables.

(iv) If, as of the computation date, the ratio of the unencumbered balance available in the employment security fund for the payment of benefits to the total payroll as reported for the fiscal year ending on such date is less than 4.25 per centum but is not less than 3.75 per centum, contribution rates of all employers shall be increased by adding .2 per centum to each contribution rate listed in the following tables, and the standard rate shall be 2.9 per centum.

(v) If, as of the computation date, the ratio of the unencumbered balance available in the employment security fund for the payment of benefits to the total payroll as reported for the fiscal year ending on such date is less than 3.75 per centum but is not less than 3.25 per centum, contribution rates of all employers shall be increased by adding .4 per centum to each contribution rate listed in the following tables, and the standard rate shall be 3.1 per centum.

(vi) If, as of the computation date, the ratio of the unencumbered balance available in the employment security fund for the payment of benefits to the total payroll as reported for the fiscal year ending on such date is less than 3.25 per centum but is not less than 2.75 per centum, contribution rates of all employers shall be increased by adding .6 per centum to each contribution rate listed in the following tables, and the standard rate shall be 3.3 per centum.

(vii) If, as of the computation date, the ratio of the unencumbered balance available in the employment security fund for the payment of benefits to the total payroll as reported for the fiscal year ending on such date is less than
2.75 per centum, contribution rates of all employers shall be increased by adding .6 per centum to each contribution rate listed in the following tables; provided, however, that in no event shall the rate for any employer be less than 2.7 per centum, and the standard rate shall be 3.3 per centum.

### TABLE FOR RATED ACCOUNTS

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<td>Contribution Rate</td>
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<tr>
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### TABLE FOR DEFICIT ACCOUNTS

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<th>C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rate Class</td>
<td>Cumulative Taxable Payroll Limits</td>
<td>Contribution Rate</td>
</tr>
<tr>
<td>MORE THAN ( % of Total Taxable Payroll)</td>
<td>EQUAL TO OR LESS THAN ( % of Total Taxable Payroll)</td>
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<tr>
<td>6</td>
<td>83⅓</td>
<td>4.5</td>
</tr>
</tbody>
</table>

(6) If the payroll amount or the experience factor or both such 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 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 ac-
cumulated benefit charges to covered employers' accounts 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 the cut-off date June 30, with respect to benefit years commencing with July 1, 1961-July 1, 1967, and thereafter shall, as of the end of such benefit year June 30 of each year preceding the calendar year for which a covered employer's contribution rate is effective, be charged to the account of the covered employer 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 after the effective date of this act 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) and such determination of decision to pay benefits is subsequently reversed; or

(3) If paid to multi-state claimants and based upon wages paid or payable in more than one state pursuant to the reciprocal arrangement provisions of section 72-1344.

(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. 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) 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 payroll experience of the predecessor shall, upon the joint application of the predecessor and the successor within the 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 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 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) 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 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 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 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 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 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.

(e) Each employer shall be notified of his rate of contribution as determined for any calendar year pursuant to this section. 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. Consideration shall be limited to transactions occurring subsequent to any previous determination which has become final in accordance with the provisions of this or previous acts. The employer shall be promptly notified of the redetermination which shall become final unless within fourteen (14) days after delivery or mailing of notice thereof to his last known address an appeal is filed with the employment security agency. Proceedings on the appeal shall be had in accordance with the provisions of section 72-1361 of this act.
SECTION 9. That Section 72-1352, Idaho Code, as amended, be, and the same is hereby amended to read as follows:

72-1352. PERIOD, TERMINATION, AND ELECTION OF EMPLOYER COVERAGE.—(a) Except as otherwise provided in subsection (c) of this section any employer who is or becomes a covered employer within any calendar year shall be deemed to be a covered employer until his coverage is terminated.

(b) The coverage of any covered employer may be terminated if—

(1) As of the close of any calendar quarter, it is found that such covered employer had no individuals performing services for him in covered employment, and that the continued operation of his trade, profession, or business is not likely to result in his having a quarterly payroll of $800.00 or more within the ensuing two calendar quarters, or

(2) As of the close of a calendar year, it is found that such covered employer did not pay or become liable to pay for services rendered to him in covered employment wages amounting to $800.00 or more in any calendar quarter of such year, and that the continued operation of his trade, profession, or business is not likely to create covered employment as defined in section 72-1316, within the ensuing calendar year.

(c) Any employer for whom services that do not constitute covered employment are performed, may file with the director a written election that all such services with respect to which payments are not required under an unemployment compensation or insurance law of any other state or of the federal government, and which are performed by individuals for him in one or more district establishments or places of business, shall be deemed to constitute covered employment for not less than two calendar years. Upon written approval by the director of such election, such services shall be deemed to constitute covered employment from and after the date stated in such approval. Such services shall cease to be covered employment as of January 1st of any calendar year subsequent to such two calendar years, if not later than January 31st of such year either such employer has filed with the director a written notice of termination, or the director on his own motion, has given notice of termination of such coverage.
SECTION 10. That Section 72-1367, Idaho Code, as amended, be, and the same is hereby amended to read as follows:

72-1367. BENEFIT FORMULA.—(a) The wage class for each individual who is eligible for benefits after July 1, 1961, shall be the class indicated in Part B of the following table opposite the minimum and maximum amounts shown in Part A of such table within which is included the total amount of wages paid to him for services performed in covered employment for a covered employer in that calendar quarter within his base period in which such wages were highest, except that it shall not exceed the wage class on the same line as that weekly benefit amount which is the applicable maximum weekly benefit amount. The maximum weekly benefit amount shall be established as follows:

(1) The director, by regulations as he may prescribe, prior to the beginning of each benefit year, prior to June 30 of each year, shall compute the average weekly wage in covered employment paid by covered employers for the preceding calendar year; and in the event fifty-two and one-half per cent of such amount when rounded to the nearest multiple of one dollar is more than forty dollars, then it shall become the new maximum weekly benefit amount for the next benefit year. For benefit years beginning after June 30 of that year as shown under Part C of the following table.

(2) If fifty-two and one-half per cent of such average weekly wage is less than forty dollars when rounded to the nearest multiple of one dollar, then the maximum weekly benefit amount for the next benefit year for benefit years beginning after June 30 of that year shall be forty dollars.

<table>
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<tr>
<th>PART A</th>
<th>PART B</th>
<th>PART C</th>
</tr>
</thead>
<tbody>
<tr>
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<td>WAGE CLASS</td>
<td>WEEKLY BENEFIT AMOUNT</td>
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<td>MAXIMUM</td>
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## PART A

**Highest Quarterly Wages in Base Period**

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## PART B

**Wage Class**

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## PART C

**Weekly Benefit Amount**

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**PART D**

Minimum Base Period Wages for Weeks of Benefits Specified
In the event that the maximum weekly benefit amount computed according to this section rises above forty dollars, the table shall be extended by regulation. This extension shall be made according to the same method used in making the table and shall be effected as part of the table. A benefit claimant whose earnings exceed the amounts in the foregoing table shall have eligibility and number of weeks of benefits computed on the same basis as for individuals whose base period earnings come within the limits of the foregoing formula.

(b) To be eligible for benefits an individual shall have been paid wages for covered employment by a covered employer during his base period in more than one calendar quarter, and such wages shall equal or exceed the amount shown in the first column of Part D of the foregoing table for his wage class provided, however, that if his base period wages are less than the amount shown in Part D for his wage class but equal or exceed 150 percent of the high quarter wages in his base period as defined in subsection (a) of this section, then he shall be eligible for ten weeks for the benefit amount appearing for his wage class.

(c) The weekly benefit amount of an eligible individual shall be the amount appearing in Part C of the foregoing table for his wage class.

(d) Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to his weekly benefit amount times the number appearing at the top of the column in Part D of the foregoing table in which column, on the line for his wage class there appears the maximum amount that does not exceed his total wages for covered employment paid by a covered employer during his base period.

(e) If in any compensable week the total wages payable to such individual for less than full-time work performed in such week exceed one-half of his weekly benefit amount as shown in Part C of the foregoing table, the excess shall be deducted from his weekly benefit amount. Such excess if not a multiple of a dollar, shall be computed to the next higher multiple of a dollar; provided, however, that for the purpose of this section all payments received by a benefit claimant for his retirement under the Federal Old Age and Survivors Insurance Act or a retirement plan in which an employer has paid all or part of the cost, shall be treated as wages amounts to which a benefit claimant receives or would receive if claimed after normal retirement for his
primary benefits under the Federal Old Age and Survivors Insurance Act or a retirement plan in which his employer has paid all or a part of the cost shall be treated as wages, but this provision shall not apply to: retirement payments received as a result of service in the armed forces of the United States; or monetary entitlement under section 72-1367, accruing as a result of covered employment after retirement.

SECTION 11. That Section 72-1367A, Idaho Code, as amended, be, and the same is hereby amended to read as follows:

72-1367A. ADDITIONAL TEMPORARY UNEMPLOYMENT COMPENSATION BENEFITS.—When the director finds that insured unemployment in Idaho for the week ending nearest the 15th of the preceding month is over six percent of insured employment, and the ratio of exhaustions to first payments as accumulated each month from the beginning of the benefit year to the end of the preceding month is more than ten per cent above the average of the same period for the preceding seven years, he may increase the above entitlement at the weekly rate applicable on a claimant’s previous claim by fifty percent for those claimants who have exhausted their benefit rights in Idaho prior to the end of the preceding month or during the next following month and who do not have benefit rights under the provisions of the unemployment insurance laws of any other state or of the federal government. Such increased entitlement may be utilized by a claimant for benefits for weeks of unemployment during the remainder of the benefit year. Only one such extension of benefits shall be made for any individual during a benefit year. For the purpose of this section “first payment” means the first benefit, as defined in section 72-1307 of this act, which is payable to an individual during his benefit year. As of the end of each week, if the Director finds that the average insured unemployment rate for the preceding 13 week period was 120 percent of the average rate for the corresponding 13 week periods of the two preceding years, he may determine that temporary extended benefits are payable beginning three weeks after the week in which this determination occurs and ending three weeks after the percentage falls below 120 percent with a minimum period of at least 13 weeks. These extended benefits shall increase claimants’ entitlement by 50 percent for those who have exhausted their benefit rights in Idaho prior to the end of this extended period. Such increased entitlement may be utilized by a claimant for benefits for weeks of unemployment.
ment during the remainder of his benefit year. This extension applies only to claimants who do not have benefit rights under the provisions of the unemployment insurance laws of this state or another state or of the Federal Government.

SECTION 12. EFFECTIVE DATE. — Except where otherwise specifically provided by this amendatory act, this act shall take effect and be in force on and after July 2, 1967.

Approved March 15, 1967.

CHAPTER 118
(H. B. No. 139 As Amended)

AN ACT

REPEALING SECTION 45-1501, IDAHO CODE, DECLARING POLICY ON FINANCING BY DEEDS OF TRUST; AMENDING SECTION 45-1502, IDAHO CODE, DELETING DEFINITION OF THREE (3) ACRES, AND DEFINING REAL PROPERTY TO BE LIMITED TO WITHIN CITIES OR NOT IN EXCESS OF 20 ACRES; AMENDING SECTION 45-1503, IDAHO CODE, DELETING THREE (3) ACRE LIMITATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. Section 45-1501, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 45-1502, Idaho Code, be, and the same is hereby amended to read as follows:

45-1502. DEFINITIONS.—As used in this act:

(1) "Beneficiary" means the person named or otherwise designated in a trust deed as the person for whose benefit a trust deed is given, or his successor in interest, and who shall not be the trustee.

(2) "Grantor" means the person conveying real property by a trust deed as security for the performance of an obligation.

(3) "Trust deed" means a deed executed in conformity with this act and conveying real property to a trustee in trust to secure the performance of an obligation of the grantor or other person named in the deed to a beneficiary.
Trustee’ means a person to whom the legal title to real property is conveyed by trust deed, or his successor in interest.

(5) “Three acres” means three acres, more or less, provided that where the trust deed states that the real property involved does not exceed in area three acres, such statement shall be binding upon all parties and conclusive as to compliance with the provisions of this act relative to the power to make such transfer and trust and power of sale conferred in this act.

Real property’ means any right, title, interest and claim in and to real property owned by the grantor at the date of execution of the deed of trust or acquired thereafter by said grantor or his successors in interest. Provided, nevertheless, real property as so defined which may be transferred in trust under this act shall be limited to either (a) any real property located within an incorporated city or village at the time of the transfer, or (b) any real property not exceeding twenty (20) acres, more or less, regardless of its location, and in either event where the trust deed states that the real property involved is within either of the above provisions, such statement shall be binding upon all parties and conclusive as to compliance with the provisions of this act relative to the power to make such transfer and trust and power of sale conferred in this act.

Reasonable charge of trustee shall not exceed 50 per cent of the compensation of a trustee as provided by section 68-103, Idaho Code; provided, however, that the trustee shall not be entitled to any compensation prior to commencement of foreclosure; and if the grantor prior to foreclosure sale pays the entire amount then due, including costs and expenditures actually incurred, the trustee’s fee shall not exceed $50.00.

Section 3. That Section 45-1503, Idaho Code, be, and the same is hereby amended to read as follows:

45-1503. Transfers in trust to secure obligation—Foreclosure.—Transfers in trust of any estate in real property of an area not exceeding three acres as defined in Section 45-1502 (5) may hereafter be made to secure the performance of an obligation of the grantor or any other person named in the deed to a beneficiary. Where any transfer in trust of any estate in real property is hereafter made to secure the performance of such an obligation, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which
such transfer is security, and a deed of trust executed in conformity with this act may be foreclosed by advertise­ment and sale in the manner hereinafter provided, or, at the option of beneficiary, by foreclosure as provided by law for the foreclosure of mortgages on real property.

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

Approved March 15, 1967.

CHAPTER 119
(H. B. No. 136)

AN ACT

RELATING TO GIFTS OF SECURITIES, LIFE INSURANCE POLI­CIES, ANNUITY CONTRACTS AND MONEYS TO MINORS, DEFINING TERMS AS USED IN THIS ACT; PROVIDING THE MANNER OF MAKING SUCH GIFTS; SPECIFYING THE EFFECT OF SUCH GIFTS; DESIGNATING THE DUTIES AND POWERS OF CUSTODIANS OF SUCH GIFTS; PROVIDING FOR THE REIMBURSEMENT OF THE EXPENSES, COMPENSATION, BOND AND DISABILITIES OF THE CUSTO­DIANS THEREOF; EXEMPTING THIRD PERSONS FROM LIABILITY UNDER SPECIFIED CIRCUMSTANCES; PROVIDING FOR ACCOUNTINGS BY CUSTODIANS; PROVIDING FOR THE CONSTRUCTION OF THIS ACT; PROVIDING A SHORT TITLE FOR THIS ACT; PROVIDING FOR SEVERA­BILITY; REPEALING CHAPTER 8, TITLE 68, IDAHO CODE, AND PROVIDING THAT GIFTS MADE UNDER SAID CHAP­TER SHALL NOT BE AFFECTED BY SUCH REPEAL BUT THAT THIS ACT SHALL APPLY HENCEFORTH TO SUCH GIFTS EXCEPT INSOFAR AS SUCH APPLICATION IMPAIRS CONSTITUTIONALLY VESTED RIGHTS; AND PROVIDING THAT THIS ACT SHALL BE CONSTRUED AS A CONTINU­ATION OF THE PROVISIONS OF CHAPTER 8, TITLE 68, IDAHO CODE, HEREBY REPEALED, MODIFIED OR AMENDED ACCORD­ING TO THE LANGUAGE EMPLOYED, AND NOT AS A NEW ENACTMENT.

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

SECTION 1. DEFINITIONS.—In this act, unless the con­text otherwise requires:
(a) An "adult" is a person who has attained the age of twenty-one years.

(b) A "bank" is any bank as defined in Section 26-102, Idaho Code, as amended, and national banking associations.

(c) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(d) "Court" means the District Courts of the State of Idaho.

(e) The "custodial property" includes:

(1) all securities, life insurance policies, annuity contracts and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this act;

(2) the income from the custodial property; and

(3) the proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender or other disposition of such securities, money, life insurance policies, annuity contracts and income.

(f) A "custodian" is a person so designated in a manner prescribed in this act; the term includes a successor custodian.

(g) A "financial institution" is a bank, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal law or the laws of a state; a "domestic financial institution" is one chartered and supervised under the laws of this state or chartered and supervised under federal law and having its principal office in this state; an "insured financial institution" is one, deposits (including a savings, share, certificate or deposit account) in which are, in whole or in part, insured by the federal deposit insurance corporation by the federal savings and loan insurance corporation.

(h) A "guardian" of a minor means the general guardian, guardian, tutor or curator of his property, or estate appointed or qualified by a court of this state or another state.

(i) An "issuer" is a person who places or authorizes the placing of his name on a security (other than as a transfer
agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(j) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.

(k) A "life insurance policy or annuity contract" means a life insurance policy or annuity contract issued by an insurance company authorized to do business in this state on the life of a minor to whom a gift of the policy or contract is made in the manner prescribed in this act or on the life of a member of the minor's family.

(1) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(m) A "minor" is a person who has not attained the age of twenty-one years.

(n) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, 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, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(o) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(p) A "trust company" is a bank or corporation authorized to exercise trust powers in this state.

Section 2. Manner of Making Gift.—(a) An
adult person may, during his lifetime, make a gift of a security, a life insurance policy or annuity contract or money to a person who is a minor on the date of the gift:

(1) if the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult or a trust company, followed, in substance, by the words: “as custodian for ____________________ under the name of minor

Idaho Uniform Gifts to Minors Act”;

(2) if the subject of the gift is a security not in registered form, by delivering it to an adult other than the donor or a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

“GIFT UNDER THE IDAHO UNIFORM GIFTS TO MINORS ACT

I, ____________________, hereby deliver to ____________________
(name of donor) (name of custodian)
as custodian for ____________________ under the Idaho Uniform
(name of minor)

Gifts to Minors Act, the following security (ies): (insert an appropriate description of the security or securities delivered sufficient to identify it or them)

__________________________
(signature of donor)

__________________________ hereby acknowledges receipt of the
(name of custodian)

above described security (ies) as custodian for the above minor under the Idaho Uniform Gifts to Minors Act.

Dated: __________________________

__________________________
(signature of custodian)"

(3) if the subject of the gift is money, by paying or delivering it to a broker or a domestic financial institution for credit to an account in the name of donor, another adult or a trust company, followed, in substance, by the words: “as custodian for ____________________ under the Idaho Uniform Gifts to Minors Act.”

(4) if the subject of the gift is a life insurance policy or annuity contract, by causing the ownership of the policy or contract to be registered with the issuing insurance company in the name of the donor, another adult or a trust company, followed, in substance, by the words: “as custo-
dian for __________________ under the Idaho Uniform Gifts to Minors Act”.

SECTION 3. EFFECT OF GIFT.—(a) A gift made in a manner prescribed in this act is irrevocable and conveys to the minor indefeasibly vested legal title to the security, life insurance policy, annuity contract or money given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in this act.

(b) By making a gift in a manner prescribed in this act, the donor incorporates in his gift all the provisions of this act and grants to the custodian, and to any issuer, transfer agent, bank, financial institution, life insurance company, broker or third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in this act.

SECTION 4. DUTIES AND POWERS OF CUSTODIAN.—(a) The custodian shall collect, hold, manage, invest and reinvest the custodial property.

(b) The custodian shall pay over to the minor for expenditure by him, or expend for the minor’s benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or of any other person to support the minor or his ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

(c) The court, on the petition of a parent or guardian of the minor or of the minor, if he has attained the age of fourteen years, may order the custodian to pay over to the minor for expenditure by him or to expend so much of or all the custodial property as is necessary for the minor’s support, maintenance or education.

(d) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of twenty-one years or, if the minor dies before attaining the age of twenty-one years, he shall thereupon deliver or pay it over to the estate of the minor.
(e) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this act or hold money so given in an account in the financial institution to which it was paid or delivered by the donor.

(f) The custodian may sell, exchange, convert, surrender or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote in person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer, a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

(g) The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words: “as custodian for __________________ under the Idaho Uniform Gifts to Minors Act.” The custodian shall hold all money which is custodial property in an account with a broker or in an insured domestic financial institution in the name of the custodian, followed, in substance, by the words: “as custodian for __________________ under the Idaho Uniform Gifts to Minors Act.” The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

(h) The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if he has attained the age of fourteen years.

(i) A custodian has, with respect to the custodial property, in addition to the rights and powers provided in this
act, all the rights and powers which a guardian has with respect to property not held as custodial property.

(j) If the subject of the gift is a life insurance policy or annuity contract, the custodian:

(1) in his capacity as custodian, has all the incidents of ownership in the policy or contract to the same extent as if he were the owner, except that the designated beneficiary of any policy or contract on the life of the minor shall be in the minor's estate and the designated beneficiary of any policy or contract on the life of a person other than the minor shall be the custodian as custodian for the minor for whom he is acting; and

(2) may pay premiums on the policy or contract out of the custodial property.

SECTION 5. CUSTODIAN'S EXPENSES, COMPENSATION, BOND AND LIABILITIES.—(a) A custodian is entitled to reimbursement from the custodial property for his reasonable expenses incurred in the performance of his duties.

(b) A custodian may act without compensation for his services.

(c) Unless he is a donor, a custodian may receive from the custodial property reasonable compensation for his services determined by one of the following standards in the order stated:

(1) A direction by the donor when the gift is made;

(2) The statute of this state applicable to guardians;

(3) An order of the court.

(d) Except as otherwise provided in this act, a custodian shall not be required to give a bond for the performance of his duties.

(e) A custodian not compensated for his services is not liable for losses to the custodial property unless they result from his bad faith, intentional wrongdoing or gross negligence or from his failure to maintain the standard of prudence in investing the custodial property provided in this act.

SECTION 6. EXEMPTION OF THIRD PERSONS FROM LIABILITY.—No issuer, transfer agent, bank, life
insurance company, broker or other person or financial institution acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated as custodian by the purported donor or by the custodian or purporting to act as a custodian has been duly designated or whether any purchase, sale or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this act, or is obliged to inquire into the validity or propriety under this act of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him. No issuer, transfer agent, bank, life insurance company, broker or other person or financial institution acting on any instrument of designation of a successor custodian, executed as provided in Subsection (a) of Section 7 of this act by a minor to whom a gift has been made in a manner prescribed in this act and who has attained the age of fourteen years, is responsible for determining whether the person designated by the minor as successor custodian has been duly designated, or is obliged to inquire into the validity or propriety under this act of the instrument of designation.

SECTION 7. RESIGNATION, DEATH OR REMOVAL OF CUSTODIAN—BOND—DESIGNATION OF SUCCESSOR CUSTODIAN.—(a) Only an adult member of the minor’s family, a guardian of the minor or a trust company is eligible to become successor custodian. A custodian may designate his successor by executing and dating an instrument of designation before a subscribing witness other than the successor; the instrument of designation may but need not contain the resignation of the custodian. If the custodian does not so designate his successor before he dies or becomes legally incapacitated, and the minor has attained the age of fourteen years, the minor may designate a successor custodian by executing an instrument of designation before a subscribing witness other than the successor. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this act.

(b) The designation of a successor custodian as provided in Subsection (a) takes effect as to each item of the custodial property when the custodian resigns, dies or becomes
legally incapacitated and the custodian or his legal representative:

(1) causes the item, if it is a security in registered form or a life insurance policy or annuity contract, to be registered, with the issuing insurance company in the case of a life insurance policy or annuity contract, in the name of the successor custodian followed, in substance, by the words: "as custodian for _________________ (name of minor) under the Idaho Uniform Gifts to Minors Act"; and

(2) delivers or causes to be delivered to the successor custodian any other item of the custodial property, together with the instrument of designation of the successor custodian or a true copy thereof and any additional instruments required for the transfer thereof to the successor custodian.

(c) A custodian who executes an instrument of designation of his successor containing the custodian's resignation as provided in Subsection (a) shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in the instrument. The legal representative of a custodian who dies or becomes legally incapacitated shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in an instrument of designation executed as provided in Subsection (a) by the custodian or, if none, by the minor if he has no guardian and has attained the age of fourteen years, or in the possession and control of the guardian of the minor if he has a guardian. If the custodian has executed as provided in Subsection (a) more than one instrument of designation, his legal representative shall treat the instrument dated on an earlier date as having been revoked by the instrument dated on a later date.

(d) If a person designated as custodian or as successor custodian by the custodian as provided in Subsection (a) is not eligible, dies or becomes legally incapacitated before the minor attains the age of twenty-one years and if the minor has a guardian, the guardian of the minor shall be successor custodian. If the minor has no guardian and if no successor custodian who is eligible and has not died or become legally incapacitated has been designated as provided in Subsection (a), a donor, his legal representative, the legal representative of the custodian or an adult member of the minor's
family may petition the court for the designation of a successor custodian.

(e) A donor, the legal representative of a donor, a successor custodian, an adult member of the minor's family, a guardian of the minor or the minor, if he has attained the age of fourteen years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his duties.

(f) Upon the filing of a petition as provided in this Section, the court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor.

SECTION 8. ACCOUNTING BY CUSTODIAN. — (a) The minor, if he has attained the age of fourteen years, or the legal representative of the minor, an adult member of the minor's family, or a donor or his legal representative may petition the court for an accounting by the custodian or his legal representative.

(b) The court, in a proceeding under this act or otherwise, may require or permit the custodian or his legal representative to account and, if the custodian is removed, shall so require and order delivery of all custodial property to the successor custodian and the execution of all instruments required for the transfer thereof.

SECTION 9. CONSTRUCTION. — (a) This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(b) This act shall not be construed as providing an exclusive method for making gifts to minors.

SECTION 10. SHORT TITLE.—This act may be cited as the “Idaho Uniform Gifts to Minors Act.”

SECTION 11. SEVERABILITY.—If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 12. REPEAL.—That Chapter 8, Title 68, Idaho
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 49-1218, Idaho Code, be, and the same is hereby repealed and re-enacted to read as follows:

49-1218. REFUNDING OF TAX.—Any person who shall buy fifty (50) gallons or more and use any motor fuel in motor vehicles operated on highways outside of the state of Idaho where a duplicate tax is assessed for the same fuel, for the purpose of operating or propelling stationary gasoline engines, tractors or motorboats engaged in commercial uses other than fishing, or for cleaning or dyeing or other use of the same, except as otherwise provided by law, and except in any motor vehicle, operating solely intrastate, re-
quired to be registered by the provisions of the uniform mo-
tor vehicle registration act, or exempt from registration by
reason of ownership or residence and except an aircraft, and
who shall have paid any excise tax on such motor fuel hereby
required to be paid, whether directly to the vendor from
whom it was purchased, or indirectly by adding the amount
of such excise tax to the price of such motor fuel, shall be en-
titled to be reimbursed and repaid the amount of such excise
tax so paid by him.

SECTION 2. That Chapter 12, 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-
1218a, Idaho Code, and to read as follows:

49-1218a. PROCEDURES FOR REFUND OF TAX.—
(a) Claimant shall present to the commissioner a state-
ment supported by the original receipted seller's invoice
showing purchase. Such statement shall be certified by the
claimant to be true and correct and shall state the name of
the person from whom purchased, the date of purchase, the
total amount of such motor fuel purchased, that the motor
fuel so purchased has been paid for, and that the same has
been used by said claimant otherwise than in motor ve-
hicles operated or intended to be operated upon the public
highways within the state of Idaho. In the event the claim-
ant seeks a refund for motor fuel purchased in Idaho and
used outside the state, his claim shall be accompanied by a
verification of such use determined by an audit of his oper-
ations conducted by the department of law enforcement; or
his claim may be verified by the filing of a receipt showing
the payment of tax on such fuel in any other state.

Upon approval by the commissioner and the state board
of examiners of such statement and supporting invoices, the
state auditor shall draw a warrant upon the state treasurer
for the amount of such claim in favor of such claimant and
such claim shall be paid from the "motor fuel refund fund":
Provided, that the applications for reimbursements and re-
payments as provided herein shall be filed with the commis-
sioner within one (1) year from the date of purchase, or
not at all.

(b) The commissioner shall have the right, in order to
establish the validity of any claim, to examine the books and
records of the claimant for such purpose, and the failure of
the claimant to accede to the demand for such examination
shall constitute a waiver of all rights to the refund claimed
on account of the transaction questioned.
SECTION 3. That Chapter 12, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a new section which shall be known and designated as Section 49-1218b, Idaho Code, and to read as follows:

49-1218b. CONDITIONS PRECEDENT TO MAKING CLAIM.—When the motor fuel is sold to a person who shall claim to be entitled to a refund of the tax hereunder imposed, the seller of such motor fuel shall make out a separate invoice for each purchase showing the name and address of the seller and the name and address of the purchaser, the number of gallons of motor fuel so sold, and the date. Such invoice shall be of serial number type especially used for the sale of petroleum products and shall be issued in at least duplicate copies, the original of which shall be given to the purchaser at the time of sale, and the duplicate copy shall be retained by the seller for a period of one (1) year from date of sale, subject to the inspection of the commissioner; all invoices shall be written in ink or with indelible lead pencil and shall be void if any corrections or erasures appear upon the face thereof.

The above conditions having been fully complied with, the commissioner shall determine the amount of refund due to such applicant, and the same shall be paid as herein provided; provided, that the commissioner shall have power to put into effect such regulations as in his judgment may be necessary to detect the uses and purposes to which gasoline or other motor fuel upon which refund of taxes applied for is put.

The commissioner may in his discretion require each applicant for a refund under this act to make out his claim upon blanks to be prepared and furnished by the commissioner, which blank shall have plainly printed thereon the provisions relating to the penalties for making false claim for refund.

Approved March 15, 1967.

CHAPTER 121
(H. B. No. 38 As Amended in the Senate)

AN ACT
AMENDING SECTION 9-203, IDAHO CODE, PERTAINING TO CONFIDENTIAL RELATIONS AND COMMUNICATIONS BY
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 9-203, Idaho Code, be, and the same is hereby amended to read as follows:

9-203. There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person can not be examined as a witness in the following cases:

1. A husband can not be examined for or against his wife, without her consent, nor a wife for or against her husband, without his consent; nor can either, during the marriage or afterwards, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other nor to a criminal action or proceeding for a crime committed by violence of one against the person of the other, nor does this exception apply to any case of physical injury to a child where the injury has been caused as a result of physical abuse or neglect by one or both of the parents.

2. An attorney can not, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment. The word client used herein shall be deemed to include a person, a corporation or an association.

3. A clergyman or priest can not, without the consent of the person making the confession, be examined as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs.

4. A physician or surgeon can not, without the consent of his patient, be examined in a civil action as to any information acquired in attending the patient which was necessary to enable him to prescribe or act for the patient, provided, however, that: (A) Nothing herein con-
tained shall be deemed to preclude physicians from reporting of and testifying at all cases of physical injury to children, where it appears the injury has been caused as a result of physical abuse or neglect by a parent, guardian or legal custodian of the child.

(B) After the death of a patient, in any action involving the validity of any will or other instrument executed, or claimed to have been executed, by him, conveying or transferring any real or personal property or incurring any financial obligation, such physician or surgeon may testify to the mental or physical condition of such patient and in so testifying may disclose information acquired by him concerning such patient which was necessary to enable him to prescribe or act for such deceased.

(C) That where any person or his heirs or representatives brings an action to recover damages for personal injuries or death, such action shall be deemed to constitute a consent by the person bringing such action that any physician who has prescribed for or treated said injured or deceased person and whose testimony is material in the action may testify.

(D) That if the patient be dead and during his lifetime had not given such consent, the bringing of an action by a beneficiary, assignee or payee or by the legal representative of the insured, to recover on any life, health or accident insurance policy, shall constitute a consent by such beneficiary, assignee, payee or legal representative to the testimony of any physician who attended the deceased.

5. A public officer can not be examined as to communications made to him in official confidence, when the public interest would suffer by disclosure.

Approved March 17, 1967.

CHAPTER 122
(H. B. No. 76 As Amended)

AN ACT

AMENDING CHAPTER 20, TITLE 54, IDAHO CODE, WHICH PROVIDES FOR THE REGULATION OF REAL ESTATE BROKERS, BY CHANGING THE DESIGNATION OF THE IDAHO REAL ESTATE BROKERS BOARD, TO IDAHO REAL
ESTATE COMMISSION AND CHANGING THE WORD BOARD
TO COMMISSION WHEREVER USED IN THE CHAPTER;
AMENDING SECTION 54-2026 WHICH PROVIDES FOR THE
ELECTION OF A PRESIDENT, VICE PRESIDENT, TREASU­
RER, AND AN EXECUTIVE SECRETARY BY DELETING
THE OFFICES OF PRESIDENT, VICE PRESIDENT AND
TREASURER AND SUBSTITUTING THE OFFICE OF CHAIR­
MAN, AND CHANGING THE WORD PRESIDENT TO CHAIR­
MAN WHEREVER USED IN THE SECTION; AMEND­
ING SECTION 54-2027, IDAHO CODE, WHICH PROVIDES FOR
PER DIEM ALLOWANCE FOR MEMBERS FROM $10.00 FOR
EACH DAY IN WHICH SUCH MEMBERS SHALL PERFORM
SERVICE TO $25.00 PER DIEM FOR EACH DAY IN WHICH
SUCH MEMBERS SHALL PERFORM SERVICE; AMEND­
ing SECTION 54-2029, IDAHO CODE, BY PROVIDING THAT
THE LICENSE FEE BE CHANGED FROM $25.00 TO $30.00;
BY PROVIDING THAT ANY LICENSE RENEWED AFTER
JANUARY 1 OF EACH YEAR SHALL REQUIRE AN ADDI­
tIONAL LATE FEE OF $5.00, AND PROVIDING THAT A
LICENSEE IN GOOD STANDING SHALL BE ENTITLED
TO A RENEWAL OF A LICENSE IF APPLICATION IS MADE
PRIOR TO MARCH 31 OF EACH CALENDAR YEAR UPON
COMPLYING WITH SUBDIVISIONS A (1) AND A (2); BY
AMENDING SECTION 54-2036, IDAHO CODE, BY PROVID­
ing THAT THE RENEWAL FEE FOR EACH SALESMAN'S
LICENSE AND BROKER'S LICENSE BE CHANGED FROM
$25.00 TO $30.00; PROVIDING THAT THE FEE FOR AN
INACTIVE LICENSE OR THE RENEWAL OF AN INACTIVE
LICENSE SHALL BE $25.00; PROVIDING THAT A CHANGE
OF ADDRESS FEE SHALL BE $2.50 AND THE FEE FOR THE
ESTABLISHMENT OF A BRANCH OFFICE SHALL BE $2.50;
AMENDING SECTION 54-2037, IDAHO CODE, BY PROVID­
ing THAT EACH LICENSE FEE AND RENEWAL FEE OF
$25.00 SHALL BE CHANGED TO $30.00; AND AMENDING
SECTION 54-2040, IDAHO CODE, WHICH PROVIDES FOR
THE REVOCATION OR SUSPENSION OF A REAL ESTATE
BROKERS LICENSE AND GROUNDS THEREFOR, BY
CHANGING SUB-SECTION (f) WHICH PROVIDES THAT A
CRIME AGAINST THE LAWS OF THIS STATE OR ANY
OTHER STATE INVOLVING MORAL TURPITUDE IS
GROUNDS FOR A SUSPENSION OR REVOCATION BY PRO­
VIDING THAT CONVICTION OF A FELONY IN A STATE
OR FEDERAL COURT, OR CONVICTION OF ANY CRIME
INVOLVING MORAL TURPITUDE SHALL BE SUFFICIENT
GROUNDS FOR SUSPENSION, OR REVOCATION OF A LI­
CENSE, AND THAT THE RECORD OF CONVICTION OR A
CERTIFIED COPY THEREOF, CERTIFIED BY THE CLERK
OF THE COURT OR THE JUDGE IN WHOSE COURT CASE
WAS HAD, SHALL BE PRIMA FACIE EVIDENCE OF CONVICTION IN SUCH CASES; AND BY ADDING AS GROUNDS FOR SUSPENSION OR REVOCATION THE EMPLOYMENT OF FRAUD, DECEPTION, MISREPRESENTATION, MISSTATEMENT OR ANY UNLAWFUL MEANS IN APPLYING FOR OR SECURING A LICENSE TO ACT AS A REAL ESTATE BROKER OR SALESMAN IN THE STATE OF IDAHO, ACTING AS A REAL ESTATE BROKER OR SALESMAN UNDER AN ASSUMED NAME, WILLFULLY VIOLATING ANY OF THE RULES AND REGULATIONS MADE AND PROMULGATED BY THE REAL ESTATE COMMISSION, AND DECLARATION OF INSANITY BY A COURT OF COMPETENT JURISDICTION, PROVIDED, HOWEVER, THAT WHEN A LICENSED PERSON'S LICENSE SHALL HAVE BEEN REVOLED OR SUSPENDED FOR THIS CAUSE, SUCH LICENSE MAY BE REACTIVATED BY THE COMMISSION UPON A DECLARATION OF SANITY BEING MADE.

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

SECTION 1. That Section 54-2025, Idaho Code, be, and the same is hereby amended to read as follows:

54-2025. CREATION OF IDAHO REAL ESTATE BROKERS BOARD COMMISSION. — There is hereby created the Idaho real estate brokers board commission, herein referred to as the "board" "commission", consisting of three members appointed by the governor as follows: One from the Northern District consisting of the counties of Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Boundary, Shoshone, Kootenai, and Bonner; and one from the Southeastern District, consisting of the counties of Lemhi, Custer, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bonneville, Bingham, Caribou, Bear Lake, Franklin, Oneida, Cassia, Power, Bannock, and Minidoka; and one from the Southwestern District consisting of Twin Falls, Jerome, Lincoln, Gooding, Blaine, Camas, Owyhee, Elmore, Ada, Canyon, Boise, Gem, Payette, Washington, Adams, and Valley counties; which board commission shall administer this act.

SECTION 2. That Section 54-2026, Idaho Code, be, and the same is hereby amended to read as follows:

54-2026. APPOINTMENT AND QUALIFICATION OF MEMBERS — ORGANIZATION OF BOARD COMMISSION. — All members of the board commission shall be licensed real estate brokers who have not had less than five years experience in the real estate business in Idaho. The first subsequent appointments made after January 1, 1955,
other than an appointment to fill an unexpired term, shall be made so as to appoint one board commission member for a one-year term, one for a two-year term, and one for a three-year term. Each regular appointment thereafter, other than an appointment to fill an expired term, shall be for a term of three years, and each board commission member shall hold office until his successor is appointed and qualified. Upon the death, resignation or removal of any member of the board commission, the governor shall appoint a qualified licensed real estate broker to fill out the unexpired term. Appointments to fill any vacancy, other than that resulting from the expiration of a term, shall be made for the unexpired term. The governor may remove any member from the board commission for neglect of duty required by law, for incompetency, or for unprofessional or dishonorable conduct.

Within fifteen days after the appointment of the members of the board commission, the board commission shall call a meeting and organize by the election of a president, a vice-president, a treasurer, chairman and an executive secretary. Thereafter the president chairman may call meetings of the board commission whenever he deems it advisable, but if he refuses to call a meeting upon written demand of the other two members of the board commission, then such members may call such meeting. Reasonable notice shall be given in writing by mail of such meeting. The executive secretary and such other assistants as the board commission may require may be selected either from within or without the board commission, and shall be paid such compensation as the board commission shall determine.

SECTION 3. That Section 54-2027, Idaho Code, be, and the same is hereby amended to read as follows:

54-2027. COMPENSATION, POWERS AND DUTIES OF BOARD COMMISSION.—Members shall be paid their actual and necessary expenses incurred in the performance of their duties and in addition a per diem allowance to each member of $10.00 $25.00 for each day in which such member shall perform service.

The board commission shall conduct or cause to be conducted examinations at a place or places within the state of Idaho fixed by the board commission to determine the competency of applicants for license. No license shall be issued by the board commission until a majority thereof has reported favorably thereon.

The board commission is expressly vested with the pow-
er and the authority to make and enforce any and all reasonable rules and regulations as shall by it be deemed necessary for administering and enforcing the provisions of this act.

**SECTION 4.** That Section 54-2029, Idaho Code, be, and the same is hereby amended to read as follows:

54-2029. APPLICATION FOR LICENSE—CONTENTS—FEES.—A. 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 board commission, giving his full name and business address and the address of his principal place of business in the state of Idaho. Applications shall be made to and filed with the board commission and be accompanied by:

1. A license fee of $25.00- $30.00 which shall not be refunded and if a license application for renewal of a license is made to the commission after January 1 of each year a late charge fee of an additional $5.00 must accompany the application.

2. A bond with the state of Idaho in a form approved by the board commission in the sum of $1,000.00 executed by a qualified surety company duly authorized to do business in this state, conditioned that said applicant, if said license be issued to him, shall conduct his business as a real estate broker or real estate salesman without fraud or fraudulent representations, said bond to be reissued as often as the license is renewed.

3. A satisfactory credit report.

4. In addition to (1), (2) and (3) above, an applicant for a real estate broker's license shall submit satisfactory evidence of having been actively engaged for two years as a licensed real estate salesman in this state; provided, however, that said period may be reduced, in whole or in part, at the discretion of the board commission, based upon the educational background of the applicant, his experience as a licensed real estate broker or salesman in another state, or his experience in related or affiliated business activities.

The board commission in its discretion may make such additional investigation and inquiry relative to the applicant as it shall deem advisable.

B. If application to renew a license is made prior to March 31 of each calendar year, a licensee in good stand-
ing shall be entitled to a renewal license for the ensuing year upon complying with subdivisions A (1) and A (2) of this section.

SECTION 5. That Section 54-2030, Idaho Code, be, and the same is hereby amended to read as follows:

54-2030. APPLICATION OF PARTNERSHIP OR CORPORATION.—If the applicant is a corporation, a list of its officers and directors and their addresses, and if the applicant be a partnership, then a list of the members of said partnership and their addresses must be filed with the application. Every partnership in its application for a license shall designate and appoint one or more of its members and every corporation in its application for a license shall designate and appoint one of its officers to submit an application for a broker's license. The application of the said partnership or corporation and the application of said members or officers so designated shall be filed at the same time with the board commission. No licenses shall be issued to any partnership or corporation unless and until the persons and officers so designated by the partnership or corporation shall submit to and pass the examination required by this act.

SECTION 6. That Section 54-2031, Idaho Code, be, and the same is hereby amended to read as follows:

54-2031. APPLICATION OF NON-RESIDENT. — If the applicant is a non-resident of this state, he shall in addition to complying with sections 54-2029 and 54-2030 file an irrevocable consent that suits and actions may be commenced against him in any county of this state in which the plaintiff having a cause of action, or suit, may reside and that service of any process or pleading in said suit or action may be made by delivering the same to the secretary of state and mailing a copy thereof to said applicant by registered mail addressed to him at his designated principal place of business. Such service, when so made, shall be taken and held in all courts to be as valid and binding upon the applicant as if in fact made upon said applicant in this state within the jurisdiction of the court in which said suit or action is filed. Said "irrevocable consent" shall be in a form prescribed by the board commission, shall be acknowledged by a notary public, and if the applicant be a corporation, said consent shall be accompanied by a duly certified copy of the resolution of the board of directors of such corporation authorizing the execution of same; any process or pleading above mentioned so served upon the
secretary of state shall be served in duplicate copies, one of which shall be filed in the office of the secretary of state, and the other immediately forwarded by registered mail to the registered address of the applicant as designated in his application; service shall be deemed to have been made upon said applicant upon delivery of said copy of said process or pleading by registered mail at his designated principal place of business.

SECTION 7. That Section 54-2032, Idaho Code, be, and the same is hereby amended to read as follows:

54-2032. EVIDENCE OF GOOD STANDING. — In connection with the application of a non-resident of the state for a license as a real estate broker or real estate salesman, the board commission shall require evidence of good standing as a real estate broker or real estate salesman from the proper authority of the state of his or its domicile.

SECTION 8. That Section 54-2034, Idaho Code, be, and the same is hereby amended to read as follows:

54-2034. EXAMINATION — EXCEPTION — FORM AND TERM OF LICENSE.—Upon receipt of an application the board commission shall within a reasonable time thereafter conduct or cause to be conducted an examination of the applicant as provided in section 54-2027, and if the applicant for said license is found to be qualified, the board commission shall thereupon issue a proper license. If the applicant has had an Idaho license as a real estate broker or real estate salesman immediately prior to the date of his application for the present or ensuing year, or is a non-resident and licensed in the state of his domicile, the examination as provided in this act shall not be required. Every license issued under the provisions of this act shall expire on the 31st day of December of the year of its issue. Said license shall be in a form prescribed by the board commission.

SECTION 9. That Section 54-2035, Idaho Code, be, and the same is hereby amended to read as follows:

54-2035. BONDS — FILING — RIGHT OF ACTION. — All bonds given under the provisions of this act after their approval shall be filed with the board commission. Any person who may be damaged by the fraudulent representations of a licensed real estate broker or real estate salesman in his capacity as such shall in addition to other legal remedies have a right of action in his own name on such bond for all damages not exceeding $1,000.00 suffered by such person
by reason of said fraud or fraudulent representations of said broker or salesman; provided, that the total aggregate liability of any surety under such bond shall not exceed the sum of $1,000.00.

SECTION 10. That Section 54-2036, Idaho Code, be, and the same is hereby amended to read as follows:

54-2036. ADDITIONAL FEES.—In addition to the license fee provided for in this act the board commission shall be entitled to charge and collect the following fees for the following services:

a. A renewal fee for each salesman's license and broker's license in the sum of $25.00 $30.00.

b. An inactive license fee of $25.00 or fee of $25.00 for renewal of an inactive license.

c. A re-examination fee of $10.00 for each re-examination.

d. A change of address fee of $2.50 for each license requiring the change of address.

e. A fee of $2.50 for the establishment of each branch office.

SECTION 11. That Section 54-2037, Idaho Code, be, and the same is hereby amended to read as follows:

54-2037. DISPOSITION OF FUNDS.—All fees collected by the board commission under the provisions of this act shall be deposited at least monthly with the state treasurer and said funds so deposited shall be apportioned as follows:

(a) From each license fee and renewal fee of $25.00 $30.00, $5.00 thereof shall be deposited to the credit of the general fund of the state of Idaho to reimburse the state for its costs in administering this act.

(b) The balance of said license and renewal fees and all other fees collected by the board commission shall be deposited to the credit of the special real estate fund, which fund is hereby created. All funds so deposited in said special real estate fund are hereby appropriated for the purpose of carrying out the provisions of this act. All expenditures from said fund by the board commission under the provisions of this act shall be paid out on warrants drawn by the state auditor upon presentation of proper vouchers approved by the board commission. Such claims and supporting vouchers shall be examined by the state board of examin-
ers in the same manner as other claims against the state of Idaho. For the purposes of carrying out the objects of this act and in the exercise of the powers herein granted, the board commission shall have power to make orders concerning the disbursement of the moneys in said special real estate fund, including the payment of compensation and expenses of its members, clerks and employees and for the payment of printing and for the training and education of all licensees under this act. Moneys in said fund may be expended by the board commission for the promotion and improvement of the real estate profession and the promotion and advertising of the state of Idaho.

SECTION 12. That Section 54-2038, Idaho Code, be, and the same is hereby amended to read as follows:

54-2038. PLACE OF BUSINESS — DISPLAY OF LICENSE AND CARD. — Except as provided in section 54-2033, each person licensed as a real estate broker under the provisions of this act shall be required to have and maintain a definite place of business in the state of Idaho, which place shall serve as his office for the transaction of business and which shall be regarded for the intent and purpose of this act as his principal place of business. The license of said real estate broker shall be prominently displayed in his said office. Upon the issuance of a license hereunder to any real estate broker or real estate salesman, the board commission shall at the same time issue to said broker or salesman a pocket card of convenient size reciting that said broker or salesman is licensed to act as such under the provisions of this act during a stated period, showing the business address of said broker or salesman, and said pocket card shall be signed by the board commission or a designated officer thereof. Every licensed real estate broker and real estate salesman shall at all times while engaged in said business, carry said card upon his person and shall display the same to any person upon request. Notice in writing shall be given the board commission of any change by the broker of his business location whereupon a new license shall be issued covering the changed address. A change of business location without notification to the board commission and issuance of a new license shall automatically cancel the license heretofore issued.

SECTION 13. That Section 54-2040, Idaho Code, be, and the same is hereby amended to read as follows:

54-2040. REVOCATION OR SUSPENSION OF LICENSE—GROUNDS THEREFOR. — The board commission...
sion may upon its own motion, and shall upon verified com-
plaint in writing of any person claiming to have been in-
jured or defrauded, investigate the action of any person
engaged in the business or acting in the capacity of real
estate broker or real estate salesman within this state and
shall have the power to temporarily suspend or perma-
nently revoke licenses issued under the provisions of this
act at any time where the holder thereof in performing
or attempting to perform any of the acts mentioned in sec-
tion 54-2022, is guilty of (a) making any fraudulent mis-
representations; or, (b) a continued or flagrant course of
misrepresentation or making of false promises whether
through agents or salesmen; or (c) failure to account for
or remit any property or moneys coming into his possession
which belong to another; or, (d) failure to keep adequate
records of all property transactions in which he acts in the
capacity of real estate broker or real estate salesman; or,
(e) failing or refusing upon demand to disclose any in-
formation within his knowledge, or to produce any docu-
ments, books, or records in his possession for inspection by
the board commission or its authorized representatives
when acting within the jurisdiction or by authority of law;
or, (f) a crime against the laws of this or any other state-
or government involving moral turpitude—conviction of a
felony in a state or federal court, or conviction of any crime
involving moral turpitude. The record of conviction, or a
certified copy thereof, certified by the clerk of the court,
or the judge in whose court the conviction was had, shall
be prima facie evidence of conviction in such cases. The
provisions of this sub-section shall be grounds for suspen-
sion and/or revocation whether committed in performing
or attempting to perform any of the acts mentioned in Sec-
tion 54-2022 or not; or, (g) any other conduct whether of
the same or a different character than hereinabove speci-
fied which constitutes dishonest or dishonorable dealing.
employment of fraud, deception, misrepresentation, mis-
statement or any unlawful means in applying for or secur-
ing a license to act as a real estate broker or salesman in
the state of Idaho; or, (h) acting as a real estate broker or
salesman under an assumed name; or, (i) declaration of
insanity by a court of competent jurisdiction; provided,
however, that when a licensed person's license shall have
been revoked or suspended for this cause, such license may
be reactivated by the commission upon a declaration of
sanity being made; or, (j) willful violation of any of the
rules and regulations made and promulgated by the Real
Estate Commission; or (k) any other conduct whether of
the same or a different character than hereinabove specified which constitutes dishonest or dishonorable dealing.

SECTION 14. That Section 54-2041, Idaho Code, be, and the same is hereby amended to read as follows:

54-2041. DISCIPLINARY PROCEDURE — REVOCATION OR SUSPENSION OF LICENSE PROCEDURE. — The proceedings for revocation or suspension of a license shall be had only after an application in writing, verified by some person or persons familiar with the facts which are charged, has been filed with the board commission; upon receipt of such accusation, the board commission shall make a preliminary investigation of the facts charged to determine whether the accusation is sufficient. If the board commission shall determine the accusation is sufficient to require formal action, the board commission shall make an order setting the same for hearing at a specified time and place. The board commission shall appoint some fair-minded, disinterested person to serve as hearing officer. The hearing officer shall be a lawyer duly licensed to practice law in the state of Idaho with at least five (5) years' experience in the practice of law. The board commission shall cause a copy of such order and a copy of the verified accusation to be served upon the licensed person accused not less than twenty (20) days before the day appointed in the order for said hearing. The board commission, the person accusing and the licensed person accused may be represented by counsel at such hearing. The hearing officer 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 such witnesses and the production of such books, records, and papers as he may desire at any hearing before him of any matter which he has authority to investigate, and for that purpose the hearing officer may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county of the state of Idaho, where such witness resides, or may be found, which shall be served and returned in the same manner as a subpoena in a 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 on deposit in the special real estate fund. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the re-
fusal 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 such disobedience, neglect or refusal occurs, or any judge thereof, on application by the board commission acting through its president or chairman or the designated hearing officer, to compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or for refusal to testify therein. The licensed person accused in such proceedings shall have the same right of subpoena upon making application to the department therefor. If the licensed person accused does not appear at the time and place appointed for the hearing in person or by counsel, the hearing officer may proceed and determine the facts of the accusation in his absence. The hearing officer may cause such proceedings to be conducted at places within this state convenient to all concerned and may adjourn such proceedings from day to day or for longer periods. The hearing officer shall cause a transcript of all such proceedings to be kept by a reporter and shall upon request after completion thereof furnish a copy of such transcript to the licensed person accused in such proceedings. The hearing officer shall certify the transcript of proceedings taken thereon to be true and correct and shall transmit the same together with any exhibits to the board commission with such certificate. After the transcript has been certified the board commission shall take the proceedings under advisement. After full and mature deliberation, the board commission shall make findings of fact and shall enter the same upon the record of proceedings. If the board commission shall find that the licensed person accused has violated any of the provisions of section 54-2040, the board commission may recommend that the license of such licensed person accused shall be revoked or suspended for such a term as may to the board commission appear just and proper in the circumstances. The board commission may suspend the license of a licensed person accused for not less than one (1) month nor more than five (5) years; or the board commission may permanently revoke the license. Such recommendation shall be entered upon the record of proceedings. When the board commission has entered its findings and its recommendations upon the record, all members of the board commission concurring in the findings and recommendations shall sign the same, and the board commission file the same in its office and the president or chairman or executive secretary of the board commission must, as soon as reasonably possible, notify the licensee of the revocation or suspension by regis-
tered mail addressed to the address of licensee upon the licensee's application for license. A license so revoked may not be reinstated except upon order of a district court reversing the decision of the Idaho real estate brokers board commission. A license so suspended may not be reinstated during the term of such suspension except upon order of a district court reversing the decision of the board commission, or upon a reversal of such decision by the board commission itself after hearing new or additional evidence not available at the original proceeding in the case. If the findings of the hearing officer are that there has been no violation of the provisions of section 54-2040, the board commission shall notify the licensed accused person and the person making the accusation and shall dismiss the complaint.

SECTION 15. That Section 54-2042, Idaho Code, be, and the same is hereby amended to read as follows:

54-2042. REVIEW OF REVOCATION OR SUSPENSION PROCEEDINGS.—Any licensed person whose license shall be revoked or suspended by the board commission pursuant to this act shall have the right to have the proceedings of the board commission revoking or suspending said license reviewed by the district court of the county in which such person resides. The review shall be had upon the filing by the person whose license has been revoked or suspended a notice of appeal with the clerk of the court and service of the same upon any member of the board commission or its secretary. Such appeal must be taken within twenty days from the date of the entry of the order of revocation or suspension. The court shall command the board commission to certify a copy of the complete record and transcript of the proceedings and the same shall be delivered to the court within twenty days of such order. The review by said court shall be limited to determining whether the board commission has regularly pursued its authority, and the findings of fact made by the hearing officer and approved by the board commission shall be conclusive if supported by competent evidence. If the court shall find that the board commission has regularly pursued its authority and that the findings are supported by competent evidence, the order of the board commission shall be confirmed. If the court shall find that the board commission has not regularly pursued its authority or that the findings are not supported by competent evidence, the order of the board commission shall be reversed, but in no case shall the district court modify the order of the board commission. An appeal may be
taken by the licensed person whose license has been re-
voked or suspended by the board commission from the final
order of the district court. The proceedings on appeal to the
Supreme Court shall be limited to a review of the proceed-
ings by the board commission in the same manner as pro-
vided herein for review by the district court.

A revoked or suspended license may be reissued or rein-
stated in the discretion of the board commission.

SECTION 16. That Section 54-2043, Idaho Code, be, and
the same is hereby amended to read as follows:

54-2043. PROOF OF COMPLAINT—PROSECUTION
BY COUNTY ATTORNEY.—The board commission may
prefer a complaint for violation of any section of this act
before any court of competent jurisdiction. It shall be the
duty of the prosecuting attorney of each county in the state
to prosecute all violations of the aforesaid provisions of this
act in their respective counties in which said violations occur.

SECTION 17. That Section 54-2046, Idaho Code, be, and
the same is hereby amended to read as follows:

54-2046. DIRECTORY OF BROKERS AND SALESMEN—PUBLICATION BY BOARD COMMISSION.—The
board commission shall at least annually publish a list of
names and addresses of all licensed brokers and salesmen
under the provisions of this act, together with such other
information relative to the enforcement of the provisions of
this act as it may deem of interest to the public. One of
such lists shall be mailed to each licensed broker or real
estate salesman.

SECTION 18. That Section 54-2047, Idaho Code, be, and
the same is hereby amended to read as follows:

54-2047. DISCHARGE OF SALESMAN FOR VIOLA-
TION OF SECTION 54-2040 — STATEMENT TO BE
FILED WITH BOARD COMMISSION.—When any real
estate salesman shall be discharged by his employer for a
violation of any of the provisions of section 54-2040, a
written statement of the facts in reference thereto shall be
filed forthwith with the board commission.

SECTION 19. That Section 54-2048, Idaho Code, be, and
the same is hereby amended to read as follows:

54-2048. TRANSFER OF RECORDS.—All records re-
lating to the licensing of real estate brokers and real estate
salesmen now in the office of the commissioner of law en-
Section 20. That Section 54-2050, Idaho Code, be, and the same is hereby amended to read as follows:

54-2050. RULES AND REGULATIONS GOVERNING TRUST FUNDS PRESCRIBED BY BOARD COMMISSION.—The board commission may prescribe rules and regulations governing the maintenance of records and accounting of trust funds referred to in section 54-2049. The failure to comply with the provisions of section 54-2049 or any rule or regulation established by the board commission hereunder or under the provisions of section 54-2027 shall be deemed a ground for revocation or suspension of license under section 54-2040.

Approved March 17, 1967.

CHAPTER 123
(H. B. No. 101 As Amended, As Amended in the Senate)

AN ACT

AMENDING SECTION 23-948, IDAHO CODE, RELATING TO LIQUOR LICENSES FOR LAKE RESORTS, BY STRIKING THE PROVISION THAT NOTHING CONTAINED IN TITLE 23, IDAHO CODE, SHALL PROHIBIT THE ISSUANCE OF SUCH A LICENSE; BY PROVIDING THAT THE PROVISIONS OF SECTION 23-910 APPLY TO THE ISSUANCE OF SUCH LICENSES; BY CHANGING FROM TWO SQUARE MILES TO 160 ACRES THE MINIMUM SIZE OF A LAKE UPON THE FRONAGE OF WHICH A LAKE RESORT MAY BE LOCATED FOR THE PURPOSE OF SUCH LICENSING; BY STRIKING THE PROVISION THAT PROPERTIES OF VARIOUS OR PUBLIC OWNERSHIPS MAY NOT BE COMBINED TO QUALIFY A LICENSEE UNDER THIS SECTION; AND BY PROVIDING THAT THE LICENSE FEE FOR SUCH RESORTS SHALL BE THE SAME AS FOR GOLF COURSES, EXCEPT WHEN WITHIN THE CORPORATE LIMITS OF A CITY OR VILLAGE.

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

Section 1. That Section 23-948, Idaho Code, be, and the same is hereby amended to read as follows:

23-948. LAKE RESORTS — LICENSING EVEN IF
OUTSIDE CORPORATE LIMITS OF CITY OR VILLAGE.
—Nothing contained in section 23-903, Idaho Code, as amended, or in this title or chapter, shall prohibit the issuance of a license to the owner, operator or lessee of an actual bona fide lake resort, even if situated outside the incorporated limits of a city or village. Provided, however, the provisions of section 23-910, Idaho Code, shall apply to licenses issued under the provisions of this section. For the purpose of this section, a lake resort shall comprise real property with not less than 200 feet of lake frontage upon a lake of not less than two square miles, 160 acres, and shall have been used for not less than three years prior to the issuance of the license as a resort open to the public, where people assemble for the purpose of vacationing, boating or fishing, and each lake resort must have suitable docks and facilities for the purpose of caring for vacationers and fishermen and accommodations for not less than fifty persons. Properties of various or public ownerships may not be combined to qualify a licensee under this section. The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code, unless said resort be located within the corporate limits of a city or village, in which case the license fee shall be the same as for other licensees within such corporate limits.

Approved March 17, 1967.

CHAPTER 124
(H. B. No. 103 As Amended in the Senate)

AN ACT

AMENDING SECTION 37-503, IDAHO CODE, RELATING TO LICENSES FOR DAIRY PRODUCT DEALERS AND DEFINITIONS OF LICENSES, BY EXTENDING DEFINITION OF ICE CREAM FACTORY, TO INCLUDE SEMI-FROZEN DESSERTS REGARDLESS OF BUTTERFAT CONTENT.

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

SECTION 1. That Section 37-503, Idaho Code, be, and the same is hereby amended to read as follows:

37-503. LICENSES—RETAIL VENDOR EXCEPTED—FEES—POSTING—DEFINITIONS.—Every creamery, milk plant, shipping or cream buying station, milk condens-
ing plant, cheese factory, mix making plant, ice cream factory, reprocessing plant, casein plant, powdered milk plant, or factory of milk products, or other person receiving or purchasing milk or cream in bulk other than a retail vendor of milk on the basis of the amount of milk fat therein, shall annually obtain a license therefor. Such license shall be issued by the department upon being satisfied that the building, places, or premises where such milk or dairy products are to be received or purchased are maintained in a sanitary manner, and that cream scales are protected and placed on a solid foundation and away from drafts, and that a laboratory or enclosed test room is provided in which to test milk and cream, that ample light is provided therein, and that at all times the room is kept in a clean and sanitary condition, and upon payment of such license fee to the department according to the following schedule:

Milk condensery, $100.00, reprocessing plant, $100.00, creamery fifty dollars, cheese factory twenty dollars, ice-cream factory twenty dollars, mix making plant twenty dollars, casein plant twenty dollars, milk powder plant thirty dollars, cream buying or shipping station fifteen dollars. When one or more kinds of dairy products are being manufactured by the same firm on the same premises, this shall be construed to require that a separate license be procured for each kind of product manufactured and sold. The license, when issued, shall be posted in a conspicuous place in the plant for which issued.

The term “creamery” shall mean any place, building or structure wherein milk or cream is manufactured into butter for sale.

The term “milk plant” shall mean any place, building or structure wherein milk is received for bottling, pasteurizing, clarifying or otherwise processing.

The term “shipping or cream buying station” shall mean any place where milk or cream is delivered by the producers to a buyer, not a manufacturer, or to the agent or representative of a manufacturer or processor of dairy products for shipment or transportation to such manufacturer or processor.

The term “milk condensing plant” shall mean any place, building or structure wherein milk is condensed or processed by evaporation of a considerable portion of the water normally contained therein.
The term "cheese factory" shall mean any place, building or structure wherein milk is manufactured into cheese.

The term "ice cream factory" shall mean any place, building or structure wherein milk or cream, regardless of butterfat content, and with or without other constituents, shall be manufactured into a frozen or semi-frozen product for human consumption and for sale at wholesale or retail.

The term "mix making plant" shall mean any place, building or structure wherein milk or cream, with or without other constituents, shall be mixed or processed for resale to ice cream factories; provided, that any duly licensed ice cream factory may carry on, as a part of his business, the business of mix making plant without being required to pay therefor, additional license for so doing.

The term "reprocessing plant" shall mean any place, building or structure wherein a cheese product is made by comminuting and mixing one or more lots of cheese of the same variety or of different varieties into a homogenous, plastic mass with or without the addition of water and emulsifying agents.

The term "casein plant" shall mean any place, building or structure wherein casein is manufactured for sale.

The term "powdered milk plant" shall mean any place, building or structure wherein milk or any product of milk is processed by evaporating or removing therefrom the water or moisture contained therein to a point where the product may be handled as a dry product.

Approved March 17, 1967.

CHAPTER 125
(H. B. No. 180)

AN ACT

PROVIDING A DECLARATION OF INTENTION; AMENDING SECTION 63-506, IDAHO CODE, RELATING TO DELEGATION OF DUTIES OF THE STATE TAX COMMISSION, BY PROVIDING THAT THE CHAIRMAN SHALL DELEGATE ADMINISTRATION OF DEPARTMENTS OF TAXATION TO THE MEMBERS OF THE COMMISSION AND MAY DELEGATE DUTIES TO ANY OF ITS EMPLOYEES; AMENDING
SECTION 63-508, IDAHO CODE, RELATING TO COMPENSATION, BY PROVIDING THAT EACH MEMBER OF THE COMMISSION SHALL RECEIVE A SALARY OF $14,500.00 PER ANNUM IN LIEU OF A PER DIEM OF $25.00 PER DAY WHILE PERFORMING THEIR OFFICIAL DUTIES; AMENDING SECTION 63-510, IDAHO CODE, RELATING TO EMPLOYEES COMPENSATION AND TENURE BY PROVIDING THAT THE COMMISSION MAY EMPLOY AN EXECUTIVE OFFICER IN LIEU OF MAKING IT MANDATORY THAT THEY DO EMPLOY AN EXECUTIVE OFFICER; AMENDING SECTION 63-513, IDAHO CODE, RELATING TO ADDITIONAL POWERS AND DUTIES OF THE COMMISSION, BY PROVIDING THE COMMISSION THE POWER AND DUTY TO ASSESS AND COLLECT ALL TAXES AND ADMINISTER ALL TAX PROGRAMS WHICH NOW ARE PERFORMED BY THE STATE TAX COLLECTOR, BY PROVIDING A PROGRAM OF EDUCATION FOR ITS EMPLOYEES AND COUNTY ASSESSORS, BY PROVIDING THE COMMISSION POWER AND AUTHORITY TO MAKE RULES AND REGULATIONS, MAINTAIN A TAX RESEARCH SECTION AND RECOMMEND TO THE GOVERNOR ANY CHANGES IN THE TAX LAWS; AMENDING CHAPTER 5, TITLE 63, IDAHO CODE, BY ADDING A NEW SECTION THERETO, TO BE KNOWN AND DESIGNATED AS SECTION 63-515, IDAHO CODE, WHICH PROVIDES THE PROCEDURES OF APPEAL UPON TAX DECISIONS; ABOLISHING THE OFFICE OF STATE TAX COLLECTOR AND TRANSFERRING ALL POWERS AND DUTIES VESTED IN HIS OFFICE TO THE STATE TAX COMMISSION; AMENDING SECTION 63-3404, IDAHO CODE, RELATING TO DUTIES OF THE STATE TAX COLLECTOR, BY TRANSFERRING THESE DUTIES TO THE STATE TAX COMMISSION AND STRIKING SUBSECTION (b) RELATING TO THE TAX COLLECTOR SUBMITTING REPORTS TO THE GOVERNOR; PROVIDING THAT THE ACT SHALL NOT AFFECT ANY PROCEEDINGS OR ACTIONS COMMENCED BEFORE THE EFFECTIVE DATE OF THIS ACT; PROVIDING THAT NOTHING IN THIS ACT SHALL AFFECT EMPLOYEES OF THE STATE TAX COLLECTOR'S OFFICE; REPEALING SECTIONS 63-3402, 63-3405, 63-3407 AND 63-3617, IDAHO CODE; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. In order that a more efficient system for supervision and collection of state taxes be instituted, it is hereby declared to be the intention of the legislature by this amendatory act that the state tax commission shall be con-
stituted as a full time commission with responsibility for administration of the functions formerly assigned to the office of the state tax collector in addition to the duties now and hereafter assigned to the commission and, in all respects, to combine the functions of the office of the state tax collector with the office of the state tax commission. It is the intention of the legislature that each member of the commission shall be separately charged with the administration of a separate area of tax and shall supervise and oversee the functions of that department as the administrative head of the department for which he has responsibility and at the same time continue to discharge the responsibilities with which he, as a member of the commission, is now vested. It is also the intention of the legislature that the state tax commission continue to perform the duties with which it is now or may hereafter be charged as a commission.

SECTION 2. That Section 63-506, Idaho Code, be, and the same is hereby amended to read as follows:

63-506. CHAIRMAN — QUORUM — HEARINGS — DELEGATION OF DUTIES.—(a) The commission shall meet within thirty (30) days after the appointment and confirmation of its members, at which time it shall elect one of its members chairman. A majority of the commission shall constitute a quorum for the transaction of business. The commission may delegate to any member of the commission or to its executive officer or other employees, the power to make investigations and hold hearings at any place it may deem proper, and to report findings to it; and may delegate to its executive officer and employees the performance of ministerial functions.

(b) The commission shall delegate to each member of the commission responsibility for administration and control of one or more departments of taxation and responsibility for the functions of that department. The commission, as a body, shall continue to perform the duties imposed upon it by law and shall adopt all rules and regulations, in each case acting only on a majority decision of the commission.

(c) The state tax commission may delegate to any of its employees the duty of assisting in the collection, audit, inspection and enforcement of any tax or license and may authorize any of its employees to act in its place and stead. Certain of its employees shall be designated as deputies by the commission and these employees shall perform the
duties now performed by deputy tax collectors and such further duties as may be prescribed by the commission.

SECTION 3. 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 be paid for his services on a per diem basis, at the rate of $25.00 per day for each day devoted to the performance of the duties of the commission; and in event the full performance of his duties shall require on the part of any member more than one hundred days of service in any one year, he shall perform such additional service without additional compensation. Form his full time to the performance of his duties and shall receive an annual salary of $14,500.00 per annum.

SECTION 4. That Section 63-510, Idaho Code, be, and the same is hereby amended to read as follows:

63-510. EMPLOYEES — COMPENSATION — TENURE.—The commission may employ an executive officer who shall serve as secretary of the commission, and who shall be a person skilled in matters of taxation and tax administration; and shall also employ such other persons as may be necessary to performance of its duties. The commission shall, within the limits of appropriations made therefor, fix the compensation of the executive officer and all other employees. All employees of the commission shall hold office during the pleasure of the commission.

SECTION 5. That Section 63-513, Idaho Code, be, and the same is hereby amended to read as follows:

63-513. ADDITIONAL POWERS AND DUTIES ENUMERATED.—In addition to all other powers and duties vested in it, the state tax commission shall have power, and it shall be its duty:

(1) To supervise and coordinate the work of the several county boards of equalization.

(2) To secure, tabulate and keep records of valuations of all classes of property throughout the state, and for that purpose, to have access to all records and files of state offices and departments and county and municipal offices, and to require all public officers and employees whose duties make it possible to ascertain valuations, including valuations of public utilities for rate-making purposes, to file reports with the commission, giving such information as to valuation and the source thereof. The nature and kind of the tabulations,
records of valuations and requirements from public officers as stated herein, shall be in such form and cover such valuations as the tax commission may prescribe.

(3) To have and exercise general supervision of the system of ad valorem taxation throughout the state.

(4) To require all assessments of property in this state to be made according to law; and for that purpose to correct, when it finds the same to be erroneous, any assessments made in any county, and require correction of the county assessment records accordingly.

(5) To issue instructions and directions to the county assessors and county boards of equalization as to the methods best calculated to secure uniformity in the system of assessment and equalization of taxes, to the end that all property shall be assessed and taxed as required by law.

(6) To prescribe forms whenever necessary with relation to any duty or power of the commission, and to require their use by county boards of equalization.

(7) To see to it that statutory penalties are enforced, and proper complaint is made against persons derelict in duty under any law relating to assessment or equalization of taxes.

(8) To sue and be sued in the name of the commission.

(9) To reconvene, whenever the tax commission may deem necessary, any county board of equalization, notwithstanding the limitations of chapter 4 of title 63, for equalization purposes and for correction of errors. The county board of equalization, when so reconvened shall have no power to transact any business except that for which it is specially reconvened, or such as may be brought before it by the state tax commission.

(10) To require prosecuting attorneys to institute and prosecute actions and proceedings in respect to penalties, forfeitures, removals and punishments for violations of law in connection with the assessment and taxation of property. It shall be the duty of such officers to comply promptly with the requirements of the commission in that relation.

(11) To require individuals, partnerships, companies, associations and corporations to furnish such information as the tax commission may require concerning their capital, funded or other debt, current assets and liabilities, value of property, earnings, operating and other expenses, taxes and
all other facts which may be needful to enable the tax commission to ascertain the value and the relative tax burden borne by all kinds of property in the state, and to require from all state and local officers such information as may be necessary to the proper discharge of the duties of the commission.

(12) To visit, as a commission or by individual members or agents thereof, whenever the commission shall deem it necessary, each county of the state, for the investigation and direction of the work and methods of assessment and equalization, and to ascertain whether or not the provisions of law requiring the assessment of all property, not exempt from taxation, and just equalization of the same have been or are being properly administered and enforced.

(13) To examine carefully into all cases where evasion or violation of the laws of assessment and taxation of property is alleged, complained of, or discovered, and to ascertain wherein existing laws are defective or are improperly or negligently administered.

(14) To report to the governor from time to time, and furnish him such assistance and information as he may require.

(15) To transmit to the governor and to the legislature, a biennial report, with its recommendations as to such legislation as will correct or eliminate defects in the operations of the property tax laws and will equalize taxation within the state.

(16) To correct its own errors in assessment at any time before the tax is paid thereon, and report such correction to the county auditor, who shall thereupon enter the correction upon the assessment rolls.

(17) To apportion annually to the state and the respective counties any moneys received by the state from the United States or any agency thereof, as payments in lieu of ad valorem property taxes: provided, that said moneys shall be apportioned in the same amounts, and to the same governmental divisions as the taxes, in lieu of which payments are made, would be apportioned, if they were levied. And the state treasurer and the state auditor shall be bound, in making distribution of moneys so received, by the apportionment ordered by the tax commission.

(18) To make administrative construction of ad valorem tax laws whenever requested by any officer acting under
such laws; and until judicially overruled, such administra-
tive construction shall be binding upon the inquiring offi-
cer and all others acting under such laws.

(19)—To examine and test the work of county assessors
at any time and to have and possess all rights and powers
of such assessors for the examination of persons and prop-
erty, and for the discovery of property subject to taxation;
and if it shall ascertain that any taxable property is omitted
from the assessment rolls or is not assessed or valued ac-
cording to law, it shall bring the same to the attention of
the assessor of the proper county in writing, and if such
assessor shall neglect or refuse to comply with the request
of the tax commission to place such property on the assess-
ment rolls, or correct such incorrect assessment or valuation,
the tax commission shall have the power to prepare a
supplemental roll, which supplement shall include all
property required by the tax commission to be placed on the
assessment roll and all corrections to be made. Such sup-
plement shall be filed with the assessor’s assessment roll,
and shall thereafter constitute an integral part thereof to
the exclusion of all portions of the original assessment rolls
inconsistent therewith, and shall be submitted therewith to
the county board of equalization.

(20)—To summon witnesses to appear and testify before
it on any matter within its jurisdiction. However, no per-
son shall be required to testify outside the county wherein
he resides or the principal place of his business is located.
Such summons to testify shall be issued and served in like
manner as a subpoena to witnesses issued from the district
court, and shall be served without fee or mileage charge
by the sheriff of the county, and return of service shall be
made by the sheriff to the commission. Persons appearing
before the commission in obedience to such a summons, shall,
in the discretion of the commission, receive the same com-
pensation as witnesses in the district court, to be paid upon
claims presented against the state from any appropriation
made for the administration of this act, in the same manner
as other claims against the state are presented and paid.

(21)—To administer oaths and take affirmations of wit-
tnesses appearing before it; the power to administer oaths
and take affirmations is vested in each member of the com-
mission and its executive officer, and its duly constituted
agents.

(22)—In case any witness shall fail or refuse to appear
and testify before the commission upon being summoned to
appear as herein provided, the clerk of the district court of
the county shall upon demand of the commission, any mem­
ber thereof, its executive secretary, or agent, issue a sub­
poena reciting the demand therefor and summoning the wit­
ness to appear and testify at a time and place fixed; and
violation of such subpoena or disobedience thereto shall be
deemed and punished as a violation of any other subpoena
issued from the district court.

(23) Assess and collect all taxes and administer all pro­
grams relating to taxes which are the responsibility of the
tax collector at the time this 1967 amendatory act takes
effect, and administer and collect all taxes and administer
all programs which the legislature may hereafter make the
responsibility of the commission.

(24) Provide a program of education for its employees
and for the assessors of the various counties of this state.

(25) Make, adopt, and publish such rules and regulations
as it may deem necessary and desirable to carry out the
powers and duties imposed upon it by the legislature; pro­
viding, however, that all rules and regulations adopted by
the state tax commission or the tax collector prior to the
effective date of this 1967 amendatory act shall remain in
full force and effect until such time as they may be rescinded
or revised by the state tax commission.

(26) Maintain a tax research section to observe and in­
vestigate the effectiveness and adequacy of the revenue
laws of this state and to assist the executive and legisla­
tive departments in estimation of revenue, analysis of tax
measures and determination of the administrative feasi­
bility of proposed tax legislation.

(27) Recommend to the governor in a report at least
sixty days before and to the legislature ten days after the
meeting of any regular session of the legislature such
amendments, changes, and modifications of the various tax
laws as seem proper and necessary to remedy injustice and
irregularities in taxation and to facilitate assessment and
collection of taxes in the most economical and efficient man­
ner.

SECTION 6. That Chapter 5, Title 63, Idaho Code, be, and
the same is hereby amended by adding a new section there­
to, to be known and designated as Section 63-515, Idaho
Code, and to read as follows:

63-515. PROCEDURE UPON APPEAL.—In any case in
which the state tax commission sits as an appellate body upon an appeal from a tax decision from one of the various departments subject to its supervision, the commissioner charged with responsibility for administration of that department shall not vote upon the appeal but instead shall, during that hearing, advise the remaining members of the commission on the technical aspects of the problems before them.

SECTION 7. The office of the state tax collector is hereby abolished and all the powers and duties conferred and imposed upon, assigned to, and vested in the tax collector by Section 63-3403, Idaho Code, by Chapter 36, Title 63, (known as “The Idaho Sales Tax Act”) by Sections 23-1047 to 23-1056, Idaho Code, inclusive, by Sections 57-1108 to 57-1113, Idaho Code, inclusive, by Chapter 5, Title 14, Idaho Code, and by any and all other laws of the state of Idaho, are hereby removed from the tax collector of the state of Idaho and conferred and imposed upon, assigned to and vested in the state tax commission provided for by Chapter 5, Title 63, Idaho Code, and the state tax commission shall exercise all the powers and perform all the duties created and prescribed by such laws of the state of Idaho. After the effective date of this amendatory act, all reference in the laws of the state of Idaho to the state tax collector shall be taken to mean and refer to the state tax commission.

SECTION 8. That Section 63-3404, Idaho Code, be, and the same is hereby amended to read as follows:

63-3404. DUTIES OF STATE TAX COLLECTOR. — ACCOUNTING AND REPORTS. — (a) The state tax collector commission shall remit all moneys collected by him to the state treasurer, daily, and shall account for all moneys so collected and remitted, on forms prescribed by the state auditor. Accounting procedures employed in the office of the state tax collector commission shall be those prescribed by the state auditor with the approval of the state board of examiners. The governor may from time to time request reports from the state tax collector commission of the amount of moneys collected under any and/or all of the taxes and licenses collected by him, the number of persons employed to collect each such tax or taxes, the proportionate cost of collecting any and/or all of said taxes, and any other information which the governor shall deem pertinent to the collection of such taxes. In any event, the state tax collector commission shall make a report on all of these matters to the governor not less than semi-annually.
(b) A summary of the activities and reports of the tax collector showing the amount of each tax collected, the cost of such collection, the number of employees devoted to the purpose of collecting such tax and such other information as may be pertinent, together with such recommendations for legislation as the tax collector may deem proper, shall be submitted to the legislature, not later than the tenth (10th) legislative day of each regular session. None of the reports herein mentioned, other than the summary submitted to the legislature shall be printed.

(eb) The records and accounts of the office of state tax collector commission shall be audited annually beginning with the close of business June 30, 1950, by the bureau of public accounts. Report of such audit shall be filed with the board of examiners and a copy furnished the state tax collector commission.

SECTION 9. This act shall not affect any act done, ratified or confirmed, or any right accrued or established or any action or proceeding had or commenced in any civil or criminal cause, before this act takes effect; but such action or proceeding may be prosecuted and continued by the state tax commission; nor shall this act affect the validity of any contracts lawfully entered into prior to the effective date hereof.

SECTION 10. Nothing in this act abolishing the office of state tax collector shall affect the rights or privileges of the state employees in the tax collector’s office under the public employees retirement system (Chapter 13, Title 59, Idaho Code), the group insurance plan (Chapter 12, Title 59, Idaho Code), or the personnel system (Chapter 53, Title 67, Idaho Code). All employees of the tax collector’s office employed in performing the functions vested in that department shall, upon the effective date of this amendatory act, be transferred to the state tax commission.

SECTION 11. On the effective date of this act, all unexpended or unencumbered funds, special funds, and refunds heretofore appropriated to the tax collector shall be transferred to the state tax commission and the appropriations heretofore made to the state tax commission are hereby augmented and supplemented to the extent of all of such transferred funds and all such transferred funds and appropriations are hereby appropriated to the state tax commission.

SECTION 12. That Sections 63-3402, 63-3405, 63-3407
and 63-3617, Idaho Code, be, and the same are hereby repealed.

SECTION 13. If any act, provision, part, paragraph or clause of this amendatory act shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, such judgment shall not affect the validity of any part of the remainder of this act but the act shall be construed as though that part were not incorporated therein, and in such event, if such act affects the transfer or collection of a tax herein provided, then such tax shall be collected by the officer from whom it was transferred by Section 63-3403, Idaho Code, in the same manner as if Section 63-3405, Idaho Code, and this act had not been enacted and to this end it is hereby declared by the legislature that the various parts, sections, provisions, paragraphs and clauses are severable.

SECTION 14. Sections 2 and 3 of this act shall be in full force and effect from and after October 1, 1967, and the remainder of this act shall be in full force and effect from and after the first day of January, 1968.

Approved March 17, 1967.

CHAPTER 126
(H. B. No. 210)

AN ACT
AMENDING SECTION 47-101, IDAHO CODE, RELATING TO THE INSPECTOR OF MINES, BY PROVIDING THAT THE INSPECTOR OF MINES BE APPOINTED FOR A FOUR-YEAR TERM BEGINNING IN JANUARY, 1971, SUBJECT TO CONFIRMATION BY THE SENATE; AND DECLARING AN EFFECTIVE DATE.

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

SECTION 1. That Section 47-101, Idaho Code, be, and the same is hereby amended to read as follows:

47-101. OFFICE CREATED—ELECTION—APPOINTMENT—TERM OF OFFICE—BOND—SALARY.—The office of inspector of mines for the state of Idaho is hereby created, the same to be filled beginning with the first Monday in January, 1971, by appointment by the governor, subject to confirmation by the Senate, to hold office for a term
of four years unless removed for cause every four years at the general election, by the qualified electors of the state, as other state officers, commencing with the general election in 1946. The inspector of mines shall hold his office for the term of two years until the first Monday in January, 1947, and from and after the first Monday in January, 1947, shall hold his office for a term of four years, and until his successor is elected and qualified. The governor shall appoint a person of recognized competence in the mining industry who is qualified to carry out the duties and fulfill the responsibilities of the office of inspector of mines as hereinafter in this chapter specified. The inspector of mines shall be at least 30 years and not over 60 years of age at the time of appointment, a citizen of the United States, a qualified elector of this state, and shall have had at least five years practical experience in underground mining. Before entering upon the discharge of his duties as such inspector of mines he shall file an official bond in the sum of $5,000, conditioned for the faithful performance of his office, in form and manner as other official bonds of state officers. The governor shall fix the salary of the mine inspector in accordance with the provisions of Section 59-508, Idaho Code. The inspector of mines shall receive as full compensation for his services a salary of $10,000 per annum and such salary shall be paid monthly as due out of the state treasury and shall be in full for all services.

SECTION 2. This act shall be in full force and effect from and after July 1, 1970.

Approved March 17, 1967.

CHAPTER 127
(H. B. No. 216)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL FUND OF THE STATE OF IDAHO FOR THE PURPOSE OF CONDUCTING FURTHER INVESTIGATIONS OF THE CLOSURE OF IDAHO SAVINGS AND LOAN ASSOCIATION, AND PROVIDING THAT SAID MONEYS ARE TO BE ADMINISTERED BY THE GOVERNOR'S OFFICE OF THE STATE OF IDAHO; EXCEPTING THE ACT FROM THE PROVISIONS OF THE STANDARD APPROPRIATIONS ACT OF 1945; AND DECLARING AN EMERGENCY.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. There is hereby appropriated from the general fund of the state of Idaho the sum of $25,000.00 for the payment of salaries, wages, travel, travel expenses, other expenses of investigation and subsequent legal proceedings, including duplicating, supplies, certified documents, service of legal process, witness fees and witness travel and/or trial expense for the further investigation of the closure of the Idaho Savings and Loan Association. Said moneys shall be administered by the office of the Governor of the state of Idaho in any manner that said office may direct in furtherance of the investigation and subsequent legal proceedings.

SECTION 2. The appropriation herein made is expressly exempt from the provisions of the Standard Appropriations Act of 1945.

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

Approved March 17, 1967.

CHAPTER 128
(H. B. No. 217)

AN ACT
AMENDING SECTION 33-1707 AND 33-1708, IDAHO CODE, BY TRANSFERRING THE AUTHORITY FOR THE ADMINISTRATION OF THE DRIVER TRAINING FUND FROM THE COMMISSIONER OF LAW ENFORCEMENT TO THE STATE BOARD OF EDUCATION; PROVIDING FOR DIRECT CERTIFICATION TO THE STATE AUDITOR OF AMOUNTS OF MONEY DUE SCHOOL DISTRICTS FROM THE DRIVER TRAINING FUND; PROVIDING FOR ANNUAL REPORTS TO THE COMMISSIONER OF LAW ENFORCEMENT CONCERNING DISBURSEMENTS TO SCHOOL DISTRICTS AND ADMINISTRATIVE COSTS.

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

SECTION 1. That Section 33-1707, Idaho Code, be, and the same is hereby amended to read as follows:

33-1707. REIMBURSEMENT—DETERMINATION—CERTIFICATION.—a. From the data provided by the
school district, as required by section 33-1706, the state board of education shall compute the average of the number of pupils enrolling in the course and those completing the same, and determine for such average number, the per-pupil cost thereof.

The amount due the district from the driver training fund in the state treasury shall be the total cost of operating the program, or the average of the number enrolling in the course and those completing the same, multiplied by fifty-five dollars ($55.00), whichever is the lesser;

b. On or before the fifteenth day of March, and the fifteenth day of July, and the thirtieth fifteenth day of September October in each year, the state board of education shall certify to the commissioner of law enforcement state auditor a list of school districts having submitted the reports required in section 33-1706, and the amount of money due to each as computed under the provisions of subsection (a) of this section. The commissioner of law enforcement shall forthwith certify the same to the state auditor who shall draw his warrants against the driver training fund in the state treasury, in favor of the several districts entitled thereto, in the amount so certified. Annually, not later than the fifteenth day of July in each year, the state board of education shall report to the commissioner of law enforcement the names of the school districts having submitted the reports as required in section 33-1706, and the amounts of money paid each as computed under the provisions of subsection (a) of this section.

SECTION 2. That Section 33-1708, Idaho Code, be, and the same is hereby amended to read as follows:

33-1708. ADMINISTRATION. — STATE SUPERVISOR OF DRIVER TRAINING — EMPLOYEES — EXPENSES.—The state board of education shall administer the driver training fund. The state board of education shall employ a state supervisor of driver training, and other supervisory and clerical help as may be deemed necessary, to effectuate the provisions hereof. The board shall cause to be maintained an accurate and complete record of all costs of administering and supervising the driver training program in the state. Quarterly, Annually, or not later than the fifteenth day of April, July, October and January in each year, the state board of education shall certify report to the commissioner of law enforcement the actual expenses incurred in administering and supervising the program during the preceding quarter year. The commissioner of law enforcement shall...
enforcement shall thereupon have transferred from the driver training fund to the administrative funds of the state board of education the amount so certified.

Approved March 17, 1967.

CHAPTER 129
(H. B. No. 219)

AN ACT
AMENDING SECTION 67-3203, IDAHO CODE, RELATING TO CONTROL OVER CAPITOL BUILDING AND GROUNDS, BY TRANSFERRING SUCH CONTROL FROM THE STATE BOARD OF LAND COMMISSIONERS TO THE DEPARTMENT OF PUBLIC WORKS; PROVIDING THAT THIS ACT SHALL NOT AFFECT THE RIGHTS OF ANY EMPLOYEES INVOLVED IN SUCH TRANSFER; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 67-3203, Idaho Code, be, and the same is hereby amended to read as follows:

67-3203. CONTROL OVER CAPITOL BUILDING AND GROUNDS.—The provisions of section 67-3204, Idaho Code, as amended, to the contrary notwithstanding the state board of land commissioners department of public works shall have control of the capitol building and grounds and the construction, repair, maintenance, operation, equipment and protection thereof, subject to general laws governing the receipt and expenditure of funds and the disposition and control of the same. It shall be the duty of the state board of land commissioners department of public works to reserve proper space in the capitol building for the legislative department of the state government and the legislature reserves the right to the exclusive occupation of the house and senate chambers during its sessions, together with any and all rooms adjacent to such chambers and the galleries thereof.

SECTION 2. The provisions of this act shall in no manner affect the rights or privileges of the state employees involved in such transfer under the public employees retirement system (Chapter 13, Title 59, Idaho Code), the group
insurance plan (Chapter 12, Title 59, Idaho Code), or personnel system (Chapter 53, Title 67, Idaho Code).

SECTION 3. This act shall be in full force and effect from and after July 1, 1967.

Approved March 17, 1967.

CHAPTER 130
(H. B. No. 241)

AN ACT

AMENDING SECTION 58-313, IDAHO CODE, RELATING TO THE SALE OF STATE LAND, BY PROVIDING THAT LEASE PAYMENTS IF ANY SHALL BE APPLIED TO EITHER THE PURCHASE PRICE OR THE INTEREST UPON THE LAND SOLD AND REDUCE THE AMOUNT OF PRINCIPAL OR INTEREST WHICH THE PURCHASER MUST PAY IF THE LAND IS SOLD UPON INSTALLMENT CONTRACT OR BE PAID DIRECTLY TO THE PURCHASER IF THE LAND WAS SOLD FOR CASH.

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

SECTION 1. That Section 58-313, Idaho Code, be, and the same is hereby amended to read as follows:

58-313. SALE OF STATE LAND.—The state board of land commissioners may at any time direct the sale of any state lands, in such parcels as they shall deem for the best interests of the state. All sales of state lands shall be advertised in four (4) consecutive issues of some weekly newspaper in the county in which the land is situated, if there be such paper, if not, then in some newspaper published in an adjoining county, and in such other paper or papers as the board may direct. The advertisement shall state the time, place and terms of sale, a description of the land and value of the improvements, if any, thereon, and the minimum price per acre of each parcel as fixed by the board, below which no bid shall be received; provided, that sales of state lands shall only be made to citizens of the United States and to those who shall have declared their intentions to become such. If the required sum be not paid forthwith by the highest bidder any lands upon which such payment shall not be made may be immediately reoffered at public sale as before. If any land be sold on which surface improve-
ments have been made by a lessee, or by a former purchaser whose certificate of purchase has for any reason been cancelled, said improvements shall be appraised under the direction of the state board of land commissioners. When lands on which improvements have been made, as above, are sold, the purchaser, if other than the owner or former owner of said improvements, shall pay the appraised value of said improvements to the owner thereof, or to the former purchaser who placed the same thereon, taking a receipt therefor, and shall deposit such receipt with the state board of land commissioners before he shall be entitled to a certificate of purchase or patent of said land: provided, the lessee or former owner is not indebted to the state for delinquent rentals or installment payments on said land. If he is indebted to the state, the value of the improvements shall be credited on his indebtedness and the surplus, if any, be paid to him. All such receipts shall be filed and preserved in the office of said board: provided, that no school lands shall be sold for less than their appraised value nor for less than ten dollars ($10) per acre; provided, further, that in the case of the sale of land leased as grazing land and which is too rough, rocky or steep to be reclassified as farming land, the lessee, if he is not the successful bidder, shall be entitled to continue in possession under the lease for a period of two (2) years from the first day of December next occurring after the date of sale at public auction of said land or until expiration of the lease, whichever period shall be shorter: During such period the lessee shall continue to make rental payments to the state land commissioner and the purchaser of the land shall have no interest in or right to receive rental payments. During such period, all rental earned shall belong to the purchaser subject to the following provisions:

(1) If the land is sold upon installment contract to the purchaser, the lessee shall continue to make rental payments to the state land commissioner and the amount of rental earned after the date of sale shall, when received, be applied against and reduce the principal or interest, or both, payable by the purchaser;

(2) If the purchaser pays the purchase price in full, all rentals earned after the date of sale shall be paid directly to the purchaser.

However, no lessee of state lands shall have any right to remain in possession under his lease upon the sale of such
state lands for home or cabin site purposes, as provided by the regulations of the state board of land commissioners.

Approved March 17, 1967.

CHAPTER 131
(H. B. No. 256)

AN ACT

AMENDING TITLE 67, CHAPTER 29, IDAHO CODE, BY ADDING THERETO A NEW SECTION TO BE KNOWN AND DESIGNATED AS SECTION 67-2930 AND PROVIDING THAT THE PROVISIONS OF TITLE 67, CHAPTER 29, IDAHO CODE, PRESCRIBING POWERS AND DUTIES OF THE DEPARTMENT OF LAW ENFORCEMENT WITH REGARD TO REGULATION, EXAMINATION, LICENSURE, COLLECTION AND DEPOSIT OF LICENSE FEES FOR TRADES, OCCUPATIONS OR PROFESSIONS SHALL BE APPLICABLE ONLY WHERE SUCH POWERS AND DUTIES ARE NOT INVESTED BY LAW IN ANY OTHER BOARD, COMMISSION, DEPARTMENT OR AGENCY.

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

SECTION 1. That Title 67, Chapter 29, Idaho Code, be, and the same is hereby amended by adding thereto a new section to be known and designated as Section 67-2930, Idaho Code, to read as follows:

67-2930. LIMITED APPLICATION OF THIS CHAPTER.—The provisions of this chapter prescribing powers and duties in the department of law enforcement concerning regulation, examination, licensure, fees and deposit thereof for trades, occupations or professions shall be applicable only where such powers and duties are not invested by other provisions of law in any other board, commission, department or agency.

Approved March 17, 1967.
CHAPTER 132
(H. B. No. 257)

AN ACT
AMENDING SECTION 7-610, IDAHO CODE, BY INCREASING THE PENALTY UPON CONVICTION OF A CIVIL CONTEMPT FROM A MAXIMUM IMPRISONMENT OF FIVE DAYS TO THIRTY DAYS IN CASES OF THE DISOBEDIENCE OF A JUDGMENT OR ORDER FOR THE SUPPORT OF MINOR CHILDREN.

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

SECTION 1. That Section 7-610, Idaho Code, be, and the same hereby is amended to read as follows:

7-610. Upon the answer and evidence taken, the court or judge must determine whether the person proceeded against is guilty of a contempt charged, and if it be adjudged that he is guilty of the contempt, a fine may be imposed on him not exceeding $500.00, or he may be imprisoned not exceeding five days, or both; except that if the contempt of which the defendant be adjudged guilty be a disobedience of a judgment or order for the support of minor children, he may be imprisoned not exceeding thirty days in addition to such fine, under this section, as the court may impose.

Approved March 17, 1967.

CHAPTER 133
(H. B. No. 282)

AN ACT

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

SECTION 1. There is hereby appropriated out of the Wa-
To Whom Appropriated: Appropriations:

**WATERWAYS IMPROVEMENT:**

For: Other Current Expense $20,000
     Capital Outlay 364,000

Total $384,000

From: Waterways Improvement Fund $384,000

Approved March 17, 1967.

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**CHAPTER 134**

(H. B. No. 283)

AN ACT


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

SECTION 1. There is hereby appropriated out of the Personnel Commission fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:

**PERSONNEL COMMISSION:**

For: Salaries and Wages $217,280
     Travel Expense 12,000
CHAPTER 135  
(H. B. No. 284)  
AN ACT  

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

SECTION 1. There is hereby appropriated out of the State Liquor fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated:  
LIQUOR ADMINISTRATION:
For:  
Salaries and Wages  $
1,750,633
Travel Expense  12,000
Other Current Expense  673,503
Capital Outlay  56,859
Total  $2,492,995

From: State Liquor Fund  $2,492,995

Approved March 17, 1967.
CHAPTER 136
(H. B. No. 285)

AN ACT


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

SECTION 1. There is hereby appropriated out of the State Insurance fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
STATE INSURANCE FUND ADMINISTRATION:
For: Salaries and Wages $479,564
Travel Expense 27,300
Other Current Expense 212,800
Capital Outlay 16,000

Total $735,664
From: State Insurance Fund $735,664

Approved March 17, 1967.

CHAPTER 137
(H. B. No. 304)

AN ACT

APPROPRIATING MONIES FROM THE GENERAL FUND TO THE DEPARTMENT OF FINANCE FOR THE PURPOSE OF PAYING SALARIES AND WAGES, TRAVEL EXPENSE, OTHER CURRENT EXPENSE, AND CAPITAL OUTLAY, FOR THE PERIOD COMMENCING JULY 1, 1967, AND ENDING

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

SECTION 1. There is hereby appropriated out of the general fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
DEPARTMENT OF FINANCE:
For: Salaries and Wages $298,368
Travel Expense 26,956
Other Current Expense 52,039
Capital Outlay 5,545
Total $382,908

From: General Fund $382,908

Approved March 17, 1967.

CHAPTER 138
(H. B. No. 305)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:
To Whom Appropriated: Appropriations:
DEPARTMENT OF LABOR:
For: Salaries and Wages $85,000
   Travel Expense 10,000
   Other Current Expense 23,500
   Capital Outlay 2,500
   Total $121,000
From: General Fund $121,000

Approved March 17, 1967.

CHAPTER 139
(S. B. No. 115)

AN ACT

PROVIDING FOR THE DEVELOPMENT AND CONTROL OF NUCLEAR ENERGY; DECLARING THE POLICY AND PURPOSE OF THIS ACT; DEFINING TERMS; ESTABLISHING THE STATE NUCLEAR ENERGY COMMISSION; PROVIDING FOR THE SELECTION, TERMS, COMPENSATION OF MEMBERS AND PRESCRIBING THE POWERS AND DUTIES OF SUCH COMMISSION; DESIGNATING THE STATE BOARD OF HEALTH AS THE STATE RADIATION CONTROL AGENCY; PRESCRIBING THE POWERS AND DUTIES OF SUCH AGENCY; PROVIDING FOR PROMULGATION OF RULES AND REGULATIONS CONCERNING THE LICENSING OF NUCLEAR MATERIALS, DEVICES OR EQUIPMENT UTILIZING SUCH MATERIALS, AND PROVIDING PROCEDURE FOR SUCH LICENSING; PROVIDING FOR THE REGISTRATION OF SOURCES OF IONIZING RADIATION; PROVIDING EXEMPTIONS FROM REGISTRATION OR LICENSING; PROVIDING FOR INSPECTION OF PRIVATE OR PUBLIC PROPERTY; REQUIRING PERSONS WHO POSSESS OR USE SOURCES OF IONIZING RADIATION TO MAINTAIN RECORDS; PROVIDING FOR FEDERAL-STATE AGREEMENTS CONCERNING STATE ASSUMPTION OF FEDERAL RESPONSIBILITIES; PROVIDING FOR INSPECTION AGREEMENTS WITH THE FEDERAL GOVERNMENT; AUTHORIZING THE INSTITUTION OF TRAINING PROGRAMS TO IMPLEMENT THIS ACT; REQUIRING COMPLIANCE WITH THE ADMINISTRATIVE PROCEDURES ACT, CHAPTER 52 OF TITLE 67, IDAHO CODE, WITH CERTAIN EXCEPTIONS; PROVIDING FOR INJUNCTION PROCEEDINGS; PROHIBITING CERTAIN USES OF
IONIZING RADIATION; PROVIDING FOR THE IMPOUNDING OF MATERIALS; PROHIBITING CERTAIN USES OF EQUIPMENT EMPLOYING ROENTGEN RAYS; EXEMPTING CERTAIN SOURCES OR CONDITIONS FROM THE PROVISIONS OF THIS ACT; PROVIDING PENALTIES; PROVIDING FOR STUDIES BY THE SEVERAL STATE DEPARTMENTS AND AGENCIES; REPEALING CHAPTER 30 OF TITLE 39, IDAHO CODE; PROVIDING A SAVINGS CLAUSE; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. DECLARATION OF POLICY.—It is the policy of the state of Idaho in furtherance of its responsibility to encourage the industrial and economic growth of the state to the maximum extent consistent with the health and safety of the public:

1. To institute and maintain programs to encourage widespread participation in the development and utilization of peaceful uses of nuclear science and atomic energy; and

2. To institute and maintain a regulatory program for sources of ionizing radiation so as to provide for (a) compatibility with the standards and regulatory programs of the federal government, (b) a single, effective system of regulation within the state, and (c) a system consonant insofar as possible with those of other states.

SECTION 2. PURPOSE.—It is the purpose of this act to effectuate the policies set forth in Section 1 of this act by providing for:

1. A program for the development, promotion and coordination of the state’s nuclear energy resources;

2. A program of effective regulation of sources of ionizing radiation for the protection of the occupational and public health and safety;

3. A program to promote an orderly regulatory pattern within the state, among the states and between the federal government and the state and facilitate intergovernmental cooperation with respect to use and regulation of sources of ionizing radiation to the end that duplication of regulation may be minimized;

4. A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to byproduct, source, and special nuclear materials;
5. A program to permit maximum utilization of sources of ionizing radiation consistent with the health and safety of the public.

SECTION 3. DEFINITIONS. — 1. "Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

2. "Ionizing radiation" means gamma rays and x-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

3. a. "General license" means a license effective pursuant to regulations promulgated by the state radiation control agency, without the filing of an application, to transfer, acquire, own, possess, or use quantities of, or devices or equipment utilizing, byproduct, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

b. "Specific license" means a license, issued after application to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing byproduct, source, special nuclear materials, or other radioactive materials occurring naturally or produced artificially.

4. "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Atomic Energy Commission, or any successor thereto.

5. "Source material" means (a) uranium, thorium, or any other material which the governor declares by order to be source material after the United States Atomic Energy Commission, or any successor thereto, has determined the material to be such; or (b) ores containing one or more of the foregoing materials, in such concentration as the governor declares by order to be source material after the United States Atomic Energy Commission, or any successor thereto, has determined the material in such concentration to be source material.

6. "Special nuclear material" means (a) plutonium, ura-
nium 233, uranium enriched in the isotope 233 or in the iso-
tope 235, and any other material which the governor de-
clares by order to be special nuclear material after the
United States Atomic Energy Commission, or any successor
thereto, has determined the material to be such, but does
not include source material; or (b) any material artificially
enriched by any of the foregoing, but does not include
source material.

7. "Registration" means registration with the state board
of health by any person possessing a source of ionizing ra-
diation in accordance with rules, regulations and standards
adopted by the state board of health.

8. "Radiation source" means any type of device or sub-
stance which is capable of producing or emitting ionizing
radiation.

SECTION 4. STATE NUCLEAR ENERGY COMMIS-
SION ESTABLISHED.—1. There is hereby established the
state nuclear energy commission, consisting of five mem-
bers appointed by the governor and serving at his pleasure.
One of the members shall be selected for his knowledge of
regulatory functions of nuclear energy. Not more than
three of the members may be from any one political party.
The members' term of office shall be four years, except that
the terms of those first appointed shall expire as follows:
two at the end of two years after the effective date of this
act; two at the end of three years after such date; and one
at the end of four years after such date. If a vacancy oc-
curs, the governor shall appoint a member for the remain-
ing portion of that term. The governor shall designate from
his appointees a member to serve as chairman of the com-
mission. The director of the office of nuclear energy develop-
ment shall be an ex officio member and the secretary of the
commission. The administrator of the state radiation con-
trol agency or his alternate, the state radiological control
officer, shall also be an ex officio member of the commission.
While actually engaged in the business of the commission,
members of the commission shall receive a per diem allow-
ance of $25.00 per day, plus reimbursement for actual travel
expenses.

2. The commission shall:

a. Establish an office and employ an executive who
shall be designated as the director. The director shall serve
at the pleasure of the commission, and his compensation
shall be fixed within the limits of appropriations made there-
for. The director shall devote his entire time to the duties
of his office and shall have no other gainful employment or occupation. The director shall be selected with special reference to his knowledge and administrative capabilities in matters pertaining to industrial, agricultural, educational and institutional applications of nuclear energy. The director shall serve under the direction of the commission and in his office will be vested the administration of the promotional and development programs of this act.

b. Review prior to promulgation the proposed rules and regulations of the state radiation control agency and of other boards, agencies, and commissions of this state relating to use and control of sources of ionizing radiation to assure that such rules and regulations are consistent with rules and regulations of other agencies, boards, and commissions of the state. Propose rules and regulations which will not become effective until 90 days after submission to the commission unless the commission waives all or any part of such 90 day period. When the commission determines that any proposed rules or regulations or parts thereof are inconsistent with rules and regulations of other agencies, boards, or commissions of the state the commission will so advise the governor and the appropriate agency, agencies, boards or commissions, and consult with them in the effort to resolve any inconsistencies.

c. Review and evaluate policies and programs of the state including those of the boards, agencies, and commissions of this state, relating to nuclear energy.

d. Coordinate the nuclear energy development and regulatory activities of the several departments and agencies of this state including specifically the state board of health, the state department of labor, the state industrial accident board, and the department of commerce and development.

e. Make recommendations to the governor and furnish such advice as may be required to matters relating to development, utilization and regulation of nuclear energy.

f. Employ, compensate and prescribe powers and duties of such individuals as may be necessary to properly carry out the duties of the commission from whatever funds which may be available to the commission for such purpose.

g. Make an annual report to the governor.

3. The commission and the director shall be the focal point in state government for coordination of the promo-
tion and development of nuclear energy for peaceful and productive purposes in this state and shall have the following general powers and duties:

a. To advance the nuclear possibilities of the state by stimulating the interest of industry, agriculture and education around the state's nuclear resources and opportunities.

b. To advise, consult and cooperate with other agencies of the state, the federal government, other states and interstate agencies, political subdivisions and other groups functioning in fields related to nuclear energy.

c. To advise the governor in developing and promoting a state policy for nuclear energy research, development and education.

d. To advise and assist the governor with regard to the status of nuclear energy research, development and education, and to assure increasing progress in this field within the state.

e. To sponsor or conduct studies, collect and disseminate information, and issue periodic reports with regard to nuclear energy research, development and education, and proposals for further progress in the field of nuclear energy, and the power to acquire land and facilities for such purposes is specifically delegated to this commission.

f. To gather, maintain, and disseminate available information concerning appropriate sites throughout the state and the advantages of locating nuclear energy industries within the state.

g. To foster and support research and education relating to nuclear energy by arranging, accepting and administering contracts, grants or other appropriate means of assistance.

h. To keep the several departments and agencies informed as to private and public activities affecting nuclear industrial development and nuclear education and training and to enlist their cooperation in taking action to further such development, education and training to the end that through state activity the state's nuclear resources and nuclear energy position through the federal base may be augmented by a healthy private enterprise component.

i. To keep the public informed with respect to nuclear energy development within the state and the activities of the state relating thereto.
SECTION 5. STATE RADIATION CONTROL AGENCY.—1. The state board of health is designated as the state radiation control agency, hereinafter referred to as the agency, and shall be the state agency having sole responsibility for administration of the regulatory, licensing and radiation control provisions of this chapter.

2. The administrator of health shall be administrator of the agency, hereinafter referred to as the administrator, who shall perform the functions vested in the agency pursuant to the provisions of this chapter.

3. The administrator shall appoint a state radiological control officer, and in accordance with the laws of the state, fix his compensation and prescribe his powers and duties. Such officer shall be competent to evaluate radiological health hazards associated with the many uses of radioactive material and other sources of ionizing radiation. He shall at least have a baccalaureate degree, be trained in the physical and/or life sciences, and shall have had experience in health physics.

4. In accordance with the laws of the state, the agency may appoint, fix the compensation, and prescribe the powers and duties of such other individuals, including consultants, advisory councils, emergency teams and committees as may be necessary to carry out the provisions of this act. The personnel engaged in field activities of evaluation and inspection shall at least have a baccalaureate degree in the physical and/or life sciences, or the equivalent, and be trained in health physics.

5. The agency shall for the protection of the occupational and public health and safety:

   a. Develop programs for evaluation of hazards associated with use of ionizing radiation;

   b. Develop programs with due regard for compatibility with federal programs for regulation of byproduct, source, and special nuclear materials;

   c. Formulate, and with the advice of the nuclear energy commission, adopt, promulgate, and repeal codes, rules, regulations and standards relating to control of sources of ionizing radiation;

   d. Advise, consult, and cooperate with other agencies of the state, and federal government, other states and interstate agencies, political subdivisions, and with groups concerned with control of sources of ionizing radiation;
e. Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to control of sources of ionizing radiation.

f. Collect and disseminate information relating to control of sources of ionizing radiation; including:

(1) Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions, and revocations;

(2) Maintenance of a file of registrants possessing sources of ionizing radiation requiring registration under the provisions of this act and any administrative or judicial action pertaining thereto; and

(3) Maintenance of a file of all rules and regulations relating to regulations of sources of ionizing radiation, pending or promulgated, and proceedings thereon.

g. Have the authority to accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions from the federal government and from other sources, public or private.

h. Submit a biennial report to the governor and to the legislature concerning the control of sources of ionizing radiation and atomic energy.

i. Issue subpoenas in order to compel the attendance of necessary witnesses and/or the production of records and documents.

Section 6. Rules and Regulations — Licensing Requirements and Procedure—Registration of Sources of Ionizing Radiation—Exemptions from Registration or Licensing.

a. Each application for a specific license shall be in writing and shall state such information as the board, by rule or regulation, may determine to be necessary to decide the technical, insurance, and financial qualifications, or any other qualification of the applicant as the agency may deem reasonable and necessary to protect the occupational and...
public health and safety. The agency may at any time after
the filing of the application, and before the expiration of the
license, require further written statements and shall make
such inspections as the agency deems necessary in order
to determine whether the license should be granted or denied
or whether the license should be modified, suspended, or re­
voked. In no event shall the agency grant a specific license
to any applicant who has never possessed a specific license
issued by a recognized state or federal authority until the
agency has conducted an inspection which insures that the
applicant can meet the rules, regulations and standards
adopted pursuant to this act. All applications and state­
ments shall be signed by the applicant or licensee. The agen­
cy may require any applications or statements to be made
under oath or affirmation;

b. Each license shall be in such form and contain such
terms and conditions as the agency may by rule or regu­
lation prescribe;

c. No license issued under the authority of this act
and no right to possess or utilize sources of ionizing radia­
tion granted by any license shall be assigned or in any man­
ner disposed of; and

d. The terms and conditions of all licenses shall be sub­
ject to amendment, revision, or modification by rules, regu­
lations or orders issued in accordance with the provisions
of this act.

2. The agency may require registration of all sources of
ionizing radiation.

3. The agency may exempt certain sources of ionizing
radiation or kinds of uses or users from the registration or
licensing requirements set forth in this section when the
agency makes a finding, with advice of the nuclear energy
commission, that the exemption of such sources of ionizing
radiation or kinds of uses or users will not constitute a sig­
ificant risk to the health and safety of the public.

4. In promulgating rules and regulations pursuant to this
act the agency shall, insofar as practical, strive to avoid
requiring dual licensing, and shall provide for such recog­
nition of other state or federal licenses as the agency shall
deem desirable, subject to such registration requirements
as the agency may prescribe.

Section 7. INSPECTION.—The agency or its duly au­
thorized representative shall have the power to enter at all
reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with or violation of the provisions of this act and rules and regulations issued thereunder, except that entry into areas under the exclusive jurisdiction of the federal government, or security areas under the direct or indirect jurisdiction of the federal government, shall be effected only with the concurrence of the federal government or its duly designated representative.

SECTION 8. RECORDS.—1. The agency shall require each person who possesses or uses a source of ionizing radiation to maintain necessary records relating to its receipt, use, storage, transfer, or disposal and such other records as the agency may require which will permit the determination of the extent of occupational and public exposure from the radiation source. Copies of these records shall be submitted to the agency on request. These requirements are subject to such exemptions as may be provided by rules.

2. The agency may by rule and regulation establish standards requiring that personnel monitoring be provided for any employee potentially exposed to ionizing radiation and may provide for the reporting to any employee of his radiation exposure record.

SECTION 9. FEDERAL — STATE AGREEMENTS — AUTHORIZED—EFFECT AS TO FEDERAL LICENSES. —1. The governor, on behalf of this state, is authorized to enter into agreements with the federal government providing for discontinuance of certain of the federal government's responsibilities with respect to sources of ionizing radiation and the assumption thereof by this state pursuant to this act.

2. Any person who, on the effective date of an agreement under subsection (1) above, possesses a license issued by the federal government shall be deemed to possess the same pursuant to a license issued under this act which shall expire either ninety days after the receipt from the agency of a notice of expiration of such license or on the date of expiration specified in the federal license, whichever is earlier.

SECTION 10. INSPECTION AGREEMENTS AND TRAINING PROGRAMS.—1. The agency is authorized to enter into an agreement or agreements with the federal government, other states, or interstate agencies, whereby this state will perform on a cooperative basis with the fed-
eral government, other states, or interstate agencies, in-
spections or other functions relating to control of sources
of ionizing radiation.

2. The agency may institute training programs for the
purpose of qualifying personnel to carry out the provisions
of this act, and may make said personnel available for par-
ticipation in any program or programs of the federal govern-
ment, other states, or interstate agencies in furtherance of
the purposes of this act.

SECTION 11. ADMINISTRATIVE PROCEDURE. — In
any proceeding under this act for the issuance or modifica-
tion or repeal of rules and regulations relating to control
of sources of ionizing radiation, the agency shall comply
with the requirements of Chapter 52 of Title 67, Idaho Code.

Notwithstanding any other provision of this act, when-
ever the agency finds that an emergency exists requiring im-
mediate action to protect the public health, safety, or gen-
eral welfare, the agency may, without notice or hearing, is-
sue a regulation or order reciting the existence of such
emergency and require that such action be taken as is nec-
essary to meet the emergency. Such regulations or orders
shall be effective immediately.

SECTION 12. INJUNCTION PROCEEDINGS. — Not-
withstanding the existence or use of any other remedy,
whenever any person has engaged in, or is about to engage
in, any acts or practices which constitute or will constitute
a violation of any provision of this act, or any rule, regu-
lation, or order issued thereunder, the attorney general upon
the request of the agency, after notice to such person and
opportunity to comply, may make application to the appro-
priate court for an order enjoining such acts or practices,
or for an order directing compliance, and upon a showing
by the agency that such person has engaged in, or is about
to engage in, any such acts or practices, a permanent or
temporary injunction, restraining order, or other order may
be granted.

SECTION 13. PROHIBITED USES.—It shall be unlaw-
ful for any person to use, manufacture, produce, transport,
transfer, receive, acquire, own, or possess any source of ion-
izing radiation unless licensed by or registered with, or
exempted by the agency in accordance with the provisions
of this act.

SECTION 14. IMPOUNDING OF MATERIALS. — The
agency shall have the authority in the event of an emergency
to impound or order the impounding of sources of ionizing radiation in the possession of any person who is not equipped to observe or fails to observe the provisions of this act or any rules or regulations issued thereunder.

SECTION 15. PROHIBITION — FLUOROSCOPIC X-RAY SHOE FITTING DEVICES.—The operation or maintenance of any x-ray, fluoroscopic, or other equipment or apparatus employing roentgen rays, in the fitting of shoes or other footwear or in the viewing of bones in the feet is prohibited. This prohibition does not apply to any licensed physician, surgeon, chiropodist, or any person practicing a licensed healing art, or any technician working under the direct and immediate supervision of such persons.

SECTION 16. EXEMPTIONS.—This act shall not apply to the following sources or conditions:

1. Radiation machines during process of manufacture, or in storage or transit: provided, that this exclusion shall not apply to functional testing of such machines.

2. Any radioactive material while being transported in conformity with regulations adopted by any federal agency having jurisdiction therein, and specifically applicable to the transportation of such radioactive materials.

3. No exemptions under this section are granted for those quantities or types of activities which do not comply with the established rules and regulations promulgated by the United States Atomic Energy Commission, or any successor thereto.

SECTION 17. PENALTIES.—Any person who violates any of the provisions of this act or rules, regulations, or orders in effect pursuant thereto shall be guilty of a misdemeanor.

SECTION 18. CONDUCT OF STUDIES CONCERNING NUCLEAR ENERGY DEVELOPMENT.—Each of the several departments and agencies of this state, including specifically the state board of health, the state department of labor, the state industrial accident board, and the state department of commerce and development, is directed:

1. To initiate and to pursue continuing studies as may be requested from time to time by the nuclear energy commission relative to the need for changes in the laws, regulations and programs administered by it so as to further the development of the peaceful and productive uses of nuclear energy in this state, and to make such recommendations, on the basis of such studies, for the enactment of laws or
amendments to law administered by it, and such proposals for amendments to the regulations issued by it, as may appear necessary and appropriate.

2. To otherwise cooperate with the nuclear energy commission, the office of nuclear energy development, and the state radiation control agency in the performance of their duties as set out in this act.

SECTION 19. That Chapter 30 of Title 39, Idaho Code, be, and the same is hereby repealed.

SECTION 20. SAVINGS CLAUSE.—The rules and regulations and minimum standards for radiation protection in the state of Idaho adopted by the state board of health and in effect on the effective date of this act may be continued in full force and effect notwithstanding the other provisions of this act unless and until superseded or replaced by rules and regulations adopted and promulgated pursuant to the provisions of this act.

SECTION 21. 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 circumstances is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this Act.

SECTION 22. The provisions of this Act relating to the control of byproduct, source and special nuclear materials shall become effective on the effective date of the agreement between the federal government and this state as authorized in Section 9 of this Act. All other provisions of this Act shall become effective on July 1, 1967.

Approved March 17, 1967.

CHAPTER 140
(S. B. No. 4)

AN ACT
REPEALING CHAPTER 26, TITLE 54, IDAHO CODE, THE IDAHO PRIVATE CONTRACTORS LICENSE ACT; PROVIDING THAT THE IDAHO PRIVATE CONTRACTORS BOARD SHALL REMAIN IN EXISTENCE UNTIL JULY 1, 1967, FOR THE SOLE PURPOSE OF IMPLEMENTING THE PROVISIONS OF SEC-
TION 2 OF THIS ACT; PROVIDING THAT MONIES IN THE IDAHO PRIVATE CONTRACTORS BOARD FUND SHALL BE PRORATED TO THE ORIGINAL LICENSEES BY THE IDAHO PRIVATE CONTRACTORS BOARD, SUBJECT TO ANY CONTRACTS LAWFULLY ENTERED INTO PRIOR TO THE EFFECTIVE DATE OF THIS ACT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 26, Title 54, Idaho Code, be, and the same is hereby repealed, except that the Idaho Private Contractors Board shall remain in existence until July 1, 1967, for the sole purpose of implementing the provisions of Section 2 of this act.

SECTION 2. All monies in the Idaho Private Contractors Board Fund shall be prorated to the original licensees by the Idaho Private Contractors Board, subject to any contracts lawfully entered into prior to the effective date hereof.

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

Approved March 20, 1967.

CHAPTER 141
(S. B. No. 61, As Amended)

AN ACT

TO CONTROL AND REGULATE JUNKYARDS ADJACENT TO HIGHWAYS ON INTERSTATE OR PRIMARY SYSTEM; DEFINING TERMS; PROVIDING FOR LICENSING OF JUNKYARDS WITHIN 1000 FEET OF HIGHWAYS ON INTERSTATE OR PRIMARY SYSTEM; PROVIDING FOR LICENSE FEES; PROVIDING FOR SCREENING BY THE IDAHO BOARD OF HIGHWAY DIRECTORS OF CERTAIN JUNKYARDS WITHIN 1000 FEET OF HIGHWAYS ON INTERSTATE OR PRIMARY SYSTEM LAWFULLY IN EXISTENCE AS OF THE EFFECTIVE DATE OF THIS ACT AND FOR CERTAIN SCREENING OF SAID JUNKYARDS BY OWNER THEREOF; PROVIDING AUTHORITY TO IDAHO BOARD OF HIGHWAY DIRECTORS FOR EXERCISE OF EMINENT DOMAIN; REQUIRING THE REMOVAL OR SCREENING OF JUNK MATERIALS IN DUMPS AND PROVIDING PERMITS FOR DUMPS; PROVID-
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. For the purpose of promoting the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, it is hereby declared by the legislature of the state of Idaho to be in the public interest and for a highway purpose to regulate and restrict the establishment, operation and maintenance of junkyards in areas adjacent to highways on interstate and primary systems within the state. The legislature hereby finds and declares that junkyards that do not conform to the requirements of this act are public nuisances.

SECTION 2. For the purposes of this act, the following terms, wherever used herein, shall have the following meaning:

(a) The term “junk” shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junk, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(b) The term “automobile graveyard” shall mean any establishment or place of business which is maintained, used, or operated, for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(c) The term “junkyard” shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

(d) “Interstate system” or “interstate highway” means any portion of the national system of interstate and defense highways located within this state, as officially designated, or as may hereafter be so desig-
nated, by the Idaho board of highway directors, and approved by the secretary of transportation, pursuant to the provisions of Title 23, U. S. Code, “Highways”.

(e) “Primary system” or “primary highway” means any portion of the highways of this state as officially designated, or as may hereafter be so designated, by the Idaho board of highway directors, and approved by the secretary of transportation, pursuant to the provisions of Title 23, U.S. Code, “Highways”.

(f) “Visible” shall mean capable of being seen without visual aid by a person of normal visual acuity.

(g) “Traveled way” shall mean that portion of a roadway for the movement of vehicles, exclusive of shoulders.

(h) “Dump” shall mean any place or area, not operated as a business, where junk is deposited, stored or kept.

(i) “Maintain” means to allow to exist.

(j) “Person” shall mean any person, firm, partnership, association, corporation, or other business units or devices.

SECTION 3. No person shall operate, establish, or maintain a junkyard, any portion of which is within one thousand (1,000) feet of the nearest edge of the right of way of any highway on the interstate or primary system without obtaining a license from the Idaho board of highway directors, the license and each renewal thereof shall be issued on a calendar year basis and shall expire on the 31st day of December following the date of issuance. A fee of twenty-five ($25.00) dollars shall be charged for each original license or renewal license which shall be deposited in the state treasury in the highway fund and may be expended by the Idaho board of highway directors in the administration of the provisions of this act. All licenses required herein shall be obtained within sixty (60) days after the effective date of this act.

SECTION 4. Licenses shall be granted for the operation of those junkyards within one thousand (1000) feet of the nearest edge of the right of way of any highway on the interstate or primary system meeting the following requirements:

(a) Those junkyards which are screened by natural ob-
jects, plantings, fences or other appropriate means so as to render them invisible from the traveled way of the highway involved; or

(b) Those junkyards located within areas which are zoned for industrial use under authority of state law or in unzoned industrial areas as determined by the Idaho board of highway directors; or

(c) Those junkyards which are not visible from the main traveled way of the highway involved; or

(d) Those junkyards which are to be screened by the Idaho board of highway directors as provided in Section 5 of this act; or

(e) Those junkyards which are to be relocated, removed or disposed of by the Idaho board of highway directors as provided in Section 6 of this act.

SECTION 5. Any junkyard lawfully in existence on the effective date of this act, which is within one thousand (1000) feet of the nearest edge of the right of way and visible from the main traveled way of any highway on the interstate or primary system and not located within an industrial area, zoned or unzoned, must be screened, if feasible, by the Idaho board of highway directors at locations on the highway right of way or in areas acquired for such purposes outside the right of way so as not to be visible from the main traveled way of such highways. The responsibility of the Idaho board of highway directors for screening of said junkyards herein is limited to the size of said junkyards and height of storage therein existing as of the effective date of this act. Any screening after the effective date of this act required by an increase in the size of the junkyard or the height of the storage therein shall be the responsibility of the owner thereof and will be done at his expense.

The Idaho board of highway directors is hereby authorized to acquire by purchase, gift or the power of eminent domain such lands or interest in lands as may be necessary to provide adequate screening of such junkyards, but eminent domain proceedings may not be undertaken to obtain adjacent lands unless the same be owned by the owner of the junkyard or the lands of the junkyard are inadequate for this purpose.

SECTION 6. When the Idaho board of highway directors determines that the topography of the land will not permit adequate screening of such junkyards within one
thousand (1000) feet of the nearest edge of the right of way of the highway on the interstate or primary system or the screening of such junkyards would not be economically feasible, the Idaho board of highway directors must acquire by gift, purchase or the power of eminent domain, any interests necessary to secure the removal or disposal of the junkyard.

SECTION 7. No person shall operate, establish, or maintain a dump, any portion of which is within one thousand (1000) feet of the nearest edge of the right of way of any highway on the interstate or primary system without obtaining a permit from the Idaho board of highway directors, the permit and each renewal thereof shall be issued on a calendar year basis and shall expire on the 31st day of December following the date of issuance. A fee of fifteen dollars ($15.00) shall be charged for each original permit or renewal permit which shall be deposited in the state treasury in the highway fund and may be expended by the Idaho board of highway directors in the administration of the provisions of this act. All permits required herein shall be obtained within sixty (60) days after the effective date of this act.

If a dump is located within one thousand (1000) feet of the nearest edge of a highway on the interstate or primary system and visible from the main traveled way of said highway, and not located within an industrial area, zoned or unzoned, the owner of the land on which said dump is located shall, not later than January 1, 1968, screen said area by natural objects, plantings, fences or other appropriate means so as to render said junk material invisible from the traveled way of the highway or remove and dispose of all junk material.

SECTION 8. The Idaho board of highway directors may revoke any license or permit for the failure to comply with the provisions of this act. Prior to revocation of said license or permit the owner thereof shall be given notice thereof and a hearing thereon as provided by the administrative procedure act.

SECTION 9. All violations of this act are hereby declared to be public nuisances. The Idaho board of highway directors may apply to the district court of the county in which said unlawful junkyard or dump is located for an injunction prohibiting further operation of any junkyard or dump in violation of this act.
SECTION 10. The Idaho Board of highway directors is hereby authorized and empowered to promulgate rules and regulations implementing the provisions of this act.

SECTION 11. The provisions of this Act are hereby declared to be separable 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 the remaining portions of this Act.

SECTION 12. An emergency existing therefor, which emergency is hereby declared to exist, this Act shall be in full force and effect immediately upon its passage and approval.

Approved March 20, 1967.

CHAPTER 142
(S. B. No. 77, As Amended)

AN ACT

PROVIDING ALL COUNTIES, SCHOOL DISTRICTS, JUNIOR COLLEGE DISTRICTS, HIGHWAY DISTRICTS, FIRE DISTRICTS, IRRIGATION DISTRICTS, DRAINAGE DISTRICTS, SEWER DISTRICTS, HOSPITAL DISTRICTS AND AIRPORTS THE POWER AND AUTHORITY TO TRANSFER REAL OR PERSONAL PROPERTY TO THE UNITED STATES, STATE OF IDAHO, ANY COUNTY, CITY, VILLAGE OR OTHER MUNICIPAL CORPORATION WITHOUT CONSIDERATION OR PAYMENT; PROVIDING THAT PRIOR TO ANY SUCH CONVEYANCE A WRITTEN AGREEMENT MUST BE MADE BETWEEN THE GOVERNMENTAL UNITS AND NOTICE OF THE GENERAL AGREEMENT AND NOTICE OF MEETINGS TO RATIFY THE AGREEMENT MUST BE PUBLISHED; PROVIDING THAT THE AGREEMENT MUST BE RATIFIED BY A TWO-THIRDS VOTE OF THE GOVERNING BODY OF EACH GOVERNMENTAL UNIT WHICH IS A PARTY TO THE TRANSFER; AND PROVIDING THAT THIS ACT SHALL NOT RESTRICT OR LIMIT THE POWERS OF CITIES AND VILLAGES TO CONVEY OR EXCHANGE REAL PROPERTY.

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

SECTION 1. In addition to any other general or special powers vested in counties, school districts, junior college districts, highway districts, fire districts, irrigation districts,
drainage districts, sewer districts, hospital districts and airports for the performance of their respective functions, powers or duties on an individual, cooperative, joint or contract basis, said units of the government or districts shall have the power to convey or transfer real or personal property to another such unit or to the United States, State of Idaho, any city or village with or without consideration. Such conveyance or transfer may be made without consideration or payment when it is in the best interest of the public in the judgment of the governing body of the granting unit.

SECTION 2. Prior to any such conveyance or transfer, a written agreement shall be made between units of government or districts for a conveyance or transfer of real or personal property from one to the other with or without consideration.

Notice of the general terms of the agreement shall be published for two consecutive weeks in a newspaper printed or of general circulation in the county or counties in which such respective units are located and having general circulation within such county or counties. Said notice shall give time and place of the next regular or special meeting of each respective unit at which time the governing board of such units propose to ratify such an agreement.

SECTION 3. No agreement entered into pursuant to this act for conveyance, transfer or exchange of real or personal property between units of government or districts shall be valid unless said agreement shall be approved after notice as provided herein by a two-thirds vote of each governing body, except no such approval shall be required from the United States or the state of Idaho.

SECTION 4. The provisions of this act shall not restrict or limit the powers of cities and villages to convey or exchange real property as provided by Section 50-1001 and related laws.

Approved March 20, 1967.

CHAPTER 143
(S. B. No. 78)

AN ACT
AMENDING SECTION 23-904, IDAHO CODE, TO EXTEND A
THIRTY DAY GRACE PERIOD TO THE HOLDER OF A VALID LICENSE TO DISPENSE AND SELL LIQUOR BY THE DRINK AT RETAIL WHO FAILS TO FILE HIS INTENTION TO APPLY FOR THE RENEWAL OF HIS CURRENT LICENSE ON OR BEFORE DECEMBER 31ST IN WHICH TO FILE HIS INTENTION FOR RENEWAL AND DURING WHICH TIME HE SHALL NOT BE PERMITTED TO SELL AND DISPENSE LIQUOR BY THE DRINK AT RETAIL; AMENDING SECTION 23-908, IDAHO CODE, TO CONFORM THE LANGUAGE THEREIN WITH THE LANGUAGE IN SECTION 23-904; AND DECLARING AN EFFECTIVE DATE.

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

SECTION 1. 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 commissioner as follows:

a. For each license in a city or village of 1,000 population or less, $300.00 per annum.

b. For each license in a city or village of from 1,000 to 3,000 population, $500.00 per annum.

c. For each license in a city or village of from 3,000 to 6,000 population, $750.00 per annum.

d. For each license in cities having a population of from 6,000 to 12,000, $1,000.00 per annum.

e. For each license in cities having a population of more than 12,000, $1,250.00 per annum.

f. 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.

g. For each common carrier boat line for sale only in buffet, club dining rooms, $250.00 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 golf course as described in section 23-903, 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, $200.00 per annum;
2. 20,000 but less than 40,000, $300.00 per annum;

3. 40,000 or more, $400.00 per annum.

i. For each common carrier airline for sale only in common carrier aircraft, $250.00 per annum. Such license shall be in full, and in lieu of all other licenses herein provided for.

j. For each license issued to the owner, operator, or lessee of a restaurant operated on an airport, as described in section 23-903, situate within the corporate limits of a city or village, the fee shall be the same as provided in paragraphs "a" through "e," inclusive, of this section.

k. For each license issued to the owner, operator, or lessee of a restaurant operated on an airport, as described in section 23-903, situate without the corporate limits of a city or village, the fee shall be the same as provided in paragraph "h" 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 subject to the renewal provisions hereinafter set forth.

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 commissioner of law enforcement of the state of Idaho, accompanied by the fee required for the issuance of such license on or before December 31st of the year preceding.

Provided, however, that any licensee holding a valid license who fails to file his intention to apply for the renewal of his current license on or before December 31st shall have a grace period of an additional thirty (30) days in which to file his intention to apply for the renewal of his license and during which time he shall not be permitted to sell and dispense liquor by the drink at retail.

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 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 2. 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.—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 commissioner 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. 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 subject to the renewal provisions of Section 23-904. No person shall be granted more than one license in any city or village for any one 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 or village for the same year; provided that this section shall not prevent any person, firm or corporation, owning two or more buildings on connected property in a city or village from making application for and receiving licenses permitting the sale of liquor-by-the drink in such building. Application to transfer any license issued pursuant to chapter 9, Title 23, Idaho Code, shall be made to the commissioner. Upon receipt of such an application, the commissioner shall make the same investigation and determinations with respect to the transferee as are required by section 23-907, Idaho Code, and if the commissioner 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 endorsed over to the proposed transferee by said licensee for the remainder of the
period for which such license has been issued and the commissioner shall note his approval thereof upon such license.

SECTION 3. Following its passage and approval this act shall be in full force and effect retroactive, commencing as of the 31st day of December, 1966.

Approved March 20, 1967.

CHAPTER 144
(S. B. No. 103)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay, for the period commencing February 15, 1967, and ending June 30, 1967:

To Whom Appropriated: Appropriations:
IDAHO WATER RESOURCES BOARD:
For: Salaries and Wages $19,020
Travel Expense 1,575
Other Current Expense 25,199
Capital Outlay 1,561

Total $47,355

From: General Fund $47,355

SECTION 2. This act shall be exempted from the provisions of the Standard Appropriations Act of 1945.
SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this Act shall be in full force and effect from and after its passage and approval.

Approved March 20, 1967.

CHAPTER 145
(S. B. No. 106)

AN ACT
REPEALING CHAPTER 15, TITLE 22, IDAHO CODE, RELATING TO LICENSING OF CREAMERY PROMOTERS.

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

SECTION 1. That Chapter 15, Title 22, Idaho Code, be, and same is hereby repealed.

Approved March 20, 1967.

CHAPTER 146
(S. B. No. 117)

AN ACT
AMENDING SECTION 49-206, IDAHO CODE, WHICH VESTS CERTAIN AUTHORITY IN THE GOVERNOR BY PROVIDING THAT THE GOVERNOR IS EMPOWERED TO SECURE ALL BENEFITS UNDER THE FEDERAL HIGHWAY SAFETY ACT OF 1966; PROVIDING THAT THE GOVERNOR SHALL DEAL WITH THE UNITED STATES GOVERNMENT WITH RESPECT TO PROGRAMS AND ACTIVITIES PURSUANT TO THE FEDERAL HIGHWAY SAFETY ACT OF 1966; AND AUTHORIZING THE POLITICAL SUBDIVISIONS OF IDAHO TO PARTICIPATE IN THE HIGHWAY SAFETY PROGRAM AS CONTEMPLATED BY THE FEDERAL HIGHWAY SAFETY ACT OF 1966.

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

SECTION 1. That Section 49-206, Idaho Code, be, and the same is hereby amended to read as follows:

49-206. PURPOSE OF ACT—GOVERNOR VESTED WITH CERTAIN AUTHORITY, POWERS AND DUTIES.
—In the exercise of the police power of the state and for the protection of the welfare and safety of the people of the state of Idaho, and all the provisions of this act shall be liberally construed for the accomplishment of that purpose, it is hereby declared to be the policy of the state of Idaho to negotiate and carry out by equitable and just regulations and agreements for reciprocal privileges with respect to motor vehicles, trucks, trailers and semi-trailers, between the state of Idaho and any foreign country, state, territory or federal district. For the accomplishment of such policy the governor is hereby vested with sole and exclusive authority and power to carry out the provisions of this act and on behalf of the state of Idaho he is hereby authorized and empowered to prescribe and promulgate requirements, rules and regulations and to negotiate for and carry out agreements for equitable and just reciprocal privileges with respect to motor vehicles, trucks, trailers and semi-trailers, between the state of Idaho and any foreign country, state, territory or federal district.

The governor, in addition to other duties and responsibilities conferred upon him by the constitution and laws of the state of Idaho is hereby empowered to contract and to do all other things necessary in behalf of the state to secure the full benefits available to this state under the Federal Highway Safety Act of 1966, and any amendments thereto, and in so doing, to cooperate with the federal and state agencies, agencies private and public, interested organizations, and with individuals, to effectuate the purposes of that enactment, and any and all subsequent amendments thereto. The governor shall be the official having the ultimate responsibility for dealing with the United States government with respect to programs and activities pursuant to the Federal Highway Safety Act of 1966 and any amendments thereto. To that end he shall be responsible for activities of any and all departments and agencies of this state and its subdivisions, relating thereto. He may designate an appropriate person, commission or board to assist him in coordinating the activities and programs contemplated under this subsection.

The legislature of the State of Idaho hereby authorizes the political subdivisions of this state to participate in the state highway safety program as contemplated by the Federal Highway Safety Act of 1966, and any amendments thereto, and to do all things necessary to secure benefits available under that act.

Approved March 20, 1967.
CHAPTER 147
(S. B. No. 123)

AN ACT

AMENDING SECTION 31-3901, IDAHO CODE, RELATING TO AUTHORIZATION TO ESTABLISH AMBULANCE SERVICE, BY PROVIDING FOR A SPECIAL LEVY OF NOT TO EXCEED ONE MILL; AMENDING SECTION 31-3906, IDAHO CODE, RELATING TO COOPERATIVE AGREEMENTS WITH ADJACENT COUNTIES FOR AMBULANCE SERVICE, BY PROVIDING FOR COOPERATIVE AGREEMENTS WITH PRIVATE INDIVIDUALS AND CORPORATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-3901, Idaho Code, be, and the same is hereby amended to read as follows:

31-3901. AUTHORIZATION TO ESTABLISH AMBULANCE SERVICE—SPECIAL LEVY.—The boards of county commissioners in the several counties are hereby authorized, whenever existing ambulance service is not reasonably available to the inhabitants of the county or any portion thereof, to procure an ambulance and pay for the same out of any funds available and to establish an ambulance service to serve the areas, which do not have an existing ambulance service reasonably available, both within and outside the cities and villages in their respective counties, and to levy a special tax not to exceed one (1) mill to support the same.

SECTION 2. That Section 31-3906, Idaho Code, be, and the same is hereby amended to read as follows:

31-3906. AMBULANCE SERVICE — ADJACENT COUNTIES AND/OR PRIVATE INDIVIDUALS AND CORPORATIONS MAY HAVE COOPERATIVE AGREEMENT.—The board of county commissioners of any county wherein such ambulance service has been established is authorized in its discretion and under such terms and conditions as it deems appropriate to enter into a cooperative agreement with adjacent counties and for private individuals and corporations to provide ambulance service for such county or counties or a portion thereof. All cost of said service shall be apportioned equitably among the participating counties as determined by their respective boards of county commissioners.
SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect from and after its passage and approval.

Approved March 20, 1967.

CHAPTER 148
(S. B. No. 125)

AN ACT

AMENDING SECTION 34-702, IDAHO CODE, RELATING TO THE DECLARATIONS OF CANDIDACY FOR THE OFFICE OF JUSTICE OF THE SUPREME COURT AND FOR THE OFFICE OF DISTRICT JUDGE AND THE PLACE OF FILING OF SUCH DECLARATIONS OF CANDIDACY, TO CHANGE THE DATES FOR FILING OF SUCH DECLARATIONS OF CANDIDACY TO COINCIDE WITH THE FILING DATE OF CANDIDATES FOR STATE POLITICAL OFFICE.

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

SECTION 1. That Section 34-702, Idaho Code, be, and the same is hereby amended to read as follows:

34-702. DECLARATION OF CANDIDACY — TIME AND PLACE OF FILING—CONTENTS.—Each candidate for the office of justice of the Supreme Court and for the office of district judge shall make and file his declaration of candidacy in the office of the secretary of state at least forty-five (45) days and not more than seventy-five (75) days within the same period of time provided for the filing of declarations of candidacy by candidates of political parties for state office as provided by Title 34, Chapter 6, Idaho Code, prior to the date fixed by law for holding the nominating elections, in substantially the following form, to-wit:

I, the undersigned, being a qualified elector of ____________ precinct, ____________ County, State of Idaho, a duly qualified and licensed attorney at law of the State of Idaho, do hereby declare myself to be a candidate for nomination to the office of ________________, to succeed Justice or District Judge (strike inapplicable words) ________________, incumbent, eligible for re-election, or retiring justice, or retiring judge (strike inapplicable words), to be voted for upon the judicial ballot at the nominating election to be held on the ______ day of ________________, 19_____, and certify that
I possess the legal qualifications to fill said office and that my post office address is ________________________________.

Subscribed and sworn to before me this __________ day of ________________________, 19________.

__________________________________________

(Title of Officer)

All blank spaces shall be properly filled in with the necessary information, the inapplicable words shall be stricken and the declaration of candidacy shall be subscribed and sworn to before an officer authorized to administer oaths.

Said declaration of candidacy, before the same shall be filed in the office of secretary of state, shall have appended thereto a petition, or petitions, in substantially the following form, to-wit:

I, the undersigned, being a qualified elector of __________ County, in the State of Idaho, do hereby certify and declare that I reside in the ________________ judicial district, at the place set opposite my name; that I join in the petition for the nomination of ________________, a resident of ________________ County, State of Idaho, as a candidate on the nonpartisan judicial ballot, for nomination to the office of ________________, to succeed Justice or District Judge (strike inapplicable words) ________________, incumbent, eligible for re-election, or retiring justice, or retiring judge (strike inapplicable words), to be voted for at the nominating election to be held on the __________ day of ________________, 19____; that I intend to support said candidate for said office; that he is legally qualified to hold said office and that I have signed no other petition for a candidate for the same office.

Name of Petitioner  P. O. Address  District  Signed

Judicial  Date

__________________________________________

Said nominating petition shall have attached or appended thereto an affidavit, duly signed and sworn to before an officer authorized to administer oaths, in substantially the following form:

State of Idaho,  )
) ss:
County of __________

I do solemnly swear (or affirm) that I am a qualified elector of the State of Idaho and a legal resident of the County of ________________; that each of the persons
whose name is affixed to the foregoing nominating petition signed the same personally, and endorsed thereon his post office address, judicial district and date of signing; that, to the best of my knowledge, each of said subscribers is a qualified elector of the State of Idaho and is a legal resident of the judicial district set opposite his name.

Subscribed and sworn to before me this _______ day of _________________, 19______.

(Title of Officer)

Approved March 20, 1967.

CHAPTER 149
(S. B. No. 127)

AN ACT
AMENDING SECTION 49-218, IDAHO CODE, RELATING TO LICENSE FEES UPON PLEASURE BOATS, BY PROVIDING THAT ALL BOATS 16 YEARS AND OLDER PAY 50 PER CENT OF THE NORMAL FEES IN LIEU OF THE $2.50 FEE FOR ALL BOATS 20 YEARS AND OLDER; AMENDING SECTION 49-220, IDAHO CODE, RELATING TO APPLICATION FOR AND EXPIRATION OF A LICENSE, BY REMOVING THE WORDS "AS STAMPED ON THE MOTOR" FROM THIS SECTION.

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

SECTION 1. That Section 49-218, Idaho Code, be, and the same is hereby amended to read as follows:

49-218. LICENSE FEES—SCHEDULE.—The annual fees for licensing pleasure boats shall be as follows:

(a) Before issuing any license applied for hereunder the assessor shall multiply the length of the boat in feet by the horsepower of the motor or motors described in the application, and collect from the applicant a license fee in a sum equal to one per centum of the figure so computed, but in no case less than $2.50 per year.

(b) Sail boats, including auxiliary power, shall be licensed at the rate of $.50 per foot.
(c) The license fees for boats which are not within the state of Idaho for a full year shall be as follows:
From April 1 to June 30, each year, 75% of the above fees;
From June 30 to September 30, of each year, 50% of said fees;
From September 30 to the end of said year, 25% of said fees.

(d) The following depreciation shall be allowed on all inboard, outboard and sail boats:
4 to 6 years old, inclusive, 15% of the above fees;
7 to 10 years old, inclusive, 30% of the above fees;
11 to 15 years old, inclusive, 40% of the above fees;
16 to 20 years old, inclusive, and older 50% of the above fees;

More than 20 years old, an annual license fee shall be collected of $2.50 a year, regardless of length or horsepower.

SECTION 2. That Section 49-220, Idaho Code, be, and the same is hereby amended to read as follows:

49-220. APPLICATION FOR AND ISSUANCE OF LICENSE—EXPIRATION OF LICENSE. — (a) Application for a license of a boat required to be licensed hereunder shall be made to the assessor by the owner thereof upon an appropriate form furnished by the assessor, and every application shall be signed by the owner and contain his residence address and a brief description of the boat to be licensed, including the engine and serial numbers, horsepower as stamped on the meter, the length, age, and the last license number, if any, and the county in which issued, and upon registration of a new boat the date of sale by which the manufacturer or dealer to the person first operating the said boat. Such application may contain such other information as may be required by the assessor.

(b) The assessor shall issue to the applicant a receipt for any fee paid and deliver to said applicant as soon thereafter as possible a license plate for said boat, which said license plate shall be placed at the rear of said boat and shall remain thereon at all times while said license is in force and effect. Said license shall expire on the 31st day of December of the year in which it is issued.

(c) Said license plates shall be procured by the assessor from the state board of correction of the state of Idaho.

Approved March 20, 1967.
CHAPTER 150
(S. B. No. 131)

AN ACT

AMENDING SECTIONS 37-2501, 37-2504 and 37-2510, IDAHO CODE, ADDING DIESEL FUEL AND BITUMINOUS ROAD MATERIALS TO THE PRODUCTS SUBJECT TO THE PROVISIONS OF SAID SECTIONS; AMENDING SECTIONS 37-2507 AND 37-2512, IDAHO CODE, DELETING REFERENCES THEREIN TO STANDARDS OF THE BUREAU OF MINES OF THE UNITED STATES DEPARTMENT OF INTERIOR AND SUBSTITUTING THEREFOR STANDARDS OF THE AMERICAN SOCIETY FOR TESTING AND MATERIALS, OR STANDARDS OF IDAHO GOVERNMENTAL AGENCIES FOR THEIR OWN USES; REPEALING SECTION 37-2506, IDAHO CODE; AND AMENDING CHAPTER 25 OF TITLE 37, IDAHO CODE; BY ADDING A NEW SECTION THERETO FOLLOWING SECTION 37-2505, DESIGNATING SUCH SECTION AS 37-2506, PROVIDING QUALITY STANDARDS FOR OIL PRODUCTS IN IDAHO IN CONFORMITY WITH SPECIFICATIONS ADOPTED BY THE AMERICAN SOCIETY FOR TESTING AND MATERIALS OR OTHER SPECIFICATIONS ADOPTED BY IDAHO GOVERNMENTAL AGENCIES FOR THEIR OWN USE, AND PROVIDING FOR VISCOSITY CLASSIFICATIONS OF MOTOR OILS AND LIMITATIONS REGARDING LABELING THEREOF.

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

SECTION 1. That Section 37-2501, Idaho Code, be, and the same is hereby amended to read as follows:

37-2501. ADULTERATED OR MISBRANDED OIL—MANUFACTURE AND SALE UNLAWFUL.—It shall be unlawful for any person to manufacture, sell, keep for sale, or offer for sale within the state of Idaho any gasoline, benzine, naphtha, lubricating oil or grease, road oil, bituminous road materials, diesel fuel, fuel oil for boilers and internal combustion engines, which is adulterated or misbranded within the meaning of this chapter, and any person who shall manufacture, sell, keep for sale, or offer for sale any of the above-named articles, which is adulterated or misbranded, within the meaning of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than twenty-five dollars, nor more than $300.00, and each and every sale in violation hereof shall be deemed a separate offense.
SECTION 2. That Section 37-2504, Idaho Code, be, and the same is hereby amended to read as follows:

37-2504. OIL TO BE LABELED.—Gasoline, benzine, naphtha, lubricating oil and grease, road oil, bituminous road materials, diesel fuel and fuel oil must be sold under their true name and grades, respectively, and such names and grades must be impressed or otherwise plainly marked upon the barrel, can, vessel, or other container in which the same is stored, sold, offered or exposed for sale, respectively, or upon a label conspicuously and securely fastened thereto, giving the true name and grade of the product, name and address of manufacturer or dealer, who sells the same.

SECTION 3. That Section 37-2506, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 25 of Title 37, Idaho Code, be, and the same is hereby amended by adding a new section thereto, following Section 37-2505, to be known and designated as Section 37-2506, and to read as follows:

37-2506. QUALITY STANDARDS.—The standards of quality for motor gasoline, benzine, naphtha, grease, road oil, bituminous road products, fuel oil for heating purposes and diesel fuel shall be the latest specifications adopted by the American Society for Testing and Materials or other specifications adopted as standard by an Idaho governmental agency for its use, for those products. Motor oils shall conform to the latest viscosity classifications of the Society of Automotive Engineers. Motor oils falling outside those viscosity classifications shall not carry the SAE designation.

SECTION 5. That Section 37-2507, Idaho Code, be, and the same is hereby amended to read as follows:

37-2507. ANALYSIS BY CHEMIST.—The department of public works is directed to make all analyses and tests of articles inspected in this chapter and to employ, in such analyses and tests, the standard methods of analysis which have been or shall be adopted by the bureau of mines of the United States department of the interior, American Society for Testing and Materials or other standard methods of analysis adopted as standard by an Idaho governmental agency when analyzing or testing products for such agency's use.
SECTION 6. That Section 37-2510, Idaho Code, be, and the same is hereby amended to read as follows:

37-2510. PENALTY OF PUBLICITY.—When adulterated or misbranded gasoline, benzine, naphtha, lubricating oil and grease, road oil, bituminous road materials, diesel fuel and fuel oil are found under the provisions of this chapter, it shall be the duty of the department of public works to publish the fact in at least one newspaper published in the county in which such adulterated or misbranded article or articles is found, giving the name of the article, the name of the manufacturer, the name of the dealer or person selling or offering the same for sale and such other information as will be beneficial to the consumers.

SECTION 7. That Section 37-2512, Idaho Code, be, and the same is hereby amended to read as follows:

37-2512. ADULTERATION OF OILS—MISBRANDED DEFINED.—For the purposes of this chapter an article shall be deemed to be adulterated:

1. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality, purity or strength.

2. If any substance has been substituted, wholly or in part, for the article.

3. If the article fails to conform to any of the requirements of the standards of quality, purity and strength adopted by the bureau of mines of the United States department of the interior, American Society for Testing and Materials or other specifications adopted as standard by an Idaho governmental agency for its use.

The term “misbranded,” as used herein, shall apply to all articles, the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein, or the properties of such article which are false or misleading in any particular whatsoever.

Approved March 20, 1967.
CHAPTER 151
(S. B. No. 151)

AN ACT


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

SECTION 1. There is hereby appropriated from the Plumbing Board Fund of the state of Idaho to the Plumbing Board, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay, refunds of erroneous receipts and payment as agent of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
PLUMBING BOARD:
For: Salaries and Wages $109,520.00
     Travel Expense 44,300.00
     Other Current Expense 21,235.00
     Capital Outlay 150.00
     Refunds of Erroneous Receipts 100.00
     Payment as Agent 2,000.00

Total $177,305.00

From: Plumbing Board Fund $177,305.00

Approved March 20, 1967.
CHAPTER 152  
(S. B. No. 155)

AN ACT

AMENDING CHAPTER 39 OF TITLE 19, IDAHO CODE, BY ADDING TO SECTION 19-3901 A PROVISO WHEREBY OFFENSES INVOLVING A VIOLATION FOR WHICH AN OFFICER MAY ISSUE A WRITTEN TRAFFIC CITATION AS PROVIDED BY SECTION 49-1113, IDAHO CODE, IN THE FORM REQUIRED BY SECTION 49-1121, IDAHO CODE, MAY BE COMMENCED BY A COMPLAINT SIGNED BY THE POLICE OFFICER CERTIFYING THAT HE HAS REASONABLE GROUNDS TO BELIEVE THAT THE PERSON CITED COMMITTED THE OFFENSE CHARGED CONTRARY TO LAW; THAT SUCH CERTIFICATE SHALL BE MADE UNDER THE PENALTIES PROVIDED IN SECTION 49-1113, IDAHO CODE; THAT SUCH COMPLAINT SHALL BE A PART OF THE UNIFORM TRAFFIC CITATION TICKET REQUIRED BY SECTION 49-1121, IDAHO CODE; THAT SUCH COMPLAINT SHALL SHOW THE NAME OF THE PERSON CHARGED AND THE OFFENSE OF WHICH THE PERSON IS CHARGED, WITH THE DATE, TIME AND PLACE AT WHICH IT OCCURRED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 19-3901, Idaho Code, be, and the same is hereby amended, to read as follows:

19-3901. COMPLAINT. — All proceedings and actions before probate and justices' courts for a public offense of which such courts have jurisdiction, must be commenced by complaint under oath, setting forth the offense charged, with such particulars of time, place, person and property as to enable the defendant to understand distinctly the character of the offense complained of, and to answer the complaint. Provided, however, offenses charging a violation for which an officer may issue a written traffic citation as provided by Section 49-1113, in the form required by Section 49-1121, may be commenced by a complaint containing a form of certificate by the police officer to the effect that he certifies, under the penalties provided in Section 49-1113, that he has reasonable grounds to believe, and does believe, that the person cited committed the offense contrary to law, and such complaint shall be a part of the uniform traffic citation ticket required by Section 49-1121 showing the name of the person charged and the offense
of which the person is charged, together with the date, time and place at which the offense allegedly occurred.

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

Approved March 20, 1967.

CHAPTER 153
(S. B. No. 176)

AN ACT
AMENDING SECTION 54-401, IDAHO CODE, RELATING TO THE CREATION OF THE STATE ATHLETIC COMMISSION, BY REMOVING THE COMMISSION FROM THE SUPERVISION OF THE DEPARTMENT OF LAW ENFORCEMENT; AND AMENDING CHAPTER 4, TITLE 54, IDAHO CODE, BY ADDING A NEW SECTION THERETO, TO BE KNOWN AND DESIGNATED AS SECTION 54-410A, IDAHO CODE, PROVIDING FOR LICENSES, REPORTS AND TAXES ON ADMISSION CHARGES FOR SHOWING TELECASTS OF BOXING, SPARRING AND WRESTLING MATCHES.

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

SECTION 1. That Section 54-401, Idaho Code, be, and the same is hereby amended to read as follows:

54-401. STATE ATHLETIC COMMISSION — CREATION.—There is hereby created a state commission to be known as the state athletic commission, composed of three members appointed by the governor and to be under the direction of the department of law enforcement.

SECTION 2. That Chapter 4, Title 54, Idaho Code, be, and the same is hereby amended by adding a new section thereto, to be known and designated as Section 54-410A, Idaho Code, and to read as follows:

54-410A. LICENSE AND SANCTION OF COMMISSION—REPORTS OF A TAX ON ADMISSION CHARGES FOR SHOWING OF TELECASTS OF BOXING, SPARRING AND WRESTLING MATCHES.—Every club, corporation or association holding, showing or exhibiting a simultaneous telecast of any live, current or spontaneous
boxing, sparring or wrestling match, exhibition or performance on a closed circuit telecast or subscription television viewed within this state, whether originating in this state or another state and for which an admission charge is made shall obtain a license from the commission, for which the commission shall assess a charge of one dollar and, in advance of each such showing, obtain a sanction from the commission and shall within twenty-four hours after the termination of such showing, furnish the commission a written report, duly verified by one of its officers showing the number of tickets sold for such showing and the amount of the gross proceeds thereof, and such other matters as the commission may prescribe; and shall also, within twenty-four hours after the termination of such showing, pay to the commission a tax of five per cent of its total gross receipts from the sale of tickets of admission to, or moneys received from subscription for, the showing or exhibiting of said boxing, sparring or wrestling match, exhibition or performance.

Every owner or operator of any theater, arena or other place of public amusement who shall show or exhibit a simultaneous telecast of any live, current or spontaneous boxing, sparring or wrestling match, exhibition or performance, viewed within this state, whether originating within this state or another state, shall within twenty-four hours after the termination of such showing, pay to the commission a tax of five per cent of the total gross receipts from the sale of tickets of admission to, and moneys received from subscription for, the showing or exhibiting of said boxing, sparring or wrestling match, exhibition or performance.

Approved March 20, 1967.

CHAPTER 154
(S. B. No. 179)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL FUND OF THE STATE OF IDAHO, TO THE BUDGET BUREAU FOR THE PURPOSE OF PAYING SALARIES AND WAGES, TRAVEL EXPENSE AND OTHER CURRENT EXPENSE FOR THE PERIOD COMMENCING JULY 1, 1967, AND ENDING
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense and other current expense of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
BUDGET BUREAU:
For: Salaries and Wages $99,800.00
     Travel Expense 4,000.00
     Other Current Expense 18,700.00

$122,500.00

From: General Fund $122,500.00

Approved March 20, 1967.

CHAPTER 155
(S. B. No. 180)

AN ACT


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

SECTION 1. There is hereby appropriated from the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and refunds of erroneous
receipts of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:  
SECRETARY OF STATE:

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<th>Appropriations:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>For: Salaries and Wages</td>
<td>$ 91,400.00</td>
</tr>
<tr>
<td>Travel Expense</td>
<td>2,500.00</td>
</tr>
<tr>
<td>Other Current Expense</td>
<td>48,429.00</td>
</tr>
<tr>
<td>Capital Outlay</td>
<td>5,685.00</td>
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<tr>
<td>Refunds of Erroneous Receipts</td>
<td>500.00</td>
</tr>
<tr>
<td>Total</td>
<td>$148,514.00</td>
</tr>
</tbody>
</table>

From: General Fund | $148,514.00 |

Approved March 20, 1967.

CHAPTER 156  
(S. B. No. 185)  
AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.
CHAPTER 157
(S. B. No. 187)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and refunds of erroneous receipts of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
AGRICULTURE ADMINISTRATION:
For: Salaries and Wages $647,500.00
Travel Expense 110,000.00
Other Current Expense 180,000.00
**CHAPTER 158**
(S. B. No. 188)

**AN ACT**

**APPROPRIATING MONEYS FROM THE GENERAL FUND OF THE STATE OF IDAHO, TO THE INSPECTOR OF MINES FOR THE PURPOSE OF PAYING SALARIES AND WAGES, TRAVEL EXPENSE, OTHER CURRENT EXPENSE AND CAPITAL OUTLAY FOR THE PERIOD COMMENCING JULY 1, 1967, AND ENDING JUNE 30, 1969; SUBJECT TO THE PROVISIONS OF THE STANDARD APPROPRIATIONS ACT OF 1945.**

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

**SECTION 1.** There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:  
INSPECTOR OF MINES:

<table>
<thead>
<tr>
<th>Appropriations</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Salaries and Wages</strong></td>
<td>$60,800.00</td>
</tr>
<tr>
<td><strong>Travel Expense</strong></td>
<td>12,000.00</td>
</tr>
</tbody>
</table>

---

**Capital Outlay** 48,000.00  
**Refunds of Erroneous Receipts** 1,000.00  

Less:  
| Receipts to Appropriations | $15,000.00 |
| Sheep Commission Fund | 32,500.00 |

**Total** 47,500.00  

From: General Fund 986,500.00  
Approved March 20, 1967.
CHAPTER 159
(S. B. No. 189)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
MEAT INSPECTION:
For: Salaries and Wages $400,000.00
    Travel Expense 47,000.00
    Other Current Expense 40,000.00
    Capital Outlay 7,000.00

$494,000.00

Less: Meat Inspection Fund 30,000.00

Total $464,000.00
CHAPTER 160
(S. B. No. 190)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:

SOIL CONSERVATION COMMISSION:

For:

Salaries and Wages $27,000.00
Travel Expense 10,000.00
Other Current Expense 9,000.00
Capital Outlay 1,000.00

Total $47,000.00

From: General Fund $47,000.00

Approved March 20, 1967.
CHAPTER 161
(S. B. No. 2, As Amended)

AN ACT

TO BE KNOWN AS THE UNIFORM COMMERCIAL CODE, RELATING TO CERTAIN COMMERCIAL TRANSACTIONS IN OR REGARDING PERSONAL PROPERTY AND CONTRACTS AND OTHER DOCUMENTS CONCERNING THEM, INCLUDING SALES, COMMERCIAL PAPER, BANK DEPOSITS AND COLLECTIONS, LETTERS OF CREDIT, BULK TRANSFERS, WAREHOUSE RECEIPTS, BILLS OF LADING, OTHER DOCUMENTS OF TITLE, INVESTMENT SECURITIES, AND SECURED TRANSACTIONS, INCLUDING CERTAIN SALES OF ACCOUNTS, CHATTEL PAPER AND CONTRACT RIGHTS; PROVIDING FOR PUBLIC NOTICE TO THIRD PARTIES IN CERTAIN CIRCUMSTANCES; REGULATING PROCEDURE, EVIDENCE AND DAMAGES IN CERTAIN COURT ACTIONS INVOLVING SUCH TRANSACTIONS, CONTRACTS OR DOCUMENTS; TO MAKE UNIFORM THE LAW WITH RESPECT THERETO; PROVIDING A SHORT TITLE FOR THE ACT AND SHORT TITLES FOR PARTS OF THE ACT; PROVIDING SEVERABILITY; FIXING EFFECTIVE DATES; Restricting application to transactions entered into after the effective date; AND PROVIDING FOR REPEAL OF ALL ACTS INCONSISTENT WITH THIS ACT AND SPECIFICALLY FOR REPEAL OF CHAPTER 15 OF TITLE 26, IDAHO CODE, AS AMENDED, BANK COLLECTION CODE; CHAPTERS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 (AS AMENDED), 11, 12, 13, 14, 15, 16 AND 17 OF TITLE 27, IDAHO CODE, UNIFORM NEGOTIABLE INSTRUMENTS LAW; CHAPTER 4 OF TITLE 30, IDAHO CODE, UNIFORM STOCK TRANSFER ACT; CHAPTER 11 OF TITLE 45, IDAHO CODE, AS AMENDED, EXCEPT SECTION 45-1102, RELATING TO MORTGAGE OF PERSONAL PROPERTY; CHAPTER 12 OF TITLE 45, IDAHO CODE, RELATING TO SALE OF AND MARKETING AGREEMENTS CONCERNING WOOL GROWING ON SHEEP; CHAPTER 14 OF TITLE 45, IDAHO CODE, RELATING TO PLEDGES; CHAPTER 6 OF TITLE 62, IDAHO CODE, UNIFORM BILLS OF LADING ACT; CHAPTERS 1, 2, 3, 4, 5 AND 6 OF TITLE 64, IDAHO CODE, UNIFORM SALES ACT; CHAPTER 7 OF TITLE 64, IDAHO CODE, RELATING TO BULK SALES; CHAPTER 8 OF TITLE 64, IDAHO CODE, AS AMENDED, RELATING TO CONDITIONAL SALE CONTRACTS; CHAPTER 9 OF TITLE 64, IDAHO CODE, AS AMENDED, RELATING TO ASSIGNMENT OF ACCOUNTS RECEIVABLE; CHAPTER 10 OF TITLE 64, IDAHO CODE, UNIFORM TRUST RECEIPTS
Be It Enacted by the Legislature of the State of Idaho:

ARTICLE 1
GENERAL PROVISIONS

PART 1
SHORT TITLE, CONSTRUCTION, APPLICATION AND SUBJECT MATTER OF THE ACT

SECTION 1-101. Short Title and Codification.

This Act shall be known and may be cited as Uniform Commercial Code. It shall be codified as a single Title, without change and in conformity with the official numbering herein.

SECTION 1-102. Purposes; Rules of Construction; Variation by Agreement.

(1) This Act shall be liberally construed and applied to promote its underlying purposes and policies.

(2) Underlying purposes and policies of this Act are

(a) to simplify, clarify and modernize the law governing commercial transactions;

(b) to permit the continued expansion of commercial practices through custom, usage and agreement of the parties;

(c) to make uniform the law among the various jurisdictions.

(3) The effect of provisions of this Act may be varied by agreement, except as otherwise provided in this Act and except that the obligations of good faith, diligence, reasonableness and care prescribed by this Act may not be disclaimed by agreement but the parties may by agreement determine the standards by which the performance of such
obligations is to be measured if such standards are not manifestly unreasonable.

(4) The presence in certain provisions of this Act of the words "unless otherwise agreed" or words of similar import does not imply that the effect of other provisions may not be varied by agreement under subsection (3).

(5) In this Act unless the context otherwise requires

(a) words in the singular number include the plural, and in the plural include the singular;

(b) words of the masculine gender include the feminine and the neuter, and when the sense so indicates words of the neuter gender may refer to any gender.

SECTION 1-103. Supplementary General Principles of Law Applicable.

Unless displaced by the particular provisions of this Act, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause shall supplement its provisions.

SECTION 1-104. Construction Against Implicit Repeal.

This Act being a general act intended as a unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

SECTION 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:

SECTION 1-106. Remedies to be Liberally Administered.

(1) The remedies provided by this Act shall be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed but neither consequential or special nor penal damages may be had except as specifically provided in this Act or by other rule of law.

(2) Any right or obligation declared by this Act is enforceable by action unless the provision declaring it specifies a different and limited effect.

SECTION 1-107. Waiver or Renunciation of Claim or Right After Breach.

Any claim or right arising out of an alleged breach can be discharged in whole or in part without consideration by a written waiver or renunciation signed and delivered by the aggrieved party.

SECTION 1-108. Severability.

If any provision or clause of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

PART 2

GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

SECTION 1-201. General Definitions.

Subject to additional definitions contained in the subsequent Articles of this Act which are applicable to specific Articles or Parts thereof, and unless the context otherwise requires, in this Act:
(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Act (Sections 1-205 and 2-208). Whether an agreement has legal consequences is determined by the provisions of this Act, if applicable; otherwise by the law of contracts (Section 1-103). (Compare "Contract").

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its non-existence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous": A term or clause is conspicuous
when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NON-NEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous". Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this Act and any other applicable rules of law. (Compare "Agreement".)

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this Act to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.
(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" means a person who is in possession of a document of title or an instrument or an investment security drawn, issued or indorsed to him or to his order or to bearer or in blank.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency.

(25) A person has "notice" of a fact when
   (a) he has actual knowledge of it; or
   (b) he has received a notice or notification of it; or
   (c) from all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this Act.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when
   (a) it comes to his attention; or
   (b) it is duly delivered at the place of business through which the contract was made or at any
other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) “Organization” includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) “Party”, as distinct from “third party”, means a person who has engaged in a transaction or made an agreement within this Act.

(30) “Person” includes an individual or an organization (See Section 1-102).

(31) “Presumption” or “presumed” means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) “Purchase” includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or re-issue, gift or any other voluntary transaction creating an interest in property.

(33) “Purchaser” means a person who takes by purchase.

(34) “Remedy” means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) “Representative” includes an agent, an officer of a corporation or association, and a trustee, executor or ad-
ministrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (Section 2-401) is limited in effect to a reservation of a "security interest". The term also includes any interest of a buyer of accounts, chattel paper, or contract rights which is subject to Article 9. The special property interest of a buyer of goods on identification of such goods to a contract for sale under Section 2-401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with Article 9. Unless a lease or consignment is intended as security, reservation of title thereunder is not a "security interest" but a consignment is in any event subject to the provisions on consignment sales (Section 2-326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.
(42) “Term” means that portion of an agreement which relates to a particular matter.

(43) “Unauthorized” signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

(44) “Value”. Except as otherwise provided with respect to negotiable instruments and bank collections (Sections 3-303, 4-208 and 4-209) a person gives “value” for rights if he acquires them

(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

(b) as security for or in total or partial satisfaction of a pre-existing claim; or

(c) by accepting delivery pursuant to a pre-existing contract for purchase; or

(d) generally, in return for any consideration sufficient to support a simple contract.

(45) “Warehouse receipt” means a receipt issued by a person engaged in the business of storing goods for hire.

(46) “Written” or “writing” includes printing, typewriting or any other intentional reduction to tangible form.


A document in due form purporting to be a bill of lading, policy or certificate of insurance, official weigher’s or inspector’s certificate, consular invoice, or any other document authorized or required by the contract to be issued by a third party shall be prima facie evidence of its own authenticity and genuineness and of the facts stated in the document by the third party.

SECTION 1-203. Obligation of Good Faith.

Every contract or duty within this Act imposes an obligation of good faith in its performance or enforcement.

SECTION 1-204. Time; Reasonable Time; “Seasonably”.

(1) Whenever this Act requires any action to be taken
within a reasonable time, any time which is not manifestly unreasonable may be fixed by agreement.

(2) What is a reasonable time for taking any action depends on the nature, purpose and circumstances of such action.

(3) An action is taken "seasonably" when it is taken at or within the time agreed or if no time is agreed at or within a reasonable time.

SECTION 1-205. Course of Dealing and Usage of Trade.

(1) A course of dealing is a sequence of previous conduct between the parties to a particular transaction which is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.

(2) A usage of trade is any practice or method of dealing having such regularity of observance in a place, vocation or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage are to be proved as facts. If it is established that such a usage is embodied in a written trade code or similar writing the interpretation of the writing is for the court.

(3) A course of dealing between parties and any usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware give particular meaning to and supplement or qualify terms of an agreement.

(4) The express terms of an agreement and an applicable course of dealing or usage of trade shall be construed wherever reasonable as consistent with each other; but when such construction is unreasonable express terms control both course of dealing and usage of trade and course of dealing controls usage of trade.

(5) An applicable usage of trade in the place where any part of performance is to occur shall be used in interpreting the agreement as to that part of the performance.

(6) Evidence of a relevant usage of trade offered by one party is not admissible unless and until he has given the other party such notice as the court finds sufficient to prevent unfair surprise to the latter.

(1) Except in the cases described in subsection (2) of this section a contract for the sale of personal property is not enforceable by way of action or defense beyond five thousand dollars in amount or value of remedy unless there is some writing which indicates that a contract for sale has been made between the parties at a defined or stated price, reasonably identifies the subject matter, and is signed by the party against whom enforcement is sought or by his authorized agent.

(2) Subsection (1) of this section does not apply to contracts for the sale of goods (Section 2-201) nor of securities (Section 8-319) nor to security agreements (Section 9-203).

SECTION 1-207. Performance or Acceptance Under Reservation of Rights.

A party who with explicit reservation of rights performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as "without prejudice", "under protest" or the like are sufficient.

SECTION 1-208. Option to Accelerate at Will.

A term providing that one party or his successor in interest may accelerate payment or performance or require collateral or additional collateral "at will" or "when he deems himself insecure" or in words of similar import shall be construed to mean that he shall have power to do so only if he in good faith believes that the prospect of payment or performance is impaired. The burden of establishing lack of good faith is on the party against whom the power has been exercised.

ARTICLE 2
SALES

PART 1
SHORT TITLE, GENERAL CONSTRUCTION AND SUBJECT MATTER

SECTION 2-101. Short Title.

This Article shall be known and may be cited as Uniform Commercial Code—Sales.

SECTION 2-102. Scope; Certain Security and Other Transactions Excluded From This Article.
Unless the context otherwise requires, this Article applies to transactions in goods; it does not apply to any transaction which although in the form of an unconditional contract to sell or present sale is intended to operate only as a security transaction nor does this Article impair or repeal any statute regulating sales to consumers, farmers or other specified classes of buyers.

SECTION 2-103. Definitions and Index of Definitions.

(1) In this Article unless the context otherwise requires

(a) "Buyer" means a person who buys or contracts to buy goods.

(b) "Good faith" in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

(c) "Receipt" of goods means taking physical possession of them.

(d) "Seller" means a person who sells or contracts to sell goods.

(2) Other definitions applying to this Article or to specified Parts thereof, and the sections in which they appear are:

"Acceptance". Section 2-606.
"Banker's credit". Section 2-325.
"Between merchants". Section 2-104.
"Cancellation". Section 2-106(4).
"Commercial unit". Section 2-105.
"Confirmed credit". Section 2-325.
"Conforming to contract". Section 2-106.
"Contract for sale". Section 2-106.
"Cover". Section 2-712.
"Entrusting". Section 2-403.
"Financing agency". Section 2-104.
"Future goods". Section 2-105.
"Goods". Section 2-105.
"Identification". Section 2-501.
"Installment contract". Section 2-612.
"Letter of Credit". Section 2-325.
"Lot". Section 2-105.
"Merchant". Section 2-104.
"Overseas". Section 2-323.
"Person in position of seller". Section 2-707.
"Present sale". Section 2-106.
“Sale”. Section 2-106.
“Sale on approval”. Section 2-326.
“Sale or Return”. Section 2-326.
“Termination”. Section 2-106.

(3) The following definitions in other Articles apply to this Article:

“Check”. Section 3-104.
“Consignee”. Section 7-102.
“Consignor”. Section 7-102.
“Dishonor”. Section 3-507.
“Draft”. Section 3-104.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

SECTION 2-104. Definitions: “Merchant”; “Between Merchants”; “Financing Agency”.

(1) “Merchant” means a person who deals in goods of the kind or otherwise by his occupation holds himself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his employment of an agent or broker or other intermediary who by his occupation holds himself out as having such knowledge or skill.

(2) “Financing agency” means a bank, finance company or other person who in the ordinary course of business makes advances against goods or documents of title or who by arrangement with either the seller or the buyer intervenes in ordinary course to make or collect payment due or claimed under the contract for sale, as by purchasing or paying the seller’s draft or making advances against it or by merely taking it for collection whether or not documents of title accompany the draft. “Financing agency” includes also a bank or other person who similarly intervenes between persons who are in the position of seller and buyer in respect to the goods (Section 2-707).

(3) “Between merchants” means in any transaction with respect to which both parties are chargeable with the knowledge or skill of merchants.


(1) “Goods” means all things (including specially manu-
factured goods) which are movable at the time of identification to the contract for sale other than the money in which the price is to be paid, investment securities (Article 8) and things in action. “Goods” also includes the unborn young of animals and growing crops and other identified things attached to realty as described in the section on goods to be severed from realty (Section 2-107).

(2) Goods must be both existing and identified before any interest in them can pass. Goods which are not both existing and identified are “future” goods. A purported present sale of future goods or of any interest therein operates as a contract to sell.

(3) There may be a sale of a part interest in existing identified goods.

(4) An undivided share in an identified bulk of fungible goods is sufficiently identified to be sold although the quantity of the bulk is not determined. Any agreed proportion of such a bulk or any quantity thereof agreed upon by number, weight or other measure may to the extent of the seller’s interest in the bulk be sold to the buyer who then becomes an owner in common.

(5) “Lot” means a parcel or a single article which is the subject matter of a separate sale or delivery, whether or not it is sufficient to perform the contract.

(6) “Commercial unit” means such a unit of goods as by commercial usage is a single whole for purposes of sale and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article (as a machine) or a set of articles (as a suite of furniture or an assortment of sizes) or a quantity (as a bale, gross, or carload) or any other unit treated in use or in the relevant market as a single whole.


(1) In this Article unless the context otherwise requires “contract” and “agreement” are limited to those relating to the present or future sale of goods. “Contract for sale” includes both a present sale of goods and a contract to sell goods at a future time. A “sale” consists in the passing of title from the seller to the buyer for a price (Section 2-401). A “present sale” means a sale which is accomplished by the making of the contract.
(2) Goods or conduct including any part of a performance are "conforming" or conform to the contract when they are in accordance with the obligations under the contract.

(3) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the contract otherwise than for its breach. On "termination" all obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

(4) "Cancellation" occurs when either party puts an end to the contract for breach by the other and its effect is the same as that of "termination" except that the cancelling party also retains any remedy for breach of the whole contract or any unperformed balance.

Section 2-107. Goods to Be Severed From Realty: Recording.

(1) A contract for the sale of timber, minerals or the like or a structure or its materials to be removed from realty is a contract for the sale of goods within this Article if they are to be severed by the seller but until severance a purported present sale thereof which is not effective as a transfer of an interest in land is effective only as a contract to sell.

(2) A contract for the sale apart from the land of growing crops or other things attached to realty and capable of severance without material harm thereto but not described in subsection (1) is a contract for the sale of goods within this Article whether the subject matter is to be severed by the buyer or by the seller even though it forms part of the realty at the time of contracting, and the parties can by identification effect a present sale before severance.

(3) The provisions of this section are subject to any third party rights provided by the law relating to realty records, and the contract for sale may be executed and recorded as a document transferring an interest in land and shall then constitute notice to third parties of the buyer's rights under the contract for sale.

Part 2
Form, Formation and Readjustment of Contract

Section 2-201. Formal Requirements; Statute of Frauds.
(1) Except as otherwise provided in this section a contract for the sale of goods for the price of $500 or more is not enforceable by way of action or defense unless there is some writing sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by his authorized agent or broker. A writing is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this paragraph beyond the quantity of goods shown in such writing.

(2) Between merchants if within a reasonable time a writing in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) against such party unless written notice of objection to its contents is given within ten days after it is received.

(3) A contract which does not satisfy the requirements of subsection (1) but which is valid in other respects is enforceable

(a) if the goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business and the seller, before notice of repudiation is received and under circumstances which reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement; or

(b) if the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract for sale was made, but the contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) with respect to goods for which payment has been made and accepted or which have been received and accepted (Sec. 2-606).

SECTION 2-202. Final Written Expression: Parol or Extrinsic Evidence.

Terms with respect to which the confirmatory memoranda of the parties agreed or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included
therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented

(a) by course of dealing or usage of trade (Section 1-205) or by course of performance (Section 2-208); and

(b) by evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement.

SECTION 2-203. Seals Inoperative.

The affixing of a seal to a writing evidencing a contract for sale or an offer to buy or sell goods does not constitute the writing a sealed instrument and the law with respect to sealed instruments does not apply to such a contract or offer.

SECTION 2-204. Formation in General.

(1) A contract for sale of goods may be made in any manner sufficient to show agreement, including conduct by both parties which recognizes the existence of such a contract.

(2) An agreement sufficient to constitute a contract for sale may be found even though the moment of its making is undetermined.

(3) Even though one or more terms are left open a contract for sale does not fail for indefiniteness if the parties have intended to make a contract and there is a reasonably certain basis for giving an appropriate remedy.

SECTION 2-205. Firm Offers.

An offer by a merchant to buy or sell goods in a signed writing which by its terms gives assurance that it will be held open is not revocable, for lack of consideration, during the time stated or if no time is stated for a reasonable time, but in no event may such period of irrevocability exceed three months; but any such term of assurance on a form supplies by the offeree must be separately signed by the offeror.

(1) Unless otherwise unambiguously indicated by the language or circumstances

(a) an offer to make a contract shall be construed as inviting acceptance in any manner and by any medium reasonable in the circumstances;

(b) an order or other offer to buy goods for prompt or current shipment shall be construed as inviting acceptance either by a prompt promise to ship or by the prompt or current shipment of conforming or nonconforming goods, but such a shipment of nonconforming goods does not constitute an acceptance if the seller seasonably notifies the buyer that the shipment is offered only as an accommodation to the buyer.

(2) Where the beginning of a requested performance is a reasonable mode of acceptance an offeror who is not notified of acceptance within a reasonable time may treat the offer as having lapsed before acceptance.

SECTION 2-207. Additional Terms in Acceptance or Confirmation.

(1) A definite and seasonable expression of acceptance or a written confirmation which is sent within a reasonable time operates as an acceptance even though it states terms additional to or different from those offered or agreed upon, unless acceptance is expressly made conditional on assent to the additional or different terms.

(2) The additional terms are to be construed as proposals for addition to the contract. Between merchants such terms become part of the contract unless:

(a) the offer expressly limits acceptance to the terms of the offer;

(b) they materially alter it; or

(c) notification of objection to them has already been given or is given within a reasonable time after notice of them is received.

(3) Conduct by both parties which recognizes the existence of a contract is sufficient to establish a contract for sale although the writings of the parties do not otherwise establish a contract. In such case the terms of the particular contract consist of those terms on which the writings of the parties agree, together with any supplementary terms incorporated under any other provisions of this Act.
SECTION 2-208. Course of Performance or Practical Construction.

(1) Where the contract for sale involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to it by the other, any course of performance accepted or acquiesced in without objection shall be relevant to determine the meaning of the agreement.

(2) The express terms of the agreement and any such course of performance, as well as any course of dealing and usage of trade, shall be construed whenever reasonable as consistent with each other; but when such construction is unreasonable, express terms shall control course of performance and course of performance shall control both course of dealing and usage of trade (Section 1-205).

(3) Subject to the provisions of the next section on modification and waiver, such course of performance shall be relevant to show a waiver or modification of any term inconsistent with such course of performance.

SECTION 2-209. Modification, Rescission and Waiver.

(1) An agreement modifying a contract within this Article needs no consideration to be binding.

(2) Assigned agreement which excludes modifications or rescission except by a signed writing cannot be otherwise modified or rescinded, but except as between merchants such a requirement on a form supplied by the merchant must be separately signed by the other party.

(3) The requirements of the statute of frauds section of this Article (Section 2-201) must be satisfied if the contract as modified is within its provisions.

(4) Although an attempt at modification or rescission does not satisfy the requirements of subsection (2) or (3) it can operate as a waiver.

(5) A party who has made a waiver affecting an executory portion of the contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.

SECTION 2-210. Delegation of Performance; Assignment of Rights.
(1) A party may perform his duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) Unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him by his contract, or impair materially his chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his entire obligation can be assigned despite agreement otherwise.

(3) Unless the circumstances indicate the contrary a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

(4) An assignment of "the contract" or "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(5) The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to his rights against the assignor demand assurances from the assignee (Section 2-609).

PART 3
GENERAL OBLIGATION AND CONSTRUCTION OF CONTRACT

SECTION 2-301. General Obligations of Parties.

The obligation of the seller is to transfer and deliver and that of the buyer is to accept and pay in accordance with the contract.

SECTION 2-302. Unconscionable Contract or Clause.
(1) If the court as a matter of law finds the contract or any clause of the contract to have been unconscionable at the time it was made the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(2) When it is claimed or appears to the court that the contract or any clause thereof may be unconscionable the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose and effect to aid the court in making the determination.

SECTION 2-303. Allocation or Division of Risks.

Where this Article allocates a risk or a burden as between the parties “unless otherwise agreed”, the agreement may not only shift the allocation but may also divide the risk or burden.

SECTION 2-304. Price Payable in Money, Goods, Realty, or Otherwise.

(1) The price can be made payable in money or otherwise. If it is payable in whole or in part in goods each party is a seller of the goods which he is to transfer.

(2) Even though all or part of the price is payable in an interest in realty the transfer of the goods and the seller’s obligations with reference to them are subject to this Article, but not the transfer of the interest in realty or the transferor’s obligations in connection therewith.

SECTION 2-305. Open Price Term.

(1) The parties if they so intend can conclude a contract for sale even though the price is not settled. In such a case the price is a reasonable price at the time for delivery if

(a) nothing is said as to price; or
(b) the price is left to be agreed by the parties and they fail to agree; or
(c) the price is to be fixed in terms of some agreed market or other standard as set or recorded by a third person or agency and it is not so set or recorded.

(2) A price to be fixed by the seller or by the buyer means a price for him to fix in good faith.
(3) When a price left to be fixed otherwise than by agree-
ment of the parties fails to be fixed through fault of one
party the other may at his option treat the contract as
cancelled or himself fix a reasonable price.

(4) Where, however, the parties intend not to be bound
unless the price be fixed or agreed and it is not fixed or
agreed there is no contract. In such a case the buyer must
return any goods already received or if unable so to do
must pay their reasonable value at the time of delivery and
the seller must return any portion of the price paid on ac-
count.

SECTION 2-306. Output, Requirements and Exclusive
Dealings.

(1) A term which measures the quantity by the output
of the seller or the requirements of the buyer means such
actual output or requirements as may occur in good faith, ex-
cept that no quantity unreasonably disproportionate to any
stated estimate or in the absence of a stated estimate to any
normal or otherwise comparable prior output or require-
ments may be tendered or demanded.

(2) A lawful agreement by either the seller or the buyer
for exclusive dealing in the kind of goods concerned imposes
unless otherwise agreed an obligation by the seller to use
best efforts to supply the goods and by the buyer to use
best efforts to promote their sale.

SECTION 2-307. Delivery in Single Lot or Several Lots.

Unless otherwise agreed all goods called for by a contract
for sale must be tendered in a single delivery and payment
is due only on such tender but where the circumstances give
either party the right to make or demand delivery in lots the
price if it can be apportioned may be demanded for each lot.

SECTION 2-308. Absence of Specified Place for Delivery.

Unless otherwise agreed

(a) the place for delivery of goods is the seller's place
of business or if he has none his residence; but

(b) in a contract for sale of identified goods which
to the knowledge of the parties at the time of
contracting are in some other place, that place
is the place for their delivery; and

(c) documents of title may be delivered through cus-
tomary banking channels.
SECTION 2-309. Absence of Specific Time Provisions; Notice of Termination.

(1) The time for shipment or delivery or any other action under a contract if not provided in this Article or agreed upon shall be a reasonable time.

(2) Where the contract provides for successive performances but is indefinite in duration it is valid for a reasonable time but unless otherwise agreed may be terminated at any time by either party.

(3) Termination of a contract by one party except on the happening of an agreed event requires that reasonable notification be received by the other party and an agreement dispensing with notification is invalid if its operation would be unconscionable.

SECTION 2-310. Open Time for Payment or Running of Credit; Authority to Ship Under Reservation.

Unless otherwise agreed

(a) payment is due at the time and place at which the buyer is to receive the goods even though the place of shipment is the place of delivery; and

(b) if the seller is authorized to send the goods he may ship them under reservation, and may tender the documents of title, but the buyer may inspect the goods after their arrival before payment is due unless such inspection is inconsistent with the terms of the contract (Section 2-513); and

(c) if delivery is authorized and made by way of documents of title otherwise than by subsection (b) then payment is due at the time and place at which the buyer is to receive the documents regardless of where the goods are to be received; and

(d) where the seller is required or authorized to ship the goods on credit the credit period runs from the time of shipment but post-dating the invoice or delaying its dispatch will correspondingly delay the starting of the credit period.

SECTION 2-311. Options and Cooperation Respecting Performance.

(1) An agreement for sale which is otherwise sufficiently
definite (subsection (3) of Section 2-204) to be a contract is not made invalid by the fact that it leaves particulars of performance to be specified by one of the parties. Any such specification must be made in good faith and within limits set by commercial reasonableness.

(2) Unless otherwise agreed specifications relating to assortment of the goods are at the buyer's option and except as otherwise provided in subsections (1) (c) and (3) of Section 2-319 specifications or arrangements relating to shipment are at the seller's option.

(3) Where such specification would materially affect the other party's performance but is not seasonably made or where one party's cooperation is necessary to the agreed performance of the other but is not seasonably forthcoming, the other party in addition to all other remedies

(a) is excused for any resulting delay in his own performance; and

(b) may also either proceed to perform in any reasonable manner or after the time for a material part of his own performance treat the failure to specify or to cooperate as a breach by failure to deliver or accept the goods.

SECTION 2-312. Warranty of Title and Against Infringement; Buyer's Obligation Against Infringement.

(1) Subject to subsection (2) there is in a contract for sale a warranty by the seller that

(a) the title conveyed shall be good, and its transfer rightful; and

(b) the goods shall be delivered free from any security interest or other lien or encumbrance of which the buyer at the time of contracting has no knowledge.

(2) A warranty under subsection (1) will be excluded or modified only by specific language or by circumstances which give the buyer reason to know that the person selling does not claim title in himself or that he is purporting to sell only such right or title as he or a third person may have.

(3) Unless otherwise agreed a seller who is a merchant regularly dealing in goods of the kind warrants that the goods shall be delivered free of the rightful claim of any third person by way of infringement or the like but a buyer who furnishes specifications to the seller must hold the seller
harmless against any such claim which arises out of compliance with the specifications.

SECTION 2-313. Express Warranties by Affirmation, Promise, Description, Sample.

(1) Express warranties by the seller are created as follows:

(a) Any affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.

(b) Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods shall conform to the description.

(c) Any sample or model which is made part of the basis of the bargain creates an express warranty that the whole of the goods shall conform to the sample or model.

(2) It is not necessary to the creation of an express warranty that the seller use formal words such as "warrant" or "guarantee" or that he have a specific intention to make a warranty, but an affirmation merely of the value of the goods or a statement purporting to be merely the seller's opinion or commendation of the goods does not create a warranty.

SECTION 2-314. Implied Warranty: Merchantability; Usage of Trade.

(1) Unless excluded or modified (Section 2-316), a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind. Under this section the serving for value of food or drink to be consumed either on the premises or elsewhere is a sale.

(2) Goods to be merchantable must be at least such as

(a) pass without objection in the trade under the contract description; and

(b) in the case of fungible goods, are of fair average quality within the description; and
(c) are fit for the ordinary purposes for which such goods are used; and

(d) run, within the variations permitted by the agreement, of even kind, quality and quantity within each unit and among all units involved; and

(e) are adequately contained, packaged, and labeled as the agreement may require; and

(f) conform to the promises or affirmations of fact made on the container or label if any.

(3) Unless excluded or modified (Section 2-316) other implied warranties may arise from course of dealing or usage of trade.

SECTION 2-315. Implied Warranty: Fitness for Particular Purpose.

Where the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there is unless excluded or modified under the next section an implied warranty that the goods shall be fit for such purpose.

SECTION 2-316. Exclusion or Modification of Warranties.

(1) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit warranty shall be construed wherever reasonable as consistent with each other; but subject to the provisions of this Article on parol or extrinsic evidence (Section 2-202) negation or limitation is inoperative to the extent that such construction is unreasonable.

(2) Subject to subsection (3), to exclude or modify the implied warranty of merchantability or any part of it the language must mention merchantability and in case of a writing must be conspicuous, and to exclude or modify any implied warranty of fitness the exclusion must be by a writing and conspicuous. Language to exclude all implied warranties of fitness is sufficient if it states, for example, that "There are no warranties which extend beyond the description on the face hereof."

(3) Notwithstanding subsection (2)

(a) unless the circumstances indicate otherwise, all
implied warranties are excluded by expressions like "as is", "with all faults" or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty; and

(b) when the buyer before entering into the contract has examined the goods or the sample or model as fully as he desired or has refused to examine the goods there is no implied warranty with regard to defects which an examination ought in the circumstances to have revealed to him; and

(c) an implied warranty can also be excluded or modified by course of dealing or course of performance or usage of trade.

(4) Remedies for breach of warranty can be limited in accordance with the provisions of this Article on liquidation or limitation of damages and on contractual modification of remedy (Sections 2-718 and 2-719).

SECTION 2-317. Cumulation and Conflict of Warranties Express or Implied.

Warranties whether express or implied shall be construed as consistent with each other and as cumulative, but if such construction is unreasonable the intention of the parties shall determine which warranty is dominant. In ascertaining that intention the following rules apply:

(a) Exact or technical specifications displace an inconsistent sample or model or general language of description.

(b) A sample from an existing bulk displaces inconsistent general language of description.

(c) Express warranties displace inconsistent implied warranties other than an implied warranty of fitness for a particular purpose.

SECTION 2-318. Third Party Beneficiaries of Warranties Express or Implied.

A seller's warranty whether express or implied extends to any natural person who is in the family or household of his buyer or who is a guest in his home if it is reasonable to expect that such person may use, consume or be affected by the goods and who is injured in person by breach of the
warranty. A seller may not exclude or limit the operation of this section.


(1) Unless otherwise agreed the term F.O.B. (which means "free on board") at a named place, even though used only in connection with the stated price, is a delivery term under which

(a) when the term is F.O.B. the place of shipment, the seller must at that place ship the goods in the manner provided in this Article (Section 2-504) and bear the expense and risk of putting them into the possession of the carrier; or

(b) when the term is F.O.B. the place of destination, the seller must at his own expense and risk transport the goods to that place and there tender delivery of them in the manner provided in this Article (Section 2-503);

(c) when under either (a) or (b) the term is also F.O.B. vessel, car or other vehicle, the seller must in addition at his own expense and risk load the goods on board. If the term is F.O.B. vessel the buyer must name the vessel and in an appropriate case the seller must comply with the provisions of this Article on the form of bill of lading (Section 2-323).

(2) Unless otherwise agreed the term F.A.S. vessel (which means "free alongside") at a named port, even though used only in connection with the stated price, is a delivery term under which the seller must

(a) at his own expense and risk deliver the goods alongside the vessel in the manner usual in that port or on a dock designated and provided by the buyer; and

(b) obtain and tender a receipt for the goods in exchange for which the carrier is under a duty to issue a bill of lading.

(3) Unless otherwise agreed in any case falling within subsection (1) (a) or (c) or subsection (2) the buyer must seasonably give any needed instructions for making delivery, including when the term is F.A.S. or F.O.B. the loading berth of the vessel and in an appropriate case its name and sailing date. The seller may treat the failure of needed in-
structions as a failure of cooperation under this Article (Section 2-311). He may also at his option move the goods in any reasonable manner preparatory to delivery or shipment.

(4) Under the term F.O.B. vessel or F.A.S. unless otherwise agreed the buyer must make payment against tender of the required documents and the seller may not tender nor the buyer demand delivery of the goods in substitution for the documents.


(1) The term C.I.F. means that the price includes in a lump sum the cost of the goods and the insurance and freight to the named destination. The term C. & F. or C. F. means that the price so includes cost and freight to the named destination.

(2) Unless otherwise agreed and even though used only in connection with the stated price and destination, the term C.I.F. destination or its equivalent requires the seller at his own expense and risk to

(a) put the goods into the possession of a carrier at the port for shipment and obtain a negotiable bill or bills of lading covering the entire transportation to the named destination; and

(b) load the goods and obtain a receipt from the carrier (which may be contained in the bill of lading) showing that the freight has been paid or provided for; and

(c) obtain a policy or certificate of insurance, including any war risk insurance, of a kind and on terms then current at the port of shipment in the usual amount, in the currency of the contract, shown to cover the same goods covered by the bill of lading and providing for payment of loss to the order of the buyer or for the account of whom it may concern; but the seller may add to the price the amount of the premium for any such war risk insurance; and

(d) prepare an invoice of the goods and procure any other documents required to effect shipment or to comply with the contract; and

(e) forward and tender with commercial promptness all the documents in due form and with any
indorsement necessary to perfect the buyer's rights.

(3) Unless otherwise agreed the term C. & F. or its equivalent has the same effect and imposes upon the seller the same obligations and risks as a C.I.F. term except the obligation as to insurance.

(4) Under the term C.I.F. or C. & F. unless otherwise agreed the buyer must make payment against tender of the required documents and the seller may not tender nor the buyer demand delivery of the goods in substitution for the documents.


Under a contract containing a term C. I. F. or C. & F.

(1) Where the price is based on or is to be adjusted according to “net landed weights”, “delivered weights”, “out turn” quantity or quality or the like, unless otherwise agreed the seller must reasonably estimate the price. The payment due on tender of the documents called for by the contract is the amount so estimated, but after final adjustment of the price a settlement must be made with commercial promptness.

(2) An agreement described in subsection (1) or any warranty of quality or condition of the goods on arrival places upon the seller the risk of ordinary deterioration, shrinkage and the like in transportation but has no effect on the place or time of identification to the contract for sale or delivery or on the passing of the risk of loss.

(3) Unless otherwise agreed where the contract provides for payment on or after arrival of the goods the seller must before payment allow such preliminary inspection as is feasible; but if the goods are lost delivery of the documents and payment are due when the goods should have arrived.

SECTION 2-322. Delivery “Ex-Ship”.

(1) Unless otherwise agreed a term for delivery of goods “ex-ship” (which means from the carrying vessel) or in equivalent language is not restricted to a particular ship and requires delivery from a ship which has reached a place at the named port of destination where goods of the kind are usually discharged.
(2) Under such a term unless otherwise agreed

(a) the seller must discharge all liens arising out of the carriage and furnish the buyer with a direction which puts the carrier under a duty to deliver the goods; and

(b) the risk of loss does not pass to the buyer until the goods leave the ship's tackle or are otherwise properly unloaded.

SECTION 2-323. Form of Bill of Lading Required in Overseas Shipment; "Overseas".

(1) Where the contract contemplates overseas shipment and contains a term C. I. F. or C. & F. or F. O. B. vessel, the seller unless otherwise agreed must obtain a negotiable bill of lading stating that the goods have been loaded on board or, in the case of a term C. I. F. or C. & F., received for shipment.

(2) Where in a case within subsection (1) a bill of lading has been issued in a set of parts, unless otherwise agreed if the documents are not to be sent from abroad the buyer may demand tender of the full set; otherwise only one part of the bill of lading need be tendered. Even if the agreement expressly requires a full set

(a) due tender of a single part is acceptable within the provisions of this Article on cure of improper delivery (subsection (1) of Section 2-508); and

(b) even though the full set is demanded, if the documents are sent from abroad the person tendering an incomplete set may nevertheless require payment upon furnishing an indemnity which the buyer in good faith deems adequate.

(3) A shipment by water or by air or a contract contemplating such shipment is "overseas" insofar as by usage of trade or agreement it is subject to the commercial, financing or shipping practices characteristic of international deep water commerce.

SECTION 2-324. "No Arrival, No Sale" Term.

Under a term "no arrival, no sale" or terms of like meaning, unless otherwise agreed,

(a) the seller must properly ship conforming goods and if they arrive by any means he must tender
them on arrival but he assumes no obligation that the goods will arrive unless he has caused the non-arrival; and

(b) where without fault of the seller the goods are in part lost or have so deteriorated as no longer to conform to the contract or arrive after the contract time, the buyer may proceed as if there had been casualty to identified goods (Section 2-613).

SECTION 2-325. "Letter of Credit" Term; "Confirmed Credit".

(1) Failure of the buyer seasonably to furnish an agreed letter of credit is a breach of the contract for sale.

(2) The delivery to seller of a proper letter of credit suspends the buyer's obligation to pay. If the letter of credit is dishonored, the seller may on seasonable notification to the buyer require payment directly from him.

(3) Unless otherwise agreed the term "letter of credit" or "banker's credit" in a contract for sale means an irrevocable credit issued by a financing agency of good repute and, where the shipment is overseas, of good international repute. The term "confirmed credit" means that the credit must also carry the direct obligation of such an agency which does business in the seller's financial market.

SECTION 2-326. Sale on Approval and Sale or Return; Consignment Sales and Rights of Creditors.

(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is

(a) a "sale on approval" if the goods are delivered primarily for use, and

(b) a "sale or return" if the goods are delivered primarily for resale.

(2) Except as provided in subsection (3), goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

(3) Where goods are delivered to a person for sale and such person maintains a place of business at which he deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to
claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum". However, this subsection is not applicable if the person making delivery

(a) complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or

(b) establishes that the person conducting the business is generally known by his creditors to be substantially engaged in selling the goods of others, or

(c) complies with the filing provisions of the Article on Secured Transactions (Article 9).

(4) Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this Article (Section 2-201) and as contradicting the sale aspect of the contract within the provisions of this Article on parol or extrinsic evidence (Section 2-202).

SECTION 2-327. Special Incidents of Sale on Approval and Sale or Return.

(1) Under a sale on approval unless otherwise agreed

(a) although the goods are identified to the contract the risk of loss and the title do not pass to the buyer until acceptance; and

(b) use of the goods consistent with the purpose of trial is not acceptance but failure seasonably to notify the seller of election to return the goods is acceptance, and if the goods conform to the contract acceptance of any part is acceptance of the whole; and

(c) after due notification of election to return, the return is at the seller's risk and expense but a merchant buyer must follow any reasonable instructions.

(2) Under a sale or return unless otherwise agreed

(a) the option to return extends to the whole or any commercial unit of the goods while in sub-
stantially their original condition, but must be exercised seasonably; and

(b) the return is at the buyer's risk and expense.

SECTION 2-328. Sale by Auction.

(1) In a sale by auction if goods are put up in lots each lot is the subject of a separate sale.

(2) A sale by auction is complete when the auctioneer so announces by the fall of the hammer or in other customary manner. Where a bid is made while the hammer is falling in acceptance of a prior bid the auctioneer may in his discretion reopen the bidding or declare the goods sold under the bid on which the hammer was falling.

(3) Such a sale is with reserve unless the goods are in explicit terms put up without reserve. In an auction with reserve the auctioneer may withdraw the goods at any time until he announces completion of the sale. In an auction without reserve, after the auctioneer calls for bids on an article or lot, that article or lot cannot be withdrawn unless no bid is made within a reasonable time. In either case a bidder may retract his bid until the auctioneer's announcement of completion of the sale, but a bidder's retraction does not revive any previous bid.

(4) If the auctioneer knowingly receives a bid on the seller's behalf or the seller makes or procures such a bid, and notice has not been given that liberty for such bidding is reserved, the buyer may at his option avoid the sale or take the goods at the price of the last good faith bid prior to the completion of the sale. This subsection shall not apply to any bid at a forced sale.

PART 4
TITLE, CREDITORS AND GOOD FAITH PURCHASERS

SECTION 2-401. Passing of Title; Reservation for Security; Limited Application of This Section.

Each provision of this Article with regard to the rights, obligations and remedies of the seller, the buyer, purchasers or other third parties applies irrespective of title to the goods except where the provision refers to such title. Insofar as situations are not covered by the other provisions of this Article and matters concerning title become material the following rules apply:

(1) Title to goods cannot pass under a contract for sale
prior to their identification to the contract (Section 2-501), and unless otherwise explicitly agreed the buyer acquires by their identification a special property as limited by this Act. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of the Article on Secured Transactions (Article 9), title to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.

(2) Unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading

(a) if the contract requires or authorizes the seller to send the goods to the buyer but does not require him to deliver them at destination, title passes to the buyer at the time and place of shipment; but

(b) if the contract requires delivery at destination, title passes on tender there.

(3) Unless otherwise explicitly agreed where delivery is to be made without moving the goods,

(a) if the seller is to deliver a document of title, title passes at the time when and the place where he delivers such documents; or

(b) if the goods are at the time of contracting already identified and no documents are to be delivered, title passes at the time and place of contracting.

(4) A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of acceptance revests title to the goods in the seller. Such revesting occurs by operation of law and is not a “sale”.

SECTION 2-402. Rights of Seller’s Creditors Against Sold Goods.

(1) Except as provided in subsections (2) and (3),
rights of unsecured creditors of the seller with respect to goods which have been identified to a contract for sale are subject to the buyer's rights to recover the goods under this Article (Sections 2-502 and 2-716).

(2) A creditor of the seller may treat a sale or an identification of goods to a contract for sale as void if as against him a retention of possession by the seller is fraudulent under any rule of law of the state where the goods are situated, except that retention of possession in good faith and current course of trade by a merchant-seller for a commercially reasonable time after a sale or identification is not fraudulent.

(3) Nothing in this Article shall be deemed to impair the rights of creditors of the seller

(a) under the provisions of the Article on Secured Transactions (Article 9); or

(b) where identification to the contract or delivery is made not in current course of trade but in satisfaction of or as security for a pre-existing claim for money, security or the like and is made under circumstances which under any rule of law of the state where the goods are situated would apart from this Article constitute the transaction a fraudulent transfer or voidable preference.

SECTION 2-403. Power to Transfer; Good Faith Purchase of Goods; “Entrusting”.

(1) A purchaser of goods acquires all title which his transferor had or had power to transfer except that a purchaser of a limited interest acquires rights only to the extent of the interest purchased. A person with voidable title has power to transfer a good title to a good faith purchaser for value. When goods have been delivered under a transaction of purchase the purchaser has such power even though

(a) the transferor was deceived as to the identity of the purchaser, or

(b) the delivery was in exchange for a check which is later dishonored, or

(c) it was agreed that the transaction was to be a "cash sale", or
(d) the delivery was procured through fraud punishable as larcenous under the criminal law.

(2) Any entrusting of possession of goods to a merchant who deals in goods of that kind gives him power to transfer all rights of the entruster to a buyer in ordinary course of business.

(3) "Entrusting" includes any delivery and any acquiescence in retention of possession regardless of any condition expressed between the parties to the delivery of acquiescence and regardless of whether the procurement of the entrusting or the possessor's disposition of the goods have been such as to be larcenous under the criminal law.

(4) The rights of other purchasers of goods and of lien creditors are governed by the Articles on Secured Transactions (Article 9), Bulk Transfers (Article 6) and Documents of Title (Article 7).

PART 5
PERFORMANCE


(1) The buyer obtains a special property and an insurable interest in goods by identification of existing goods as goods to which the contract refers even though the goods so identified are non-conforming and he has an option to return or reject them. Such identification can be made at any time and in any manner explicitly agreed to by the parties. In the absence of explicit agreement identification occurs

(a) when the contract is made if it is for the sale of goods already existing and identified;

(b) if the contract is for the sale of future goods other than those described in paragraph (c), when goods are shipped, marked or otherwise designated by the seller as goods to which the contract refers;

(c) when the crops are planted or otherwise become growing crops or the young are conceived if the contract is for the sale of unborn young to be born within twelve months after contracting or for the sale of crops to be harvested
within twelve months or the next normal harvest season after contracting whichever is longer.

(2) The seller retains an insurable interest in goods so long as title to or any security interest in the goods remains in him and where the identification is by the seller alone he may until default or insolvency or notification to the buyer that the identification is final substitute other goods for those identified.

(3) Nothing in this section impairs any insurable interest recognized under any other statute or rule of law.


(1) Subject to subsection (2) and even though the goods have not been shipped a buyer who has paid a part or all of the price of goods in which he has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if the seller becomes insolvent within ten days after receipt of the first installment on their price.

(2) If the identification creating his special property has been made by the buyer he acquires the right to recover the goods only if they conform to the contract for sale.

SECTION 2-503. Manner of Seller's Tender of Delivery.

(1) Tender of delivery requires that the seller put and hold conforming goods at the buyer's disposition and give the buyer any notification reasonably necessary to enable him to take delivery. The manner, time and place for tender are determined by the agreement and this Article, and in particular

(a) tender must be at a reasonable hour, and if it is of goods they must be kept available for the period reasonably necessary to enable the buyer to take possession; but

(b) unless otherwise agreed the buyer must furnish facilities reasonably suited to the receipt of the goods.

(2) Where the case is within the next section respecting shipment tender requires that the seller comply with its provisions.
(3) Where the seller is required to deliver at a particular destination tender requires that he comply with subsection (1) and also in any appropriate case tender documents as described in subsections (4) and (5) of this section.

(4) Where goods are in the possession of a bailee and are to be delivered without being moved

(a) tender requires that the seller either tender a negotiable document of title covering such goods or procure acknowledgment by the bailee of the buyer's right to possession of the goods; but

(b) tender to the buyer of a non-negotiable document of title or of a written direction to the bailee to deliver is sufficient tender unless the buyer seasonably objects, and receipt by the bailee of notification of the buyer's rights fixes those rights as against the bailee and all third persons; but risk of loss of the goods and of any failure by the bailee to honor the non-negotiable document of title or to obey the direction remains on the seller until the buyer has had a reasonable time to present the document or direction, and a refusal by the bailee to honor the document or to obey the direction defeats the tender.

(5) Where the contract requires the seller to deliver documents

(a) he must tender all such documents in correct form, except as provided in this Article with respect to bills of lading in a set (subsection (2) of Section 2-323); and

(b) tender through customary banking channels is sufficient and dishonor of a draft accompanying the documents constitutes non-acceptance or rejection.

SECTION 2-504. Shipment by Seller.

Where the seller is required or authorized to send the goods to the buyer and the contract does not require him to deliver them at a particular destination, then unless otherwise agreed he must

(a) put the goods in the possession of such a carrier and make such a contract for their transportation as may be reasonable having regard to the
nature of the goods and other circumstances of the case; and

(b) obtain and promptly deliver or tender in due form any document necessary to enable the buyer to obtain possession of the goods or otherwise required by the agreement or by usage of trade; and

(c) promptly notify the buyer of the shipment.

Failure to notify the buyer under paragraph (c) or to make a proper contract under paragraph (a) is a ground for rejection only if material delay or loss ensues.

SECTION 2-505. Seller's Shipment Under Reservation.

(1) Where the seller has identified goods to the contract by or before shipment:

(a) his procurement of a negotiable bill of lading to his own order or otherwise reserves in him a security interest in the goods. His procurement of the bill to the order of a financing agency or of the buyer indicates in addition only the seller's expectation of transferring that interest to the person named.

(b) a non-negotiable bill of lading to himself or his nominee reserves possession of the goods as security but except in a case of conditional delivery (subsection (2) of Section 2-507) a non-negotiable bill of lading naming the buyer as consignee reserves no security interest even though the seller retains possession of the bill of lading.

(2) When shipment by the seller with reservation of a security interest is in violation of the contract for sale it constitutes an improper contract for transportation within the preceding section but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller's powers as a holder of a negotiable document.


(1) A financing agency by paying or purchasing for value a draft which relates to a shipment of goods acquires to the extent of the payment or purchase and in addition to its own rights under the draft and any document of title
securing it any rights of the shipper in the goods including the right to stop delivery and the shipper's right to have the draft honored by the buyer.

(2) The right to reimbursement of a financing agency which has in good faith honored or purchased the draft under commitment to or authority from the buyer is not impaired by subsequent discovery of defects with reference to any relevant document which was apparently regular on its face.

SECTION 2-507. Effect of Seller's Tender; Delivery on Condition.

(1) Tender of delivery is a condition to the buyer's duty to accept the goods and, unless otherwise agreed, to his duty to pay for them. Tender entitles the seller to acceptance of the goods and to payment according to the contract.

(2) Where payment is due and demanded on the delivery to the buyer of goods or documents of title, his right as against the seller to retain or dispose of them is conditional upon his making the payment due.

SECTION 2-508. Cure by Seller of Improper Tender or Delivery; Replacement.

(1) Where any tender or delivery by the seller is rejected because non-conforming and the time for performance has not yet expired, the seller may seasonably notify the buyer of his intention to cure and may then within the contract time make a conforming delivery.

(2) Where the buyer rejects a non-conforming tender which the seller had reasonable grounds to believe would be acceptable with or without money allowance the seller may if he seasonably notifies the buyer have a further reasonable time to substitute a conforming tender.

SECTION 2-509. Risk of Loss in the Absence of Breach.

(1) Where the contract requires or authorizes the seller to ship the goods by carrier

(a) if it does not require him to deliver them at a particular destination, the risk of loss passes to the buyer when the goods are duly delivered to the carrier even though the shipment is under reservation (Section 2-505); but

(b) if it does require him to deliver them at a particular destination and the goods are there duly
tendered while in the possession of the carrier, the risk of loss passes to the buyer when the goods are there duly so tendered as to enable the buyer to take delivery.

(2) Where the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the buyer

(a) on his receipt of a negotiable document of title covering the goods; or

(b) on acknowledgment by the bailee of the buyer's right to possession of the goods; or

(c) after his receipt of a non-negotiable document of title or other written direction to deliver, as provided in subsection (4) (b) of Section 2-503.

(3) In any case not within subsection (1) or (2), the risk of loss passes to the buyer on his receipt of the goods if the seller is a merchant; otherwise the risk passes to the buyer on tender of delivery.

(4) The provisions of this section are subject to contrary agreement of the parties and to the provisions of this Article on sale on approval (Section 2-327) and on effect of breach on risk of loss (Section 2-510).

SECTION 2-510. Effect of Breach on Risk of Loss.

(1) Where a tender or delivery of goods so fails to conform to the contract as to give a right of rejection the risk of their loss remains on the seller until cure or acceptance.

(2) Where the buyer rightfully revokes acceptance he may to the extent of any deficiency in his effective insurance coverage treat the risk of loss as having rested on the seller from the beginning.

(3) Where the buyer as to conforming goods already indentified to the contract for sale repudiates or is otherwise in breach before risk of their loss has passed to him, the seller may to the extent of any deficiency in his effective insurance coverage treat the risk of loss as resting on the buyer for a commercially reasonable time.

SECTION 2-511. Tender of Payment by Buyer; Payment by Check.

(1) Unless otherwise agreed tender of payment is a condition to the seller's duty to tender and complete any delivery.
(2) Tender of payment is sufficient when made by any means or in any manner current in the ordinary course of business unless the seller demands payment in legal tender and gives any extension of time reasonably necessary to procure it.

(3) Subject to the provisions of this Act on the effect of an instrument on an obligation (Section 3-802), payment by check is conditional and is defeated as between the parties by dishonor of the check on due presentment.

SECTION 2-512. Payment by Buyer Before Inspection.

(1) Where the contract requires payment before inspection non-conformity of the goods does not excuse the buyer from so making payment unless

(a) the non-conformity appears without inspection; or

(b) despite tender of the required documents the circumstances would justify injunction against honor under the provisions of this Act (Section 5-114).

(2) Payment pursuant to subsection (1) does not constitute an acceptance of goods or impair the buyer's right to inspect or any of his remedies.


(1) Unless otherwise agreed and subject to subsection (3), where goods are tendered or delivered or identified to the contract for sale, the buyer has a right before payment or acceptance to inspect them at any reasonable place and time and in any reasonable manner. When the seller is required or authorized to send the goods to the buyer, the inspection may be after their arrival.

(2) Expenses of inspection must be borne by the buyer but may be recovered from the seller if the goods do not conform and are rejected.

(3) Unless otherwise agreed and subject to the provisions of this Article on C. I. F. contracts (subsection (3) of Section 2-321), the buyer is not entitled to inspect the goods before payment of the price when the contract provides

(a) for delivery "C. O. D." or on other like terms; or

(b) for payment against documents of title, except
where such payment is due only after the goods are to become available for inspection.

(4) A place or method of inspection fixed by the parties is presumed to be exclusive but unless otherwise expressly agreed it does not postpone identification or shift the place for delivery or for passing the risk of loss. If compliance becomes impossible, inspection shall be as provided in this section unless the place or method fixed was clearly intended as an indispensable condition failure of which avoids the contract.

SECTION 2-514. When Documents Deliverable on Acceptance; When on Payment.

Unless otherwise agreed documents against which a draft is drawn are to be delivered to the drawee on acceptance of the draft if it is payable more than three days after presentment; otherwise, only on payment.

SECTION 2-515. Preserving Evidence of Goods in Dispute.

In furtherance of the adjustment of any claim or dispute (a) either party on reasonable notification to the other and for the purpose of ascertaining the facts and preserving evidence has the right to inspect, test and sample the goods including such of them as may be in the possession or control of the other; and

(b) the parties may agree to a third party inspection or survey to determine the conformity or condition of the goods and may agree that the findings shall be binding upon them in any subsequent litigation or adjustment.

PART 6
BREACH, REPUDIATION AND EXCUSE

SECTION 2-601. Buyer's Rights on Improper Delivery.

Subject to the provisions of this Article on breach in installment contracts (Section 2-612) and unless otherwise agreed under the sections on contractual limitations of remedy (Sections 2-718 and 2-719), if the goods or the tender of delivery fail in any respect to conform to the contract, the buyer may

(a) reject the whole; or
(b) accept the whole; or
(c) accept any commercial unit or units and reject the rest.

SECTION 2-602. Manner and Effect of Rightful Rejection.

(1) Rejection of goods must be within a reasonable time after their delivery or tender. It is ineffective unless the buyer seasonably notifies the seller.

(2) Subject to the provisions of the two following sections on rejected goods (Sections 2-603 and 2-604),

(a) after rejection any exercise of ownership by the buyer with respect to any commercial unit is wrongful as against the seller; and

(b) if the buyer has before rejection taken physical possession of goods in which he does not have a security interest under the provisions of this Article (subsection (3) of Section 2-711), he is under a duty after rejection to hold them with reasonable care at the seller's disposition for a time sufficient to permit the seller to remove them; but

(c) the buyer has no further obligations with regard to goods rightfully rejected.

(3) The seller's rights with respect to goods wrongfully rejected are governed by the provisions of this Article on Seller's remedies in general (Section 2-703).

SECTION 2-603. Merchant Buyer's Duties as to Rightfully Rejected Goods.

(1) Subject to any security interest in the buyer (subsection (3) of Section 2-711), when the seller has no agent or place of business at the market of rejection a merchant buyer is under a duty after rejection of goods in his possession or control to follow any reasonable instructions received from the seller with respect to the goods and in the absence of such instructions to make reasonable efforts to sell them for the seller's account if they are perishable or threaten to decline in value speedily. Instructions are not reasonable if on demand indemnity for expenses is not forthcoming.

(2) When the buyer sells goods under subsection (1), he is entitled to reimbursement from the seller or out of
the proceeds for reasonable expenses of caring for and selling them, and if the expenses include no selling commission then to such commission as is usual in the trade or if there is none to a reasonable sum not exceeding ten per cent on the gross proceeds.

(3) In complying with this section the buyer is held only to good faith and good faith conduct hereunder is neither acceptance nor conversion nor the basis of an action for damages.

SECTION 2-604. Buyer's Options as to Salvage of Rightfully Rejected Goods.

Subject to the provisions of the immediately preceding section on perishables if the seller gives no instructions within a reasonable time after notification of rejection the buyer may store the rejected goods for the seller's account or reship them to him or resell them for the seller's account with reimbursement as provided in the preceding section. Such action is not acceptance or conversion.

SECTION 2-605. Waiver of Buyer's Objections by Failure to Particularize.

(1) The buyer's failure to state in connection with rejection a particular defect which is ascertainable by reasonable inspection precludes him from relying on the unstated defect to justify rejection or to establish breach

(a) where the seller could have cured it if stated seasonably; or

(b) between merchants when the seller has after rejection made a request in writing for a full and final written statement of all defects on which the buyer proposes to rely.

(2) Payment against documents made without reservation of rights precludes recovery of the payment for defects apparent on the face of the documents.


(1) Acceptance of goods occurs when the buyer

(a) after a reasonable opportunity to inspect the goods signifies to the seller that the goods are conforming or that he will take or retain them in spite of their non-conformity; or

(b) fails to make an effective rejection (subsection
(1) of Section 2-602), but such acceptance does not occur until the buyer has had a reasonable opportunity to inspect them; or

(c) does any act inconsistent with the seller's ownership; but if such act is wrongful as against the seller it is an acceptance only if ratified by him.

(2) Acceptance of a part of any commercial unit is acceptance of that entire unit.

SECTION 2-607. Effect of Acceptance; Notice of Breach; Burden of Establishing Breach After Acceptance; Notice of Claim or Litigation to Person Answerable Over.

(1) The buyer must pay at the contract rate for any goods accepted.

(2) Acceptance of goods by the buyer precludes rejection of the goods accepted and if made with knowledge of a non-conformity cannot be revoked because of it unless the acceptance was on the reasonable assumption that the non-conformity would be seasonably cured but acceptance does not of itself impair any other remedy provided by this Article for non-conformity.

(3) Where a tender has been accepted

(a) the buyer must within a reasonable time after he discovers or should have discovered any breach notify the seller of breach or be barred from any remedy; and

(b) if the claim is one for infringement or the like (subsection (3) of Section 2-312) and the buyer is sued as a result of such a breach he must so notify the seller within a reasonable time after he receives notice of the litigation or be barred from any remedy over for liability established by the litigation.

(4) The burden is on the buyer to establish any breach with respect to the goods accepted.

(5) Where the buyer is sued for breach of a warranty or other obligation for which his seller is answerable over

(a) he may give his seller written notice of the litigation. If the notice states that the seller may come in and defend and that if the seller does not do so he will be bound in any action against
him by his buyer by any determination of fact common to the two litigations, then unless the seller after seasonable receipt of the notice does come in and defend he is so bound.

(b) if the claim is one for infringement or the like (subsection (3) of Section 2-312) the original seller may demand in writing that his buyer turn over to him control of the litigation including settlement or else be barred from any remedy over and if he also agrees to bear all expense and to satisfy any adverse judgment, then unless the buyer after seasonable receipt of the demand does turn over control the buyer is so barred.

(6) The provisions of subsections (3), (4) and (5) apply to any obligation of a buyer to hold the seller harmless against infringement or the like (subsection (3) of Section 2-312).

SECTION 2-608. Revocation of Acceptance in Whole or in Part.

(1) The buyer may revoke his acceptance of a lot or commercial unit whose non-conformity substantially impairs its value to him if he has accepted it

(a) on the reasonable assumption that its non-conformity would be cured and it has not been seasonably cured; or

(b) without discovery of such non-conformity if his acceptance was reasonably induced either by the difficulty of discovery before acceptance or by the seller's assurances.

(2) Revocation of acceptance must occur within a reasonable time after the buyer discovers or should have discovered the ground for it and before any substantial change in condition of the goods which is not caused by their own defects. It is not effective until the buyer notifies the seller of it.

(3) A buyer who so revokes has the same rights and duties with regard to the goods involved as if he had rejected them.

SECTION 2-609. Right to Adequate Assurance of Performance.
(1) A contract for sale imposes an obligation on each party that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party the other may in writing demand adequate assurance of due performance and until he receives such assurance may if commercially reasonable suspend any performance for which he has not already received the agreed return.

(2) Between merchants the reasonableness of grounds for insecurity and the adequacy of any assurance offered shall be determined according to commercial standards.

(3) Acceptance of any improper delivery or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

(4) After receipt of a justified demand failure to provide within a reasonable time not exceeding thirty days such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of the contract.

SECTION 2-610. Anticipatory Repudiation.

When either party repudiates the contract with respect to a performance not yet due the loss of which will substantially impair the value of the contract to the other, the aggrieved party may

(a) for a commercially reasonable time await performance by the repudiating party; or

(b) resort to any remedy for breach (Section 2-703 or Section 2-711), even though he has notified the repudiating party that he would await the latter's performance and has urged retraction; and

(c) in either case suspend his own performance or proceed in accordance with the provisions of this Article on the seller's right to identify goods to the contract notwithstanding breach or to salvage unfinished goods (Section 2-704).

SECTION 2-611. Retraction of Anticipatory Repudiation.

(1) Until the repudiating party's next performance is due he can retract his repudiation unless the aggrieved party has since the repudiation cancelled or materially
changed his position or otherwise indicated that he considers the repudiation final.

(2) Retraction may be by any method which clearly indicates to the aggrieved party that the repudiating party intends to perform, but must include any assurance justifiably demanded under the provisions of this Article (Section 2-609).

(3) Retraction reinstates the repudiating party's rights under the contract with due excuse and allowance to the aggrieved party for any delay occasioned by the repudiation.


(1) An “installment contract” is one which requires or authorizes the delivery of goods in separate lots to be separately accepted, even though the contract contains a clause “each delivery is a separate contract” or its equivalent.

(2) The buyer may reject any installment which is non-conforming if the non-conformity substantially impairs the value of that installment and cannot be cured or if the non-conformity is a defect in the required documents; but if the non-conformity does not fall within subsection (3) and the seller gives adequate assurance of its cure the buyer must accept that installment.

(3) Whenever non-conformity or default with respect to one or more installments substantially impairs the value of the whole contract there is a breach of the whole. But the aggrieved party reinstates the contract if he accepts a non-conforming installment without seasonably notifying of cancellation or if he brings an action with respect only to past installments or demands performance as to future installments.

SECTION 2-613. Casualty to Identified Goods.

Where the contract requires for its performance goods identified when the contract is made, and the goods suffer casualty without fault of either party before the risk of loss passes to the buyer, or in a proper case under a “no arrival, no sale” term (Section 2-324) then

(a) if the loss is total the contract is avoided; and

(b) if the loss is partial or the goods have so deteriorated as no longer to conform to the contract the buyer may nevertheless demand inspection and at his option either treat the contract as
avoided or accept the goods with due allowance from the contract price for the deterioration or the deficiency in quantity but without further right against the seller.

SECTION 2-614. Substituted Performance.

(1) Where without fault of either party the agreed berthing, loading, or unloading facilities fail or an agreed type of carrier becomes unavailable or the agreed manner of delivery otherwise becomes commercially impracticable but a commercially reasonable substitute is available, such substitute performance must be tendered and accepted.

(2) If the agreed means or manner of payment fails because of domestic or foreign governmental regulation, the seller may withhold or stop delivery unless the buyer provides a means or manner of payment which is commercially a substantial equivalent. If delivery has already been taken, payment by the means or in the manner provided by the regulation discharges the buyer's obligation unless the regulation is discriminatory, oppressive or predatory.

SECTION 2-615. Excuse by Failure of Presupposed Conditions.

Except so far as a seller may have assumed a greater obligation and subject to the preceding section on substituted performance:

(a) Delay in delivery or non-delivery in whole or in part by a seller who complies with paragraphs (b) and (c) is not a breach of his duty under a contract for sale if performance as agreed has been made impracticable by the occurrence of a contingency the non-occurrence of which was a basic assumption on which the contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order whether or not it later proves to be invalid.

(b) Where the causes mentioned in paragraph (a) affect only a part of the seller's capacity to perform, he must allocate production and deliveries among his customers but may at his option include regular customers not then under contract as well as his own requirements for further manufacture. He may so allocate in any manner which is fair and reasonable.
(c) The seller must notify the buyer seasonably that there will be delay or non-delivery and, when allocation is required under paragraph (b), of the estimated quota thus made available for the buyer.

SECTION 2-616. Procedure on Notice Claiming Excuse.

(1) Where the buyer receives notification of a material or indefinite delay or an allocation justified under the preceding section he may by written notification to the seller as to any delivery concerned, and where the prospective deficiency substantially impairs the value of the whole contract under the provisions of this Article relating to breach of installment contracts (Section 2-612), then also as to the whole,

(a) terminate and thereby discharge any unexecuted portion of the contract; or

(b) modify the contract by agreeing to take his available quota in substitution.

(2) If after receipt of such notification from the seller the buyer fails so to modify the contract within a reasonable time not exceeding thirty days the contract lapses with respect to any deliveries affected.

(3) The provisions of this section may not be negated by agreement except in so far as the seller has assumed a greater obligation under the preceding section.

PART 7
REMEDIES

SECTION 2-701. Remedies for Breach of Collateral Contracts Not Impaired.

Remedies for breach of any obligation or promise collateral or ancillary to a contract for sale are not impaired by the provisions of this Article.

SECTION 2-702. Seller's Remedies on Discovery of Buyer's Insolvency.

(1) Where the seller discovers the buyer to be insolvent he may refuse delivery except for cash including payment for all goods theretofore delivered under the contract, and stop delivery under this Article (Section 2-705).

(2) Where the seller discovers that the buyer has received goods on credit while insolvent he may reclaim the
goods upon demand made within ten days after the receipt, but if misrepresentation of solvency has been made to the particular seller in writing within three months before delivery the ten day limitation does not apply. Except as provided in this subsection the seller may not base a right to reclaim goods on the buyer's fraudulent or innocent misrepresentation of solvency or of intent to pay.

(3) The seller's right to reclaim under subsection (2) is subject to the rights of a buyer in ordinary course or other good faith purchaser or lien creditor under this Article (Section 2-403). Successful reclamation of goods excludes all other remedies with respect to them.

SECTION 2-703. Seller's Remedies in General.

Where the buyer wrongfully rejects or revokes acceptance of goods or fails to make a payment due on or before delivery or repudiates with respect to a part or the whole, then with respect to any goods directly affected and, if the breach is of the whole contract (Section 2-612), then also with respect to the whole undelivered balance, the aggrieved seller may

(a) withhold delivery of such goods;
(b) stop delivery by any bailee as hereafter provided (Section 2-705);
(c) proceed under the next section respecting goods still unidentified to the contract;
(d) resell and recover damages as hereafter provided (Section 2-706);
(e) recover damages for non-acceptance (Section 2-708) or in a proper case the price (Section 2-709);
(f) cancel.

SECTION 2-704. Seller's Right to Identify Goods to the Contract Notwithstanding Breach or to Salvage Unfinished Goods.

(1) An aggrieved seller under the preceding section may

(a) identify to the contract conforming goods not already identified if at the time he learned of the breach they are in his possession or control;
(b) treat as the subject of resale goods which have
demonstrably been intended for the particular contract even though those goods are unfinished.

(2) Where the goods are unfinished an aggrieved seller may in the exercise of reasonable commercial judgment for the purposes of avoiding loss and of effective realization either complete the manufacture and wholly identify the goods to the contract or cease manufacture and resell for scrap or salvage value or proceed in any other reasonable manner.

SECTION 2-705. Seller's Stoppage of Delivery in Transit or Otherwise.

(1) The seller may stop delivery of goods in the possession of a carrier or other bailee when he discovers the buyer to be insolvent (Section 2-702) and may stop delivery of carload, truckload, planeload or larger shipments of express or freight when the buyer repudiates or fails to make a payment due before delivery or if for any other reason the seller has a right to withhold or reclaim the goods.

(2) As against such buyer the seller may stop delivery until

(a) receipt of the goods by the buyer; or

(b) acknowledgment to the buyer by any bailee of the goods except a carrier that the bailee holds the goods for the buyer; or

(c) such acknowledgment to the buyer by a carrier by reshipment or as warehouseman; or

(d) negotiation to the buyer of any negotiable document of title covering the goods.

(3) (a) To stop delivery the seller must so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

(b) After such notification the bailee must hold and deliver the goods according to the directions of the seller but the seller is liable to the bailee for any ensuing charges or damages.

(c) If a negotiable document of title has been issued for goods the bailee is not obliged to obey a notification to stop until surrender of the document.

(d) A carrier who has issued a non-negotiable bill
of lading is not obliged to obey a notification to stop received from a person other than the consignor.


(1) Under the conditions stated in Section 2-703 on seller's remedies, the seller may resell the goods concerned or the undelivered balance thereof. Where the resale is made in good faith and in a commercially reasonable manner the seller may recover the difference between the resale price and the contract price together with any incidental damages allowed under the provisions of this Article (Section 2-710), but less expenses saved in consequence of the buyer's breach.

(2) Except as otherwise provided in subsection (3) or unless otherwise agreed resale may be at public or private sale including sale by way of one or more contracts to sell or of identification to an existing contract of the seller. Sale may be as a unit or in parcels and at any time and place and on any terms but every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable. The resale must be reasonably identified as referring to the broken contract, but it is not necessary that the goods be in existence or that any or all of them have been identified to the contract before the breach.

(3) Where the resale is at private sale the seller must give the buyer reasonable notification of his intention to resell.

(4) Where the resale is at public sale

(a) only identified goods can be sold except where there is a recognized market for a public sale of futures in goods of the kind; and

(b) it must be made at a usual place or market for public sale if one is reasonably available and except in the case of goods which are perishable or threaten to decline in value speedily the seller must give the buyer reasonable notice of the time and place of the resale; and

(c) if the goods are not to be within the view of those attending the sale the notification of sale must state the place where the goods are located and provide for their reasonable inspection by prospective bidders; and
(d) the seller may buy.

(5) A purchaser who buys in good faith at a resale takes the goods free of any rights of the original buyer even though the seller fails to comply with one or more of the requirements of this section.

(6) The seller is not accountable to the buyer for any profit made on any resale. A person in the position of a seller (Section 2-707) or a buyer who has rightfully rejected or justifiably revoked acceptance must account for any excess over the amount of his security interest, as hereinafter defined (subsection (3) of Section 2-711).

SECTION 2-707. “Person in the Position of a Seller”.

(1) A “person in the position of a seller” includes as against a principal an agent who has paid or become responsible for the price of goods on behalf of his principal or anyone who otherwise holds a security interest or other right in goods similar to that of a seller.

(2) A person in the position of a seller may as provided in this Article withhold or stop delivery (Section 2-705) and resell (Section 2-706) and recover incidental damages (Section 2-710).

SECTION 2-708. Seller's Damages for Non-acceptance or Repudiation.

(1) Subject to subsection (2) and to the provisions of this Article with respect to proof of market price (Section 2-723), the measure of damages for non-acceptance or repudiation by the buyer is the difference between the market price at the time and place for tender and the unpaid contract price together with any incidental damages provided in this Article (Section 2-710), but less expenses saved in consequence of the buyer's breach.

(2) If the measure of damages provided in subsection (1) is inadequate to put the seller in as good a position as performance would have done then the measure of damages is the profit (including reasonable overhead) which the seller would have made from full performance by the buyer, together with any incidental damages provided in this Article (Section 2-710), due allowance for costs reasonably incurred and due credit for payments or proceeds of resale.


(1) When the buyer fails to pay the price as it becomes
due the seller may recover, together with any incidental dam-
ages under the next section, the price

(a) of goods accepted or of conforming goods lost or
damaged within a commercially reasonable time
after risk of their loss has passed to the buyer; and

(b) of goods identified to the contract if the seller
is unable after reasonable effort to resell them
at a reasonable price or the circumstances rea-
sonably indicate that such effort will be unavail-
ing.

(2) Where the seller sues for the price he must hold for
the buyer any goods which have been identified to the con-
tract and are still in his control except that if resale be-
comes possible he may resell them at any time prior to the
collection of the judgment. The next proceeds of any such
resale must be credited to the buyer and payment of the
judgment entitles him to any goods not resold.

(3) After the buyer has wrongfully rejected or revoked
acceptance of the goods or has failed to make a payment
due or has repudiated (Section 2-610), a seller who is held
not entitled to the price under this section shall nevertheless
be awarded damages for non-acceptance under the preceding
section.

SECTION 2-710. Seller's Incidental Damages.

Incidental damages to an aggrieved seller include any
commercially reasonable charges, expenses or commissions
incurred in stopping delivery, in the transportation, care
and custody of goods after the buyer's breach, in connection
with return or resale of the goods or otherwise resulting
from the breach.

SECTION 2-711. Buyer's Remedies in General; Buyer's
Security Interest in Rejected Goods.

(1) Where the seller fails to make delivery or re-
pudiates or the buyer rightfully rejects or justifiably re-
vokes acceptance then with respect to any goods involved,
and with respect to the whole if the breach goes to the whole
contract (Section 2-612), the buyer may cancel and wheth-
er or not he has done so may in addition to recovering so
much of the price as has been paid

(a) "cover" and have damages under the next sec-
tion as to all the goods affected whether or not they have been identified to the contract; or

(b) recover damages for non-delivery as provided in this Article (Section 2-713).

(2) Where the seller fails to deliver or repudiates the buyer may also

(a) if the goods have been identified recover them as provided in this Article (Section 2-502); or

(b) in a proper case obtain specific performance or replevy the goods as provided in this Article (Section 2-716).

(3) On rightful rejection or justifiable revocation of acceptance a buyer has a security interest in goods in his possession or control for any payments made on their price and any expenses reasonably incurred in their inspection, receipt, transportation, care and custody and may hold such goods and resell them in like manner as an aggrieved seller (Section 2-706).

SECTION 2-712. “Cover”; Buyer’s Procurement of Substitute Goods.

(1) After a breach within the preceding section the buyer may “cover” by making in good faith and without unreasonable delay any reasonable purchase of or contract to purchase goods in substitution for those due from the seller.

(2) The buyer may recover from the seller as damages the difference between the cost of cover and the contract price together with any incidental or consequential damages as hereinafter defined (Section 2-715), but less expenses saved in consequence of the seller’s breach.

(3) Failure of the buyer to effect cover within this section does not bar him from any other remedy.

SECTION 2-713. Buyer’s Damages for Non-Delivery or Repudiation.

(1) Subject to the provisions of this Article with respect to proof of market price (Section 2-723), the measure of damages for non-delivery or repudiation by the seller is the difference between the market price at the time when the buyer learned of the breach and the contract price together with any incidental and consequential damages provided in this Article (Section 2-715), but less expenses saved in consequence of the seller’s breach.
(2) Market price is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.

SECTION 2-714. Buyer's Damages for Breach in Regard to Accepted Goods.

(1) Where the buyer has accepted goods and given notification (subsection (3) of Section 2-607) he may recover as damages for any non-conformity of tender the loss resulting in the ordinary course of events from the seller's breach as determined in any manner which is reasonable.

(2) The measure of damages for breach of warranty is the difference at the time and place of acceptance between the value of the goods accepted and the value they would have had if they had been as warranted, unless special circumstances show approximate damages of a different amount.

(3) In a proper case any incidental and consequential damages under the next section may also be recovered.

SECTION 2-715. Buyer's Incidental and Consequential Damages.

(1) Incidental damages resulting from the seller's breach include expenses reasonably incurred in inspection, receipt, transportation and care and custody of goods rightfully rejected, any commercially reasonable charges, expenses or commissions in connection with effecting cover and any other reasonable expense incident to the delay or other breach.

(2) Consequential damages resulting from the seller's breach include

(a) any loss resulting from general or particular requirements and needs of which the seller at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

(b) injury to person or property proximately resulting from any breach of warranty.

SECTION 2-716. Buyer's Right to Specific Performance or Claim and Delivery.

(1) Specific performance may be decreed where the goods are unique or in other proper circumstances.
(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(3) The buyer has a right to maintain a claim and delivery action for goods identified to the contract if after reasonable effort he is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered.

SECTION 2-717. Deduction of Damages From the Price.

The buyer on notifying the seller of his intention to do so may deduct all or any part of the damages resulting from any breach of the contract from any part of the price still due under the same contract.

SECTION 2-718. Liquidation or Limitation of Damages; Deposits.

(1) Damages for breach by either party may be liquidated in the agreement but only at an amount which is reasonable in the light of the anticipated or actual harm caused by the breach, the difficulties of proof of loss, and the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy. A term fixing unreasonably large liquidated damages is void as a penalty.

(2) Where the seller justifiably withholds delivery of goods because of the buyer's breach, the buyer is entitled to restitution of any amount by which the sum of his payments exceeds

(a) the amount to which the seller is entitled by virtue of terms liquidating the seller's damages in accordance with subsection (1), or

(b) in the absence of such terms, twenty per cent of the value of the total performance for which the buyer is obligated under the contract or $500, whichever is smaller.

(3) The buyer's right to restitution under subsection (2) is subject to offset to the extent that the seller establishes

(a) a right to recover damages under the provisions of this Article other than subsection (1), and

(b) the amount or value of any benefits received by
the buyer directly or indirectly by reason of the contract.

(4) Where a seller has received payment in goods their reasonable value or the proceeds of their resale shall be treated as payments for the purposes of subsection (2); but if the seller has notice of the buyer's breach before reselling goods received in part performance, his resale is subject to the conditions laid down in this Article on resale by an aggrieved seller (Section 2-706).

SECTION 2-719. Contractual Modification or Limitation of Remedy.

(1) Subject to the provisions of subsections (2) and (3) of this section and of the preceding section on liquidation and limitation of damages,

(a) the agreement may provide for remedies in addition to or in substitution for those provided in this Article and may limit or alter the measure of damages recoverable under this Article, as by limiting the buyer's remedies to return of the goods and repayment of the price or to repair and replacement of non-conforming goods or parts; and

(b) resort to a remedy as provided is optional unless the remedy is expressly agreed to be exclusive, in which case it is the sole remedy.

(2) Where circumstances cause an exclusive or limited remedy to fail of its essential purpose, remedy may be had as provided in this Act.

(3) Consequential damages may be limited or excluded unless the limitation or exclusion is unconscionable. Limitation of consequential damages for injury to the person in the case of consumer goods is prima facie unconscionable but limitation of damages where the loss is commercial is not.

SECTION 2-720. Effect of "Cancellation" or "Rescission" on Claims for Antecedent Breach.

Unless the contrary intention clearly appears, expressions of "cancellation" or "rescission" of the contract or the like shall not be construed as a renunciation or discharge of any claim in damages for an antecedent breach.

SECTION 2-721. Remedies for Fraud.

Remedies for material misrepresentation or fraud in-
clude all remedies available under this Article for non-fraudulent breach. Neither rescission or a claim for rescission of the contract for sale nor rejection or return of the goods shall bar or be deemed inconsistent with a claim for damages or other remedy.

**SECTION 2-722. Who Can Sue Third Parties for Injury to Goods.**

Where a third party so deals with goods which have been identified to a contract for sale as to cause actionable injury to a party to that contract

(a) a right of action against the third party is in either party to the contract for sale who has title to or a security interest or a special property or an insurable interest in the goods; and if the goods have been destroyed or converted a right of action is also in the party who either bore the risk of loss under the contract for sale or has since the injury assumed that risk as against the other;

(b) if at the time of the injury the party plaintiff did not bear the risk of loss as against the other party to the contract for sale and there is no arrangement between them for disposition of the recovery, his suit or settlement is, subject to his own interest, as a fiduciary for the other party to the contract;

(c) either party may with the consent of the other sue for the benefit of whom it may concern.

**SECTION 2-723. Proof of Market Price: Time and Place.**

(1) If an action based on anticipatory repudiation comes to trial before the time for performance with respect to some or all of the goods, any damages based on market price (Section 2-708 or Section 2-713) shall be determined according to the price of such goods prevailing at the time when the aggrieved party learned of the repudiation.

(2) If evidence of a price prevailing at the times or places described in this Article is not readily available the price prevailing within any reasonable time before or after the time described or at any other place which in commercial judgment or under usage of trade would serve as a reasonable substitute for the one described may be used, making any proper allowance for the cost of transporting the goods to or from such other place.
(3) Evidence of a relevant price prevailing at a time or place other than the one described in this Article offered by one party is not admissible unless and until he has given the other party such notice as the court finds sufficient to prevent unfair surprise.

SECTION 2-724. Admissibility of Market Quotations.

Whenever the prevailing price or value of any goods regularly bought and sold in any established commodity market is in issue, reports in official publications or trade journals or in newspapers or periodicals of general circulation published as the reports of such market shall be admissible in evidence. The circumstances of the preparation of such a report may be shown to affect its weight but not its admissibility.

SECTION 2-725. Statute of Limitations in Contracts for Sale.

(1) An action for breach of any contract for sale must be commenced within four years after the cause of action has accrued. By the original agreement the parties may reduce the period of limitation to not less than one year but may not extend it.

(2) A cause of action accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach. A breach of warranty occurs when tender of delivery is made, except that where a warranty explicitly extends to future performance of the goods and discovery of the breach must await the time of such performance the cause of action accrues when the breach is or should have been discovered.

(3) Where an action commenced within the time limited by subsection (1) is so terminated as to leave available a remedy by another action for the same breach such other action may be commenced after the expiration of the time limited and within six months after the termination of the first action unless the termination resulted from voluntary discontinuance or from dismissal for failure or neglect to prosecute.

(4) This section does not alter the law on tolling of the statute of limitations nor does it apply to causes of action which have accrued before this Act becomes effective.
ARTICLE 3
COMMERCIAL PAPER

PART 1
SHORT TITLE, FORM AND INTERPRETATION

SECTION 3-101. Short Title.
This Article shall be known and may be cited as Uniform Commercial Code—Commercial Paper.

SECTION 3-102. Definitions and Index of Definitions.
(1) In this Article unless the context otherwise requires
   (a) "Issue" means the first delivery of an instrument to a holder or a remitter.
   (b) An "order" is a direction to pay and must be more than an authorization or request. It must identify the person to pay with reasonable certainty. It may be addressed to one or more such persons jointly or in the alternative but not in succession.
   (c) A "promise" is an undertaking to pay and must be more than an acknowledgement of an obligation.
   (d) "Secondary party" means a drawer or endorser.
   (e) "Instrument" means a negotiable instrument.
(2) Other definitions applying to this Article and the sections in which they appear are:
   "Acceptance". Section 3-410.
   "Accommodation party". Section 3-415.
   "Alteration". Section 3-407.
   "Certificate of deposit". Section 3-104.
   "Certification". Section 3-411.
   "Check". Section 3-104.
   "Definite time". Section 3-109.
   "Dishonor". Section 3-507.
   "Draft". Section 3-104.
   "Holder in due course". Section 3-302.
   "Negotiation". Section 3-202.
   "Note". Section 3-104.
   "Notice of dishonor". Section 3-508.
   "On demand". Section 3-108.
   "Presentment". Section 3-504.
“Protest”. Section 3-509.
“Restrictive Indorsement”. Section 3-205.
“Signature”. Section 3-401.

(3) The following definitions in other Articles apply to this Article:

“Account”. Section 4-104.
“Banking day”. Section 4-104.
“Clearing house”. Section 4-104.
“Collecting bank”. Section 4-105.
“Customer”. Section 4-104.
“Depositary Bank”. Section 4-105.
“Documentary Draft”. Section 4-104.
“Intermediary Bank”. Section 4-105.
“Item”. Section 4-104.
“Midnight deadline”. Section 4-104.
“Payor bank”. Section 4-105.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

SECTION 3-103. Limitations on Scope of Article.

(1) This Article does not apply to money, documents of title or investment securities.

(2) The provisions of this Article are subject to the provisions of the Article on Bank Deposits and Collections (Article 4) and Secured Transactions (Article 9).

SECTION 3-104. Form of Negotiable Instruments; “Draft”; “Check”; “Certificate of Deposit”; “Note”.

(1) Any writing to be a negotiable instrument within this Article must

(a) be signed by the maker or drawer; and

(b) contain an unconditional promise or order to pay a sum certain in money and no other promise, order, obligation or power given by the maker or drawer except as authorized by this Article; and

(c) be payable on demand or at a definite time; and

(d) be payable to order or to bearer.

(2) A writing which complies with the requirements of this section is
(a) a "draft" ("bill of exchange") if it is an order;
(b) a "check" if it is a draft drawn on a bank and payable on demand;
(c) a "certificate of deposit" if it is an acknowledgment by a bank of receipt of money with an engagement to repay it;
(d) a "note" if it is a promise other than a certificate of deposit.

(3) As used in other Articles of this Act, and as the context may require, the terms "draft", "check", "certificate of deposit" and "note" may refer to instruments which are not negotiable within this Article as well as to instruments which are so negotiable.

SECTION 3-105. When Promise or Order Unconditional.

(1) A promise or order otherwise unconditional is not made conditional by the fact that the instrument

(a) is subject to implied or constructive conditions or;
(b) states its consideration, whether performed or promised, or the transaction which gave rise to the instrument, or that the promise or order is made or the instrument matures in accordance with or "as per" such transaction; or
(c) refers to or states that it arises out of a separate agreement or refers to a separate agreement for rights as to prepayment or acceleration; or
(d) states that it is drawn under a letter of credit; or
(e) states that it is secured, whether by mortgage, reservation of title or otherwise; or
(f) indicates a particular account to be debited or any other fund or source from which reimbursement is expected; or
(g) is limited to payment out of a particular fund or the proceeds of a particular source, if the instrument is issued by a government or governmental agency or unit; or
(h) is limited to payment out of the entire assets of a partnership, unincorporated association, trust or estate by or on behalf of which the instrument is issued.
Section 3-106. Sum Certain.

1. The sum payable is a sum certain even though it is to be paid

   a. with stated interest or by stated installments; or
   b. with stated different rates of interest before and after default or a specified date; or
   c. with a stated discount or addition if paid before or after the date fixed for payment; or
   d. with exchange or less exchange, whether at a fixed rate or at the current rate; or
   e. with costs of collection or an attorney's fee or both upon default.

2. Nothing in this section shall validate any term which is otherwise illegal.

Section 3-107. Money.

1. An instrument is payable in money if the medium of exchange in which it is payable is money at the time the instrument is made. An instrument payable in "currency" or "current funds" is payable in money.

2. A promise or order to pay a sum stated in a foreign currency is for a sum certain in money and, unless a different medium of payment is specified in the instrument, may be satisfied by payment of that number of dollars which the stated foreign currency will purchase at the buying sight rate for that currency on the day on which the instrument is payable or, if payable on demand, on the day of demand. If such an instrument specifies a foreign currency as the medium of payment the instrument is payable in that currency.

Section 3-108. Payable on Demand.

Instruments payable on demand include those payable
at sight or on presentation and those in which no time for payment is stated.

SECTION 3-109. Definite Time.

(1) An instrument is payable at a definite time if by its terms it is payable

(a) on or before a stated date or at a fixed period after a stated date; or

(b) at a fixed period after sight; or

(c) at a definite time subject to any acceleration; or

(d) at a definite time subject to extension at the option of the holder, or to extension to a further definite time at the option of the maker or acceptor or automatically upon or after a specified act or event.

(2) An instrument which by its terms is otherwise payable only upon an act or event uncertain as to time of occurrence is not payable at a definite time even though the act or event has occurred.

SECTION 3-110. Payable to Order.

(1) An instrument is payable to order when by its terms it is payable to the order or assigns of any person therein specified with reasonable certainty, or to him or his order, or when it is conspicuously designated on its face as “exchange” or the like and names a payee. It may be payable to the order of

(a) the maker or drawer; or

(b) the drawee; or

(c) a payee who is not maker, drawer or drawee; or

(d) two or more payees together or in the alternative; or

(e) an estate, trust or fund, in which case it is payable to the order of the representative of such estate, trust or fund or his successors; or

(f) an office, or an officer by his title as such in which case it is payable to the principal but the incumbent of the office or his successors may act as if he or they were the holder; or

(g) a partnership or unincorporated association,
in which case it is payable to the partnership or association and may be indorsed or transferred by any person thereto authorized.

(2) An instrument not payable to order is not made so payable by such words as "payable upon return of this instrument properly indorsed."

(3) An instrument made payable both to order and to bearer is payable to order unless the bearer words are handwritten or typewritten.

SECTION 3-111. Payable to Bearer.

An instrument is payable to bearer when by its terms it is payable to

(a) bearer or the order of bearer; or

(b) a specified person or bearer; or

(c) "cash" or the order of "cash", or any other indication which does not purport to designate a specific payee.

SECTION 3-112. Terms and Omissions Not Affecting Negotiability.

(1) The negotiability of an instrument is not affected by

(a) the omission of a statement of any consideration or of the place where the instrument is drawn or payable; or

(b) a statement that collateral has been given to secure obligations either on the instrument or otherwise of an obligor on the instrument or that in case of default on those obligations the holder may realize on or dispose of the collateral; or

(c) a promise or power to maintain or protect collateral or to give additional collateral; or

(d) a term authorizing a confession of judgment on the instrument if it is not paid when due; or

(e) a term purporting to waive the benefit of any law intended for the advantage or protection of any obligor; or

(f) a term in a draft providing that the payee by indorsing or cashing it acknowledges full satisfaction of an obligation of the drawer; or
(g) a statement in a draft drawn in a set of parts (Section 3-801) to the effect that the order is effective only if no other part has been honored.

(2) Nothing in this section shall validate any term which is otherwise illegal.

SECTION 3-113. Seal.

An instrument otherwise negotiable is within this Article even though it is under a seal.

SECTION 3-114. Date, Antedating, Postdating.

(1) The negotiability of an instrument is not affected by the fact that it is undated, antedated or postdated.

(2) Where an instrument is antedated or postdated the time when it is payable is determined by the stated date if the instrument is payable on demand or at a fixed period after date.

(3) Where the instrument or any signature thereon is dated, the date is presumed to be correct.

SECTION 3-115. Incomplete Instruments.

(1) When a paper whose contents at the time of signing show that it is intended to become an instrument is signed while still incomplete in any necessary respect it cannot be enforced until completed, but when it is completed in accordance with authority given it is effective as completed.

(2) If the completion is unauthorized the rules as to material alteration apply (Section 3-407), even though the paper was not delivered by the maker or drawer; but the burden of establishing that any completion is unauthorized is on the party so asserting.

SECTION 3-116. Instruments Payable to Two or More Persons.

An instrument payable to the order of two or more persons

(a) if in the alternative is payable to any one of them and may be negotiated, discharged or enforced by any of them who has possession of it;

(b) if not in the alternative is payable to all of them and may be negotiated, discharged or enforced only by all of them.
SECTION 3-117. Instruments Payable With Words of Description.

An instrument made payable to a named person with the addition of words describing him

(a) as agent or officer of a specified person is payable to his principal but the agent or officer may act as if he were the holder;

(b) as any other fiduciary for a specified person or purpose is payable to the payee and may be negotiated, discharged or enforced by him;

(c) in any other manner is payable to the payee unconditionally and the additional words are without effect on subsequent parties.

SECTION 3-118. Ambiguous Terms and Rules of Construction.

The following rules apply to every instrument:

(a) Where there is doubt whether the instrument is a draft or a note the holder may treat it as either. A draft drawn on the drawer is effective as a note.

(b) Handwritten terms control typewritten and printed terms, and typewritten control printed.

(c) Words control figures except that if the words are ambiguous figures control.

(d) Unless otherwise specified a provision for interest means interest at the judgment rate at the place of payment from the date of the instrument, or if it is undated from the date of issue.

(e) Unless the instrument otherwise specifies two or more persons who sign as maker, acceptor or drawer or indorser and as a part of the same transaction are jointly and severally liable even though the instrument contains such words as "I promise to pay."

(f) Unless otherwise specified consent to extension authorizes a single extension for not longer than the original period. A consent to extension, expressed in the instrument, is binding on secondary parties and accommodation makers. A
holder may not exercise his option to extend an instrument over the objection of a maker or acceptor or other party who in accordance with Section 3-604 tenders full payment when the instrument is due.

SECTION 3-119. Other Writings Affecting Instrument.

(1) As between the obligor and his immediate obligee or any transferee the terms of an instrument may be modified or affected by any other written agreement executed as a part of the same transaction, except that a holder in due course is not affected by any limitation of his rights arising out of the separate written agreement if he had no notice of the limitation when he took the instrument.

(2) A separate agreement does not affect the negotiability of an instrument.

SECTION 3-120. Instruments “Payable Through” Bank.

An instrument which states that it is “payable through” a bank or the like designates that bank as a collecting bank to make presentment but does not of itself authorize the bank to pay the instrument.

SECTION 3-121. Instruments Payable at Bank.

A note or acceptance which states that it is payable at a bank is not of itself an order or authorization to the bank to pay it.

SECTION 3-122. Accrual of Cause of Action.

(1) A cause of action against a maker or an acceptor accrues

(a) in the case of a time instrument on the day after maturity;

(b) in the case of a demand instrument upon its date or, if no date is stated, on the date of issue.

(2) A cause of action against the obligor of a demand or time certificate of deposit accrues upon demand, but demand on a time certificate may not be made until on or after the date of maturity.

(3) A cause of action against a drawer of a draft or an indorser of any instrument accrues upon demand following dishonor of the instrument. Notice of dishonor is a demand.
(4) Unless an instrument provides otherwise, interest runs at the rate provided by law for a judgment

(a) in the case of a maker, acceptor or other primary obligor of a demand instrument, from the date of demand;

(b) in all other cases from the date of accrual of the cause of action.

PART 2
TRANSFER AND NEGOTIATION

SECTION 3-201. Transfer: Right to Indorsement.

(1) Transfer of an instrument vests in the transferee such rights as the transferor has therein, except that a transferee who has himself been a party to any fraud or illegality affecting the instrument or who as a prior holder had notice of a defense or claim against it cannot improve his position by taking from a later holder in due course.

(2) A transfer of a security interest in an instrument vests the foregoing rights in the transferee to the extent of the interest transferred.

(3) Unless otherwise agreed any transfer for value of an instrument not then payable to bearer gives the transferee the specifically enforceable right to have the unqualified indorsement of the transferor. Negotiation takes effect only when the indorsement is made and until that time there is no presumption that the transferee is the owner.


(1) Negotiation is the transfer of an instrument in such form that the transferee becomes a holder. If the instrument is payable to order it is negotiated by delivery with any necessary indorsement; if payable to bearer it is negotiated by delivery.

(2) An indorsement must be written by or on behalf of the holder and on the instrument or on a paper so firmly affixed thereto as to become a part thereof.

(3) An indorsement is effective for negotiation only when it conveys the entire instrument or any unpaid residue. If it purports to be of less it operates only as a partial assignment.

(4) Words of assignment, condition, waiver, guaranty,
limitation or disclaimer of liability and the like accompanying an indorsement do not affect its character as an indorsement.

SECTION 3-203. Wrong or Misspelled Name.

Where an instrument is made payable to a person under a misspelled name or one other than his own he may indorse in that name or his own or both; but signature in both names may be required by a person paying or giving value for the instrument.

SECTION 3-204. Special Indorsement; Blank Indorsement.

(1) A special indorsement specifies the person to whom or to whose order it makes the instrument payable. Any instrument specially indorsed becomes payable to the order of the special indorsee and may be further negotiated only by his indorsement.

(2) An indorsement in blank specifies no particular indorsee and may consist of a mere signature. An instrument payable to order and indorsed in blank becomes payable to bearer and may be negotiated by delivery alone until specially indorsed.

(3) The holder may convert a blank indorsement into a special indorsement by writing over the signature of the indorser in blank any contract consistent with the character of the indorsement.

SECTION 3-205. Restrictive Indorsements.

An indorsement is restrictive which either

(a) is conditional; or

(b) purports to prohibit further transfer of the instrument; or

(c) includes the words "for collection", "for deposit", "pay any bank", or like terms signifying a purpose of deposit or collection; or

(d) otherwise states that it is for the benefit or use of the indorser or of another person.

SECTION 3-206. Effect of Restrictive Indorsement.

(1) No restrictive indorsement prevents further transfer or negotiation of the instrument.

(2) An intermediary bank, or a payor bank which is not
the depositary bank, is neither given notice nor otherwise affected by a restrictive indorsement of any person except the bank's immediate transferor or the person presenting for payment.

(3) Except for an intermediary bank, any transferee under an indorsement which is conditional or includes the words "for collection", "for deposit", "pay any bank", or like terms (subparagraphs (a) and (c) of Section 3-205) must pay or apply any value given by him for or on the security of the instrument consistently with the indorsement and to the extent that he does so he becomes a holder for value. In addition such transferee is a holder in due course if he otherwise complies with the requirements of Section 3-302 on what constitutes a holder in due course.

(4) The first taker under an indorsement for the benefit of the indorser or another person (subparagraph (d) of Section 3-205) must pay or apply any value given by him for or on the security of the instrument consistently with the indorsement and to the extent that he does so he becomes a holder for value. In addition such taker is a holder in due course if he otherwise complies with the requirements of Section 3-302 on what constitutes a holder in due course. A later holder for value is neither given notice nor otherwise affected by such restrictive indorsement unless he has knowledge that a fiduciary or other person has negotiated the instrument in any transaction for his own benefit or otherwise in breach of duty (subsection (2) of Section 3-304).

SECTION 3-207. Negotiation Effective Although It May Be Rescinded.

(1) Negotiation is effective to transfer the instrument although the negotiation is

(a) made by an infant, a corporation exceeding its powers, or any other person without capacity; or

(b) obtained by fraud, duress or mistake of any kind; or

(c) part of an illegal transaction; or

(d) made in breach of duty.

(2) Except as against a subsequent holder in due course such negotiation is in an appropriate case subject to rescission, the declaration of a constructive trust or any other remedy permitted by law.
SECTION 3-208. Reacquisition.

Where an instrument is returned to or reacquired by a prior party he may cancel any indorsement which is not necessary to his title and reissue or further negotiate the instrument, but any intervening party is discharged as against the reacquiring party and subsequent holders not in due course and if his indorsement has been cancelled is discharged as against subsequent holders in due course as well.

Part 3
RIGHTS OF A HOLDER

SECTION 3-301. Rights of a Holder.

The holder of an instrument whether or not he is the owner may transfer or negotiate it and, except as otherwise provided in Section 3-603 on payment or satisfaction, discharge it or enforce payment in his own name.

SECTION 3-302. Holder in Due Course.

(1) A holder in due course is a holder who takes the instrument

(a) for value; and
(b) in good faith; and
(c) without notice that it is overdue or has been dishonored or of any defense against or claim to it on the part of any person.

(2) A payee may be a holder in due course.

(3) A holder does not become a holder in due course of an instrument:

(a) by purchase of it at judicial sale or by taking it under legal process; or
(b) by acquiring it in taking over an estate; or
(c) by purchasing it as part of a bulk transaction not in regular course of business of the transferor.

(4) A purchaser of a limited interest can be a holder in due course only to the extent of the interest purchased.

SECTION 3-303. Taking for Value.

A holder takes the instrument for value
(a) to the extent that the agreed consideration has been performed or that he acquires a security interest in or a lien on the instrument otherwise than by legal process; or

(b) when he takes the instrument in payment of or as security for an antecedent claim against any person whether or not the claim is due; or

(c) when he gives a negotiable instrument for it or makes an irrevocable commitment to a third person.

**SECTION 3-304. Notice to Purchaser.**

(1) The purchaser has notice of a claim or defense if

(a) the instrument is so incomplete, bears such visible evidence of forgery or alteration, or is otherwise so irregular as to call into question its validity, terms or ownership or to create an ambiguity as to the party to pay; or

(b) the purchaser has notice that the obligation of any party is voidable in whole or in part, or that all parties have been discharged.

(2) The purchaser has notice of a claim against the instrument when he has knowledge that a fiduciary has negotiated the instrument in payment of or as security for his own debt or in any transaction for his own benefit or otherwise in breach of duty.

(3) The purchaser has notice that an instrument is overdue if he has reason to know

(a) that any part of the principal amount is overdue or that there is an uncured default in payment of another instrument of the same series; or

(b) that acceleration of the instrument has been made; or

(c) that he is taking a demand instrument after demand has been made or more than a reasonable length of time after its issue. A reasonable time for a check drawn and payable within the states and territories of the United States and the District of Columbia is presumed to be thirty days.
(4) Knowledge of the following facts does not of itself give the purchaser notice of a defense or claim

(a) that the instrument is antedated or postdated;
(b) that it was issued or negotiated in return for an executory promise or accompanied by a separate agreement, unless the purchaser has notice that a defense or claim has arisen from the terms thereof;
(c) that any party has signed for accommodation;
(d) that an incomplete instrument has been completed, unless the purchaser has notice of any improper completion;
(e) that any person negotiating the instrument is or was a fiduciary;
(f) that there has been default in payment of interest on the instrument or in payment of any other instrument, except one of the same series.

(5) The filing or recording of a document does not of itself constitute notice within the provisions of this Article to a person who would otherwise be a holder in due course.

(6) To be effective notice must be received at such time and in such manner as to give a reasonable opportunity to act on it.

SECTION 3-305. Rights of a Holder in Due Course.

To the extent that a holder is a holder in due course he takes the instrument free from

(1) all claims to it on the part of any person; and
(2) all defenses of any party to the instrument with whom the holder has not dealt except

(a) infancy, to the extent that it is a defense to a simple contract; and
(b) such other incapacity, or duress, or illegality of the transaction, as renders the obligation of the party a nullity; and
(c) such misrepresentation as has induced the party to sign the instrument with neither knowledge nor reasonable opportunity to obtain knowledge of its character or its essential terms; and
(d) discharge in insolvency proceedings; and
(e) any other discharge of which the holder has notice when he takes the instrument.

SECTION 3-306. Rights of One Not Holder in Due Course.

Unless he has the rights of a holder in due course any person takes the instrument subject to

(a) All valid claims to it on the part of any person; and
(b) all defenses of any party which would be available in an action on a simple contract; and
(c) the defenses of want or failure of consideration, non-performance of any condition precedent, non-delivery, or delivery for a special purpose (Section 3-408); and
(d) the defense that he or a person through whom he holds the instrument acquired it by theft, or that payment or satisfaction to such holder would be inconsistent with the terms of a restrictive indorsement. The claim of any third person to the instrument is not otherwise available as a defense to any party liable thereon unless the third person himself defends the action for such party.

SECTION 3-307. Burden of Establishing Signatures, Defenses and Due Course.

(1) Unless specifically denied in the pleadings each signature on an instrument is admitted. When the effectiveness of a signature is put in issue

(a) the burden of establishing it is on the party claiming under the signature; but
(b) the signature is presumed to be genuine or authorized except where the action is to enforce the obligation of a purported signer who has died or become incompetent before proof is required.

(2) When signatures are admitted or established, production of the instrument entitles a holder to recover on it unless the defendant establishes a defense.

(3) After it is shown that a defense exists a person
claiming the rights of a holder in due course has the burden of establishing that he or some person under whom he claims is in all respects a holder in due course.

PART 4
LIABILITY OF PARTIES

SECTION 3-401. Signature.

(1) No person is liable on an instrument unless his signature appears thereon.

(2) A signature is made by use of any name, including any trade or assumed name, upon an instrument, or by any word or mark used in lieu of a written signature.

SECTION 3-402. Signature in Ambiguous Capacity.

Unless the instrument clearly indicates that a signature is made in some other capacity it is an indorsement.

SECTION 3-403. Signature by Authorized Representative.

(1) A signature may be made by an agent or other representative, and his authority to make it may be established as in other cases of representation. No particular form of appointment is necessary to establish such authority.

(2) An authorized representative who signs his own name to an instrument

(a) is personally obligated if the instrument neither names the person represented nor shows that the representative signed in a representative capacity

(b) except as otherwise established between the immediate parties, is personally obligated if the instrument names the person represented but does not show that the representative signed in a representative capacity, or if the instrument does not name the person represented but does show that the representative signed in a representative capacity.

(3) Except as otherwise established the name of an organization preceded or followed by the name and office of an authorized individual is a signature made in a representative capacity.

SECTION 3-404. Unauthorized Signatures.
(1) Any unauthorized signature is wholly inoperative as that of the person whose name is signed unless he ratifies it or is precluded from denying it; but it operates as the signature of the unauthorized signer in favor of any person who in good faith pays the instrument or takes it for value.

(2) Any unauthorized signature may be ratified for all purposes of this Article. Such ratification does not of itself affect any rights of the person ratifying against the actual signer.

SECTION 3-405. Impostors; Signature in Name of Payee.

(1) An indorsement by any person in the name of a named payee is effective if

   (a) an impostor by use of the mails or otherwise has induced the maker or drawer to issue the instrument to him or his confederate in the name of the payee; or

   (b) a person signing as or on behalf of a maker or drawer intends the payee to have no interest in the instrument; or

   (c) an agent or employee of the maker or drawer has supplied him with the name of the payee intending the latter to have no such interest.

(2) Nothing in this section shall affect the criminal or civil liability of the person so indorsing.

SECTION 3-406. Negligence Contributing to Alteration or Unauthorized Signature.

Any person who by his negligence substantially contributes to a material alteration of the instrument or to the making of an unauthorized signature is precluded from asserting the alteration or lack of authority against a holder in due course or against a drawee or other payor who pays the instrument in good faith and in accordance with the reasonable commercial standards of the drawee's or payor's business.

SECTION 3-407. Alteration.

(1) Any alteration of an instrument is material which changes the contract of any party thereto in any respect, including any such change in

   (a) the number or relations of the parties; or
(b) an incomplete instrument, by completing it otherwise than as authorized; or
(c) the writing as signed, by adding to it or by removing any part of it.

(2) As against any person other than a subsequent holder in due course

(a) alteration by the holder which is both fraudulent and material discharges any party whose contract is thereby changed unless that party assents or is precluded from asserting the defense;
(b) no other alteration discharges any party and the instrument may be enforced according to its original tenor, or as to incomplete instruments according to the authority given.

(3) A subsequent holder in due course may in all cases enforce the instrument according to its original tenor, and when an incomplete instrument has been completed, he may enforce it as completed.

SECTION 3-408. Consideration.

Want or failure of consideration is a defense as against any person not having the rights of a holder in due course (Section 3-305), except that no consideration is necessary for an instrument or obligation thereon given in payment of or as security for an antecedent obligation of any kind. Nothing in this section shall be taken to displace any statute outside this Act under which a promise is enforceable notwithstanding lack or failure of consideration. Partial failure of consideration is a defense pro tanto whether or not the failure is in an ascertained or liquidated amount.

SECTION 3-409. Draft Not an Assignment.

(1) A check or other draft does not of itself operate as an assignment of any funds in the hands of the drawee available for its payment, and the drawee is not liable on the instrument until he accepts it.

(2) Nothing in this section shall affect any liability in contract, tort or otherwise arising from any letter of credit or other obligation or representation which is not an acceptance.

SECTION 3-410. Definition and Operation of Acceptance.
(1) Acceptance is the drawee's signed engagement to honor the draft as presented. It must be written on the draft, and may consist of his signature alone. It becomes operative when completed by delivery or notification.

(2) A draft may be accepted although it has not been signed by the drawer or is otherwise incomplete or is overdue or has been dishonored.

(3) Where the draft is payable at a fixed period after sight and the acceptor fails to date his acceptance the holder may complete it by supplying a date in good faith.

SECTION 3-411. Certification of a Check.

(1) Certification of a check is acceptance. Where a holder procures certification the drawer and all prior indorsers are discharged.

(2) Unless otherwise agreed a bank has no obligation to certify a check.

(3) A bank may certify a check before returning it for lack of proper indorsement. If it does so the drawer is discharged.

SECTION 3-412. Acceptance Varying Draft.

(1) Where the drawee's proffered acceptance in any manner varies the draft as presented the holder may refuse the acceptance and treat the draft as dishonored in which case the drawee is entitled to have his acceptance cancelled.

(2) The terms of the draft are not varied by an acceptance to pay at any particular bank or place in the United States, unless the acceptance states that the draft is to be paid only at such bank or place.

(3) Where the holder assents to an acceptance varying the terms of the draft each drawer and indorser who does not affirmatively assent is discharged.

SECTION 3-413. Contract of Maker, Drawer and Acceptor.

(1) The maker or acceptor engages that he will pay the instrument according to its tenor at the time of his engagement or as completed pursuant to Section 3-115 on incomplete instruments.

(2) The drawer engages that upon dishonor of the draft and any necessary notice of dishonor or protest he will pay the amount of the draft to the holder or to any indorser who
takes it up. The drawer may disclaim this liability by drawing without recourse.

(3) By making, drawing or accepting the party admits as against all subsequent parties including the drawee the existence of the payee and his then capacity to indorse.

SECTION 3-414. Contract of Indorser; Order of Liability.

(1) Unless the indorsement otherwise specifies (as by such words as "without recourse") every indorser engages that upon dishonor and any necessary notice of dishonor and protest he will pay the instrument according to its tenor at the time of his indorsement to the holder or to any subsequent indorser who takes it up, even though the indorser who takes it up was not obligated to do so.

(2) Unless they otherwise agree indorsers are liable to one another in the order in which they indorse, which is presumed to be the order in which their signatures appear on the instrument.


(1) An accommodation party is one who signs the instrument in any capacity for the purpose of lending his name to another party to it.

(2) When the instrument has been taken for value before it is due the accommodation party is liable in the capacity in which he has signed even though the taker knows of the accommodation.

(3) As against a holder in due course and without notice of the accommodation oral proof of the accommodation is not admissible to give the accommodation party the benefit of discharges dependent on his character as such. In other cases the accommodation character may be shown by oral proof.

(4) An indorsement which shows that it is not in the chain of title is notice of its accommodation character.

(5) An accommodation party is not liable to the party accommodated, and if he pays the instrument has a right of recourse on the instrument against such party.


(1) "Payment guaranteed " or equivalent words added to a signature mean that the signer engages that if the in-
strument is not paid when due he will pay it according to its tenor without resort by the holder to any other party.

(2) "Collection guaranteed" or equivalent words added to a signature mean that the signer engages that if the instrument is not paid when due he will pay it according to its tenor, but only after the holder has reduced his claim against the maker or acceptor to judgment and execution has been returned unsatisfied, or after the maker or acceptor has become insolvent or it is otherwise apparent that it is useless to proceed against him.

(3) Words of guaranty which do not otherwise specify guarantee payment.

(4) No words of guaranty added to the signature of a sole maker or acceptor affect his liability on the instrument. Such words added to the signature of one of two or more makers or acceptors create a presumption that the signature is for the accommodation of the others.

(5) When words of guaranty are used presentment, notice of dishonor and protest are not necessary to charge the user.

(6) Any guaranty written on the instrument is enforceable notwithstanding any statute of frauds.

SECTION 3-417. WARRANTIES ON PRESENTMENT AND TRANSFER.

(1) Any person who obtains payment or acceptance and any prior transferor warrants to a person who in good faith pays or accepts that

(a) he has a good title to the instrument or is authorized to obtain payment or acceptance on behalf of one who has a good title; and

(b) he has no knowledge that the signature of the maker or drawer is unauthorized, except that this warranty is not given by a holder in due course acting in good faith

(i) to a maker with respect to the maker’s own signature; or

(ii) to a drawer with respect to the drawer’s own signature, whether or not the drawer is also the drawee; or

(iii) to an acceptor of a draft if the holder in due course took the draft after the acceptance or obtained the acceptance without
knowledge that the drawer's signature was unauthorized; and

(c) the instrument has not been materially altered, except that this warranty is not given by a holder in due course acting in good faith
(i) to the maker of a note; or
(ii) to the drawer of a draft whether or not the drawer is also the drawee; or
(iii) to the acceptor of a draft with respect to an alteration made prior to the acceptance if the holder in due course took the draft after the acceptance, even though the acceptance provided "payable as originally drawn" or equivalent terms; or
(iv) to the acceptor of a draft with respect to an alteration made after the acceptance.

(2) Any person who transfers an instrument and receives consideration warrants to his transferee and if the transfer is by indorsement to any subsequent holder who takes the instrument in good faith that

(a) he has a good title to the instrument or is authorized to obtain payment or acceptance on behalf of one who has a good title and the transfer is otherwise rightful; and

(b) all signatures are genuine or authorized; and

(c) the instrument has not been materially altered; and

(d) no defense of any party is good against him; and

(e) he has no knowledge of any insolvency proceeding instituted with respect to the maker or acceptor or the drawer of an unaccepted instrument.

(3) By transferring "without recourse" the transferor limits the obligation stated in subsection (2) (d) to a warranty that he has no knowledge of such a defense.

(4) A selling agent or broker who does not disclose the fact that he is acting only as such gives the warranties provided in this section, but if he makes such disclosure warrants only his good faith and authority.

SECTION 3-418. Finality of Payment or Acceptance.

Except for recovery of bank payments as provided in the
Article on Bank Deposits and Collections (Article 4) and except for liability for breach of warranty on presentment under the preceding section, payment or acceptance of any instrument is final in favor of a holder in due course, or a person who has in good faith changed his position in reliance on the payment.

SECTION 3-419. Conversion of Instrument; Innocent Representative.

(1) An instrument is converted when
   (a) a drawee to whom it is delivered for acceptance refuses to return it on demand; or
   (b) any person to whom it is delivered for payment refuses on demand either to pay or to return it; or
   (c) it is paid on a forged indorsement.

(2) In an action against a drawee under subsection (1) the measure of the drawee's liability is the face amount of the instrument. In any other action under subsection (1) the measure of liability is presumed to be the face amount of the instrument.

(3) Subject to the provisions of this Act concerning restrictive indorsements a representative, including a depositary or collecting bank, who has in good faith and in accordance with the reasonable commercial standards applicable to the business of such representative dealt with an instrument or its proceeds on behalf of one who was not the true owner is not liable in conversion or otherwise to the true owner beyond the amount of any proceeds remaining in his hands.

(4) An intermediary bank or payor bank which is not a depositary bank is not liable in conversion solely by reason of the fact that proceeds of an item indorsed restrictively (Sections 3-205 and 3-206) are not paid or applied consistently with the restrictive indorsement of an indorser other than its immediate transferor.

PART 5
PRESENTMENT, NOTICE OF DISHONOR AND PROTEST

SECTION 3-501. When Presentment, Notice of Dishonor, and Protest Necessary or Permissible.
(1) Unless excused (Section 3-511) presentment is necessary to charge secondary parties as follows:

(a) presentment for acceptance is necessary to charge the drawer and indorsers of a draft where the draft so provides, or is payable elsewhere than at the residence or place of business of the drawee, or its date of payment depends upon such presentment. The holder may at his option present for acceptance any other draft payable at a stated date;

(b) presentment for payment is necessary to charge any indorser;

(c) in the case of any drawer, the acceptor of a draft payable at a bank or the maker of a note payable at a bank, presentment for payment is necessary, but failure to make presentment discharges such drawer, acceptor or maker only as stated in Section 3-502 (1) (b).

(2) Unless excused (Section 3-511)

(a) notice of any dishonor is necessary to charge any indorser;

(b) in the case of any drawer, the acceptor of a draft payable at a bank or the maker of a note payable at a bank, notice of any dishonor is necessary, but failure to give such notice discharges such drawer, acceptor or maker only as stated in Section 3-502 (1) (b).

(3) Unless excused (Section 3-511) protest of any dishonor is necessary to charge the drawer and indorsers of any draft which on its face appears to be drawn or payable outside of the states and territories of the United States and the District of Columbia. The holder may at his option make protest of any dishonor of any other instrument and in the case of a foreign draft may on insolvency of the acceptor before maturity make protest for better security.

(4) Notwithstanding any provision of this section, neither presentment nor notice of dishonor nor protest is necessary to charge an indorser who has indorsed an instrument after maturity.

SECTION 3-502. Unexcused Delay; Discharge.
(1) Where without excuse any necessary presentment or notice of dishonor is delayed beyond the time when it is due

(a) any indorser is discharged; and

(b) any drawer or the acceptor of a draft payable at a bank or the maker of a note payable at a bank who because the drawee or payor bank becomes insolvent during the delay is deprived of funds maintained with the drawee or payor bank to cover the instrument may discharge his liability by written assignment to the holder of his rights against the drawee or payor bank in respect of such funds, but such drawer, acceptor or maker is not otherwise discharged.

(2) Where without excuse a necessary protest is delayed beyond the time when it is due any drawer or indorser is discharged.

SECTION 3-503. Time of Presentment.

(1) Unless a different time is expressed in the instrument the time for any presentment is determined as follows:

(a) where an instrument is payable at or a fixed period after a stated date any presentment for acceptance must be made on or before the date it is payable;

(b) where an instrument is payable after sight it must either be presented for acceptance or negotiated within a reasonable time after date or issue whichever is later;

(c) where an instrument shows the date on which it is payable presentment for payment is due on that date;

(d) where an instrument is accelerated presentment for payment is due within a reasonable time after the acceleration;

(e) with respect to the liability of any secondary party presentment for acceptance or payment of any other instrument is due within a reasonable time after such party becomes liable thereon.
(2) A reasonable time for presentment is determined by the nature of the instrument, any usage of banking or trade and the facts of the particular case. In the case of an uncertified check which is drawn and payable within the United States and which is not a draft drawn by a bank the following are presumed to be reasonable periods within which to present for payment or to initiate bank collection:

(a) with respect to the liability of the drawer, thirty days after date or issue whichever is later; and

(b) with respect to the liability of an indorser, seven days after his indorsement.

(3) Where any presentment is due on a day which is not a full business day for either the person making presentment or the party to pay or accept, presentment is due on the next following day which is a full business day for both parties.

(4) Presentment to be sufficient must be made at a reasonable hour, and if at a bank during its banking day.

SECTION 3-504. How Presentment Made.

(1) Presentment is a demand for acceptance or payment made upon the maker, acceptor, drawee or other payor by or on behalf of the holder.

(2) Presentment may be made

(a) by mail, in which event the time of presentment is determined by the time of receipt of the mail; or

(b) through a clearing house; or

(c) at the place of acceptance or payment specified in the instrument or if there be none at the place of business or residence of the party to accept or pay. If neither the party to accept or pay nor anyone authorized to act for him is present or accessible at such place presentment is excused.

(3) It may be made

(a) to any one of two or more makers, acceptors, drawees or other payors; or
(b) to any person who has authority to make or refuse the acceptance or payment.

(4) A draft accepted or a note made payable at a bank in the United States must be presented at such bank.

(5) In the cases described in Section 4-210 presentment may be made in the manner and with the result stated in that section.

SECTION 3-505. Rights of Party to Whom Presentment Is Made.

(1) The party to whom presentment is made may without dishonor require

(a) exhibition of the instrument; and

(b) reasonable identification of the person making presentment and evidence of his authority to make it if made for another; and

(c) that the instrument be produced for acceptance or payment at a place specified in it, or if there be none at any place reasonable in the circumstances; and

(d) a signed receipt on the instrument for any partial or full payment and its surrender upon full payment.

(2) Failure to comply with any such requirement invalidates the presentment but the person presenting has a reasonable time in which to comply and the time for acceptance or payment runs from the time of compliance.

SECTION 3-506. Time Allowed for Acceptance or Payment.

(1) Acceptance may be deferred without dishonor until the close of the next business day following presentment. The holder may also in a good faith effort to obtain acceptance and without either dishonor of the instrument or discharge of secondary parties allow postponement of acceptance for an additional business day.

(2) Except as a longer time is allowed in the case of documentary drafts drawn under a letter of credit, and unless an earlier time is agreed to by the party to pay, payment of an instrument may be deferred without dishonor pending reasonable examination to determine whether it is properly payable, but payment must be made in any event before the close of business on the day of presentment.
SECTION 3-507. Dishonor; Holder's Right of Recourse; Term Allowing Re-Presentment.

(1) An instrument is dishonored when

(a) a necessary or optional presentment is duly made and due acceptance or payment is refused or cannot be obtained within the prescribed time or in case of bank collections the instrument is seasonably returned by the midnight deadline (Section 4-301); or

(b) presentment is excused and the instrument is not duly accepted or paid.

(2) Subject to any necessary notice of dishonor and protest, the holder has upon dishonor an immediate right of recourse against the drawers and indorsers.

(3) Return of an instrument for lack of proper indorsement is not dishonor.

(4) A term in a draft or an indorsement thereof allowing a stated time for re-presentment in the event of any dishonor of the draft by nonacceptance if a time draft or by nonpayment if a sight draft gives the holder as against any secondary party bound by the term an option to waive the dishonor without affecting the liability of the secondary party and he may present again up to the end of the stated time.

SECTION 3-508. Notice of Dishonor.

(1) Notice of dishonor may be given to any person who may be liable on the instrument by or on behalf of the holder or any party who has himself received notice, or any other party who can be compelled to pay the instrument. In addition an agent or bank in whose hands the instrument is dishonored may give notice to his principal or customer or to another agent or bank from which the instrument was received.

(2) Any necessary notice must be given by a bank before its midnight deadline and by any other person before midnight of the third business day after dishonor or receipt of notice of dishonor.

(3) Notice may be given in any reasonable manner. It may be oral or written and in any terms which identify the instrument and state that it has been dishonored. A misdescription which does not mislead the party notified
does not vitiate the notice. Sending the instrument bearing a stamp, ticket or writing stating that acceptance or payment has been refused or sending a notice of debit with respect to the instrument is sufficient.

(4) Written notice is given when sent although it is not received.

(5) Notice to one partner is notice to each although the firm has been dissolved.

(6) When any party is in insolvency proceedings instituted after the issue of the instrument notice may be given either to the party or to the representative of his estate.

(7) When any party is dead or incompetent notice may be sent to his last known address or given to his personal representative.

(8) Notice operates for the benefit of all parties who have rights on the instrument against the party notified.

SECTION 3-509. Protest; Noting for Protest.

(1) A protest is a certificate of dishonor made under the hand and seal of a United States consul or vice consul or a notary public or other person authorized to certify dishonor by the law of the place where dishonor occurs. It may be made upon information satisfactory to such person.

(2) The protest must identify the instrument and certify either that due presentment has been made or the reason why it is excused and that the instrument has been dishonored by nonacceptance or nonpayment.

(3) The protest may also certify that notice of dishonor has been given to all parties or to specified parties.

(4) Subject to subsection (5) any necessary protest is due by the time that notice of dishonor is due.

(5) If, before protest is due, an instrument has been noted for protest by the officer to make protest, the protest may be made at any time thereafter as of the date of the noting.

SECTION 3-510. Evidence of Dishonor and Notice of Dishonor.

The following are admissible as evidence and create a presumption of dishonor and of any notice of dishonor therein shown:
(a) a document regular in form as provided in the preceding section which purports to be a protest;

(b) the purported stamp or writing of the drawee, payor bank or presenting bank on the instrument or accompanying it stating that acceptance or payment has been refused for reasons consistent with dishonor;

(c) any book or record of the drawee, payor bank, or any collecting bank kept in the usual course of business which shows dishonor, even though there is no evidence of who made the entry.

SECTION 3-511. Waived or Excused Presentment, Protest or Notice of Dishonor or Delay Therein.

(1) Delay in presentment, protest or notice of dishonor is excused when the party is without notice that it is due or when the delay is caused by circumstances beyond his control and he exercises reasonable diligence after the cause of the delay ceases to operate.

(2) Presentment or notice or protest as the case may be is entirely excused when

(a) the party to be charged has waived it expressly or by implication either before or after it is due; or

(b) such party has himself dishonored the instrument or has countermanded payment or otherwise has no reason to expect or right to require that the instrument be accepted or paid; or

(c) by reasonable diligence the presentment or protest cannot be made or the notice given.

(3) Presentment is also entirely excused when

(a) the maker, acceptor or drawee of any instrument except a documentary draft is dead or in insolvency proceedings instituted after the issue of the instrument; or

(b) acceptance or payment is refused but not for want of proper presentment.

(4) Where a draft has been dishonored by nonacceptance a later presentment for payment and any notice of
dishonor and protest for nonpayment are excused unless in the meantime the instrument has been accepted.

(5) A waiver of protest is also a waiver of presentment and of notice of dishonor even though protest is not required.

(6) Where a waiver of presentment or notice or protest is embodied in the instrument itself it is binding upon all parties; but where it is written above the signature of an indorser it binds him only.

PART 6
DISCHARGE

SECTION 3-601. Discharge of Parties.

(1) The extent of the discharge of any party from liability on an instrument is governed by the sections on

(a) payment or satisfaction (Section 3-603); or
(b) tender of payment (Section 3-604); or
(c) cancellation or renunciation (Section 3-605); or
(d) impairment of right of recourse or of collateral (Section 3-606); or
(e) reacquisition of the instrument by a prior party (Section 3-208); or
(f) fraudulent and material alteration (Section 3-407); or
(g) certification of a check (Section 3-411); or
(h) acceptance varying a draft (Section 3-412); or
(i) unexcused delay in presentment or notice of dishonor or protest (Section 3-502).

(2) Any party is also discharged from his liability on an instrument to another party by any other act or agreement with such party which would discharge his simple contract for the payment of money.

(3) The liability of all parties is discharged when any party who has himself no right of action or recourse on the instrument

(a) reacquires the instrument in his own right; or
(b) is discharged under any provision of this
Article, except as otherwise provided with re-
spect to discharge for impairment of recourse
or of collateral (Section 3-606).

SECTION 3-602. Effect of Discharge Against Holder in
Due Course.

No discharge of any party provided by this Article is
effective against a subsequent holder in due course unless
he has notice thereof when he takes the instrument.

SECTION 3-603. Payment or Satisfaction.

(1) The liability of any party is discharged to the ex-
tent of his payment or satisfaction to the holder even
though it is made with knowledge of a claim of another
person to the instrument unless prior to such payment or
satisfaction the person making the claim either supplies
indemnity deemed adequate by the party seeking the dis-
charge or enjoins payment or satisfaction by order of a
court of competent jurisdiction in an action in which the
adverse claimant and the holder are parties. This subsec-
tion does not, however, result in the discharge of the lia-
(b) of a party (other than an intermediary bank
or a payor bank which is not a depositary bank)
who pays or satisfies the holder of an instrument
which has been restrictively indorsed in a man-
ner not consistent with the terms of such re-
strictive indorsement.

(2) Payment or satisfaction may be made with the con-
sent of the holder by any person including a stranger to
the instrument. Surrender of the instrument to such a per-
son gives him the rights of a transferee (Section 3-201).

SECTION 3-604. Tender of Payment.

(1) Any party making tender of full payment to a hold-
er when or after it is due is discharged to the extent of all
subsequent liability for interest, costs and attorney's fees.

(2) The holder's refusal of such tender wholly dis-
charges any party who has a right of recourse against the
party making the tender.
(3) Where the maker or acceptor of an instrument payable otherwise than on demand is able and ready to pay at every place of payment specified in the instrument when it is due, it is equivalent to tender.

SECTION 3-605. Cancellation and Renunciation.

(1) The holder of an instrument may even without consideration discharge any party

(a) in any manner apparent on the face of the instrument or the indorsement, as by intentionally cancelling the instrument or the party's signature by destruction or mutilation, or by striking out the party's signature; or

(b) by renouncing his rights by a writing signed and delivered or by surrender of the instrument to the party to be discharged.

(2) Neither cancellation nor renunciation without surrender of the instrument affects the title thereto.

SECTION 3-606. Impairment of Recourse or of Collateral.

(1) The holder discharges any party to the instrument to the extent that without such party's consent the holder

(a) without express reservation of rights releases or agrees not to sue any person against whom the party has to the knowledge of the holder a right of recourse or agrees to suspend the right to enforce against such person the instrument or collateral or otherwise discharges such person, except that failure or delay in effecting any required presentment, protest or notice of dishonor with respect to any such person does not discharge any party as to whom presentment, protest or notice of dishonor is effective or unnecessary; or

(b) unjustifiably impairs any collateral for the instrument given by or on behalf of the party or any person against whom he has a right of recourse.

(2) By express reservation of rights against a party with a right of recourse the holder preserves

(a) all his rights against such party as of the time when the instrument was originally due; and
(b) the right of the party to pay the instrument as of that time; and

(c) all rights of such party to recourse against others.

PART 7
ADVICE OF INTERNATIONAL SIGHT DRAFT


(1) A "letter of advice" is a drawer's communication to the drawee that a described draft has been drawn.

(2) Unless otherwise agreed when a bank receives from another bank a letter of advice of an international sight draft the drawee bank may immediately debit the drawer's account and stop the running of interest pro tanto. Such a debit and any resulting credit to any account covering outstanding drafts leaves in the drawer full power to stop payment or otherwise dispose of the amount and creates no trust or interest in favor of the holder.

(3) Unless otherwise agreed and except where a draft is drawn under a credit issued by the drawee, the drawee of an international sight draft owes the drawer no duty to pay an unadvised draft but if it does so and the draft is genuine, may appropriately debit the drawer's account.

PART 8
MISCELLANEOUS

SECTION 3-801. Drafts in a Set.

(1) Where a draft is drawn in a set of parts, each of which is numbered and expressed to be an order only if no other part has been honored, the whole of the parts constitutes one draft but a taker of any part may become a holder in due course of the draft.

(2) Any person who negotiates, indorses or accepts a single part of a draft drawn in a set thereby becomes liable to any holder in due course of that part as if it were the whole set, but as between different holders in due course to whom different parts have been negotiated the holder whose title first accrues has all rights to the draft and its proceeds.

(3) As against the drawee the first presented part of a
draft drawn in a set is the part entitled to payment, or if a time draft to acceptance and payment. Acceptance of any subsequently presented part renders the drawee liable thereon under subsection (2). With respect both to a holder and to the drawer payment of a subsequently presented part of a draft payable at sight has the same effect as payment of a check notwithstanding an effective stop order (Section 4-407).

(4) Except as otherwise provided in this section, where any part of a draft in a set is discharged by payment or otherwise the whole draft is discharged.

SECTION 3-802. Effect of Instrument on Obligation for Which It Is Given.

(1) Unless otherwise agreed where an instrument is taken for an underlying obligation

(a) the obligation is pro tanto discharged if a bank is drawer, maker or acceptor of the instrument and there is no recourse on the instrument against the underlying obligor; and

(b) in any other case the obligation is suspended pro tanto until the instrument is due or if it is payable on demand until its presentment. If the instrument is dishonored action may be maintained on either the instrument or the obligation; discharge of the underlying obligor on the instrument also discharges him on the obligation.

(2) The taking in good faith of a check which is not postdated does not of itself so extend the time on the original obligation as to discharge a surety.

SECTION 3-803. Notice to Third Party.

Where a defendant is sued for breach of an obligation for which a third person is answerable over under this Article he may give the third person written notice of the litigation, and the person notified may then give similar notice to any other person who is answerable over to him under this Article. If the notice states that the person notified may come in and defend and that if the person notified does not do so he will in any action against him by the person giving the notice be bound by any determination of fact common to the two litigations, then unless after seasonable receipt of the notice the person notified does come in and defend he is so bound.
SECTION 3-804. Lost, Destroyed or Stolen Instruments.

The owner of an instrument which is lost, whether by destruction, theft or otherwise, may maintain an action in his own name and recover from any party liable thereon upon due proof of his ownership, the facts which prevent his production of the instrument and its terms. The court may require security indemnifying the defendant against loss by reason of further claims on the instrument.

SECTION 3-805. Instruments Not Payable to Order or to Bearer.

This Article applies to any instrument whose terms do not preclude transfer and which is otherwise negotiable within this Article but which is not payable to order or to bearer, except that there can be no holder in due course of such an instrument.

ARTICLE 4
BANK DEPOSITS AND COLLECTIONS

PART 1
GENERAL PROVISIONS AND DEFINITIONS

SECTION 4-101. Short Title.

This Article shall be known and may be cited as Uniform Commercial Code—Bank Deposits and Collections.

SECTION 4-102. Applicability.

(1) To the extent that items within this Article are also within the scope of Articles 3 and 8, they are subject to the provisions of those Articles. In the event of conflict the provisions of this Article govern those of Article 3 but the provisions of Article 8 govern those of this Article.

(2) The liability of a bank for action or non-action with respect to any item handled by it for purposes of presentation, payment or collection is governed by the law of the place where the bank is located. In the case of action or non-action by or at a branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located.

SECTION 4-103. Variation by Agreement; Measure of Damages; Certain Action Constituting Ordinary Care.

(1) The effect of the provisions of this Article may be
varied by agreement except that no agreement can disclaim a bank’s responsibility for its own lack of good faith or failure to exercise ordinary care or can limit the measure of damages for such lack or failure; but the parties may by agreement determine the standards by which such responsibility is to be measured if such standards are not manifestly unreasonable.

(2) Federal Reserve regulations and operating letters, clearing house rules, and the like, have the effect of agreements under subsection (1), whether or not specifically assented to by all parties interested in items handled.

(3) Action or non-action approved by this Article or pursuant to Federal Reserve regulations or operating letters constitutes the exercise of ordinary care and, in the absence of special instructions, action or non-action consistent with clearing house rules and the like or with a general banking usage not disapproved by this Article, prima facie constitutes the exercise of ordinary care.

(4) This specification or approval of certain procedures by this Article does not constitute disapproval of other procedures which may be reasonable under the circumstances.

(5) The measure of damages for failure to exercise ordinary care in handling an item is the amount of the item reduced by an amount which could not have been realized by the use of ordinary care, and where there is bad faith it includes other damages, if any, suffered by the party as a proximate consequence.

SECTION 4-104. Definitions and Index of Definitions.

(1) In this Article unless the context otherwise requires

(a) “Account” means any account with a bank and includes a checking, time, interest or savings account;

(b) “Afternoon” means the period of a day between noon and midnight;

(c) “Banking day” means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions;

(d) “Clearing house” means any association of banks or other payors regularly clearing items;

(e) “Customer” means any person having an account with a bank or for whom a bank has
agreed to collect items and includes a bank carrying an account with another bank;

(f) "Documentary draft" means any negotiable or non-negotiable draft with accompanying documents, securities or other papers to be delivered against honor of the draft;

(g) "Item" means any instrument for the payment of money even though it is not negotiable but does not include money;

(h) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;

(i) "Properly payable" includes the availability of funds for payment at the time of decision to pay or dishonor;

(j) "Settle" means to pay in cash, by clearing house settlement, in a charge or credit or by remittance, or otherwise as instructed. A settlement may be either provisional or final;

(k) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

(2) Other definitions applying to this Article and the sections in which they appear are:

"Collecting bank" Section 4-105.
"Depositary bank" Section 4-105.
"Intermediary bank" Section 4-105.
"Payor bank" Section 4-105.
"Presenting bank" Section 4-105.
"Remitting bank" Section 4-105.

(3) The following definitions in other Articles apply to this Article:

"Acceptance" Section 3-410.
"Certificate of deposit" Section 3-104.
"Certification" Section 3-411.
"Check" Section 3-104.
"Draft" Section 3-104.
"Holder in due course" Section 3-302.
"Notice of dishonor" Section 3-508.
"Presentment" Section 3-504.
"Protest" Section 3-509.
"Secondary party" Section 3-102.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.


In this Article unless the context otherwise requires:

(a) “Depositary bank” means the first bank to which an item is transferred for collection even though it is also the payor bank;
(b) “Payor bank” means a bank by which an item is payable as drawn or accepted;
(c) “Intermediary bank” means any bank to which an item is transferred in course of collection except the depositary or payor bank;
(d) “Collecting bank” means any bank handling the item for collection except the payor bank;
(e) “Presenting bank” means any bank presenting an item except a payor bank;
(f) “Remitting bank” means any payor or intermediary bank remitting for an item.

SECTION 4-106. Separate Office of a Bank.

A branch or separate office of a bank is a separate bank for the purpose of computing the time within which and determining the place at or to which action may be taken or notices or orders shall be given under this Article and under Article 3.

SECTION 4-107. Time of Receipt of Items.

(1) For the purpose of allowing time to process items, prove balances and make the necessary entries on its books to determine its position for the day, a bank may fix an afternoon hour of two P.M. or later as a cut-off hour for
the handling of money and items and the making of entries on its books.

(2) Any item or deposit of money received on any day after a cut-off hour so fixed or after the close of the banking day may be treated as being received at the opening of the next banking day.

SECTION 4-108. Delays.

(1) Unless otherwise instructed, a collecting bank in a good faith effort to secure payment may, in the case of specific items and with or without the approval of any person involved, waive, modify or extend time limits imposed or permitted by this Act for a period not in excess of an additional banking day without discharge of secondary parties and without liability to its transferor or any prior party.

(2) Delay by a collecting bank or payor bank beyond time limits prescribed or permitted by this Act or by instructions is excused if caused by interruption of communication facilities, suspension of payments by another bank, war, emergency conditions or other circumstances beyond the control of the bank provided it exercises such diligence as the circumstances require.

SECTION 4-109. Process of Posting.

The "process of posting" means the usual procedure followed by a payor bank in determining to pay an item and in recording the payment including one or more of the following or other steps as determined by the bank:

(a) verification of any signature;
(b) ascertaining that sufficient funds are available;
(c) affixing a "paid" or other stamp;
(d) entering a charge or entry to a customer's account;
(e) correcting or reversing an entry or erroneous action with respect to the item.

PART 2
COLLECTION OF ITEMS: DEPOSITARY AND COLLECTING BANKS

SECTION 4-201. Presumption and Duration of Agency Status of Collecting Banks and Provisional Status of
Credits; Applicability of Article; Item Indorsed “Pay Any Bank”.

(1) Unless a contrary intent clearly appears and prior to the time that a settlement given by a collecting bank for an item is or becomes final (subsection (3) of Section 4-211 and Sections 4-212 and 4-213) the bank is an agent or sub-agent of the owner of the item and any settlement given for the item is provisional. This provision applies regardless of the form of indorsement or lack of indorsement and even though credit given for the item is subject to immediate withdrawal as of right or is in fact withdrawn; but the continuance of ownership of an item by its owner and any rights of the owner to proceeds of the item are subject to rights of a collecting bank such as those resulting from outstanding advances on the item and valid rights of setoff. When an item is handled by banks for purposes of presentation, payment and collection, the relevant provisions of this Article apply even though action of parties clearly establishes that a particular bank has purchased the item and is the owner of it.

(2) After an item has been indorsed with the words “pay any bank” or the like, only a bank may acquire the rights of a holder

(a) until the item has been returned to the customer initiating collection; or

(b) until the item has been specially indorsed by a bank to a person who is not a bank.

SECTION 4-202. Responsibility for Collection; When Action Seasonable.

(1) A collecting bank must use ordinary care in

(a) presenting an item or sending it for presentation; and

(b) sending notice of dishonor or non-payment or returning an item other than a documentary draft to the bank’s transferor or directly to the depositary bank under subsection (2) of Section 4-212 after learning that the item has not been paid or accepted, as the case may be; and

(c) settling for an item when the bank receives final settlement; and

(d) making or providing for any necessary protest; and
(e) notifying its transferor of any loss or delay in transit within a reasonable time after discovery thereof.

(2) A collecting bank taking proper action before its midnight deadline following receipt of an item, notice or payment acts seasonably; taking proper action within a reasonably longer time may be seasonable but the bank has the burden of so establishing.

(3) Subject to subsection (1) (a), a bank is not liable for the insolvency, neglect, misconduct, mistake or default of another bank or person or for loss or destruction of an item in transit or in the possession of others.

SECTION 4-203. Effect of Instructions.

Subject to the provisions of Article 3 concerning conversion of instruments (Section 3-419) and the provisions of both Article 3 and this Article concerning restrictive indorsements only a collecting bank's transferor can give instructions which affect the bank or constitute notice to it and a collecting bank is not liable to prior parties for any action taken pursuant to such instructions or in accordance with any agreement with its transferor.

SECTION 4-204. Methods of Sending and Presenting; Sending Direct to Payor Bank.

(1) A collecting bank must send items by reasonably prompt method taking into consideration any relevant instructions, the nature of the item, the number of such items on hand, and the cost of collection involved and the method generally used by it or others to present such items.

(2) A collecting bank may send

(a) any item direct to the payor bank;

(b) any item to any non-bank payor if authorized by its transferor; and

(c) any item other than documentary drafts to any non-bank payor, if authorized by Federal Reserve regulation or operating letter, clearing house rule or the like.

(3) Presentment may be made by a presenting bank at a place where the payor bank has requested that presentment be made.
SECTION 4-205. Supplying Missing Indorsement; No Notice from Prior Indorsement.

(1) A depositary bank which has taken an item for collection may supply any indorsement of the customer which is necessary to title unless the item contains the words "payee's indorsement required" or the like. In the absence of such a requirement a statement placed on the item by the depositary bank to the effect that the item was deposited by a customer or credited to his account is effective as the customer's indorsement.

(2) An intermediary bank, or payor bank which is not a depositary bank, is neither given notice nor otherwise affected by a restrictive indorsement of any person except the bank's immediate transferor.

SECTION 4-206. Transfer Between Banks.

Any agreed method which identifies the transferor bank is sufficient for the item's further transfer to another bank.

SECTION 4-207. Warranties of Customer and Collecting Bank on Transfer or Presentment of Items; Time for Claims.

(1) Each customer or collecting bank who obtains payment or acceptance of an item and each prior customer and collecting bank warrants to the payor bank or other payor who in good faith pays or accepts the item that

(a) he has a good title to the item or is authorized to obtain payment or acceptance on behalf of one who has a good title; and

(b) he has no knowledge that the signature of the maker or drawer is unauthorized, except that this warranty is not given by any customer or collecting bank that is a holder in due course and acts in good faith

(i) to a maker with respect to the maker's own signature; or

(ii) to a drawer with respect to the drawer's own signature, whether or not the drawer is also the drawee; or

(iii) to an acceptor of an item if the holder in due course took the item after the acceptance or obtained the acceptance without knowledge that the drawer's signature was unauthorized; and
(c) the item has not been materially altered, except that this warranty is not given by any customer or collecting bank that is a holder in due course and acts in good faith
   (i) to the maker of a note; or
   (ii) to the drawer of a draft whether or not the drawer is also the drawee; or
   (iii) to the acceptor of an item with respect to an alteration made prior to the acceptance if the holder in due course took the item after the acceptance, even though the acceptance provided "payable as originally drawn" or equivalent terms; or
   (iv) to the acceptor of an item with respect to an alteration made after the acceptance.

(2) Each customer and collecting bank who transfers an item and receives a settlement or other consideration for it warrants to his transferee and to any subsequent collecting bank who takes the item in good faith that
   (a) he has a good title to the item or is authorized to obtain payment or acceptance on behalf of one who has a good title and the transfer is otherwise rightful; and
   (b) all signatures are genuine or authorized; and
   (c) the item has not been materially altered; and
   (d) no defense of any party is good against him; and
   (e) he has no knowledge of any insolvency proceeding instituted with respect to the maker or acceptor or the drawer of an unaccepted item.

In addition each customer and collecting bank so transferring an item and receiving a settlement or other consideration engages that upon dishonor and any necessary notice of dishonor and protest he will take up the item.

(3) The warranties and the engagement to honor set forth in the two preceding subsections arise notwithstanding the absence of indorsement or words of guaranty or warranty in the transfer or presentment and a collecting bank remains liable for their breach despite remittance to its transferor. Damages for breach of such warranties or engagement to honor shall not exceed the consideration re-
ceived by the customer or collecting bank responsible plus finance charges and expenses related to the item, if any.

(4) Unless a claim for breach of warranty under this section is made within a reasonable time after the person claiming learns of the breach, the person liable is discharged to the extent of any loss caused by the delay in making claim.

SECTION 4-208. Security Interest of Collecting Bank in Items, Accompanying Documents and Proceeds.

(1) A bank has a security interest in an item and any accompanying documents or the proceeds of either

(a) in case of an item deposited in an account to the extent to which credit given for the item has been withdrawn or applied;

(b) in case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given whether or not the credit is drawn upon and whether or not there is a right of charge-back; or

(c) if it makes an advance on or against the item.

(2) When credit which has been given for several items received at one time or pursuant to a single agreement is withdrawn or applied in part the security interest remains upon all the items, any accompanying documents or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(3) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents and proceeds. To the extent and so long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues and is subject to the provisions of Article 9 except that

(a) no security agreement is necessary to make the security interest enforceable (subsection (1) (b) of Section 9-203); and

(b) no filing is required to perfect the security interest; and

(c) the security interest has priority over conflict-
ing perfected security interests in the item, accompanying documents or proceeds.

SECTION 4-209. When Bank Gives Value for Purposes of Holder in Due Course.

For purposes of determining its status as a holder in due course, the bank has given value to the extent that it has a security interest in an item provided that the bank otherwise complies with the requirements of Section 3-302 on what constitutes a holder in due course.

SECTION 4-210. Presentment by Notice of Item Not Payable by, Through or at a Bank; Liability of Secondary Parties.

(1) Unless otherwise instructed, a collecting bank may present an item not payable by, through or at a bank by sending to the party to accept or pay a written notice that the bank holds the item for acceptance or payment. The notice must be sent in time to be received on or before the day when presentment is due and the bank must meet any requirement of the party to accept or pay under Section 3-505 by the close of the bank's next banking day after it knows of the requirement.

(2) Where presentment is made by notice and neither honor nor request for compliance with a requirement under Section 3-505 is received by the close of business on the day after maturity or in the case of demand items by the close of business on the third banking day after notice was sent, the presenting bank may treat the item as dishonored and charge any secondary party by sending him notice of the facts.

SECTION 4-211. Media of Remittance; Provisional and Final Settlement in Remittance Cases.

(1) A collecting bank may take in settlement of an item

(a) a check of the remitting bank or of another bank on any bank except the remitting bank; or

(b) a cashier's check or similar primary obligation of a remitting bank which is a member of or clears through a member of the same clearing house or group as the collecting bank; or

(c) appropriate authority to charge an account of the remitting bank or of another bank with the collecting bank; or
(d) if the item is drawn upon or payable by a person other than a bank, a cashier's check, certified check or other bank check or obligation.

(2) If before its midnight deadline the collecting bank properly dishonors a remittance check or authorization to charge on itself or presents or forwards for collection a remittance instrument of or on another bank which is of a kind approved by subsection (1) or has not been authorized by it, the collecting bank is not liable to prior parties in the event of the dishonor of such check, instrument or authorization.

(3) A settlement for an item by means of a remittance instrument or authorization to charge is or becomes a final settlement as to both the person making and the person receiving the settlement

(a) if the remittance instrument or authorization to charge is of a kind approved by subsection (1) or has not been authorized by the person receiving the settlement and in either case the person receiving the settlement acts seasonably before its midnight deadline in presenting, forwarding for collection or paying the instrument or authorization,—at the time the remittance instrument or authorization is finally paid by the payor by which it is payable;

(b) if the person receiving the settlement has authorized remittance by a non-bank check or obligation or by a cashier's check or similar primary obligation of or a check upon the payor or other remitting bank which is not of a kind approved by subsection (1) (b),—at the time of the receipt of such remittance check or obligation; or

(c) if in a case not covered by sub-paragraphs (a) or (b) the person receiving the settlement fails to seasonably present, forward for collection, pay or return a remittance instrument or authorization to it to charge before its midnight deadline,—at such midnight deadline.

SECTION 4-212. Right of Charge-Back or Refund.

(1) If a collecting bank has made provisional settlement with its customer for an item and itself fails by reason of dishonor, suspension of payments by a bank or otherwise
to receive a settlement for the item which is or becomes final, the bank may revoke the settlement given by it, charge back the amount of any credit given for the item to its customer's account or obtain refund from its customer whether or not it is able to return the items if by its midnight deadline or within a longer reasonable time after it learns the facts it returns the item or sends notification of the facts. These rights to revoke, charge-back and obtain refund terminate if and when a settlement for the item received by the bank is or becomes final (subsection (3) of Section 4-211 and subsections (2) and (3) of Section 4-213).

(2) Within the time and manner prescribed by this section and Section 4-301, an intermediary or payor bank, as the case may be, may return an unpaid item directly to the depositary bank and may send for collection a draft on the depositary bank and obtain reimbursement. In such case, if the depositary bank has received provisional settlement for the item, it must reimburse the bank drawing the draft and any provisional credits for the item between banks shall become and remain final.

(3) A depositary bank which is also the payor may charge-back the amount of an item to its customer's account or obtain refund in accordance with the section governing return of an item received by a payor bank for credit on its books (Section 4-301).

(4) The right to charge-back is not affected by

(a) prior use of the credit given for the item; or

(b) failure by any bank to exercise ordinary care with respect to the item but any bank so failing remains liable.

(5) A failure to charge-back or claim refund does not affect other rights of the bank against the customer or any other party.

(6) If credit is given in dollars as the equivalent of the value of an item payable in a foreign currency the dollar amount of any charge-back or refund shall be calculated on the basis of the buying sight rate for the foreign currency prevailing on the day when the person entitled to the charge-back or refund learns that it will not receive payment in ordinary course.

SECTION 4-213. Final Payment of Item by Payor Bank; When Provisional Debits and Credits Become Final; When Certain Credits Become Available for Withdrawal.
(1) An item is finally paid by a payor bank when the bank has done any of the following, whichever happens first:

(a) paid the item in cash; or

(b) settled for the item without reserving a right to revoke the settlement and without having such right under statute, clearing house rule or agreement; or

(c) completed the process of posting the item to the indicated account of the drawer, maker or other person to be charged therewith; or

(d) made a provisional settlement for the item and failed to revoke the settlement in the time and manner permitted by statute, clearing house rule or agreement.

Upon a final payment under subparagraphs (b), (c) or (d) the payor bank shall be accountable for the amount of the item.

(2) If provisional settlement for an item between the presenting and payor banks is made through a clearing house or by debits or credits in an account between them, then to the extent that provisional debits or credits for the item are entered in accounts between the presenting and payor banks or between the presenting and successive prior collecting banks seriatim, they become final upon final payment of the item by the payor bank.

(3) If a collecting bank receives a settlement for an item which is or becomes final (subsection (3) of Section 4-211, subsection (2) of Section 4-213) the bank is accountable to its customer for the amount of the item and any provisional credit given for the item in an account with its customer becomes final.

(4) Subject to any right of the bank to apply the credit to an obligation of the customer, credit given by a bank for an item in an account with its customer becomes available for withdrawal as of right

(a) in any case where the bank has received a provisional settlement for the item,—when such settlement becomes final and the bank has had a reasonable time to learn that the settlement is final;
(b) in any case where the bank is both a depositary bank and a payor bank and the item is finally paid,—at the opening of the bank's second banking day following receipt of the item.

(5) A deposit of money in a bank is final when made but, subject to any right of the bank to apply the deposit to an obligation of the customer, the deposit becomes available for withdrawal as of right at the opening of the bank's next banking day following receipt of the deposit.

SECTION 4-214. Insolvency and Preference.

(1) Any item in or coming into the possession of a payor or collecting bank which suspends payment and which item is not finally paid shall be returned by the receiver, trustee or agent in charge of the closed bank to the presenting bank or the closed bank's customer.

(2) If a payor bank finally pays an item and suspends payments without making a settlement for the item with its customer or the presenting bank which settlement is or becomes final, the owner of the item has a preferred claim against the payor bank.

(3) If a payor bank gives or a collecting bank gives or receives a provisional settlement for an item and thereafter suspends payments, the suspension does not prevent or interfere with the settlement becoming final if such finality occurs automatically upon the lapse of certain time or the happening of certain events (subsection (3) of Section 4-211, subsections (1) (d), (2) and (3) of Section 4-213).

(4) If a collecting bank receives from subsequent parties settlement for an item which settlement is or becomes final and suspends payments without making a settlement for the item with its customer which is or becomes final, the owner of the item has a preferred claim against such collecting bank.

PART 3
COLLECTION OF ITEMS: PAYOR BANKS

SECTION 4-301. Deferred Posting; Recovery of Payment by Return of Items; Time of Dishonor.

(1) Where an authorized settlement for a demand item (other than a documentary draft) received by a payor bank otherwise than for immediate payment over the counter has been made before midnight of the banking day of re-
receipt the payor bank may revoke the settlement and recover any payment if before it has made final payment (subsection (1) of Section 4-213) and before its midnight deadline it

(a) returns the item; or

(b) sends written notice of dishonor or nonpayment if the item is held for protest or is otherwise unavailable for return

(2) If a demand item is received by a payor bank for credit on its books it may return such item or send notice of dishonor and may revoke any credit given or recover the amount thereof withdrawn by its customer, if it acts within the time limit and in the manner specified in the preceding subsection.

(3) Unless previous notice of dishonor has been sent an item is dishonored at the time when for purposes of dishonor it is returned or notice sent in accordance with this section.

(4) An item is returned:

(a) as to an item received through a clearing house, when it is delivered to the presenting or last collecting bank or to the clearing house or is sent or delivered in accordance with its rules; or

(b) in all other cases, when it is sent or delivered to the bank’s customer or transferor or pursuant to his instructions.

SECTION 4-302. Payor Bank’s Responsibility for Late Return of Item.

In the absence of a valid defense such as breach of a presentment warranty (subsection (1) of Section 4-207), settlement effected or the like, if an item is presented on and received by a payor bank the bank is accountable for the amount of

(a) a demand item other than a documentary draft whether properly payable or not if the bank, in any case where it is not also the depositary bank, retains the item beyond midnight of the banking day of receipt without settling for it or, regardless of whether it is also the depositary bank, does not pay or return the item or send notice of dishonor until after its midnight deadline; or
(b) any other properly payable item unless within the time allowed for acceptance or payment of that item the bank either accepts or pays the item or returns it and accompanying documents.

SECTION 4-303. When Items Subject to Notice, Stop-Order, Legal Process or Setoff; Order in Which Items May Be Charged or Certified.

(1) Any knowledge, notice or stop-order received by, legal process served upon or setoff exercised by a payor bank, whether or not effective under other rules of law to terminate, suspend or modify the bank's right or duty to pay an item or to charge its customer's account for the item, comes too late to so terminate, suspend or modify such right or duty if the knowledge, notice, stop-order or legal process is received or served and a reasonable time for the bank to act thereon expires or the setoff is exercised after the bank has done any of the following:

(a) accepted or certified the item;
(b) paid the item in cash;
(c) settled for the item without reserving a right to revoke the settlement and without having such right under statute, clearing house rule or agreement;
(d) completed the process of posting the item to the indicated account of the drawer, maker or other person to be charged therewith or otherwise has evidenced by examination of such indicated account and by action its decision to pay the item; or
(e) become accountable for the amount of the item under subsection (1) (d) of Section 4-213 and Section 4-302 dealing with the payor bank's responsibility for late return of items.

(2) Subject to the provisions of subsection (1) items may be accepted, paid, certified or charged to the indicated account of its customer in any order convenient to the bank.

PART 4
RELATIONSHIP BETWEEN PAYOR BANK AND ITS CUSTOMER

SECTION 4-401. When Bank May Charge Customer's Account.
(1) As against its customer, a bank may charge against his account any item which is otherwise properly payable from that account even though the charge creates an overdraft.

(2) A bank which in good faith makes payment to a holder may charge the indicated account of its customer according to

(a) the original tenor of his altered item; or

(b) the tenor of his completed item, even though the bank knows the item has been completed unless the bank has notice that the completion was improper.

SECTION 4-402. Bank's Liability to Customer for Wrongful Dishonor.

A payor bank is liable to its customer for damages proximately caused by the wrongful dishonor of an item. When the dishonor occurs through mistake liability is limited to actual damages proved. If so proximately caused and proved damages may include damages for an arrest or prosecution of the customer or other consequential damages. Whether any consequential damages are proximately caused by the wrongful dishonor is a question of fact to be determined in each case.

SECTION 4-403. Customer's Right to Stop Payment; Burden of Proof of Loss.

(1) A customer may by order to his bank stop payment of any item payable for his account but the order must be received at such time and in such manner as to afford the bank a reasonable opportunity to act on it prior to any action by the bank with respect to the item described in Section 4-303.

(2) An oral order is binding upon the bank only for fourteen calendar days unless confirmed in writing within that period. A written order is effective for only six months unless renewed in writing.

(3) The burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a binding stop payment order is on the customer.

SECTION 4-404. Bank Not Obligated to Pay Check More Than Six Months Old.

A bank is under no obligation to a customer having a
checking account to pay a check, other than a certified check, which is presented more than six months after its date, but it may charge its customer's account for a payment made thereafter in good faith.

SECTION 4-405. Death or Incompetence of Customer.

(1) A payor or collecting bank's authority to accept, pay or collect an item or to account for proceeds of its collection if otherwise effective is not rendered ineffective by incompetence of a customer of either bank existing at the time the item is issued or its collection is undertaken if the bank does not know of an adjudication of incompetence. Neither death nor incompetence of a customer revokes such authority to accept, pay, collect or account until the bank knows of the fact of death or of an adjudication of incompetence and has reasonable opportunity to act on it.

(2) Even with knowledge a bank may for ten days after the date of death pay or certify checks drawn on or prior to that date unless ordered to stop payment by a person claiming an interest in the account.

SECTION 4-406. Customer's Duty to Discover and Report Unauthorized Signature or Alteration.

(1) When a bank sends to its customer a statement of account accompanied by items paid in good faith in support of the debit entries or holds the statement and items pursuant to a request or instructions of its customer or otherwise in a reasonable manner makes the statement and items available to the customer, the customer must exercise reasonable care and promptness to examine the statement and items to discover his unauthorized signature or any alteration on an item and must notify the bank promptly after discovery thereof.

(2) If the bank establishes that the customer failed with respect to an item to comply with the duties imposed on the customer by subsection (1) the customer is precluded from asserting against the bank

(a) his unauthorized signature or any alteration on the item if the bank also establishes that it suffered a loss by reason of such failure; and

(b) an unauthorized signature or alteration by the same wrongdoer on any other item paid in good faith by the bank after the first item and statement was available to the customer for a reasonable period not exceeding fourteen cal-
endar days and before the bank receives notification from the customer of any such unauthorized signature or alteration.

(3) The preclusion under subsection (2) does not apply if the customer establishes lack of ordinary care on the part of the bank in paying the item(s).

(4) Without regard to care or lack of care of either the customer or the bank a customer who does not within one year from the time the statement and items are made available to the customer (subsection (1)) discover and report his unauthorized signature or any alteration on the face or back of the item or does not within three years from that time discover and report any unauthorized indorsement is precluded from asserting against the bank such unauthorized signature or indorsement or such alteration.

(5) If under this section a payor bank has a valid defense against a claim of a customer upon or resulting from payment of an item and waives or fails upon request to assert the defense the bank may not assert against any collecting bank or other prior party presenting or transferring the item a claim based upon the unauthorized signature or alteration giving rise to the customer's claim.

SECTION 4-407. Payor Bank's Right to Subrogation on Improper Payment.

If a payor bank has paid an item over the stop payment order of the drawer or maker or otherwise under circumstances giving a basis for objection by the drawer or maker, to prevent unjust enrichment and only to the extent necessary to prevent loss to the bank by reason of its payment of the item, the payor bank shall be subrogated to the rights

(a) of any holder in due course on the item against the drawer or maker; and

(b) of the payee or any other holder of the item against the drawer or maker either on the item or under the transaction out of which the item arose; and

(c) of the drawer or maker against the payee or any other holder of the item with respect to the transaction out of which the item arose.
PART 5  
COLLECTION OF DOCUMENTARY DRAFTS

SECTION 4-501. Handling of Documentary Drafts; Duty to Send for Presentment and to Notify Customer of Dishonor.

A bank which takes a documentary draft for collection must present or send the draft and accompanying documents for presentment and upon learning that the draft has not been paid or accepted in due course must seasonably notify its customer of such fact even though it may have discounted or brought the draft or extended credit available for withdrawal as of right.

SECTION 4-502. Presentment of "On Arrival" Drafts.

When a draft or the relevant instructions require presentment "on arrival", "when goods arrive" or the like, the collecting bank need not present until in its judgment a reasonable time for arrival of the goods has expired. Refusal to pay or accept because the goods have not arrived is not dishonor; the bank must notify its transferor of such refusal but need not present the draft again until it is instructed to do so or learns of the arrival of the goods.

SECTION 4-503. Responsibility of Presenting Bank for Documents and Goods; Report of Reasons for Dishonor; Referee in Case of Need.

Unless otherwise instructed and except as provided in Article 5 a bank presenting a documentary draft

(a) must deliver the documents to the drawee on acceptance of the draft if it is payable more than three days after presentment; otherwise, only on payment; and

(b) upon dishonor, either in the case of presentment for acceptance or presentment for payment, may seek and follow instructions from any referee in case of need designated in the draft or if the presenting bank does not choose to utilize his services it must use diligence and good faith to ascertain the reason for dishonor, must notify its transferor of the dishonor and of the results of its effort to ascertain the reasons therefor and must request instructions.

But the presenting bank is under no obligation with respect to goods represented by the documents except to fol-
low any reasonable instructions seasonably received; it has a right to reimbursement for any expense incurred in the following instructions and to prepayment of or indemnity for such expenses.

SECTION 4-504. Privilege of Presenting Bank to Deal With Goods; Security Interest for Expenses.

(1) A presenting bank which, following the dishonor of a documentary draft, has seasonably requested instructions but does not receive them within a reasonable time may store, sell, or otherwise deal with the goods in any reasonable manner.

(2) For its reasonable expenses incurred by action under subsection (1) the presenting bank has a lien upon the goods or their proceeds, which may be foreclosed in the same manner as an unpaid seller's lien.

ARTICLE 5
LETTERS OF CREDIT

SECTION 5-101. Short Title.

This Article shall be known and may be cited as Uniform Commercial Code—Letters of Credit.

SECTION 5-102. Scope.

(1) This Article applies

(a) to a credit issued by a bank if the credit requires a documentary draft or a documentary demand for payment; and

(b) to a credit issued by a person other than a bank if the credit requires that the draft or demand for payment be accompanied by a document of title; and

(c) to a credit issued by a bank or other person if the credit is not within subparagraphs (a) or (b) but conspicuously states that it is a letter of credit or is conspicuously so entitled.

(2) Unless the engagement meets the requirements of subsection (1), this Article does not apply to engagements to make advances or to honor drafts or demands for payment, to authorities to pay or purchase, to guarantees or to general agreements.

(3) This Article deals with some but not all of the rules
and concepts of letters of credit as such rules or concepts have developed prior to this act or may hereafter develop. The fact that this Article states a rule does not by itself require, imply or negate application of the same or a converse rule to a situation not provided for or to a person not specified by this Article.

SECTION 5-103. Definitions.

(1) In this Article unless the context otherwise requires

(a) "Credit" or "letter of credit" means an engagement by a bank or other person made at the request of a customer and of a kind within the scope of this Article (Section 5-102) that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the credit. A credit may be either revocable or irrevocable. The engagement may be either an agreement to honor or a statement that the bank or other person is authorized to honor.

(b) A "documentary draft" or a "documentary demand for payment" is one honor of which is conditioned upon the presentation of a document or documents. "Document" means any paper including document of title, security, invoice, certificate, notice of default and the like.

(c) An "issuer" is a bank or other person issuing a credit.

(d) A "beneficiary" of a credit is a person who is entitled under its terms to draw or demand payment.

(e) An "advising bank" is a bank which gives notification of the issuance of a credit by another bank.

(f) A "confirming bank" is a bank which engages either that it will itself honor a credit already issued by another bank or that such a credit will be honored by the issuer or a third bank.

(g) A "customer" is a buyer or other person who causes an issuer to issue a credit. The term also includes a bank which procures issuance or confirmation on behalf of that bank's customer.
(2) Other definitions applying to this Article and the sections in which they appear are:

"Notation of Credit". Section 5-108.
"Presenter". Section 5-112(3).

(3) Definitions in other Articles applying to this Article and the sections in which they appear are:

"Accept" or "Acceptance". Section 3-410.
"Contract for sale". Section 2-106.
"Draft". Section 3-104.
"Holder in due course". Section 3-302.
"Midnight deadline". Section 4-104.
"Security". Section 8-102.

(4) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

SECTION 5-104. Formal Requirements; Signing.

(1) Except as otherwise required in subsection (1) (c) of Section 5-102 on scope, no particular form of phrasing is required for a credit. A credit must be in writing and signed by the issuer and a confirmation must be in writing and signed by the confirming bank. A modification of the terms of a credit or confirmation must be signed by the issuer or confirming bank.

(2) A telegram may be a sufficient signed writing if it identifies its sender by an authorized authentication. The authentication may be in code and the authorized naming of the issuer in an advice of credit is a sufficient signing.

SECTION 5-105. Consideration.

No consideration is necessary to establish a credit or to enlarge or otherwise modify its terms.

SECTION 5-106. Time and Effect of Establishment of Credit.

(1) Unless otherwise agreed a credit is established

(a) as regards the customer as soon as a letter of credit is sent to him or the letter of credit or an authorized written advice of its issuance is sent to the beneficiary; and

(b) as regards the beneficiary when he receives a letter of credit or an authorized written advice of its issuance.
(2) Unless otherwise agreed once an irrevocable credit is established as regards the customer it can be modified or revoked only with the consent of the customer and once it is established as regards the beneficiary it can be modified or revoked only with his consent.

(3) Unless otherwise agreed after a revocable credit is established it may be modified or revoked by the issuer without notice to or consent from the customer or beneficiary.

(4) Notwithstanding any modification or revocation of a revocable credit any person authorized to honor or negotiate under the terms of the original credit is entitled to reimbursement for or honor of any draft or demand for payment duly honored or negotiated before receipt of notice of the modification or revocation and the issuer in turn is entitled to reimbursement from its customer.

SECTION 5-107. Advice of Credit; Confirmation; Error in Statement of Terms.

(1) Unless otherwise specified an advising bank by advising a credit issued by another bank does not assume any obligation to honor drafts drawn or demands for payment made under the credit but it does assume obligation for the accuracy of its own statement.

(2) A confirming bank by confirming a credit becomes directly obligated on the credit to the extent of its confirmation as though it were its issuer and acquires the rights of an issuer.

(3) Even though an advising bank incorrectly advises the terms of a credit it has been authorized to advise the credit is established as against the issuer to the extent of its original terms.

(4) Unless otherwise specified the customer bears as against the issuer all risks of transmission and reasonable translation or interpretation of any message relating to a credit.

SECTION 5-108. “Notation Credit”; Exhaustion of Credit.

(1) A credit which specifies that any person purchasing or paying drafts drawn or demands for payment made under it must note the amount of the draft or demand on the letter or advice of credit is a “notation credit”.

(2) Under a notation credit

(a) a person paying the beneficiary or purchasing a draft or demand for payment from him acquires a right to honor only if the appropriate notation is made and by transferring or forwarding for honor the documents under the credit such a person warrants to the issuer that the notation has been made; and

(b) unless the credit or a signed statement that an appropriate notation has been made accompanies the draft or demand for payment the issuer may delay honor until evidence of notation has been procured which is satisfactory to it but its obligation and that of its customer continue for a reasonable time not exceeding thirty days to obtain such evidence.

(3) If the credit is not a notation credit

(a) the issuer may honor complying drafts or demands for payment presented to it in the order in which they are presented and is discharged pro tanto by honor of any such draft or demand;

(b) as between competing good faith purchasers of complying drafts or demands the person first purchasing has priority over a subsequent purchaser even though the later purchased draft or demand has been first honored.

SECTION 5-109. Issuer's Obligation to Its Customer.

(1) An issuer's obligation to its customer includes good faith and observance of any general banking usage but unless otherwise agreed does not include liability or responsibility

(a) for performance of the underlying contract for sale or other transaction between the customer and the beneficiary; or

(b) for any act or omission of any person other than itself or its own branch or for loss or destruction of a draft, demand or document in transit or in the possession of others; or

(c) based on knowledge or lack of knowledge of any usage of any particular trade.

(2) An issuer must examine documents with care so as
to ascertain that on their face they appear to comply with the terms of the credit but unless otherwise agreed assumes no liability or responsibility for the genuineness, falsification or effect of any document which appears on such examination to be regular on its face.

(3) A non-bank issuer is not bound by any banking usage of which it has no knowledge.

SECTION 5-110. Availability of Credit in Portions; Presenter's Reservation of Lien or Claim.

(1) Unless otherwise specified a credit may be used in portions in the discretion of the beneficiary.

(2) Unless otherwise specified a person by presenting a documentary draft or demand for payment under a credit relinquishes upon its honor all claims to the documents and a person by transferring such draft or demand or causing such presentment authorizes such relinquishment. An explicit reservation of claim makes the draft or demand non-complying.

SECTION 5-111. Warranties on Transfer and Presentment.

(1) Unless otherwise agreed the beneficiary by transferring or presenting a documentary draft or demand for payment warrants to all interested parties that the necessary conditions of the credit have been complied with. This is in addition to any warranties arising under Articles 3, 4, 7 and 8.

(2) Unless otherwise agreed a negotiating, advising, confirming, collecting or issuing bank presenting or transferring a draft or demand for payment under a credit warrants only the matters warranted by a collecting bank under Article 4 and any such bank transferring a document warrants only the matters warranted by an intermediary under Articles 7 and 8.

SECTION 5-112. Time Allowed for Honor or Rejection; Withholding Honor or Rejection by Consent; “Presenter”.

(1) A bank to which a documentary draft or demand for payment is presented under a credit may without dishonor of the draft, demand or credit

(a) defer honor until the close of the third banking day following receipt of the documents; and
(b) further defer honor if the presenter has expressly or impliedly consented thereto.

Failure to honor within the time here specified constitutes dishonor of the draft or demand and of the credit except as otherwise provided in subsection (4) of Section 5-114 on conditional payment.

(2) Upon dishonor the bank may unless otherwise instructed fulfill its duty to return the draft or demand and the documents by holding them at the disposal of the presenter and sending him an advice to that effect.

(3) "Presenter" means any person presenting a draft or demand for payment for honor under a credit even though that person is a confirming bank or other correspondent which is acting under an issuer's authorization.

SECTION 5-113. Indemnities.

(1) A bank seeking to obtain (whether for itself or another) honor, negotiation or reimbursement under a credit may give an indemnity to induce such honor, negotiation or reimbursement.

(2) An indemnity agreement inducing honor, negotiation or reimbursement

(a) unless otherwise explicitly agreed applies to defects in the documents but not in the goods; and

(b) unless a longer time is explicitly agreed expires at the end of ten business days following receipt of the documents by the ultimate customer unless notice of objection is sent before such expiration date. The ultimate customer may send notice of objection to the person from whom he received the documents and any bank receiving such notice is under a duty to send notice to its transferor before its midnight deadline.

SECTION 5-114. Issuer's Duty and Privilege to Honor; Right to Reimbursement.

(1) An issuer must honor a draft or demand for payment which complies with the terms of the relevant credit regardless of whether the goods or documents conform to the underlying contract for sale or other contract between the customer and the beneficiary. The issuer is not excused
from honor of such a draft or demand by reason of an additional general term that all documents must be satisfactory to the issuer, but an issuer may require that specified documents must be satisfactory to it:

(2) Unless otherwise agreed when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer of a document of title (Section 7-507) or of a security (Section 8-306) or is forged or fraudulent or there is fraud in the transaction

(a) the issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (Section 3-302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (Section 7-502) or a bona fide purchaser of a security (Section 8-302); and

(b) in all other cases as against its customer, an issuer acting in good faith may honor the draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents but a court of appropriate jurisdiction may enjoin such honor.

(3) Unless otherwise agreed an issuer which has duly honored a draft or demand for payment is entitled to immediate reimbursement of any payment made under the credit and to be put in effectively available funds not later than the day before maturity of any acceptance made under the credit.

(4) When a credit provides for payment by the issuer on receipt of notice that the required documents are in the possession of a correspondent or other agent of the issuer

(a) any payment made on receipt of such notice is conditional; and

(b) the issuer may reject documents which do not comply with the credit if it does so within three banking days following its receipt of the documents; and

(c) in the event of such rejection, the issuer is en-
titled by charge back or otherwise to return of the payment made.

(5) In the case covered by subsection (4) failure to reject documents within the time specified in sub-paragraph (b) constitutes acceptance of the documents and makes the payment final in favor of the beneficiary.

SECTION 5-115. Remedy for Improper Dishonor or Anticipatory Repudiation.

(1) When an issuer wrongfully dishonors a draft or demand for payment presented under a credit the person entitled to honor has with respect to any documents the rights of a person in the position of a seller (Section 2-707) and may recover from the issuer the face amount of the draft or demand together with incidental damages under Section 2-710 on seller's incidental damages and interest but less any amount realized by resale or other use or disposition of the subject matter of the transaction. In the event no resale or other utilization is made the documents, goods or other subject matter involved in the transaction must be turned over to the issuer on payment of judgment.

(2) When an issuer wrongfully cancels or otherwise repudiates a credit before presentment of a draft or demand for payment drawn under it the beneficiary has the rights of a seller after anticipatory repudiation by the buyer under Section 2-610 if he learns of the repudiation in time reasonably to avoid procurement of the required documents. Otherwise the beneficiary has an immediate right of action for wrongful dishonor.

SECTION 5-116. Transfer and Assignment.

(1) The right to draw under a credit can be transferred or assigned only when the credit is expressly designated as transferable or assignable.

(2) Even though the credit specifically states that it is non-transferable or nonassignable the beneficiary may before performance of the conditions of the credit assign his right to proceeds. Such an assignment is an assignment of a contract right under Article 9 on Secured Transactions and is governed by that Article except that

(a) the assignment is ineffective until the letter of credit or advice of credit is delivered to the assignee which delivery constitutes perfection of the security interest under Article 9; and
(b) the issuer may honor drafts or demands for payment drawn under the credit until it receives a notification of the assignment signed by the beneficiary which reasonably identifies the credit involved in the assignment and contains a request to pay the assignee; and

(c) after what reasonably appears to be such a notification has been received the issuer may without dishonor refuse to accept or pay even to a person otherwise entitled to honor until the letter of credit or advice of credit is exhibited to the issuer.

(3) Except where the beneficiary has effectively assigned his right to draw or his right to proceeds, nothing in this section limits his right to transfer or negotiate drafts or demands drawn under the credit.

SECTION 5-117. Insolvency of Bank Holding Funds for Documentary Credit.

(1) Where an issuer or an advising or confirming bank or a bank which has for a customer procured issuance of a credit by another bank becomes insolvent before final payment under the credit and the credit is one to which this Article is made applicable by paragraphs (a) or (b) of Section 5-102(1) on scope, the receipt or allocation of funds or collateral to secure or meet obligations under the credit shall have the following results:

(a) to the extent of any funds or collateral turned over after or before the insolvency as indemnity against or specifically for the purpose of payment of drafts or demands for payment drawn under the designated credit, the drafts or demands are entitled to payment in preference over depositors or other general creditors of the issuer or bank; and

(b) on expiration of the credit or surrender of the beneficiary's rights under it unused any person who has given such funds or collateral is similarly entitled to return thereof; and

(c) a change to a general or current account with a bank if specifically consented to for the purpose of indemnity against or payment of drafts or demands for payment drawn under the designated credit falls under the same rules as if the funds had been drawn out in cash and then turned over with specific instructions.
(2) After honor or reimbursement under this section the customer or other person for whose account the insolvent bank has acted is entitled to receive the documents involved.

ARTICLE 6
BULK TRANSFERS

SECTION 6-101. Short Title.

This Article shall be known and may be cited as Uniform Commercial Code—Bulk Transfers.

SECTION 6-102. "Bulk Transfers"; Transfers of Equipment; Enterprises Subject to This Article; Bulk Transfers Subject to This Article.

(1) A "bulk transfer" is any transfer in bulk and not in the ordinary course of the transferor's business of a major part in value of the materials, supplies, merchandise or other inventory (Section 9-109) of an enterprise subject to this Article.

(2) A transfer of a substantial part of the equipment (Section 9-109) of such an enterprise is a bulk transfer if it is made in connection with a bulk transfer of inventory, but not otherwise.

(3) The enterprises subject to this Article are all those whose principal business is the sale of merchandise from stock, including those who manufacture what they sell and shall include, but shall not be limited to, the hotel, restaurant, barber shop, or beauty salon business, whether or not said business is the sale of merchandise from stock.

(4) Except as limited by the following section all bulk transfers of goods located within this state are subject to this Article.

SECTION 6-103. Transfers Excepted From This Article.

The following transfers are not subject to this Article:

(1) Those made to give security for the performance of an obligation;

(2) General assignments for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder;

(3) Transfers in settlement or realization of a lien or other security interest;
(4) Sales by executors, administrators, receivers, trustees in bankruptcy, or any public officer under judicial process;

(5) Sales made in the course of judicial or administrative proceedings for the dissolution or reorganization of a corporation and of which notice is sent to the creditors of the corporation pursuant to order of the court or administrative agency;

(6) Transfers to a person maintaining a known place of business in this State who becomes bound to pay the debts of the transferor in full and gives public notice of that fact, and who is solvent after becoming so bound;

(7) A transfer to a new business enterprise organized to take over and continue the business, if public notice of the transaction is given and the new enterprise assumes the debts of the transferor and he receives nothing from the transaction except an interest in the new enterprise junior to the claims of creditors;

(8) Transfers of property which is exempt from execution.

Public notice under subsection (6) or subsection (7) may be given by publishing once a week for two consecutive weeks in a newspaper of general circulation where the transferor had its principal place of business in this state an advertisement including the names and addresses of the transferor and transferee and the effective date of the transfer.

SECTION 6-104. Schedule of Property, List of Creditors.

(1) Except as provided with respect to auction sales (Section 6-108), a bulk transfer subject to this Article is ineffective against any creditor of the transferor unless:

(a) The transferee requires the transferor to furnish a list of his existing creditors prepared as stated in this section; and

(b) The parties prepare a schedule of the property transferred sufficient to identify it; and

(c) The transferee preserves the list and schedule for six months next following the transfer and permits inspection of either or both and copying therefrom at all reasonable hours by any creditor of the transferor, or files the list and
schedule in the office of the County Recorder in the County wherein the property to be transferred is located.

(2) The list of creditors must be signed and sworn to or affirmed by the transferor or his agent. It must contain the names and business addresses of all creditors of the transferor, with the amounts when known, and also the names of all persons who are known to the transferor to assert claims against him even though such claims are disputed. If the transferor is the obligor of an outstanding issue of bonds, debentures or the like as to which there is an indenture trustee, the list of creditors need include only the name and address of the indenture trustee and the aggregate outstanding principal amount of the issue.

(3) Responsibility for the completeness and accuracy of the list of creditors rests on the transferor, and the transfer is not rendered ineffective by errors or omissions therein unless the transferee is shown to have had knowledge.

SECTION 6-105. Notice to Creditors.

In addition to the requirements of the preceding section, any bulk transfer subject to this Article except one made by auction sale (Section 6-108) is ineffective against any creditor of the transferor unless at least ten days before he takes possession of the goods or pays for them, whichever happens first, the transferee gives notice of the transfer in the manner and to the persons hereafter provided (Section 6-107).

SECTION 6-106. Application of the Proceeds.

In addition to the requirements of the two preceding sections:

(1) Upon every bulk transfer subject to this Article for which new consideration becomes payable except those made by sale at auction it is the duty of the transferee to assure that such consideration is applied so far as necessary to pay those debts of the transferor which are either shown on the list furnished by the transferor (Section 6-104) or filed in writing in the place stated in the notice (Section 6-107) within thirty days after the mailing of such notice. This duty of the transferee runs to all the holders of such debts, and may be enforced by any of them for the benefit of all.

(2) If any of said debts are in dispute the necessary sum
may be withheld from distribution until the dispute is settled or adjudicated.

(3) If the consideration payable is not enough to pay all of the said debts in full distribution shall be made pro rata.

SECTION 6-107. The Notice.

(1) The notice to creditors (Section 6-105) shall state:

(a) that a bulk transfer is about to be made; and

(b) the names and business addresses of the transferor and transferee, and all other business names and addresses used by the transferor within three years last past so far as known to the transferee; and

(c) whether or not all the debts of the transferor are to be paid in full as they fall due as a result of the transaction, and if so, the address to which creditors should send their bills.

(2) If the debts of the transferor are not to be paid in full as they fall due or if the transferee is in doubt on that point then the notice shall state further:

(a) the location and general description of the property to be transferred and the estimated total of the transferor's debts;

(b) the address where the schedule of property and list of creditors (Section 6-104) may be inspected;

(c) whether the transfer is to pay existing debts and if so the amount of such debts and to whom owing;

(d) whether the transfer is for new consideration and if so the amount of such consideration and the time and place of payment; and

(e) if for new consideration the time and place where creditors of the transferor are to file their claims.

(3) The notice in any case shall be delivered personally or sent by registered or certified mail to all the persons shown on the list of creditors furnished by the transferor (Section 6-104) and to all other persons who are known to the transferee to hold or assert claims against the transferor.
SECTION 6-108. Auction Sales; “Auctioneer”.

(1) A bulk transfer is subject to this Article even though it is by sale at auction, but only in the manner and with the results stated in this section.

(2) The transferor shall furnish a list of his creditors and assist in the preparation of a schedule of the property to be sold, both prepared as before stated (Section 6-104).

(3) The person or persons other than the transferor who direct, control or are responsible for the auction are collectively called the “auctioneer”. The auctioneer shall:

(a) receive and retain the list of creditors and prepare and retain the schedule of property for the period stated in this Article (Section 6-104);

(b) give notice of the auction personally or by registered or certified mail at least ten days before it occurs to all persons shown on the list of creditors and to all other persons who are known to him to hold or assert claims against the transferor; and

(c) assure that the net proceeds of the auction are applied as provided in this Article (Section 6-106).

(4) Failure of the auctioneer to perform any of these duties does not affect the validity of the sale or the title of the purchasers, but if the auctioneer knows that the auction constitutes a bulk transfer such failure renders the auctioneer liable to the creditors of the transferor as a class for the sums owing to them from the transferor up to but not exceeding the net proceeds of the auction. If the auctioneer consists of several persons their liability is joint and several.

SECTION 6-109. What Creditors Protected; Credit for Payment to Particular Creditors.

(1) The creditors of the transferor mentioned in this Article are those holding claims based on transactions or events occurring before the bulk transfer, but creditors who become such after notice to creditors is given (Sections 6-105 and 6-107) are not entitled to notice.

(2) Against the aggregate obligation imposed by the provisions of this Article concerning the application of the proceeds (Section 6-106 and subsection (3) (c) of 6-108)
the transferee or auctioneer is entitled to credit for sums paid to particular creditors of the transferor, not exceeding the sums believed in good faith at the time of the payment to be properly payable to such creditors.

SECTION 6-110. Subsequent Transfers.

When the title of a transferee to property is subject to a defect by reason of his non-compliance with the requirements of this Article, then:

(1) a purchaser of any of such property from such transferee who pays no value or who takes with notice of such non-compliance takes subject to such defect, but

(2) a purchaser for value in good faith and without such notice takes free of such defect.

SECTION 6-111. Limitation of Actions and Levies.

No action under this Article shall be brought nor levy made more than six months after the date on which the transferee took possession of the goods unless the transfer has been concealed. If the transfer has been concealed, actions may be brought or levies made within six months after its discovery.

ARTICLE 7
WAREHOUSE RECEIPTS, BILLS OF LADING AND OTHER DOCUMENTS OF TITLE

PART ONE
GENERAL

SECTION 7-101. Short Title.

This Article shall be known and may be cited as Uniform Commercial Code—Documents of Title.

SECTION 7-102. Definitions and Index of Definitions.

(1) In this Article, unless the context otherwise requires:

(a) "Bailee" means the person who by a warehouse receipt, bill of lading or other document of title acknowledges possession of goods and contracts to deliver them.

(b) "Consignee" means the person named in a bill to whom or to whose order the bill promises delivery.
(c) "Consignor" means the person named in a bill as the person from whom the goods have been received for shipment.

(d) "Delivery order" means a written order to deliver goods directed to a warehouseman, carrier or other person who in the ordinary course of business issues warehouse receipts or bills of lading.

(e) "Document" means document of title as defined in the general definitions in Article 1 (Section 1-201).

(f) "Goods" means all things which are treated as movable for the purposes of a contract of storage or transportation.

(g) "Issuer" means a bailee who issues a document except that in relation to an unaccepted delivery order it means the person who orders the possessor of goods to deliver. Issuer includes any person for whom an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, notwithstanding that the issuer received no goods or that the goods were mis-described or that in any other respect the agent or employee violated his instructions.

(h) "Warehouseman" is a person engaged in the business of storing goods for hire.

(2) Other definitions applying to this Article or to specified Parts thereof, and the sections in which they appear are:

"Duly negotiate". Section 7-501.
"Person entitled under the document". Section 7-403(4).

(3) Definitions in other Articles applying to this Article and the sections in which they appear are:

"Contract for sale". Section 2-106.
"Overseas". Section 2-323.
"Receipt" of goods. Section 2-103.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.
SECTION 7-103. Relation of Article to Treaty, Statute, Tariff, Classification or Regulation.

To the extent that any treaty or statute of the United States, regulatory statute of this state or tariff, classification or regulation filed or issued pursuant thereto is applicable, the provisions of this Article are subject thereto.

SECTION 7-104. Negotiable and Non-Negotiable Warehouse Receipt, Bill of Lading or Other Document of Title.

(1) A warehouse receipt, bill of lading or other document of title is negotiable

(a) if by its terms the goods are to be delivered to bearer or to the order of a named person; or

(b) where recognized in overseas trade, if it runs to a named person or assigns.

(2) Any other document is non-negotiable. A bill of lading in which it is stated that the goods are consigned to a named person is not made negotiable by a provision that the goods are to be delivered only against a written order signed by the same or another named person.

SECTION 7-105. Construction Against Negative Implication.

The omission from either Part 2 or Part 3 of this Article of a provision corresponding to a provision made in the other Part does not imply that a corresponding rule of law is not applicable.

PART 2
WAREHOUSE RECEIPTS: SPECIAL PROVISIONS

SECTION 7-201. Who May Issue a Warehouse Receipt; Storage Under Government Bond.

(1) A warehouse receipt may be issued by any warehouseman.

(2) Where goods including distilled spirits and agricultural commodities are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods has like effect as a warehouse receipt even though issued by a person who is the owner of the goods and is not a warehouseman.
SECTION 7-202. Form of Warehouse Receipt; Essential Terms; Optional Terms; Filing of Authorized Signatures.

(1) All negotiable warehouse receipts shall be issued on forms prepared by the Idaho Department of Agriculture in conformity with the requirements of subsection (2) hereof, and furnished to warehousemen by that department on a cost basis. A non-negotiable warehouse receipt need not be in any particular form.

(2) Unless a warehouse receipt embodies within its written or printed terms each of the following, the warehouseman is liable for damages caused by the omission to a person injured thereby:

(a) the location of the warehouse where the goods are stored;

(b) the date of issue of the receipt;

(c) the consecutive number of the receipt;

(d) a statement whether the goods received will be delivered to the bearer, to a specified person, or to a specified person or his order;

(e) insurance charges, if any, and the rate of storage and handling charges, except that where goods are stored under a field warehousing arrangement a statement of that fact is sufficient on a non-negotiable receipt;

(f) a description of the goods or of the packages containing them;

(g) the signature of the warehouseman, which may be made by his authorized agent;

(h) if the receipt is issued for goods of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; and

(i) a statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien or security interest (Section 7-209). If the precise amount of such advances made or of such liabilities incurred is, at the time of the issue of the receipt, unknown to the warehouseman or to his agent who issues it, a statement of the fact that advances have been
made or liabilities incurred and the purpose thereof is sufficient.

(3) A warehouseman may insert in his receipt any other terms which are not contrary to the provisions of this act and do not impair his obligation of delivery (Section 7-403) or his duty of care (Section 7-204). Any contrary provisions shall be ineffective.

(4) Every warehouseman shall place on file with the Department of Agriculture the name and genuine signature of each and every person authorized to sign warehouse receipts for him, and shall promptly notify the department of any withdrawal of such authorization and shall be bound by such signatures as if he had personally signed the receipt.

SECTION 7-203. Liability for Non-Receipt or Misdescription.

A party to or purchaser for value in good faith of a document of title other than a bill of lading relying in either case upon the description therein of the goods may recover from the issuer damages caused by the non-receipt or misdescription of the goods, except to the extent that the document conspicuously indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, as where the description is in terms of marks or labels or kind, quantity or condition, or the receipt or description is qualified by "contents, condition and quality unknown", "said to contain" or the like, if such indication be true, or the party or purchaser otherwise has notice.

SECTION 7-204. Duty of Care; Contractual Limitation of Warehouseman's Liability.

(1) A warehouseman is liable for damages for loss of or injury to the goods caused by his failure to exercise such care in regard to them as a reasonably careful man would exercise under like circumstances but unless otherwise agreed he is not liable for damages which could not have been avoided by the exercise of such care.

(2) Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage, and setting forth a specific liability per article or item, or value per unit of weight, beyond which the warehouseman shall not be liable; provided, however, that such liability may on written request
of the bailor at the time of signing such storage agreement or within a reasonable time after receipt of the warehouse receipt be increased on part or all of the goods thereunder, in which event increased rates may be charged based on such increased valuation, but that no such increase shall be permitted contrary to a lawful limitation of liability contained in the warehouseman's tariff, if any. No such limitation is effective with respect to the warehouseman's liability for conversion to his own use.

(3) Reasonable provisions as to the time and manner of presenting claims and instituting actions based on the bailment may be included in the warehouse receipt or tariff.

(4) This section does not impair or repeal the Bonded Warehouse Law, Chapter 2 of Title 69, Idaho Code, as amended, or Sections 69-324 through 69-327 of the Idaho Code, governing Terminal Elevator and Warehouse Districts.

SECTION 7-205. Title Under Warehouse Receipt Defeated in Certain Cases.

A buyer in the ordinary course of business of fungible goods sold and delivered by a warehouseman who is also in the business of buying and selling such goods takes free of any claim under a warehouse receipt even though it has been duly negotiated.

SECTION 7-206. Termination of Storage at Warehouseman's Option.

(1) A warehouseman may on notifying the person on whose account the goods are held and any other person known to claim an interest in the goods require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage fixed by the document, or, if no period is fixed, within a stated period not less than thirty days after the notification. If the goods are not removed before the date specified in the notification, the warehouseman may sell them in accordance with the provisions of the section on enforcement of a warehouseman's lien (Section 7-210).

(2) If a warehouseman in good faith believes that the goods are about to deteriorate or decline in value to less than the amount of his lien within the time prescribed in subsection (1) for notification, advertisement and sale, the warehouseman may specify in the notification any rea-
sonable shorter time for removal of the goods and in case the goods are not removed, may sell them a public sale held not less than one week after a single advertisement or posting.

(3) If as a result of a quality or condition of the goods of which the warehouseman had no notice at the time of deposit the goods are a hazard to other property or to the warehouse or to persons, the warehouseman may sell the goods at public or private sale without advertisement on reasonable notification to all persons known to claim an interest in the goods. If the warehouseman after a reasonable effort is unable to sell the goods he may dispose of them in any lawful manner and shall incur no liability by reason of such disposition.

(4) The warehouseman must deliver the goods to any person entitled to them under this Article upon due demand made at any time prior to sale or other disposition under this section.

(5) The warehouseman may satisfy his lien from the proceeds of any sale or disposition under this section but must hold the balance for delivery on the demand of any person to whom he would have been bound to deliver the goods.

SECTION 7-207. Goods Must Be Kept Separate; Fungible Goods.

(1) Unless the warehouse receipt otherwise provides, a warehouseman must keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods except that different lots of fungible goods may be commingled.

(2) Fungible goods so commingled are owned in common by the persons entitled thereto and the warehouseman is severally liable to each owner for that owner’s share. Where because of overissue a mass of fungible goods is insufficient to meet all the receipts which the warehouseman has issued against it, the persons entitled include all holders to whom overissued receipts have been duly negotiated.

SECTION 7-208. Altered Warehouse Receipts.

Where a blank in a negotiable warehouse receipt has been filled in without authority, a purchaser for value and without notice of the want of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any receipt enforceable against the issuer according to its original tenor.
SECTION 7-209. Lien of Warehouseman.

(1) A warehouseman has a lien against the bailor on the goods covered by a warehouse receipt or on the proceeds thereof in his possession for charges for storage or transportation (including demurrage and terminal charges), insurance, labor, or charges present or future in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for like charges or expenses in relation to other goods whenever deposited and it is stated in the receipt that a lien is claimed for charges and expenses in relation to other goods, the warehouseman also has a lien against him for such charges and expenses whether or not the other goods have been delivered by the warehouseman. But against a person to whom a negotiable warehouse receipt is duly negotiated a warehouseman’s lien is limited to charges in an amount or at a rate specified on the receipt or if no charges are so specified then to a reasonable charge for storage of the goods covered by the receipt subsequent to the date of the receipt.

(2) The warehouseman may also reserve a security interest against the bailor for a maximum amount specified on the receipt for charges other than those specified in subsection (1), such as for money advanced and interest. Such a security interest is governed by the Article on Secured Transactions (Article 9).

(3) A warehouseman’s lien for charges and expenses under subsection (1) or a security interest under subsection (2) is also effective against any person who so entrusted the bailor with possession of the goods that a pledge of them by him to a good faith purchaser for value would have been valid but is not effective against a person as to whom the document confers no right in the goods covered by it under Section 7-503.

(4) A warehouseman loses his lien on any goods which he voluntarily delivers or which he unjustifiably refuses to deliver.

SECTION 7-210. Enforcement of Warehouseman’s Lien.

(1) Except as provided in subsection (2), a warehouseman’s lien may be enforced by public or private sale of the goods in block or in parcels, at any time or place and on any terms which are commercially reasonable, after notifying all persons known to claim an interest in the goods. Such
notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the warehouseman is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the warehouseman either sells the goods in the usual manner in any recognized market therefor, or if he sells at the price current in such market at the time of this sale, or if he has otherwise sold in conformity with commercially reasonable practices among dealers in the type of goods sold, he has sold in a commercially reasonable manner. A sale of more goods than apparently necessary to be offered to insure satisfaction of the obligation is not commercially reasonable except in cases covered by the preceding sentence.

(2) A warehouseman's lien on goods other than goods stored by a merchant in the course of his business may be enforced only as follows:

(a) All persons known to claim an interest in the goods must be notified.

(b) The notification must be delivered in person or sent by registered or certified letter to the last known address of any person to be notified.

(c) The notification must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than ten days after receipt of the notification, and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place.

(d) The sale must conform to the terms of the notification.

(e) The sale must be held at the nearest suitable place to that where the goods are held or stored.

(f) After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for two weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement
must include a description of the goods, the
name of the person on whose account they are
being held, and the time and place of the sale.
The sale must take place at least fifteen days
after the first publication. If there is no news-
paper of general circulation where the sale is
to be held, the advertisement must be posted at
least ten days before the sale in not less than six
conspicuous places in the neighborhood of the
proposed sale.

(3) Before any sale pursuant to this section any person
claiming a right in the goods may pay the amount neces-
sary to satisfy the lien and the reasonable expenses in-
curred under this section. In that event the goods must
not be sold, but must be retained by the warehouseman sub-
ject to the terms of the receipt and this Article.

(4) The warehouseman may buy at any public sale pur-
suant to this section.

(5) A purchaser in good faith of goods sold to enforce
a warehouseman's lien takes the goods free of any rights of
persons against whom the lien was valid, despite noncom-
pliance by the warehouseman with the requirements of
this section.

(6) The warehouseman may satisfy his lien from the
proceeds of any sale pursuant to this section but must hold
the balance, if any, for delivery on demand to any person
to whom he would have been bound to deliver the goods.

(7) The rights provided by this section shall be in ad-
dition to all other rights allowed by law to a creditor against
his debtor.

(8) Where a lien is on goods stored by a merchant in the
course of his business the lien may be enforced in ac-
cordance with either subsection (1) or (2).

(9) The warehouseman is liable for damages caused by
failure to comply with the requirements for sale under
this section and in case of willful violation is liable for
conversion.

PART 3
BILLs OF LADING: SPECIAL PROVISIONS
SECTION 7-301. Liability for Non-Receipt or Misdescrip-
tion; "Said to Contain"; "Shipper's Load and Count"; Improper Handling.

(1) A consignee of a non-negotiable bill who has given value in good faith or a holder to whom a negotiable bill has been duly negotiated relying in either case upon the description therein of the goods, or upon the date therein shown, may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent that the document indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, as where the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by "contents or condition of contents of packages unknown", "said to contain", "shipper's weight, load and count" or the like, if such indication be true.

(2) When goods are loaded by an issuer who is a common carrier, the issuer must count the packages of goods if package freight and ascertain the kind and quantity if bulk freight. In such cases "shipper's weight, load and count" or other words indicating that the description was made by the shipper are ineffective except as to freight concealed by packages.

(3) When bulk freight is loaded by a shipper who makes available to the issuer adequate facilities for weighing such freight, an issuer who is a common carrier must ascertain the kind and quantity within a reasonable time after receiving the written request of the shipper to do so. In such cases "shipper's weight" or other words of like purport are ineffective.

(4) The issuer may by inserting in the bill the words "shipper's weight, load and count" or other words of like purport indicate that the goods were loaded by the shipper; and if such statement be true the issuer shall not be liable for damages caused by the improper loading. But their omission does not imply liability for such damages.

(5) The shipper shall be deemed to have guaranteed to the issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition and weight, as furnished by him; and the shipper shall indemnify the issuer against damage caused by inaccuracies in such particulars. The right of the issuer to such indemnity shall in no way limit his responsibility and lia-
bility under the contract of carriage to any person other than the shipper.

SECTION 7-302. Through Bills of Lading and Similar Documents.

(1) The issuer of a through bill of lading or other document embodying an undertaking to be performed in part by persons acting as its agents or by connecting carriers is liable to anyone entitled to recover on the document for any breach by such other persons or by a connecting carrier of its obligation under the document but to the extent that the bill covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation this liability may be varied by agreement of the parties.

(2) Where goods covered by a through bill of lading or other document embodying an undertaking to be performed in part by persons other than the issuer are received by any such person, he is subject with respect to his own performance while the goods are in his possession to the obligation of the issuer. His obligation is discharged by delivery of the goods to another such person pursuant to the document, and does not include liability for breach by any other such persons or by the issuer.

(3) The issuer of such through bill of lading or other document shall be entitled to recover from the connecting carrier or such other person in possession of the goods when the breach of the obligation under the document occurred, the amount it may be required to pay to anyone entitled to recover on the document therefor, as may be evidenced by any receipt, judgment, or transcript thereof, and the amount of any expense reasonably incurred by it in defending any action brought by anyone entitled to recover on the document therefor.

SECTION 7-303. Diversion; Reconsignment; Change of Instructions.

(1) Unless the bill of lading otherwise provides, the carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods on instructions from

(a) the holder of a negotiable bill; or

(b) the consignor on a non-negotiable bill notwith-
standing contrary instructions from the consignee; or

(c) the consignee on a non-negotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the bill; or

(d) the consignee on a non-negotiable bill if he is entitled as against the consignor to dispose of them.

(2) Unless such instructions are noted on a negotiable bill of lading, a person to whom the bill is duly negotiated can hold the bailee according to the original terms.

SECTION 7-304. Bills of Lading in a Set.

(1) Except where customary in overseas transportation, a bill of lading must not be issued in a set of parts. The issuer is liable for damages caused by violation of this subsection.

(2) Where a bill of lading is lawfully drawn in a set of parts, each of which is numbered and expressed to be valid only if the goods have not been delivered against any other part, the whole of the parts constitute one bill.

(3) Where a bill of lading is lawfully issued in a set of parts and different parts are negotiated to different persons, the title of the holder to whom the first due negotiation is made prevails as to both the document and the goods even though any later holder may have received the goods from the carrier in good faith and discharged the carrier's obligation by surrender of his part.

(4) Any person who negotiates or transfers a single part of a bill of lading drawn in a set is liable to holders of that part as if it were the whole set.

(5) The bailee is obliged to deliver in accordance with Part 4 of this Article against the first presented part of a bill of lading lawfully drawn in a set. Such delivery discharges the bailee's obligation on the whole bill.

SECTION 7-305. Destination Bills.

(1) Instead of issuing a bill of lading to the consignor at the place of shipment a carrier may at the request of the consignor procure the bill to be issued at destination or at any other place designated in the request.
(2) Upon request of anyone entitled as against the carrier to control the goods while in transit and on surrender of any outstanding bill of lading or other receipt covering such goods, the issuer may procure a substitute bill to be issued at any place designated in the request.

SECTION 7-306. Altered Bills of Lading.

An unauthorized alteration or filling in of a blank in a bill of lading leaves the bill enforceable according to its original tenor.

SECTION 7-307. Lien of Carrier.

(1) A carrier has a lien on the goods covered by a bill of lading for charges subsequent to the date of its receipt of the goods for storage or transportation (including demurrage and terminal charges) and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law. But against a purchaser for value of a negotiable bill of lading a carrier's lien is limited to charges stated in the bill or the applicable tariffs, or if no charges are stated then to a reasonable charge.

(2) A lien for charges and expenses under subsection (1) on goods which the carrier was required by law to receive for transportation is effective against the consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to such charges and expenses. Any other lien under subsection (1) is effective against the consignor and any person who permitted the bailor to have control or possession of the goods unless the carrier had notice that the bailor lacked such authority.

(3) A carrier loses his lien on any goods which he voluntarily delivers or which he unjustifiably refuses to deliver.

SECTION 7-308. Enforcement of Carrier's Lien.

(1) A carrier's lien may be enforced by public or private sale of the goods, in bloc or in parcels, at any time or place and on any terms which are commercially reasonable, after notifying all persons known to claim an interest in the goods. Such notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the carrier is not
of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the carrier either sells the goods in the usual manner in any recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with commercially reasonable practices among dealers in the type of goods sold he has sold in a commercially reasonable manner. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable except in cases covered by the preceding sentence.

(2) Before any sale pursuant to this section any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section. In that event the goods must not be sold, but must be retained by the carrier subject to the terms of the bill and this Article.

(3) The carrier may buy at any public sale pursuant to this section.

(4) A purchaser in good faith of goods sold to enforce a carrier’s lien takes the goods free of any rights of persons against whom the lien was valid, despite noncompliance by the carrier with the requirements of this section.

(5) The carrier may satisfy his lien from the proceeds of any sale pursuant to this section but must hold the balance, if any, for delivery on demand to any person to whom he would have been bound to deliver the goods.

(6) The rights provided by this section shall be in addition to all other rights allowed by law to a creditor against his debtor.

(7) A carrier’s lien may be enforced in accordance with either subsection (1) or the procedure set forth in subsection (2) of Section 7-210.

(8) The carrier is liable for damages caused by failure to comply with the requirements for sale under this section and in case of willful violation is liable for conversion.

Section 7-309. Duty of Care; Contractual Limitation of Carrier’s Liability.

(1) A carrier who issues a bill of lading whether negotiable or non-negotiable must exercise the degree of care in relation to the goods which a reasonably careful man would exercise under like circumstances. This subsection does not
repeal or change any law or rule of law which imposes liability upon a common carrier for damages not caused by its negligence.

(2) Damages may be limited by a provision that the carrier's liability shall not exceed a value stated in the document if the carrier's rates are dependent upon value and the consignor by the carrier's tariff is afforded an opportunity to declare a higher value or a value as lawfully provided in the tariff, or where no tariff is filed he is otherwise advised of such opportunity; but no such limitation is effective with respect to the carrier's liability for conversion to its own use.

(3) Reasonable provisions as to the time and manner of presenting claims and instituting actions based on the shipment may be included in a bill of lading or tariff.

PART 4
WAREHOUSE RECEIPTS AND BILLS OF LADING:
GENERAL OBLIGATIONS

SECTION 7-401. Irregularities in Issue of Receipt or Bill or Conduct of Issuer.

The obligations imposed by this Article on an issuer apply to a document of title regardless of the fact that

(a) the document may not comply with the requirements of this Article or of any other law or regulation regarding its issue, form or content; or

(b) the issuer may have violated laws regulating the conduct of his business; or

(c) the goods covered by the document were owned by the bailee at the time the document was issued; or

(d) the person issuing the document does not come within the definition of warehouseman if it purports to be a warehouse receipt.

SECTION 7-402. Duplicate Receipt or Bill; Overissue.

Neither a duplicate nor any other document of title purporting to cover goods already represented by an outstanding document of the same issuer confers any right in the goods, except as provided in the case of bills in a set, overissue of documents for fungible goods and substitutes
for lost, stolen or destroyed documents. But the issuer is liable for damages caused by his overissue or failure to identify a duplicate document as such by conspicuous notation on its face.

SECTION 7-403. Obligation of Warehouseman or Carrier to Deliver; Excuse.

(1) The bailee must deliver the goods to a person entitled under the document who complies with subsections (2) and (3), unless and to the extent that the bailee establishes any of the following:

(a) delivery of the goods to a person whose receipt was rightful as against the claimant;

(b) damage to or delay, loss or destruction of the goods for which the bailee is not liable;

(c) previous sale or other disposition of the goods in lawful enforcement of a lien or on warehouseman's lawful termination of storage;

(d) the exercise by a seller of his right to stop delivery pursuant to the provisions of the Article on Sales (Section 2-705);

(e) a diversion, reconsignment or other disposition pursuant to the provisions of this Article (Section 7-303) or tariff regulating such right;

(f) release, satisfaction or any other fact affording a person defense against the claimant;

(g) any other lawful excuse.

(2) A person claiming goods covered by a document of title must satisfy the bailee's lien where the bailee so requests or where the bailee is prohibited by law from delivering the goods until the charges are paid.

(3) Unless the person claiming is one against whom the document confers no right under Sec. 7-503 (1), he must surrender for cancellation or notation of partial deliveries any outstanding negotiable document covering the goods, and the bailee must cancel the document or conspicuously note the partial delivery thereon or be liable to any person to whom the document is duly negotiated.

(4) "Person entitled under the document" means holder in the case of a negotiable document, or the person to whom
delivery is to be made by the terms of or pursuant to written instructions under a non-negotiable document.

SECTION 7-404. No Liability for Good Faith Delivery Pursuant to Receipt or Bill.

A bailee who in good faith including observance of reasonable commercial standards has received goods and delivered or otherwise disposed of them according to the terms of the document of title or pursuant to this Article is not liable therefor. This rule applies even though the person from whom he received the goods had no authority to procure the document or to dispose of the goods and even though the person to whom he delivered the goods had no authority to receive them.

PART 5
WAREHOUSE RECEIPTS AND BILLS OF LADING: NEGOTIATION AND TRANSFER

SECTION 7-501. Form of Negotiation and Requirements of “Due Negotiation”.

(1) A negotiable document of title running to the order of a named person is negotiated by his indorsement and delivery. After his indorsement in blank or to bearer any person can negotiate it by delivery alone.

(2) (a) A negotiable document of title is also negotiated by delivery alone when by its original terms it runs to bearer.

(b) When a document running to the order of a named person is delivered to him the effect is the same as if the document had been negotiated.

(3) Negotiation of a negotiable document of title after it has been indorsed to a specified person requires indorsement by the special indorsee as well as delivery.

(4) A negotiable document of title is “duly negotiated” when it is negotiated in the manner stated in this section to a holder who purchases it in good faith without notice of any defense against or claim to it on the part of any person and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a money obligation.

(5) Indorsement of a non-negotiable document neither makes it negotiable nor adds to the transferee’s rights.
(6) The naming in a negotiable bill of a person to be notified of the arrival of the goods does not limit the negotiability of the bill nor constitute notice to a purchaser thereof of any interest of such person in the goods.

SECTION 7-502. Rights Acquired by Due Negotiation.

(1) Subject to the following section and to the provisions of Section 7-205 on fungible goods, a holder to whom a negotiable document of title has been duly negotiated acquires thereby:

(a) title to the document;
(b) title to the goods;
(c) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and
(d) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by him except those arising under the terms of the document or under this Article. In the case of a delivery order the bailee's obligation accrues only upon acceptance and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(2) Subject to the following section, title and rights so acquired are not defeated by any stoppage of the goods represented by the document or by surrender of such goods by the bailee, and are not impaired even though the negotiation or any prior negotiation constituted a breach of duty or even though any person has been deprived of possession of the document by misrepresentation, fraud, accident, mistake, duress, loss, theft or conversion, or even though a previous sale or other transfer of the goods or document has been made to a third person.

SECTION 7-503. Document of Title to Goods Defeated in Certain Cases.

(1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither

(a) delivered or entrusted them or any document of
title covering them to the bailor or his nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this Article (Section 7-403) or with power of disposition under this Act (Sections 2-403 and 9-307) or other statute or rule of law; nor

(b) acquiesced in the procurement by the bailor or his nominee of any document of title.

(2) Title to goods based upon an unaccepted delivery order is subject to the rights of anyone to whom a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. Such a title may be defeated under the next section to the same extent as the rights of the issuer or a transferee from the issuer.

(3) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of anyone to whom a bill issued by the freight forwarder is duly negotiated; but delivery by the carrier in accordance with Part 4 of this Article pursuant to its own bill of lading discharges the carrier's obligation to deliver.

SECTION 7-504. Rights Acquired in the Absence of Due Negotiation; Effect of Diversion; Seller's Stoppage of Delivery.

(1) A transferee of a document, whether negotiable or non-negotiable, to whom the document has been delivered but not duly negotiated, acquires the title and rights which his transferor had or had actual authority to convey.

(2) In the case of a non-negotiable document, until but not after the bailee receives notification of the transfer, the rights of the transferee may be defeated

(a) by those creditors of the transferor who could treat the sale as void under Section 2-402; or

(b) by a buyer from the transferor in ordinary course of business if the bailee has delivered the goods to the buyer or received notification of his rights; or

(c) as against the bailee by good faith dealings of the bailee with the transferor.

(3) A diversion or other change of shipping instructions by the consignor in a non-negotiable bill of lading which causes the bailee not to deliver to the consignee defeats the
consignee's title to the goods if they have been delivered to a buyer in ordinary course of business and in any event defeats the consignee’s rights against the bailee.

(4) Delivery pursuant to a non-negotiable document may be stopped by a seller under Section 2-705, and subject to the requirement of due notification there provided. A bailee honoring the seller's instructions is entitled to be indemnified by the seller against any resulting loss or expense.

SECTION 7-505. Endorser Not a Guarantor for Other Parties.

The indorsement of a document of title issued by a bailee does not make the indorser liable for any default by the bailee or by previous indorsers.

SECTION 7-506. Delivery Without Indorsement: Right to Compel Indorsement.

The transferee of a negotiable document of title has a specifically enforceable right to have his transferor supply any necessary indorsement but the transfer becomes a negotiation only as of the time the indorsement is supplied.

SECTION 7-507. Warranties on Negotiation or Transfer of Receipt or Bill.

Where a person negotiates or transfers a document of title for value otherwise than as a mere intermediary under the next following section, then unless otherwise agreed he warrants to his immediate purchaser only in addition to any warranty made in selling the goods

(a) that the document is genuine; and

(b) that he has no knowledge of any fact which would impair its validity or worth; and

(c) that his negotiation or transfer is rightful and fully effective with respect to the title to the document and the goods it represents.

SECTION 7-508. Warranties of Collecting Bank as to Documents.

A collecting bank or other intermediary known to be entrusted with documents on behalf of another or with collection of a draft or other claim against delivery of documents warrants by such delivery of the documents only its own good faith and authority. This rule applies even
though the intermediary has purchased or made advances against the claim or draft to be collected.

SECTION 7-509. Receipt or Bill: When Adequate Compliance With Commercial Contract.

The question whether a document is adequate to fulfill the obligations of a contract for sale or the conditions of a credit is governed by the Articles on Sales (Article 2) and on Letters of Credit (Article 5).

PART 6
WAREHOUSE RECEIPTS AND BILLS OF LADING: MISCELLANEOUS PROVISIONS

SECTION 7-601. Lost and Missing Documents.

(1) If a document has been lost, stolen or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with such order. If the document was negotiable the claimant must post security approved by the court to indemnify any person who may suffer loss as a result of non-surrender of the document. If the document was not negotiable, such security may be required at the discretion of the court. The court may also in its discretion order payment of the bailee's reasonable costs and counsel fees.

(2) A bailee who without court order delivers goods to a person claiming under a missing negotiable document is liable to any person injured thereby, and if the delivery is not in good faith becomes liable for conversion. Delivery in good faith is not conversion if made in accordance with a filed classification or tariff or, where no classification or tariff is filed, if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery who files a notice of claim within one year after the delivery.


Except where the document was originally issued upon delivery of the goods by a person who had no power to dispose of them, no lien attaches by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless the document be first surrendered to the bailee or its negotiation
enjoined, and the bailee shall not be compelled to deliver the goods pursuant to process until the document is surrendered to him or impounded by the court. One who purchases the document for value without notice of the process or injunction takes free of the lien imposed by judicial process.

SECTION 7-603. Conflicting Claims; Interpleader.

If more than one person claims title or possession of the goods, the bailee is excused from delivery until he has had a reasonable time to ascertain the validity of the adverse claims or to bring an action to compel all claimants to interplead and may compel such interpleader, either in defending an action for non-delivery of the goods, or by original action, whichever is appropriate.

ARTICLE 8
INVESTMENT SECURITIES

PART 1
SHORT TITLE AND GENERAL MATTERS

SECTION 8-101. Short Title.

This Article shall be known and may be cited as Uniform Commercial Code—Investment Securities.

SECTION 8-102. Definitions and Index of Definitions.

(1) In this Article unless the context otherwise requires

(a) A "security" is an instrument which

(i) is issued in bearer or registered form; and

(ii) is of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment; and

(iii) is either one of a class or series or by its terms is divisible into a class or series of instruments; and

(iv) evidences a share, participation or other interest in property or in an enterprise or evidences an obligation of the issuer.

(b) A writing which is a security is governed by this Article and not by Uniform Commercial Code-Commercial Paper even though it also
meets the requirements of that Article. This Article does not apply to money.

(c) A security is in “registered form” when it specifies a person entitled to the security or to the rights it evidences and when its transfer may be registered upon books maintained for that purpose by or on behalf of an issuer or the security so states.

(d) A security is in “bearer form” when it runs to bearer according to its terms and not by reason of any indorsement.

(2) A “subsequent purchaser” is a person who takes other than by original issue.

(3) A “clearing corporation” is a corporation all of the capital stock of which is held by or for a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934.

(4) A “custodian bank” is any bank or trust company which is supervised and examined by state or federal authority having supervision over banks and which is acting as custodian for a clearing corporation.

(5) Other definitions applying to this Article or to specified Parts thereof and the sections in which they appear are:

"Adverse claim". Section 8-301.
"Bona fide purchaser". Section 8-302.
"Broker". Section 8-303.
"Guarantee of the signature". Section 8-402.
"Intermediary bank". Section 4-105.
"Issuer". Section 8-201.
"Overissue". Section 8-104.

(6) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

SECTION 8-103. Issuer’s Lien.

A lien upon a security in favor of an issuer thereof is valid against a purchaser only if the right of the issuer to such lien is noted conspicuously on the security.

SECTION 8-104. Effect of Overissue; “Overissue.”

(1) The provisions of this Article which validate a se-
urity or compel its issue or reissue do not apply to the ex-
tent that validation, issue or reissue would result in over-
issue; but

(a) if an identical security which does not consti-
tute an overissue is reasonably available for
purchase, the person entitled to issue or vali-
dation may compel the issuer to purchase and
deliver such a security to him against surrender
of the security, if any, which he holds; or

(b) if a security is not so available for pur-
chase, the person entitled to issue or validation may
recover from the issuer the price he or the last
purchaser for value paid for it with interest
from the date of his demand.

(2) "Overissue" means the issue of securities in excess
of the amount which the issuer has corporate power to is-
ue.

SECTION 8-105. Securities Negotiable; Presumptions.

(1) Securities governed by this Article are negotiable
instruments.

(2) In any action on a security

(a) unless specifically denied in the pleadings, each
signature on the security or in a necessary in-
dorsement is admitted;

(b) when the effectiveness of a signature is put in
issue the burden of establishing it is on the
party claiming under the signature but the sig-
nature is presumed to be genuine or authorized;

(c) when signatures are admitted or established
production of the instrument entitles a holder
to recover on it unless the defendant establishes
a defense or a defect going to the validity of
the security; and

(d) after it is shown that a defense or defect exists
the plaintiff has the burden of establishing that
he or some person under whom he claims
is a person against whom the defense or defect
is ineffective (Section 8-202).

SECTION 8-106. Applicability.

The validity of a security and the rights and duties of the
issuer with respect to registration of transfer are governed by the law (including the conflict of laws rules) of the jurisdiction of organization of the issuer.

SECTION 8-107. Securities Deliverable; Action for Price.

(1) Unless otherwise agreed and subject to any applicable law or regulation respecting short sales, a person obligated to deliver securities may deliver any security of the specified issue in bearer or registered in the name of the transferee or indorsed to him or in blank.

(2) When the buyer fails to pay the price as it comes due under a contract of sale the seller may recover the price

(a) of securities accepted by the buyer; and

(b) of other securities if efforts at their resale would be unduly burdensome or if there is no readily available market for their resale.

PART 2
ISSUE—ISSUER

SECTION 8-201. “Issuer.”

(1) With respect to obligations on or defenses to a security “issuer” includes a person who

(a) places or authorizes the placing of his name on a security (otherwise than as authenticating trustee, registrar, transfer agent or the like) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty to perform an obligation evidenced by the security; or

(b) directly or indirectly creates fractional interests in his rights or property which fractional interests are evidenced by securities; or

(c) becomes responsible for or in place of any other person described as an issuer in this section.

(2) With respect to obligations on or defenses to a security a guarantor is an issuer to the extent of his guaranty whether or not his obligation is noted on the security.

(3) With respect to registration of transfer (Part 4 of this Article) “issuer” means a person on whose behalf transfer books are maintained.
SECTION 8-202. Issuer's Responsibility and Defenses; Notice of Defect or Defense.

(1) Even against a purchaser for value and without notice, the terms of a security include those stated on the security and those made part of the security by reference to another instrument, indenture or document or to a constitution, statute, ordinance, rule, regulation, order or the like to the extent that the terms so referred to do not conflict with the stated terms. Such a reference does not of itself charge a purchaser for value with notice of a defect going to the validity of the security even though the security expressly states that a person accepting it admits such notice.

(2) (a) A security other than one issued by a government or governmental agency or unit even though issued with a defect going to its validity is valid in the hands of a purchaser for value and without notice of the particular defect unless the defect involves a violation of constitutional provisions in which case the security is valid in the hands of a subsequent purchaser for value and without notice of the defect.

(b) The rule of subparagraph (a) applies to an issuer which is a government or governmental agency or unit only if either there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

(3) Except as otherwise provided in the case of certain unauthorized signatures on issue (Section 8-205), lack of genuineness of a security is a complete defense even against a purchaser for value and without notice.

(4) All other defenses of the issuer including nondelivery and conditional delivery of the security are ineffective against a purchaser for value who has taken without notice of the particular defense.

(5) Nothing in this section shall be construed to affect the right of a party to a “when, as and if issued” or a “when distributed” contract to cancel the contract in the event of a material change in the character of the security which is
the subject of the contract or in the plan or arrangement pursuant to which such security is to be issued or distributed.

SECTION 8-203. Staleness as Notice of Defects or Defenses.

(1) After an act or event which creates a right to immediate performance of the principal obligation evidenced by the security or which sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer

(a) if the act or event is one requiring the payment of money or the delivery of securities or both on presentation or surrender of the security and such funds or securities are available on the date set for payment or exchange and he takes the security more than one year after that date; and

(b) if the act or event is not covered by paragraph (a) and he takes the security more than two years after the date set for surrender or presentation or the date on which such performance became due.

(2) A call which has been revoked is not within subsection (1).

SECTION 8-204. Effect of Issuer's Restrictions on Transfer.

Unless noted conspicuously on the security a restriction on transfer imposed by the issuer even though otherwise lawful is ineffective except against a person with actual knowledge of it.

SECTION 8-205. Effect of Unauthorized Signature on Issue.

An unauthorized signature placed on a security prior to or in the course of issue is ineffective except that the signature is effective in favor of a purchaser for value and without notice of the lack of authority if the signing has been done by

(a) an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security or of similar
securities or their immediate preparation for signing; or

(b) an employee of the issuer or of any of the foregoing entrusted with responsible handling of the security.

SECTION 8-206. Completion or Alteration of Instrument.

(1) Where a security contains the signatures necessary to its issue or transfer but is incomplete in any other respect

(a) any person may complete it by filling in the blanks as authorized; and

(b) even though the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of such incorrectness.

(2) A complete security which has been improperly altered even though fraudulently remains enforceable but only according to its original terms.

SECTION 8-207. Rights of Issuer With Respect to Registered Owners.

(1) Prior to due presentment for registration of transfer of a security in registered form the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, to receive notifications and otherwise to exercise all the rights and powers of an owner.

(2) Nothing in this Article shall be construed to affect the liability of the registered owner of a security for calls, assessments or the like.

SECTION 8-208. Effect of Signature of Authenticating Trustee, Registrar or Transfer Agent.

(1) A person placing his signature upon a security as authenticating trustee, registrar, transfer agent or the like warrants to a purchaser for value without notice of the particular defect that

(a) the security is genuine; and

(b) his own participation in the issue of the security is within his capacity and within the scope of the authorization received by him from the issuer; and

(c) he has reasonable grounds to believe that the
security is in the form and within the amount the issuer is authorized to issue.

(2) Unless otherwise agreed, a person by so placing his signature does not assume responsibility for the validity of the security in other respects.

PART 3
PURCHASE

SECTION 8-301. Rights Acquired by Purchaser; “Adverse Claim”; Title Acquired by Bona Fide Purchaser.

(1) Upon delivery of a security the purchaser acquires the rights in the security which his transferor had or had actual authority to convey except that a purchaser who has himself been a party to any fraud or illegality affecting the security or who as a prior holder had notice of an adverse claim cannot improve his position by taking from a later bona fide purchaser. “Adverse claim” includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security.

(2) A bona fide purchaser in addition to acquiring the rights of a purchaser also acquires the security free of any adverse claim.

(3) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

SECTION 8-302. “Bona Fide Purchaser.”

A “bona fide purchaser” is a purchaser for value in good faith and without notice of any adverse claim who takes delivery of a security in bearer form or of one in registered form issued to him or indorsed to him or in blank.

SECTION 8-303. “Broker.”

“Broker” means a person engaged for all or part of his time in the business of buying and selling securities, who in the transaction concerned acts for, or buys a security from or sells a security to a customer. Nothing in this Article determines the capacity in which a person acts for purposes of any other statute or rule to which such person is subject.

SECTION 8-304. Notice to Purchaser of Adverse Claims.

(1) A purchaser (including a broker for the seller or
buyer but excluding an intermediary bank) of a security is charged with notice of adverse claims if

(a) the security whether in bearer or registered form has been indorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or

(b) the security is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor. The mere writing of a name on a security is not such a statement.

(2) The fact that the purchaser (including a broker for the seller or buyer) has notice that the security is held for a third person or is registered in the name of or indorsed by a fiduciary does not create a duty of inquiry into the rightfulness of the transfer or constitute notice of adverse claims. If, however, the purchaser (excluding an intermediary bank) has knowledge that the proceeds are being used or that the transaction is for the individual benefit of the fiduciary or otherwise in breach of duty, the purchaser is charged with notice of adverse claims.

SECTION 8-305. Staleness as Notice of Adverse Claims.

An act or event which creates a right to immediate performance of the principal obligation evidenced by the security or which sets a date on or after which the security is to be presented or surrendered for redemption or exchange does not of itself constitute any notice of adverse claims except in the case of a purchase

(a) after one year from any date set for such presentment or surrender for redemption or exchange; or

(b) after six months from any date set for payment of money against presentation or surrender of the security if funds are available for payment on that date.

SECTION 8-306. Warranties on Presentment and Transfer.

(1) A person who presents a security for registration of transfer or for payment or exchange warrants to the issuer that he is entitled to the registration, payment or exchange. But a purchaser for value without notice of adverse claims who receives a new, reissued or re-registered
security on registration of transfer warrants only that he has no knowledge of any unauthorized signature (Section 8-311) in a necessary indorsement.

(2) A person by transferring a security to a purchaser for value warrants only that

(a) his transfer is effective and rightful; and

(b) the security is genuine and has not been materially altered; and

(c) he knows no fact which might impair the validity of the security.

(3) Where a security is delivered by an intermediary known to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against such delivery, the intermediary by such delivery warrants only his own good faith and authority even though he has purchased or made advances against the claim to be collected against the delivery.

(4) A pledgee or other holder for security who rede­livers the security received, or after payment and on order of the debtor delivers that security to a third person makes only the warranties of an intermediary under subsection (3).

(5) A broker gives to his customer and to the issuer and a purchaser the warranties provided in this section and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of his customer.

SECTION 8-307. Effect of Delivery Without Indorse­ment; Right to Compel Indorsement.

Where a security in registered form has been delivered to a purchaser without a necessary indorsement he may become a bona fide purchaser only as of the time the indorsement is supplied, but against the transferor the transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary indorsement supplied.

SECTION 8-308. Indorsement, How Made; Special Indorsement; Indorser Not a Guarantor; Partial Assignment.

(1) An indorsement of a security in registered form is made when an appropriate person signs on it or on a sepa-
rate document an assignment or transfer of the security or a power to assign or transfer it or when the signature of such person is written without more upon the back of the security.

(2) An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorsement specifies the person to whom the security is to be transferred, or who has power to transfer it. A holder may convert a blank indorsement into a special indorsement.

(3) "An appropriate person" in subsection (1) means

(a) the person specified by the security or by special indorsement to be entitled to the security; or

(b) where the person so specified is described as a fiduciary but is no longer serving in the described capacity,—either that person or his successor; or

(c) where the security or indorsement so specifies more than one person as fiduciaries and one or more are no longer serving in the described capacity,—the remaining fiduciary or fiduciaries, whether or not a successor has been appointed or qualified; or

(d) where the person so specified is an individual and is without capacity to act by virtue of death, incompetence, infancy or otherwise,—his executor, administrator, guardian or like fiduciary; or

(e) where the security or indorsement so specifies more than one person as tenants by the entirety or with right of survivorship and by reason of death all cannot sign,—the survivor or survivors; or

(f) a person having power to sign under applicable law or controlling instrument; or

(g) to the extent that any of the foregoing persons may act through an agent,—his authorized agent.

(4) Unless otherwise agreed the indorser by his indorsement assumes no obligation that the security will be honored by the issuer.
(5) An indorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.

(6) Whether the person signing is appropriate is determined as of the date of signing and an indorsement by such a person does not become unauthorized for the purposes of this Article by virtue of any subsequent change of circumstances.

(7) Failure of a fiduciary to comply with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, does not render his indorsement unauthorized for the purposes of this Article.

SECTION 8-309. Effect of Indorsement Without Delivery.

An indorsement of a security whether special or in blank does not constitute a transfer until delivery of the security on which it appears or if the indorsement is on a separate document until delivery of both the document and the security.

SECTION 8-310. Indorsement of Security in Bearer Form.

An indorsement of a security in bearer form may give notice of adverse claims (Section 8-304) but does not otherwise affect any right to registration the holder may possess.

SECTION 8-311. Effect of Unauthorized Indorsement.

Unless the owner has ratified an unauthorized indorsement or is otherwise precluded from asserting its ineffectiveness

(a) he may assert its ineffectiveness against the issuer or any purchaser other than a purchaser for value and without notice of adverse claims who has in good faith received a new, reissued or reregistered security on registration of transfer; and

(b) an issuer who registers the transfer of a security upon the unauthorized indorsement is subject to liability for improper registration (Section 8-404).
SECTION 8-312. Effect of Guaranteeing Signature or Indorsement.

(1) Any person guaranteeing a signature of an indorser of a security warrants that at the time of signing
   (a) the signature was genuine; and
   (b) the signer was an appropriate person to indorse (Section 8-308); and
   (c) the signer had legal capacity to sign.

But the guarantor does not otherwise warrant the rightfulness of the particular transfer.

(2) Any person may guarantee an indorsement of a security and by so doing warrants not only the signature (subsection 1) but also the rightfulness of the particular transfer in all respects. But no issuer may require a guarantor of indorsement as a condition to registration of transfer.

(3) The foregoing warranties are made to any person taking or dealing with the security in reliance on the guarantor and the guarantor is liable to such person for any loss resulting from breach of the warranties.

SECTION 8-313. When Delivery to the Purchaser Occurs; Purchaser's Broker as Holder.

(1) Delivery to a purchaser occurs when
   (a) he or a person designated by him acquires possession of a security; or
   (b) his broker acquires possession of a security specially indorsed to or issued in the name of the purchaser; or
   (c) his broker sends him confirmation of the purchase and also by book entry or otherwise identifies a specific security in the broker's possession as belonging to the purchaser; or
   (d) with respect to an identified security to be delivered while still in the possession of a third person when that person acknowledges that he holds for the purchaser; or
   (e) appropriate entries on the books of a clearing corporation are made under Section 8-320.
(2) The purchaser is the owner of a security held for him by his broker, but is not the holder except as specified in subparagraphs (b), (c) and (e) of subsection (1). Where a security is part of a fungible bulk the purchaser is the owner of a proportionate property interest in the fungible bulk.

(3) Notice of an adverse claim received by the broker or by the purchaser after the broker takes delivery as a holder for value is not effective either as to the broker or as to the purchaser. However, as between the broker and the purchaser the purchaser may demand delivery of an equivalent security as to which no notice of an adverse claim has been received.

SECTION 8-314. Duty to Deliver, When Completed.

(1) Unless otherwise agreed where a sale of a security is made on an exchange or otherwise through brokers

(a) the selling customer fulfills his duty to deliver when he places such a security in the possession of the selling broker or of a person designated by the broker or if requested causes an acknowledgment to be made to the selling broker that it is held for him; and

(b) the selling broker including a correspondent broker acting for a selling customer fulfills his duty to deliver by placing the security or a like security in the possession of the buying broker or a person designated by him or by effecting clearance of the sale in accordance with the rules of the exchange on which the transaction took place.

(2) Except as otherwise provided in this section and unless otherwise agreed, a transferor's duty to deliver a security under a contract of purchase is not fulfilled until he places the security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by him or at the purchaser's request causes an acknowledgment to be made to the purchaser that it is held for him. Unless made on an exchange a sale to a broker purchasing for his own account is within this subsection and not within subsection (1).

SECTION 8-315. Action Against Purchaser Based Upon Wrongful Transfer.

(1) Any person against whom the transfer of a security
is wrongful for any reason, including his incapacity, may against anyone except a bona fide purchaser reclaim possession of the security or obtain possession of any new security evidencing all or part of the same rights or have damages.

(2) If the transfer is wrongful because of an unauthorized indorsement, the owner may also reclaim or obtain possession of the security or new security even from a bona fide purchaser if the ineffectiveness of the purported indorsement can be asserted against him under the provisions of this Article on unauthorized indorsements (Section 8-311).

(3) The right to obtain or reclaim possession of a security may be specifically enforced and its transfer enjoined and the security impounded pending the litigation.

SECTION 8-316. Purchaser’s Right to Requisites for Registration of Transfer on Books.

Unless otherwise agreed the transferor must on due demand supply his purchaser with any proof of his authority to transfer or with any other requisite which may be necessary to obtain registration of the transfer of the security but if the transfer is not for value a transferor need not do so unless the purchaser furnishes the necessary expenses. Failure to comply with a demand made within a reasonable time gives the purchaser the right to reject or rescind the transfer.

SECTION 8-317. Attachment or Levy Upon Security.

(1) No attachment or levy upon a security or any share or other interest evidenced thereby which is outstanding shall be valid until the security is actually seized by the officer making the attachment or levy but a security which has been surrendered to the issuer may be attached or levied upon at the source.

(2) A creditor whose debtor is the owner of a security shall be entitled to such aid from courts of appropriate jurisdiction, by injunction or otherwise, in reaching such security or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which cannot readily be attached or levied upon by ordinary legal process.

SECTION 8-318. No Conversion by Good Faith Delivery.

An agent or bailee who in good faith (including observance of reasonable commercial standards if he is in the
business of buying, selling or otherwise dealing with securities) has received securities and sold, pledged or delivered them according to the instructions of his principal is not liable for conversion or for participation in breach of fiduciary duty although the principal had no right to dispose of them.

SECTION 8-319. Statute of Frauds.

A contract for the sale of securities is not enforceable by way of action or defense unless

(a) there is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price; or

(b) delivery of the security has been accepted or payment has been made but the contract is enforceable under this provision only to the extent of such delivery or payment; or

(c) within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under paragraph (a) has been received by the party against whom enforcement is sought and he has failed to send written objection to its contents within ten days after its receipt; or

(d) the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract was made for sale of a stated quantity of described securities at a defined or stated price.

SECTION 8-320. Transfer or Pledge within a Central Depository System.

(1) If a security

(a) is in the custody of a clearing corporation or of a custodian bank or a nominee of either subject to the instructions of the clearing corporation; and

(b) is in bearer form or indorsed in blank by an appropriate person or registered in the name of the clearing corporation or custodian bank or a nominee of either; and
(c) is shown on the account of a transferor or pledgor on the books of the clearing corporation;

then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of appropriate entries on the books of the clearing corporation reducing the account of the transferor or pledgor and increasing the account of the transferee or pledgee by the amount of the obligation or the number of shares or rights transferred or pledged.

(2) Under this section entries may be with respect to like securities or interests therein as a part of a fungible bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number or the like and, in appropriate cases, may be on a net basis taking into account other transfers or pledges of the same security.

(3) A transfer or pledge under this section has the effect of a delivery of a security in bearer form or duly indorsed in blank (Section 8-301) representing the amount of the obligation or the number of shares or rights transferred or pledged. If a pledge or the creation of a security interest is intended, the making of entries has the effect of a taking of delivery by the pledgee or a secured party (Sections 9-304 and 9-305). A transferee or pledgee under this section is a holder.

(4) A transfer or pledge under this section does not constitute a registration of transfer under Part 4 of this Article.

(5) That entries made on the books of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries nor the liabilities or obligations of the clearing corporation to any person adversely affected thereby.

PART 4
REGISTRATION

SECTION 8-401. Duty of Issuer to Register Transfer.

(1) Where a security in registered form is presented to the issuer with a request to register transfer, the issuer is under a duty to register the transfer as requested if
(a) the security is indorsed by the appropriate person or persons (Section 8-308); and

(b) reasonable assurance is given that those indorsements are genuine and effective (Section 8-402); and

(c) the issuer has no duty to inquire into adverse claims or has discharged any such duty (Section 8-403); and

(d) any applicable law relating to the collection of taxes has been complied with; and

(e) the transfer is in fact rightful or is to a bona fide purchaser.

(2) Where an issuer is under a duty to register a transfer of a security the issuer is also liable to the person presenting it for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer.

SECTION 8-402. Assurance that Indorsements Are Effective.

(1) The issuer may require the following assurance that each necessary indorsement (Section 8-308) is genuine and effective

(a) in all cases, a guarantee of the signature (subsection (1) of Section 8-312) of the person indorsing; and

(b) where the indorsement is by an agent, appropriate assurance of authority to sign;

(c) where the indorsement is by a fiduciary, appropriate evidence of appointment or incumbency;

(d) where there is more than one fiduciary, reasonable assurance that all who are required to sign have done so;

(e) where the indorsement is by a person not covered by any of the foregoing, assurance appropriate to the case corresponding as nearly as may be to the foregoing.

(2) A "guarantee of the signature" in subsection (1) means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible. The is-
suer may adopt standards with respect to responsibility provided such standards are not manifestly unreasonable.

(3) "Appropriate evidence of appointment or incumbency" in subsection (1) means

(a) in the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer thereof and dated within sixty days before the date of presentation for transfer; or

(b) in any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the issuer to be responsible or, in the absence of such a document or certificate, other evidence reasonably deemed by the issuer to be appropriate. The issuer may adopt standards with respect to such evidence provided such standards are not manifestly unreasonable. The issuer is not charged with notice of the contents of any document obtained pursuant to this paragraph (b) except to the extent that the contents relate directly to the appointment or incumbency.

(4) The issuer may elect to require reasonable assurance beyond that specified in this section but if it does so and for a purpose other than that specified in subsection 3(b) both requires and obtains a copy of a will, trust, indenture, articles of co-partnership, by-laws or other controlling instrument it is charged with notice of all matters contained therein affecting the transfer.

SECTION 8-403. Limited Duty of Inquiry.

(1) An issuer to whom a security is presented for registration is under a duty to inquire into adverse claims if

(a) a written notification of an adverse claim is received at a time and in a manner which affords the issuer a reasonable opportunity to act on it prior to the issuance of a new, reissued or re-registered security and the notification identifies the claimant, the registered owner and the issue of which the security is a part and provides an address for communications directed to the claimant; or

(b) the issuer is charged with notice of an adverse claim from a controlling instrument which it has
(2) The issuer may discharge any duty of inquiry by any reasonable means, including notifying an adverse claimant by registered or certified mail at the address furnished by him or if there be no such address at his residence or regular place of business that the security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within thirty days from the date of mailing the notification, either

(a) an appropriate restraining order, injunction or other process issues from a court of competent jurisdiction; or

(b) an indemnity bond sufficient in the issuer’s judgment to protect the issuer and any transfer agent, registrar or other agent of the issuer involved, from any loss which it or they may suffer by complying with the adverse claim is filed with the issuer.

(3) Unless an issuer is charged with notice of an adverse claim from a controlling instrument which it has elected to require under subsection (4) of Section 8-402 or receives notification of an adverse claim under subsection (1) of this section, where a security presented for registration is indorsed by the appropriate person or persons the issuer is under no duty to inquire into adverse claims. In particular

(a) an issuer registering a security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship and thereafter the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting as such with respect to the particular security;

(b) an issuer registering transfer on an indorsement by a fiduciary is not bound to inquire whether the transfer is made in compliance with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and
(c) the issuer is not charged with notice of the contents of any court record or file or other recorded or unrecorded document even though the document is in its possession and even though the transfer is made on the indorsement of a fiduciary to the fiduciary himself or to his nominee.

SECTION 8-404. Liability and Non-Liability for Registration.

(1) Except as otherwise provided in any law relating to the collection of taxes, the issuer is not liable to the owner or any other person suffering loss as a result of the registration of a transfer of a security if

(a) there were on or with the security the necessary indorsements (Section 8-308); and

(b) the issuer had no duty to inquire into adverse claims or has discharged any such duty (Section 8-403).

(2) Where an issuer has registered a transfer of a security to a person not entitled to it the issuer on demand must deliver a like security to the true owner unless

(a) the registration was pursuant to subsection (1); or

(b) the owner is precluded from asserting any claim for registering the transfer under subsection (1) of the following section; or

(c) such delivery would result in overissue, in which case the issuer's liability is governed by Section 8-104.

SECTION 8-405. Lost, Destroyed and Stolen Securities.

(1) Where a security has been lost, apparently destroyed or wrongfully taken and the owner fails to notify the issuer of that fact within a reasonable time after he has notice of it and the issuer registers a transfer of the security before receiving such a notification, the owner is precluded from asserting against the issuer any claim for registering the transfer under the preceding section or any claim to a new security under this section.

(2) Where the owner of a security claims that the security has been lost, destroyed or wrongfully taken, the
issuer must issue a new security in place of the original security if the owner

(a) so requests before the issuer has notice that the security has been acquired by a bona fide purchaser; and

(b) files with the issuer a sufficient indemnity bond; and

(c) satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of the new security, a bona fide purchaser of the original security presents it for registration of transfer, the issuer must register the transfer unless registration would result in overissue, in which event the issuer's liability is governed by Section 8-104. In addition to any rights on the indemnity bond, the issuer may recover the new security from the person to whom it was issued or any person taking under him except a bona fide purchaser.

SECTION 8-406. Duty of Authenticating Trustee, Transfer Agent or Registrar.

(1) Where a person acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities

(a) he is under a duty to the issuer to exercise good faith and due diligence in performing his functions; and

(b) he has with regard to the particular functions he performs the same obligation to the holder or owner of the security and has the same rights and privileges as the issuer has in regard to those functions.

(2) Notice to an authenticating trustee, transfer agent, registrar or other such agent is notice to the issuer with respect to the functions performed by the agent.

ARTICLE 9
SECURED TRANSACTIONS; SALES OF ACCOUNTS, CONTRACT RIGHTS AND CHATTEL PAPER
PART 1
SHORT TITLE, APPLICABILITY AND DEFINITIONS

SECTION 9-101. Short Title.

This Article shall be known and may be cited as Uniform Commercial Code—Secured Transactions.

SECTION 9-102. Policy and Scope of Article.

(1) Except as otherwise provided in Section 9-103 on multiple state transactions and in Section 9-104 on excluded transactions, this Article applies so far as concerns any personal property and fixtures within the jurisdiction of this state

(a) to any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper, accounts or contract rights; and also

(b) to any sale of accounts, contract rights or chattel paper.

(2) This Article applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, factor's lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This Article does not apply to statutory liens except as provided in Section 9-310.

(3) The application of this Article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this Article does not apply.

SECTION 9-103. Accounts, Contract Rights, General Intangibles and Equipment Relating to Another Jurisdiction; and Incoming Goods Already Subject to a Security Interest.

(1) If the office where the assignor of accounts or contract rights keeps his records concerning them is in this state, the validity and perfection of a security interest therein and the possibility and effect of proper filing is governed by this Article; otherwise by the law (including the conflict of laws rules) of the jurisdiction where such office is located.

(2) If the chief place of business of a debtor is in this
state, this Article governs the validity and perfection of a security interest and the possibility and effect of proper filing with regard to general intangibles or with regard to goods of a type which are normally used in more than one jurisdiction (such as automotive equipment, rolling stock, airplanes, road building equipment, commercial harvesting equipment, construction machinery and the like) if such goods are classified as equipment or classified as inventory by reason of their being leased by the debtor to others. Otherwise, the law (including the conflict of laws rules) of the jurisdiction where such chief place of business is located shall govern. If the chief place of business is located in a jurisdiction which does not provide for perfection of the security interest by filing or recording in that jurisdiction, then the security interest may be perfected by filing in this state. For the purpose of determining the validity and perfection of a security interest in an airplane, the chief place of business of a debtor who is a foreign air carrier under the Federal Aviation Act of 1958, as amended, is the designated office of the agent upon whom service of process may be made on behalf of the debtor.

(3) If personal property other than that governed by subsections (1) and (2) is already subject to a security interest when it is brought into this state, the validity of the security interest in this state is to be determined by the law (including the conflict of laws rules) of the jurisdiction where the property was when the security interest attached. However, if the parties to the transaction understood at the time that the security interest attached that the property would be kept in this state and it was brought into this state within 30 days after the security interest attached for purposes other than transportation through this state, then the validity of the security interest in this state is to be determined by the law of this state. If the security interest was already perfected under the law of the jurisdiction where the property was when the security interest attached and before being brought into this state, the security interest continues perfected in this state for four months and also thereafter if within the four month period it is perfected in this state. The security interest may also be perfected in this state after the expiration of the four month period; in such case perfection dates from the time of perfection in this state. If the security interest was not perfected under the law of the jurisdiction where the property was when the security interest attached and before being brought into this state, it may be perfected in this state; in such case perfection dates from the time of perfection in this state.
(4) Notwithstanding subsections (2) and (3), if personal property is covered by a certificate of title issued under a statute of this state or any other jurisdiction which requires indication on a certificate of title of any security interest in the property as a condition of perfection, then the perfection is governed by the law of the jurisdiction which issued the certificate.

(5) Notwithstanding subsection (1) and Section 9-302, if the office where the assignor of accounts or contract rights keeps his records concerning them is not located in a jurisdiction which is a part of the United States, its territories or possessions, and the accounts or contract rights are within the jurisdiction of this state or the transaction which creates the security interest otherwise bears an appropriate relation to this state, this Article governs the validity and perfection of the security interest and the security interest may only be perfected by notification to the account debtor.

SECTION 9-104. Transactions Excluded From Article.

This Article does not apply

(a) to a security interest subject to any statute of the United States such as the Ship Mortgage Act, 1920, to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property; or

(b) to a landlord's lien; or

(c) to a lien given by statute or other rule of law for services or materials except as provided in Section 9-310 on priority of such liens; or

(d) to a transfer of a claim for wages, salary or other compensation of an employee; or

(e) to an equipment trust covering railway rolling stock; or

(f) to a sale of accounts, contract rights or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts, contract rights or chattel paper which is for the purpose of collection only, or a transfer of a contract right to an assignee who is also to do the performance under the contract; or
(g) to a transfer of an interest or claim in or under any policy of insurance; or

(h) to a right represented by a judgment; or

(i) to any right of set-off; or

(j) except to the extent that provision is made for fixtures in Section 9-313, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder; or

(k) to a transfer in whole or in part of any of the following: any claim arising out of tort; any deposit, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization.

SECTION 9-105. Definitions and Index of Definitions.

(1) In this Article unless the context otherwise requires:

(a) “Account debtor” means the person who is obligated on an account, chattel paper, contract right or general intangible;

(b) “Chattel paper” means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) “Collateral” means the property subject to a security interest, and includes accounts, contract rights and chattel paper which have been sold;

(d) “Debtor” means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts, contract rights or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term “debtor” means the owner of the collateral in any provision of the Article dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;
(e) "Document" means document of title as defined in the general definitions of Article 1 (Section 1-201);

(f) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (Section 9-313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles, contract rights and other things in action. "Goods" also include the unborn young of animals and growing crops;

(g) "Instrument" means a negotiable instrument (defined in Section 3-104), or a security (defined in Section 8-102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment;

(h) "Security agreement" means an agreement which creates or provides for a security interest;

(i) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts, contract rights or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.

(2) Other definitions applying to this Article and the sections in which they appear are:

- "Account". Section 9-106.
- "Consumer goods". Section 9-109(1).
- "Contract right". Section 9-106.
- "Equipment". Section 9-109(2).
- "Farm products". Section 9-109(3).
- "General intangibles". Section 9-106.
- "Inventory". Section 9-109(4).
- "Lien creditor". Section 9-301(3).
- "Proceeds". Section 9-306(1).
- "Purchase money security interest". Section 9-107.
(3) The following definitions in other Articles apply to this Article:

“Check”. Section 3-104.
“Contract for sale”. Section 2-106.
“Holder in due course”. Section 3-302.
“Note”. Section 3-104.
“Sale”. Section 2-106.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.


“Account” means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper. “Contract right” means any right to payment under a contract not yet earned by performance and not evidenced by an instrument or chattel paper. “General intangibles” means any personal property (including things in action) other than goods, accounts, contract rights, chattel paper, documents and instruments.


A security interest is a “purchase money security interest” to the extent that it is

(a) taken or retained by the seller of the collateral to secure all or part of its price; or

(b) taken by a person who by making advances or incurring an obligation gives value to enable the debtor to acquire rights in or the use of collateral if such value is in fact so used.


Where a secured party makes an advance, incurs an obligation, releases a perfected security interest, or otherwise gives new value which is to be secured in whole or in part by after-acquired property his security interest in the after-acquired collateral shall be deemed to be taken for new value and not as security for an antecedent debt if the debtor acquires his rights in such collateral either in the ordinary course of his business or under a contract of pur-
chase made pursuant to the security agreement within a reasonable time after new value is given.


Goods are

(1) “consumer goods” if they are used or bought for use primarily for personal, family or household purposes;

(2) “equipment” if they are used or bought for use primarily in business (including farming or a profession) or by a debtor who is a non-profit organization or a governmental subdivision or agency or if the goods are not included in the definitions of inventory, farm products or consumer goods;

(3) “farm products” if they are crops or livestock or supplies used or produced in farming operations or if they are products of crops or livestock in their unmanufactured states (such as ginned cotton, wool-clip, maple syrup, milk and eggs), and if they are in the possession of a debtor engaged in raising, fattening, grazing or other farming operations. If goods are farm products they are neither equipment nor inventory;

(4) “inventory” if they are held by a person who holds them for sale or lease or to be furnished under contracts of service or if he has so furnished them, or if they are raw materials, work in process or materials used or consumed in a business. Inventory of a person is not to be classified as his equipment.

SECTION 9-110. Sufficiency of Description.

For the purposes of this Article any description of personal property is sufficient whether or not it is specific if it reasonably identifies what is described; provided, however, that any description of real property be a legal description, that is, a description setting forth a United States government subdivision, the lot and block of a private subdivision, or metes and bounds of the premises affected by the security interest and tied to primary control points which include either a section corner, quarter-section corner or meander corner according to United States government survey.

SECTION 9-111. Applicability of Bulk Transfer Laws.

The creation of a security interest is not a bulk transfer under Article 6 (see Section 6-103).
SECTION 9-112. Where Collateral Is Not Owned by Debtor.

Unless otherwise agreed, when a secured party knows that collateral is owned by a person who is not the debtor, the owner of the collateral is entitled to receive from the secured party any surplus under Section 9-502(2) or under Section 9-504(1), and is not liable for the debt or for any deficiency after resale, and he has the same right as the debtor

(a) to receive statements under Section 9-208;
(b) to receive notice of and to object to a secured party's proposal to retain the collateral in satisfaction of the indebtedness under Section 9-505;
(c) to redeem the collateral under Section 9-506;
(d) to obtain injunctive or other relief under Section 9-507(1); and
(e) to recover losses caused to him under Section 9-208(2).


A security interest arising solely under the Article on Sales (Article 2) is subject to the provisions of this Article except that to the extent that and so long as the debtor does not have or does not lawfully obtain possession of the goods

(a) no security agreement is necessary to make the security interest enforceable; and
(b) no filing is required to perfect the security interest; and
(c) the rights of the secured party on default by the debtor are governed by the Article on Sales (Article 2).

PART 2
VALIDITY OF SECURITY AGREEMENT AND RIGHTS OF PARTIES THERETO

SECTION 9-201. General Validity of Security Agreement.
Except as otherwise provided by this Act a security agreement is effective according to its terms between the parties, against purchasers of the collateral and against creditors. Nothing in this Article validates any charge or practice illegal under any statute or regulation thereunder governing usury, small loans, retail installment sales, or the like, or extends the application of any such statute or regulation to any transaction not otherwise subject thereto.

SECTION 9-202. Title to Collateral Immaterial.

Each provision of this Article with regard to rights, obligations and remedies applies whether title to collateral is in the secured party or in the debtor.

SECTION 9-203. Enforceability of Security Interest; Proceeds, Formal Requisites.

(1) Subject to the provisions of Section 4-208 on the security interest of a collecting bank and Section 9-113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties unless

(a) the collateral is in the possession of the secured party; or

(b) the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops or oil, gas or minerals to be extracted or timber to be cut, a description of the land concerned. In describing collateral, the word "proceeds" is sufficient without further description to cover proceeds of any character.

(2) A transaction, although subject to this Article, is also subject to the Small Loans Act (Chapter 20 of Title 26, Idaho Code, as amended), the Credit Unions statute (Chapter 21 of Title 26, Idaho Code, as amended) and usury provisions (Sections 27-1905, 27-1906 and 27-1907, Idaho Code, as amended), and in the case of conflict between the provisions of this Article and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

SECTION 9-204. When Security Interest Attaches; After-Acquired Property; Future Advances.

(1) A security interest cannot attach until there is
agreement (subsection (3) of Section 1-201) that it attach and value is given and the debtor has rights in the collateral. It attaches as soon as all of the events in the preceding sentence have taken place unless explicit agreement postpones the time of attaching.

(2) For the purposes of this section the debtor has no rights

(a) in the young of livestock until they are conceived;

(b) in fish until caught, oil, gas or minerals until they are extracted;

(c) in a contract right until the contract has been made;

(d) in an account until it comes into existence.

(3) Except as provided in subsection (4) a security agreement may provide that collateral, whenever acquired, shall secure all obligations covered by the security agreement.

(4) No security interest attaches under an after-acquired property clause

(a) to crops which become such more than two years after the security agreement is executed except that a security interest in crops which is given in conjunction with a lease or a land purchase or improvement transaction evidenced by a contract, mortgage or deed of trust may if so agreed attach to crops to be grown on the land concerned during the period of such real estate transaction;

(b) to consumer goods other than accessions (Section 9-314) when given as additional security unless the debtor acquires rights in them within ten days after the secured party gives value.

(5) Obligations covered by a security agreement may include future advances or other value whether or not the advances or value are given pursuant to commitment.

SECTION 9-205. Use or Disposition of Collateral Without Accounting Permissible.

A security interest is not invalid or fraudulent against creditors by reason of liberty in the debtor to use, com-
mingle or dispose of all or part of the collateral (including returned or repossessed goods) or to collect or compromise accounts, contract rights or chattel paper, or to accept the return of goods or make repossessions, or to use, commingle or dispose of proceeds, or by reason of the failure of the secured party to require the debtor to account for proceeds or replace collateral. This section does not relax the requirements of possession where perfection of a security interest depends upon possession of the collateral by the secured party or by a bailee.

SECTION 9-206. Agreement Not to Assert Defenses Against Assignee; Modification of Sales Warranties Where Security Agreement Exists.

(1) Subject to any statute or decision which establishes a different rule for buyers or lessees of consumer goods, an agreement by a buyer or lessee that he will not assert against an assignee any claim or defense which he may have against the seller or lessor is enforceable by an assignee who takes his assignment for value, in good faith and without notice of a claim or defense, except as to defenses of a type which may be asserted against a holder in due course of a negotiable instrument under the Article on Commercial Paper (Article 3). A buyer who as part of one transaction signs both a negotiable instrument and a security agreement makes such an agreement.

(2) When a seller retains a purchase money security interest in goods the Article on Sales (Article 2) governs the sale and any disclaimer, limitation or modification of the seller’s warranties.


(1) A secured party must use reasonable care in the custody and preservation of collateral in his possession. In the case of an instrument or chattel paper reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Unless otherwise agreed, when collateral is in the secured party’s possession

(a) reasonable expenses (including the cost of any insurance and payment of taxes or other charges) incurred in the custody, preservation, use or operation of the collateral are chargeable to the debtor and are secured by the collateral;
(b) the risk of accidental loss or damage is on the debtor to the extent of any deficiency in any effective insurance coverage;

(c) the secured party may hold as additional security any increase or profits (except money) received from the collateral, but money so received, unless remitted to the debtor, shall be applied in reduction of the secured obligation;

(d) the secured party must keep the collateral identifiable but fungible collateral may be commingled;

(e) the secured party may repledge the collateral upon terms which do not impair the debtor's right to redeem it.

(3) A secured party is liable for any loss caused by his failure to meet any obligation imposed by the preceding subsections but does not lose his security interest.

(4) A secured party may use or operate the collateral for the purpose of preserving the collateral or its value or pursuant to the order of a court of appropriate jurisdiction or, except in the case of consumer goods, in the manner and to the extent provided in the security agreement.

SECTION 9-208. Request for Statement of Account or List of Collateral.

(1) A debtor may sign a statement indicating what he believes to be the aggregate amount of unpaid indebtedness as of a specified date and may send it to the secured party with a request that the statement be approved or corrected and returned to the debtor. When the security agreement or any other record kept by the secured party identifies the collateral a debtor may similarly request the secured party to approve or correct a list of the collateral.

(2) The secured party must comply with such a request within two weeks after receipt by sending a written correction or approval. If the secured party claims a security interest in all of a particular type of collateral owned by the debtor he may indicate that fact in his reply and need not approve or correct an itemized list of such collateral. If the secured party without reasonable excuse fails to comply he is liable for any loss caused to the debtor thereby; and if the debtor has properly included in his request a good faith statement of the obligation or a list of the collateral or both the secured party may claim a security
interest only as shown in the statement against persons misled by his failure to comply. If he no longer has an interest in the obligation or collateral at the time the request is received he must disclose the name and address of any successor in interest known to him and he is liable for any loss caused to the debtor as a result of failure to disclose. A successor in interest is not subject to this section until a request is received by him.

(3) A debtor is entitled to such a statement once every six months without charge. The secured party may require payment of a charge not exceeding $10 for each additional statement furnished.

PART 3
RIGHTS OF THIRD PARTIES; PERFECTED AND UNPERFECTED SECURITY INTERESTS; RULES OF PRIORITY

SECTION 9-301. Persons Who Take Priority Over Unperfected Security Interests; "Lien Creditor".

(1) Except as otherwise provided in subsection (2), an unperfected security interest is subordinate to the rights of

(a) persons entitled to priority under Section 9-312;

(b) a person who becomes a lien creditor without knowledge of the security interest and before it is perfected;

(c) in the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;

(d) in the case of accounts, contract rights, and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within ten days after the collateral comes into possession of the debtor, he takes priority over the rights of a transferee in bulk or of a lien
creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment. Unless all the creditors represented had knowledge of the security interest such a representative of creditors is a lien creditor without knowledge even though he personally has knowledge of the security interest.

SECTION 9-302. When Filing Is Required to Perfect Security Interest; Security Interests to Which Filing Provisions of This Article Do Not Apply.

(1) A financing statement must be filed to perfect all security interests except the following:

(a) a security interest in collateral in possession of the secured party under Section 9-305;

(b) a security interest temporarily perfected in instruments or documents without delivery under Section 9-304 or in proceeds for a 10 day period under Section 9-306;

(c) a purchase money security interest in farm equipment having a purchase price not in excess of $2500; but filing is required for a fixture under Section 9-313 or for a motor vehicle required to be licensed;

(d) a purchase money security interest in consumer goods; but filing is required for a fixture under Section 9-313 or for a motor vehicle required to be licensed;

(e) an assignment of accounts or contract rights which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts or contract rights of the assignor;

(f) a security interest of a collecting bank (Section 4-208) or arising under the Article on Sales (see Section 9-113) or covered in subsection (3) of this section.
(2) If a secured party assigns a perfected security interest, no filing under this Article is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing provisions of this Article do not apply to a security interest in property subject to a statute

(a) of the United States which provides for a national registration or filing of all security interests in such property; or

(b) of this state which provides for central filing of, or which requires indication on a certificate of title of, such security interests in such property.

(4) A security interest in property covered by a statute described in subsection (3) can be perfected only by registration or filing under that statute or by indication of the security interest on a certificate of title or a duplicate thereof by a public official.

(5) The filing provisions of this Article do not apply to a security interest in personal property or fixtures of any utility company, as hereinafter defined, which security interest is created by a mortgage, deed of trust or other security agreement which also covers real property situated in the State of Idaho and which has been filed for record in accordance with the laws of Idaho governing deeds of trust and mortgages on real property. Such security interest shall be perfected by such filing, whether such filing shall have been accomplished before or after the effective date set out in Section 10-101; and such security interest shall be and remain effective, both as to the personal property or fixtures covered by the security interest at the time that it is perfected and as to personal property or fixtures which may subsequently be covered by the security interest under any after-acquired property provision of the mortgage, deed of trust, or other security agreement creating the security interest, as long as such mortgage, deed of trust or other security agreement shall remain in effect, without the necessity for any refiling under the provisions of this Article 9.

Except as provided in the preceding paragraph of this subsection 9-302(5) notwithstanding anything in this Article 9 or any other law to the contrary, the proper place to file a financing statement in order to perfect a security
interest in personal property or fixtures of a utility company, as hereinafter defined, is in the office of the Secretary of State; and the security interest covered by the financing statement shall continue perfected, both as to the personal property or fixtures covered by the security interest at the time that it is perfected and as to personal property or fixtures which may subsequently be covered by the security interest under any after-acquired property provision of the security agreement creating the security interest, without the necessity for any refiling or filing of a continuation statement under the provisions of this Article 9, for as long as may be provided for in the security agreement creating the security interest. When the financing statement covers goods of a utility company as hereinafter defined, which goods are or are to become fixtures, no description of the real estate concerned or the name of the record owner or record lessee thereof is required.

A "utility company" shall mean any person, corporation, association, or other entity, foreign or domestic, primarily engaged in the railroad or street railway business; the ownership or operation of wires, or cables, used in the transmission or distribution of telephone, telegraph or television signals or any other information or data; the transmission or distribution of oil, gas or petroleum products by pipeline; or the generation, production, transmission or distribution of electric energy, steam, gas or water, whether its activities be interstate or intrastate.

SECTION 9-303. When Security Interest Is Perfected; Continuity of Perfection.

(1) A security interest is perfected when it has attached and when all of the applicable steps required for perfection have been taken. Such steps are specified in Sections 9-302, 9-304, 9-305 and 9-306. If such steps are taken before the security interest attaches, it is perfected at the time when it attaches.

(2) If a security interest is originally perfected in any way permitted under this Article and is subsequently perfected in some other way under this Article, without an intermediate period when it was unperfected, the security interest shall be deemed to be perfected continuously for the purposes of this Article.

SECTION 9-304. Perfection of Security Interest in Instruments, Documents, and Goods Covered by Documents; Perfection by Permissive Filing; Temporary Perfection Without Filing or Transfer of Possession.
(1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5).

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor, is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments or negotiable documents is perfected without filing or the taking of possession for a period of 21 days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of 21 days without filing where a secured party having a perfected security interest in an instrument, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

(a) makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange; or

(b) delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(6) After the 21 day period in subsections (4) and (5) perfection depends upon compliance with applicable provisions of this Article.

A security interest in letters of credit and advices of credit (subsection (2) (a) of Section 5-116), goods, instruments, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party’s interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this Article. The security interest may be otherwise perfected as provided in this Article before or after the period of possession by the secured party.


(1) “Proceeds” includes whatever is received when collateral or proceeds is sold, exchanged, collected or otherwise disposed of. The term also includes the account arising when the right to payment is earned under a contract right. Money, checks and the like are “cash proceeds”. All other proceeds are “non-cash proceeds”.

(2) Except where this Article otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof by the debtor unless his action was authorized by the secured party in the security agreement or otherwise, and also continues in any identifiable proceeds including collections received by the debtor.

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected ten days after receipt of the proceeds by the debtor unless

(a) a filed financing statement covering the original collateral also covers proceeds; or

(b) the security interest in the proceeds is perfected before the expiration of the ten day period.

(4) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected se-
curity interest in proceeds has a perfected security in-

(a) in identifiable non-cash proceeds;

(b) in identifiable cash proceeds in the form of money which is not commingled with other money or deposited in a bank account prior to the insolvency proceedings;

(c) in identifiable cash proceeds in the form of checks and the like which are not deposited in a bank account prior to the insolvency proceedings; and

(d) in all cash and bank accounts of the debtor, if other cash proceeds have been commingled or deposited in a bank account, but the perfected security interest under this paragraph (d) is

   (i) subject to any right of set-off; and

   (ii) limited to an amount not greater than the amount of any cash proceeds received by the debtor within ten days before the institution of the insolvency proceedings and commingled or deposited in a bank account prior to the insolvency proceedings less the amount of cash proceeds received by the debtor and paid over to the secured party during the ten day period.

(5) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

(a) If the goods were collateral at the time of sale for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file.

(b) An unpaid transferee of the chattel paper has
a security interest in the goods against the transferee. Such security interest is prior to a security interest asserted under paragraph (a) to the extent that the transferee of the chattel paper was entitled to priority under Section 9-308.

(c) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under paragraph (a).

(d) A security interest of an unpaid transferee asserted under paragraph (b) or (c) must be perfected for protection against creditors of the transferor and purchasers of the returned or repossessed goods.


(1) A buyer in ordinary course of business (subsection (9) of Section 1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) In the case of consumer goods and in the case of farm equipment having an original purchase price not in excess of $2500 (other than fixtures, see Section 9-313), a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes or his own farming operations unless prior to the purchase the secured party has filed a financing statement covering such goods.


A purchaser of chattel paper or a non-negotiable instrument who gives new value and takes possession of it in the ordinary course of his business and without knowledge that the specific paper or instrument is subject to a security interest has priority over a security interest which is perfected under Section 9-304 (permissive filing and temporary perfection). A purchaser of chattel paper who gives new value and takes possession of it in the ordinary course of his business has priority over a security interest in chattel
paper which is claimed merely as proceeds of inventory subject to a security interest (Section 9-306), even though he knows that the specific paper is subject to the security interest.

SECTION 9-309. Protection of Purchasers of Instruments and Documents.

Nothing in this Article limits the rights of a holder in due course of a negotiable instrument (Section 3-302) or a holder to whom a negotiable document of title has been duly negotiated (Section 7-501) or a bona fide purchaser of a security (Section 8-301) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this Article does not constitute notice of the security interest to such holders or purchasers.

SECTION 9-310. Priority of Certain Liens Arising by Operation of Law.

When a person in the ordinary course of his business furnishes services or materials with respect to goods subject to a security interest, a lien upon goods in the possession of such person given by statute or rule of law for such materials or services takes priority over a perfected security interest unless the lien is statutory and the statute expressly provides otherwise.


The debtor’s rights in collateral may be voluntarily or involuntarily transferred (by way of sale, creation of a security interest, attachment, levy, garnishment or other judicial process) notwithstanding a provision in the security agreement prohibiting any transfer or making the transfer constitute a default.

SECTION 9-312. Priorities Among Conflicting Security Interest in the Same Collateral.

(1) The rules of priority stated in the following sections shall govern where applicable: Section 4-208 with respect to the security interest of collecting banks in items being collected, accompanying documents and proceeds; Section 9-301 on certain priorities; Section 9-304 on goods covered by documents; Section 9-306 on proceeds and repossessions; Section 9-307 on buyers of goods; Section 9-308 on possessory against non-possessory interests in chattel paper or non-negotiable instruments; Section 9-309
on security interests in negotiable instruments, documents or securities; Section 9-310 on priorities between perfected security interests and liens by operation of law; Section 9-313 on security interests in fixtures as against interests in real estate; Section 9-314 on security interests in accessions as against interest in goods; Section 9-315 on conflicting security interests where goods lose their identity or become part of a product; and Section 9-316 on contractual subordination.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A purchase money security interest in inventory collateral has priority over a conflicting security interest in the same collateral if

   (a) the purchase money security interest is perfected at the time the debtor receives possession of the collateral; and

   (b) any secured party whose security interest is known to the holder of the purchase money security interest or who, prior to the date of the filing made by the holder of the purchase money security interest, had filed a financing statement covering the same items or type of inventory, has received notification of the purchase money security interest before the debtor receives possession of the collateral covered by the purchase money security interest; and

   (c) such notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral if the purchase money security interest is perfected at the time the debtor re-
ceives possession of the collateral or within ten days there-

(5) In all cases not governed by other rules stated in 
this section (including cases of purchase money security 
interests which do not qualify for the special priorities set 
forth in subsections (3) and (4) of this section), priority 
between conflicting security interests in the same collateral 
shall be determined as follows:

(a) in the order of filing if both are perfected by 
filing, regardless of which security interest at-
tached first under Section 9-204(1) and whether 
it attached before or after filing;

(b) in the order of perfection unless both are per-
fected by filing, regardless of which security 
interest attached first under Section 9-204(1) 
and, in the case of a filed security interest, 
whether it attached before or after filing; and

(c) in the order of attachment under Section 
9-204(1) so long as neither is perfected.

(6) For the purpose of the priority rules of the imme-
diately preceding subsection, a continuously perfected se-
curity interest shall be treated at all times as if perfected 
by filing if it was originally so perfected and it shall be 
treated at all times as if perfected otherwise than by filing 
if it was originally perfected otherwise than by filing.

SECTION 9-313. Priority of Security Interests in Fix-
tures.

(1) The rules of this section do not apply to goods in-
corporated into a structure in the manner of lumber, 
bricks, tile, cement, glass, metal work and the like and no 
security interest in them exists under this Article unless 
the structure remains personal property under applicable 

A fixture as used in this act is hereby defined to mean, 
"that which is affixed to realty or at least so mechanically 
fitted so as to become a part thereof and not to be separable 
without material injury to the freehold, or which is neces-
sary to the continued existence or operation of the enter-
prise or institution as it is carried on upon the premises". 
This Act does not prevent creation of an encumbrance 
upon fixtures or real estate pursuant to the law applicable 
to real estate.

(2) A security interest which attaches to goods before
they become fixtures shall become invalid after the goods become affixed, as against any person having an interest in the real estate at the time the goods become affixed who has not expressly consented in writing to the preservation of the security interest or disclaimed in writing any interest in the goods as fixtures; provided, however, that such security interest is valid against all persons subsequently acquiring an interest in the real estate except as stated in subsection (4) and except as against a successor in interest to such person having an interest in the real estate at the time the goods became affixed.

(3) A security interest which attaches to goods after they become fixtures is valid against all persons subsequently acquiring interests in the real estate except as stated in subsection (4) but is invalid against any person with an interest in the real estate at the time the security interest attaches to the goods who has not in writing consented to the security interest or disclaimed in writing an interest in the goods as fixtures.

(4) The security interests described in subsections (2) and (3) do not take priority over

(a) a subsequent purchaser for value of any interest in the real estate; or

(b) a creditor with a lien on the real estate subsequently obtained by judicial proceedings; or

(c) a creditor with a prior encumbrance of record on the real estate to the extent that he makes subsequent advances

if the subsequent purchase is made, the lien by judicial proceedings is obtained, or the subsequent advance under the prior encumbrance is made or contracted for without knowledge of the security interest and before it is perfected. A purchaser of the real estate at a foreclosure sale other than an encumbrancer purchasing at his own foreclosure sale is a subsequent purchaser within this section.

(5) When under subsections (2) or (3) and (4) a secured party has priority over the claims of all persons who have interests in the real estate, he may, on default, subject to the provisions of Part 5, remove his collateral from the real estate but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical in-
jury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.

SECTION 9-314. Accessions.

(1) A security interest in goods which attaches before they are installed in or affixed to other goods takes priority as to the goods installed or affixed (called in this section "accessions") over the claims of all persons to the whole except as stated in subsection (3) and subject to Section 9-315(1).

(2) A security interest which attaches to goods after they become part of a whole is valid against all persons subsequently acquiring interests in the whole except as stated in subsection (3) but is invalid against any person with an interest in the whole at the time the security interest attaches to the goods who has not in writing consented to the security interest or disclaimed an interest in the goods as part of the whole.

(3) The security interests described in subsections (1) and (2) do not take priority over

(a) a subsequent purchaser for value of any interest in the whole; or

(b) a creditor with a lien on the whole subsequently obtained by judicial proceedings; or

(c) a creditor with a prior perfected security interest in the whole to the extent that he makes subsequent advances

if the subsequent purchase is made, the lien by judicial proceedings obtained or the subsequent advance under the prior perfected security interest is made or contracted for without knowledge of the security interest and before it is perfected. A purchaser of the whole at a foreclosure sale other than the holder of a perfected security interest purchasing at his own foreclosure sale is a subsequent purchaser within this section.

(4) When under subsections (1) or (2) and (3) a secured party has an interest in accessions which has priority over the claims of all persons who have interests in the whole, he may on default subject to the provisions of Part
5 remove his collateral from the whole but he must re-
imburse any encumbrancer or owner of the whole who is
not the debtor and who has not otherwise agreed for the
cost of repair of any physical injury but not for any di-
minution in value of the whole caused by the absence of
the goods removed or by any necessity for replacing them.
A person entitled to reimbursement may refuse permi-
sion to remove until the secured party gives adequate se-
curity for the performance of this obligation.

SECTION 9-315. Priority When Goods Are Commingled
or Processed.

(1) If a security interest in goods was perfected and
subsequently the goods or a part thereof have become part
of a product or mass, the security interest continues in the
product or mass if

(a) the goods are so manufactured, processed, as-
sembled or commingled that their identity is
lost in the product or mass; or

(b) a financing statement covering the original
goods also covers the product into which the
goods have been manufactured, processed or
assembled.

In a case to which paragraph (b) applies, no separate
security interest in that part of the original goods which
has been manufactured, processed or assembled into the
product may be claimed under Section 9-314.

(2) When under subsection (1) more than one security
interest attaches to the product or mass, they rank equally
according to the ratio that the cost of the goods to which
each interest originally attached bears to the cost of the
total product or mass.

SECTION 9-316. Priority Subject to Subordination.

Nothing in this Article prevents subordination by agree-
ment by any person entitled to priority.

SECTION 9-317. Secured Party Not Obligated on Con-
tract of Debtor.

The mere existence of a security interest or authority
given to the debtor to dispose of or use collateral does not
impose contract or tort liability upon the secured party for
the debtor's acts or omissions.

SECTION 9-318. Defenses Against Assignee; Modifica-
tion of Contract After Notification of Assignment; Term Prohibiting Assignment Ineffective; Identification and Proof of Assignment.

(1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims arising out of a sale as provided in Section 9-206 the rights of an assignee are subject to

(a) all the terms of the contract between the account debtor and assignor and any defense or claim arising therefrom; and

(b) any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives notification of the assignment.

(2) So far as the right to payment under an assigned contract right has not already become an account, and notwithstanding notification of the assignment, any modification of or substitution for the contract made in good faith and in accordance with reasonable commercial standards is effective against an assignee unless the account debtor has otherwise agreed but the assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that such modification or substitution is a breach by the assignor.

(3) The account debtor is authorized to pay the assignor until the account debtor receives notification that the account has been assigned and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the account debtor, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the account debtor may pay the assignor.

(4) A term in any contract between an account debtor and an assignor which prohibits assignment of an account or contract right to which they are parties is ineffective.

PART 4
FILING

SECTION 9-401. Place of Filing; Erroneous Filing; Removal of Collateral.

(1) The proper place to file in order to perfect a security interest is as follows:
(a) when the collateral is equipment used in farming operations, or farm products, or accounts, contract rights or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the County Recorder in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the County Recorder in the county where the goods are kept, and in addition when the collateral is crops in the office of the County Recorder in the county where the land on which the crops are growing or to be grown is located;

(b) when the collateral is goods which at the time the security interest attaches are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed or recorded;

(c) in all other cases, in the office of the Secretary of State.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing compiled with the requirements of this Article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) If collateral is brought into this state from another jurisdiction, the rules stated in Section 9-103 determine whether filing is necessary in this state.

SECTION 9-402. Formal Requisites of Financing Statement; Amendments.

(1) A financing statement is sufficient if it is signed by the debtor and the secured party, 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 crops growing or to be grown or goods which are or are to become fixtures, the statement must also contain a description of the real estate concerned. A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by both parties.

(2) A financing statement which otherwise complies with subsection (1) is sufficient although it is signed only by the secured party when 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. Such a financing statement must state that the collateral was brought into this state under such circumstances.

(b) proceeds under Section 9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral.

(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 collateral is crops) The above described crops are growing or are to be grown on:
(Describe Real Estate) _______________________________________

3. (If collateral is goods which are or are to become fixtures) The above described goods are affixed or to be affixed to:
(Describe Real Estate) _______________________________________

4. (If proceeds or products of collateral are claimed) Proceeds—Products of the collateral are also covered.
Signature of Debtor (or Assignor) _______________________________
Signature of Secured Party (or Assignee) _______________________
(4) The term "financing statement" as used in this Article means the original financing statement and any amendments but if any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment.

(5) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

SECTION 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 Article.

(2) A filed financing statement which states a maturity date of the obligation secured of five years or less is effective until such maturity date and thereafter for a period of sixty days. Any other filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such sixty day period after a stated maturity date or on the expiration of such five year period, as the case may be, unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected. A filed financing statement which states that the obligation secured is payable on demand is effective for five years from the date of filing.

(3) A continuation statement may be filed by the secured party (i) within six months before and sixty days after a stated maturity date of five years or less, and (ii) otherwise within six months prior to the expiration of the five 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. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it.
(4) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition the filing officer shall index the statements 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.

(5) The uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be one dollar.

SECTION 9-404. Termination Statement.

(1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement thereof shall be one dollar. If the affected secured party fails to send such a termination statement within ten days after proper demand therefor he shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement he must note it in the index. The filing officer shall remove from the files, mark “terminated” and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto.

(3) The uniform fee for filing and indexing a termination statement including sending or delivering the financing statement shall be one dollar.

SECTION 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 statement by indication in the 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. Either
the original secured party or the assignee may sign this
statement as the secured party. On presentation to the
filing officer of such a financing statement the filing officer
shall mark the same as provided in Section 9-403(4). The
uniform fee for filing, indexing and furnishing filing data
for a financing statement so indicating an assignment shall
be two dollars.

(2) A secured party may assign of record all or a part
of his rights under a financing statement by the filing 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 suffi­
cient as a separate statement if it complies with the pre­
ceding 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. The uniform fee for filing, indexing and furnish­
ing filing data about such a separate statement of assign­
ment shall be one dollar.

(3) After the disclosure or filing of an assignment under
this section, the assignee is the secured party of record.

SECTION 9-406. Release of Collateral; Duties of Filing
Officer; Fees.

A secured party of record may by his signed statement
release all or a part of any collateral described in a filed fi­
nancing statement. The statement of release is sufficient if
it contains a description of the collateral being released,
the name and address of the debtor, the name and address
of the secured party, and the file number of the financing
statement. Upon presentation of such a statement to the
filing officer he shall mark the statement with the hour
and date of filing and shall note the same upon the mar­
gin of the index of the filing of the financing statement.
The uniform fee for filing and noting such a statement of
release shall be seventy-five cents.

SECTION 9-407. Information From Filing Officer.

(1) If the person filing any financing statement, termi­
nation statement, statement of assignment, or statement
of release, furnishes the filing officer a copy thereof, the
filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be two dollars plus one dollar for each financing statement and for each statement of assignment reported therein. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of thirty cents per page.

SECTION 9-408. PRE-SIGNING OF SECURITY AGREEMENTS AND FINANCING STATEMENTS AND PRE-FILING OF FINANCING STATEMENTS.

(1) A security agreement and a financing statement signed prior to the effective date of this act shall be as effective after this act takes effect as though signed after this act takes effect.

(2) Filing officers will receive, mark, index and file financing statements presented on or after December 26, 1967.

(3) A pre-filed financing statement shall be deemed to have been filed at midnight on December 31, 1967 notwithstanding the date and hour of filing marked on the statement.

PART 5
DEFAULT

SECTION 9-501. Default; Procedure When Security Agreement Covers Both Real and Personal Property.

(1) When a debtor is in default under a security agreement, a secured party has the rights and remedies provided in this Part and except as limited by subsection (3) those provided in the security agreement. He may reduce his claim to judgment, foreclose or otherwise enforce the security interest by any available judicial procedure. If the collateral is documents the secured party may proceed either as to the documents or as to the goods covered thereby. A
secured party in possession has the rights, remedies and duties provided in Section 9-207. The rights and remedies referred to in this subsection are cumulative.

(2) After default, the debtor has the rights and remedies provided in this Part, those provided in the security agreement and those provided in Section 9-207.

(3) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subsections referred to below may not be waived or varied except as provided with respect to compulsory disposition of collateral (subsection (1) of Section 9-505) and with respect to redemption of collateral (Section 9-506) but the parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

(a) subsection (2) of Section 9-502 and subsection (2) of Section 9-504 insofar as they require accounting for surplus proceeds of collateral;

(b) subsection (3) of Section 9-504 and subsection (1) of Section 9-505 which deal with disposition of collateral;

(c) subsection (2) of Section 9-505 which deals with acceptance of collateral as discharge of obligation;

(d) Section 9-506 which deals with redemption of collateral; and

(e) subsection (1) of Section 9-507 which deals with the secured party's liability for failure to comply with this Part.

(4) If the security agreement covers both real and personal property, the secured party may proceed under this Part as to the personal property or he may proceed as to both the real and the personal property in accordance with his rights and remedies in respect of the real property in which case the provisions of this Part do not apply.

(5) When a secured party has reduced his claim to judgment the lien of any levy which may be made upon his collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in such collateral. A judicial sale, pursuant to such execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section,
and the secured party may purchase at the sale and there­
after hold the collateral free of any other requirements
of this Article.


(1) When so agreed and in any event on default the se­
cured party is entitled to notify an account debtor or the
obligor on an instrument to make payment to him whether
or not the assignor was theretofore making collections on
the collateral, and also to take control of any proceeds to
which he is entitled under Section 9-306.

(2) A secured party who by agreement is entitled to
charge back uncollected collateral or otherwise to full or
limited recourse against the debtor and who undertakes to
collect from the account debtors or obligors must proceed
in a commercially reasonable manner and may deduct his
reasonable expenses of realization from the collections. If
the security agreement secures an indebtedness, the secured
party must account to the debtor for any surplus, and
unless otherwise agreed, the debtor is liable for any defi­
cency. But, if the underlying transaction was a sale of
accounts, contract rights, or chattel paper, the debtor is
entitled to any surplus or is liable for any deficiency only
if the security agreement so provides.

SECTION 9-503. Secured Party’s Right to Take Pos­
session After Default.

Unless otherwise agreed a secured party has on default
the right to take possession of the collateral. In taking pos­
session a secured party may proceed without judicial process
if this can be done without breach of the peace or may pro­
ceed by action. If the security agreement so provides the se­
cured party may require the debtor to assemble the colla­
teral and make it available to the secured party at a place
to be designated by the secured party which is reasonably
convenient to both parties. Without removal a secured par­
ty may render equipment unusable, and may dispose of
collateral on the debtor’s premises under Section 9-504.

SECTION 9-504. Secured Party’s Right to Dispose of Col­
 collateral After Default; Effect of Disposition.

(1) A secured party after default may sell, lease or
otherwise dispose of any or all of the collateral in its then
condition or following any commercially reasonable prep­
 aration or processing. Any sale of goods is subject to the
Article on Sales (Article 2). The proceeds of disposition shall be applied in the order following to

(a) the reasonable expenses of retaking, holding, preparing for sale, selling and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

(b) the satisfaction of indebtedness secured by the security interest under which the disposition is made;

(c) the satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate security interest must seasonably furnish reasonable proof of his interest, and unless he does so, the secured party need not comply with his demand.

(2) If the security interest secures an indebtedness, the secured party must account to the debtor for any surplus, and, unless otherwise agreed, the debtor is liable for any deficiency. But if the underlying transaction was a sale of accounts, contract rights, or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor, and except in the case of consumer goods to any other person who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state or who is known by the secured party to have a security interest in the collateral. The secured party may buy at any public sale and if
the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he may buy at private sale.

(4) When collateral is disposed of by a secured party after default, the disposition transfers to a purchaser for value all of the debtor’s rights therein, discharges the security interest under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interests even though the secured party fails to comply with the requirements of this Part or of any judicial proceedings

(a) in the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he does not buy in collusion with the secured party, other bidders or the person conducting the sale; or

(b) in any other case, if the purchaser acts in good faith.

(5) A person who is liable to a secured party under a guaranty, indorsement, repurchase agreement or the like and who receives a transfer of collateral from the secured party or is subrogated to his rights has thereafter the rights and duties of the secured party. Such a transfer of collateral is not a sale or disposition of the collateral under this Article.

SECTION 9-505. Compulsory Disposition of Collateral; Acceptance of the Collateral as Discharge of Obligation.

(1) If the debtor has paid sixty per cent of the cash price in the case of a purchase money security interest in consumer goods or sixty per cent of the loan in the case of another security interest in consumer goods, and has not signed after default a statement renouncing or modifying his rights under this Part a secured party who has taken possession of collateral must dispose of it under Section 9-504 and if he fails to do so within ninety days after he takes possession the debtor at his option may recover in conversion or under Section 9-507(1) on secured party's liability.

(2) In any other case involving consumer goods or any other collateral a secured party in possession may, after default, propose to retain the collateral in satisfaction of the obligation. Written notice of such proposal shall be sent
to the debtor and except in the case of consumer goods to any other secured party who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state or is known by the secured party in possession to have a security interest in it. If the debtor or other person entitled to receive notification objects in writing within thirty days from the receipt of the notification or if any other secured party objects in writing within thirty days after the secured party obtains possession the secured party must dispose of the collateral under Section 9-504. In the absence of such written objection the secured party may retain the collateral in satisfaction of the debtor's obligation.


At any time before the secured party has disposed of collateral or entered into a contract for its disposition under Section 9-504 or before the obligation has been discharged under Section 9-505(2) the debtor or any other secured party may unless otherwise agreed in writing after default redeem the collateral by tendering fulfillment of all obligations secured by the collateral as well as the expenses reasonably incurred by the secured party in retaking, holding and preparing the collateral for disposition, in arranging for the sale, and to the extent provided in the agreement and not prohibited by law, his reasonable attorneys' fees and legal expenses.

SECTION 9-507. Secured Party's Liability for Failure to Comply With This Part.

(1) If it is established that the secured party is not proceeding in accordance with the provisions of this Part disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the debtor or any person entitled to notification or whose security interest has been made known to the secured party prior to the disposition has a right to recover from the secured party any loss caused by a failure to comply with the provisions of this Part. If the collateral is consumer goods, the debtor has a right to recover in any event an amount not less than the credit service charge plus ten per cent of the principal amount of the debt or the time price differential plus ten per cent of the cash price.

(2) The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the secured party is not of itself sufficient to establish that the sale was not made in a commercially
reasonable manner. If the secured party either sells the collateral in the usual manner in any recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold he has sold in a commercially reasonable manner. The principles stated in the two preceding sentences with respect to sales also apply as may be appropriate to other types of disposition. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative of creditors, shall conclusively be deemed to be commercially reasonable, but this sentence does not indicate that any such approval must be obtained in any case nor does it indicate that any disposition not so approved is not commercially reasonable.

ARTICLE 10

EFFECTIVE DATE AND REPEALER

SECTION 10-101. Effective Date.

(1) Except as provided in subsection (2) of this section, this Act shall become effective at midnight on December 31, 1967.

(2) Section 9-408 of this Act shall become effective at 8:00 A.M. on December 26, 1967.

(3) Except as provided in subsection (2) above and in Section 9-408, this Act applies to transactions entered into and events occurring after midnight on December 31, 1967.

SECTION 10-102. Specific Repealer; Provision for Transition.

(1) The following acts and parts of acts and all other acts and parts of acts inconsistent herewith are hereby repealed:

(2) Transactions validly entered into before the effective date specified in Section 10-101 and the rights, duties and interests flowing therefrom remain valid thereafter and may be terminated, completed, consummated or enforced as required or permitted by any statute or other law amended or repealed by this act as though such repeal or amendment had not occurred.

(a) (i) Chapter 15 of Title 26, Idaho Code, as amended;
(ii) Chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 (as
amended), 11, 12, 13, 14, 15, 16 and 17 of Title 27, Idaho Code;

(iii) Chapter 4 of Title 30, Idaho Code;
(iv) Chapter 11 of Title 45, Idaho Code, as amended, except Section 45-1102;
(v) Chapter 12 of Title 45, Idaho Code;
(vi) Chapter 14 of Title 45, Idaho Code;
(vii) Chapter 6 of Title 62, Idaho Code;
(viii) Chapters 1, 2, 3, 4, 5 and 6 of Title 64, Idaho Code;
(ix) Chapter 7 of Title 64, Idaho Code;
(x) Chapter 8 of Title 64, Idaho Code, as amended;
(xi) Chapter 9 of Title 64, Idaho Code, as amended;
(xii) Chapter 10 of Title 64, Idaho Code; and
(xiii) Chapter 1 of Title 69, Idaho Code, as amended.

(b) Sections 9-505(4), 18-3705, 26-1003, 26-1005, 26-1006, 26-1008, 26-1013, 26-1015, 26-1016 and 45-1301, Idaho Code.

SECTION 10-103. General Repealer.

Except as provided in the following section, all acts and parts of acts inconsistent with this Act are hereby repealed.

SECTION 10-104. Laws Not Repealed.

(1) The Article on Documents of Title (Article 7) does not repeal or modify any laws prescribing the form or contents of documents of title or the services or facilities to be afforded by bailees, or otherwise regulating bailees' businesses in respects not specifically dealt with herein; but the fact that such laws are violated does not affect the status of a document of title which otherwise complies with the definition of a document of title (Section 1-201).

(2) This Act does not repeal Chapter 9 of Title 68, Idaho Code, cited as the Uniform Act for the Simplification of Fiduciary Security Transfers, and if in any respect there is any inconsistency between that Act and the Article of this Act on investment securities (Article 8) the provisions of the former Act shall control.

(3) This Act does not repeal Section 38-911, Idaho Code.

Approved March 20, 1967.
CHAPTER 162
(S. B. No. 21, As Amended)

AN ACT

AMENDING SECTION 72-313, IDAHO CODE, TO INCREASE THE SPECIFIC INDEMNITY FOR PERMANENT INJURIES; AUTHORIZING THE INDUSTRIAL ACCIDENT BOARD TO COMPUTE COMPENSATION FOR NON-SCHEDULED INJURIES LESS THAN TOTAL IN RELATION TO THE COMPENSATION PAYABLE FOR TOTAL DISABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 72-313, Idaho Code, be, and the same is hereby amended to read as follows:

72-313. SPECIFIC INDEMNITIES FOR CERTAIN INJURIES.—(a) Specific Indemnity for Permanent Injury. An employee, who suffers a permanent injury less than total, shall, in addition to compensation, if any, for temporary total and temporary partial disability, be entitled to specific indemnity for such permanent injury equal to 60% of his average weekly wages, but not more than $37.00 nor less than $16-$22.00 per week for the periods of time stated against the following scheduled injuries respectively:

Specific Indemnity Schedule

For the following number of weeks:

For loss of one:
Arm at or near shoulder ........................................... 240
At elbow ................................................................. 220
Between wrist and elbow ...................................... 210
Hand ................................................................. 200
Thumb and Metacarpal bone thereof .................. 70
At proximal joint .................................................. 40
At second or distal joint .................................. 30
Index finger and Metacarpal bone thereof ........... 40
At proximal joint .................................................. 35
At middle joint ...................................................... 20
At distal joint ....................................................... 10
Middle finger and metacarpal bone thereof ........ 40
At proximal joint .................................................. 30
At middle joint ...................................................... 18
At distal joint ....................................................... 8
Ring finger and metacarpal bone thereof ........... 30
At proximal joint ----------------------------- 20
At middle joint -------------------------------- 10
At distal joint -------------------------------- 5
Little finger and metacarpal bone thereof ------ 20
    At proximal joint ----------------------------- 15
    At middle joint -------------------------------- 10
    At distal joint -------------------------------- 5

Leg at or so near hip joint as to preclude use of artificial limb ---------------------------------- 180
    At or above knee where stump remains sufficient to permit use of artificial limb 150
    Between knee and ankle -------------------------------- 140
Foot at ankle -------------------------------- 125
Great toe with metatarsal bone thereof ----------- 30
    At proximal joint ----------------------------- 15
    At second or distal joint -------------------------------- 10
Toe other than great toe with metatarsal bone thereof ---------------------------------- 12
    At proximal joint ----------------------------- 6
    At second joint -------------------------------- 3
    At distal joint -------------------------------- 3
Eye by enucleation ----------------------------- 140
Total blindness of one eye -------------------------------- 120
Ear, total deafness of one --------------------- 35
Total deafness of second ear ------------------- 115

(b) Computation of Specific Indemnity for Non-scheduled Injuries. In all other cases of permanent injury, less than total, not included in the above schedule, the compensation shall bear such relation to the periods stated in the above schedule as the disabilities bear to those produced by the injuries named in the schedule or to total disability (400 weeks).

(c) Specific Indemnity.—Computation of Minor's Wages. In case of a minor, under 18 years of age, receiving less weekly wages than paid to regular adult workmen employed in the same community or vicinity in the class of labor in which such minor was employed, the compensation provided for under this section shall be computed upon the basis of the wages received by such regular adult workmen.

SECTION 2. This amendatory Act shall take effect and be in force on and after July 1, 1967.

Approved March 21, 1967.
CHAPTER 163
(S. B. No. 53)

AN ACT

AMENDING SECTION 49-913, IDAHO CODE, TO PROVIDE THAT
COMBINATIONS OF THREE OR FOUR VEHICLES OF AN
OVER-ALL LENGTH OF NINETY-EIGHT FEET MAY BE OP-
ERATED ON HIGHWAYS DESIGNATED BY THE IDAHO
BOARD OF HIGHWAY DIRECTORS.

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

SECTION 1. That Section 49-913, Idaho Code, be, and the
same is hereby amended to read as follows:

49-913. SIZE OF VEHICLES AND LOADS.—A. No
vehicle shall exceed a total outside width, including any
load thereon, of eight feet, except that the width of a farm
tractor shall not exceed nine feet, and excepting further,
that the limitations as to size of vehicles stated in this sec-
tion shall not apply to implements of husbandry, including
the load thereon and including all equipment used in land
leveling operations, temporarily propelled, moved or trans-
ported upon the public highway to or from the farm. Such
overwidth vehicle must not proceed at a speed in excess
of 35 miles per hour, must display one 12" by 12" red flag
on front of truck or tractor pulling or hauling implement or
trailer, display one 12" by 12" red flag on outermost left
projection of implement hauled, and moved in daylight only.

B. No vehicle unladen or with load shall exceed a height
of fourteen feet.

C. No single vehicle shall exceed a length of thirty-five
feet, excepting trailer houses, and except as hereinafter pro-
vided, extreme over-all dimension, inclusive of front and
rear bumper; no vehicle equipped with a semi-trailer shall
exceed a length of sixty feet over-all dimensions; and no
combination of vehicles coupled together shall consist of
more than three units and, when so combined, shall not
exceed a total length of sixty-five feet, except that combina-
tions consisting of three or four vehicles may be operated
on highways designated by the Idaho board of highway
directors with an over-all length of ninety-eight feet, pro-
vided that in any combination of vehicles consisting of three
or four units, two of the units must be a tractor and semi-
trailer combination; provided, however, that lumber, log-
ning and pole hauling vehicles equipped with semi-trailers
shall for the purpose of this section constitute two units; and provided further that vehicles of a length of forty feet, extreme over-all dimensions, inclusive of front and rear bumpers, may be operated upon such highways in the state of Idaho as may from time to time be designated by the Idaho board of highway directors.

D. No train of vehicles or vehicle operated alone shall carry any load extending more than three feet beyond the front thereof.

E. No passenger vehicle shall carry any load extending beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fender on the right side thereof.

Approved March 21, 1967.

CHAPTER 164
(S. B. No. 208)
AN ACT

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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, receipts to appropriations and federal funds, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and payment as agent of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.
CHAPTER 165
(S. B. No. 212)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying annual membership fees of the state of Idaho in the Interstate Compact for Education, and paying the travel expenses of the members of the Idaho Education Council for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.
CHAPTER 166
(S. B. No. 215)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:  Appropriations:
ATTORNEY GENERAL:
For:  Salaries and Wages $300,000.00
      Travel Expense 25,000.00
      Other Current Expense 60,000.00
      Capital Outlay 15,000.00
CHAPTER 167
(S. B. No. 216)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:  

<table>
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<th>Appropriations:</th>
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<tr>
<td>JOHN THOMAS, ADJUTANT</td>
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<td>GENERAL:</td>
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<td>Salaries and Wages</td>
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<td>Travel Expense</td>
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From: General Fund $763,999.00  
Federal Reimbursement $486,139.00  
Total $1,250,138.00

Approved March 22, 1967.
CHAPTER 168  
(S. B. No. 217)  

AN ACT  


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense and other current expense of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.  

To Whom Appropriated:  

COMMISSIONER OF PUBLIC WORKS:  

For:  
Salaries and Wages $34,014.00  
Travel Expense 2,400.00  
Other Current Expense 7,600.00  

Total $44,014.00  

From: General Fund $44,014.00  

Approved March 22, 1967.  

CHAPTER 169  
(S. B. No. 218)  

AN ACT  

APPROPRIATING MONEYS FROM THE GENERAL FUND OF THE STATE OF IDAHO, TO THE STATE TREASURER'S OFFICE FOR THE PURPOSE OF PAYING SALARIES AND WAGES, TRAVEL EXPENSE, OTHER CURRENT EXPENSE AND CAPITAL OUTLAY FOR THE PERIOD COMMENCING
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
STATE TREASURER:
For: Salaries and Wages $94,950.00
Travel Expense 1,206.00
Other Current Expense 35,552.00
Capital Outlay 38,945.00
Total $170,653.00

From: General Fund $170,653.00

Approved March 22, 1967.

CHAPTER 170
(S. B. No. 219)

AN ACT

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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sum of money, or so much thereof as may be necessary, for the purpose of paying lump sum appropriation of the agency herein named, for the period commencing July 1, 1967, and ending June 30,

To Whom Appropriated:  
GOVERNOR'S EMERGENCY FUND:  
For: Lump Sum Appropriation $200,000.00  
From: General Fund $200,000.00

Approved March 22, 1967.

CHAPTER 171  
(S. B. No. 220)  
AN ACT  

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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:  
STATE HISTORICAL SOCIETY:  
For: Salaries and Wages $144,000.00  
Travel Expense 6,000.00  
Other Current Expense 31,000.00  
Capital Outlay 9,000.00

Total $190,000.00

From: General Fund $190,000.00

Approved March 22, 1967.
CHAPTER 172
(S. B. No. 221)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
BUREAU OF MINES AND GEOLOGY:
For: Salaries and Wages $256,634.00
     Travel Expense 7,250.00
     Other Current Expense 13,150.00
     Capital Outlay 660.00

Total $277,694.00

From: General Fund $277,694.00

Approved March 22, 1967.

CHAPTER 173
(S. B. No. 227)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL FUND OF THE STATE OF IDAHO, RECEIPTS TO APPROPRIATIONS, FORESTER'S SPECIAL FUND AND FOREST PROTECTION

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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, receipts to appropriations, forester's special fund and the forest protection fund, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and payment as agent of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
STATE FORESTER: For: Salaries and Wages $1,209,100.00
Travel Expense 50,300.00
Other Current Expense 393,456.00
Capital Outlay 187,030.00
Payment as Agent 240,000.00

Total $2,079,886.00

From: General Fund $1,284,886.00
Receipts to Appropriations 55,000.00
Forester's Special Fund 250,000.00
Forest Protection Fund 490,000.00

Total $2,079,886.00

Approved March 22, 1967.

CHAPTER 174
(S. B. No. 229)
AN ACT
APPROPRIATING MONEYS FROM THE GENERAL FUND OF THE STATE OF IDAHO, TO THE BUREAU OF MINES AND
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Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:  Appropriations:
BUREAU OF MINES AND GEOLOGY—MINERAL SURVEY:
For:
Salaries and Wages ...................... $48,050.00
Travel Expense ...................... 13,150.00
Other Current Expense ..................... 7,250.00
Capital Outlay ...................... 660.00

Total .................................. $69,110.00

From: General Fund  .................................. $69,110.00

Approved March 22, 1967.

CHAPTER 175
(H. B. No. 99)

AN ACT

RELATING TO DISABLED VETERANS, AMENDING SECTION 49-102, IDAHO CODE, RELATING TO DUTIES OF DEPARTMENT AND COMMISSIONER OF LAW ENFORCEMENT, BY PROVIDING FOR "D.V." PLATES; AMENDING SECTION 49-109, IDAHO CODE, RELATING TO APPLICATION FOR REGISTRATION OF MOTOR VEHICLES, BY PROVIDING FOR THE NON-FEE REGISTRATION OF MOTOR VEHICLES OWNED BY DISABLED VETERANS AND THE ISSUANCE OF SPECIALLY LETTERED AND NUMBERED LICENSE
PLATES; AMENDING SECTION 49-113, IDAHO CODE, RELATING TO NUMBER PLATES FURNISHED BY DEPARTMENT, BY PROVIDING FOR THE PERMANENT REGISTRATION OF MOTOR VEHICLES OWNED BY DISABLED VETERANS; AMENDING SECTION 49-116, IDAHO CODE, RELATING TO ANNUAL RENEWAL OF REGISTRATION, BY PROVIDING AN EXCEPTION FOR MOTOR VEHICLES OWNED BY DISABLED VETERANS FROM ANNUAL REGISTRATION RENEWAL; AMENDING SECTION 65-509, IDAHO CODE, DEFINING VETERAN, BY PROVIDING "D.V." COVERAGE FOR VETERANS OF ANY ARMED CONFLICT OF THE UNITED STATES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-102, Idaho Code, be, and the same is hereby amended to read as follows:

49-102. DUTIES OF DEPARTMENT AND COMMISSIONER OF LAW ENFORCEMENT.—a. It shall be the duty of the department and all officers thereof to enforce the provisions of this chapter.

b. The commissioner of law enforcement is hereby authorized to adopt and enforce such administrative rules and regulations and to designate such agencies as may be necessary to carry out the provisions of this chapter. He shall also provide suitable forms for applications, registration cards, registration number plates, use fee number plates, "D.V." plates, and all other forms requisite for the purpose of this chapter, and shall prepay all transportation charges thereon.

SECTION 2. That Section 49-109, Idaho Code, be, and the same is hereby amended to read as follows:

49-109. APPLICATION FOR REGISTRATION—RECEIPT FOR FEE — RECORD OF APPLICANTS.—a. Application for the registrations of a vehicle required to be registered hereunder shall be made to the assessor or the commissioner as provided in section 49-107, as amended by this act, by the owner thereof upon the appropriate form approved or furnished by the department and every application shall be signed by the owner and contain his residence address and a brief description of the vehicle to be registered, including the name of the maker, the type of fuel used, the engine or identification number, whether new or used, and the last license number if known and the state in which issued, and upon the registration of a new vehicle,
the date of sale by the manufacturer or dealer to the person first operating such vehicle. The application shall contain such other information as may be required by the department.

b. The assessor shall issue to the applicant a receipt for any fee paid, and shall forward to the department of law enforcement a duplicate copy thereof, together with the application. However, no fee shall be charged for the registration or re-registration of a motor vehicle owned by a veteran who has established his rights to benefits under the provisions of Public Law 662, 79th Congress, as amended, and Public Law 187, 82nd Congress, as amended. Nor shall a fee be charged for the registration or re-registration of a motor vehicle owned by a veteran, as defined by section 65-509, Idaho Code, or, of any war or armed conflict of the United States, who is at the time of such registration or re-registration, receiving compensation from the Veterans Administration or in lieu thereof, from any of the Armed Forces of the United States, for one hundred per cent service-connected disability or for any of the following specific disabilities: Loss or permanent loss of use of one or both feet; loss or permanent loss of use of one or both hands; loss of sight in both eyes or permanent impairment of vision in both eyes to the degree as to constitute virtual blindness. This paragraph shall be considered applicable not only as to the vehicle originally purchased under this authorization, but also as to any vehicle subsequently purchased and owned by the same veteran, so long as this privilege shall not extend to more than one vehicle at a time. Special license plates shall be issued for such vehicles, identified by placing the inscription "D.V." thereon, and separate number series shall be used to further identify such license plates. Said license plates shall not be issued by the counties but shall be issued by the commissioner through and at the request of the appropriate county assessor. Said plates shall be displayed in accordance with the procedure applicable to number plates set forth in section 49-114, Idaho Code, as amended.

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

d. On and after January 1, 1964, when application for
registration is made hereunder by any motor carrier as defined by section 61-801, Idaho Code, as amended, or by any interstate carrier as defined by section 61-801A, Idaho Code, the assessor or the commissioner shall require each such applicant to exhibit a receipt for the payment of the regulatory fee required of any motor carrier by section 61-811, Idaho Code, as amended, or evidence of the payment of the registration fee of any interstate carrier required by section 61-802A and section 61-812, Idaho Code, as amended. The number thereof and the amount paid shall be noted on the application. No receipt, registration or number plates shall in such cases be given or issued by such assessor or the commissioner until such fees have been paid and evidence thereof presented as hereinabove required. Pursuant to the authority and duty provided by section 61-811A, Idaho Code, each assessor and the department of law enforcement shall when the regulatory fees of motor carriers and the registration fees of interstate carriers have not been paid prior to registration hereunder, collect such regulatory fees for the public utilities commission and shall issue the registration required by section 61-802A, Idaho Code, and collect the fees therefor for the public utilities commission. Each assessor and the department of law enforcement shall monthly submit a list of all carriers paying such fees and remit monthly all such fees to the Idaho public utilities commission no later than the tenth day of each month following such collection.

SECTION 3. That Section 49-113, Idaho Code, be, and the same is hereby amended to read as follows:

49-113. NUMBER PLATES TO BE FURNISHED BY DEPARTMENT — FORM AND CONTENTS. — a. The assessor shall also furnish to every owner whose vehicle shall be registered by him one (1) number plate for a motorcycle, trailer, or semi-trailer and two (2) number plates for every other motor vehicle. Providing that number plates issued for state, county and city motor vehicles shall be permanent and remain on the vehicle for which issued from year to year, and need no renewal. Providing further that “D.V.” plates issued by the commissioner through and at the request of the appropriate county assessor shall also be permanently assigned as set forth in section 49-109, Idaho Code, as amended.

b. Every number plate shall have displayed upon it the registration number assigned to the vehicle and to the owner thereof, also the name of this state which may be abbreviated and the year number for which it is issued.
Such plate and the required letters and numerals thereon, 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. Each passenger number plate must bear upon its face the inscription "World Famous Potatoes," which shall be subject to the approval of the state advertising commission.

c. The commissioner of law enforcement shall furnish to every owner whose vehicle shall be registered by him number plates the same as if such vehicle had been registered by a county assessor and in addition thereto shall furnish to every owner whose vehicle is subject to the payment of the use fee provided by subdivision (e) of section 49-127 a use fee number plate. Said use fee number plate shall be similar in form to the registration plate and shall contain such information as the commissioner may by rule or regulation provide.

d. The commissioner shall have authority to require the return to the department of all number plates upon termination of the lawful use thereof by the owner, under this chapter.

SECTION 4. That Section 49-116, Idaho Code, be, and the same is hereby amended to read as follows:

49-116. REGISTRATION TO BE RENEWED ANNUALLY.—Such registration, and registration of dealers and manufacturers hereinafter specified, shall be renewed annually in the same manner as the original registration and upon the payment of the required fee, except as regard to "D.V." plates as set forth in section 49-109, Idaho Code, as amended, and such renewal to be effective as of January first of each year, provided that the commissioner may extend this date as to individuals, counties or the state for not to exceed forty-five days for good cause shown.

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, and who has been discharged under other than dishonorable conditions.
SECTION 6. This act shall be in full force and effect sixty (60) days after the end of the session in which passed.

Approved March 22, 1967.

CHAPTER 176
(H. B. No. 129 As Amended in the Senate)

AN ACT

PROVIDING FOR ORGANIZATION OF THE TWO HOUSES OF THE LEGISLATURE PRIOR TO CONVENING IN REGULAR SESSION; AND PROVIDING FOR PAYMENT OF EXPENSE.

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

SECTION 1. ORGANIZATION OF HOUSE AND SENATE—PRE-FILING AND PRE-NUMBERING OF BILLS, RESOLUTIONS AND MEMORIALS.—On the first Thursday of December in general election years, the members-elect of the House of Representatives and Senate shall meet at the state capitol in Boise for the purpose of organizing their respective houses. Members-elect shall each receive the sum of $25.00 per day not to exceed three days for general expenses, and shall also be reimbursed for actual and necessary travel and lodging expenses in attending such meetings. The members-elect attending such meetings shall file with the legislative council a duly verified claim, together with paid vouchers for travel and lodging expenses actually incurred. The legislative council shall file all such claims with the appropriate state office for examination and payment of all just claims.

Approved March 22, 1967.

CHAPTER 177
(H. B. No. 211)

AN ACT

AMENDING SECTION 47-103, IDAHO CODE, RELATING TO THE DUTIES OF THE MINE INSPECTOR, BY PROVIDING THE MINE INSPECTOR WITH THE DUTY TO ADVISE AND CONSULT WITH THE STATE LAND BOARD UPON THE STATE'S
MINERAL LANDS; AMENDING SECTION 47-108, IDAHO CODE, RELATING TO DEPUTY MINE INSPECTORS, BY PROVIDING THAT ALL DEPUTY INSPECTORS HAVE SUBSTANTIALLY THE SAME QUALIFICATIONS AS THE INSPECTOR OF MINES.

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

SECTION 1. That Section 47-103, Idaho Code, be, and the same is hereby amended to read as follows:

47-103. DUTIES IN GENERAL.—It shall be the duty of the inspector of mines, at least once each year, to visit in person each mining county in the state of Idaho and examine all such mines therein as, in his judgment, may require examination for the purpose of determining the condition of such mines, including all surface buildings, structures and mills used and occupied in connection with such mines, as to safety, to promulgate reasonable regulations for safety and health of employees in such mines and surface structures and to collect information and statistics relative to mines and mining and the mineral resources of the state, and to collect, arrange and classify mineral and geological specimens found in this state and to forward the same to the state school of mines. It shall also be the duty of the inspector of mines to advise and consult with the state land board in its administration of state mineral lands, including the leasing thereof, and in its administration of the dredge mining law.

SECTION 2. That Section 47-108, Idaho Code, be, and the same is hereby amended to read as follows:

47-108. DEPUTIES—APPOINTMENT, QUALIFICATIONS AND COMPENSATION.—With the consent and approval of the governor, the inspector of mines may appoint such deputy inspectors as in his judgment may be necessary. All deputy inspectors shall possess substantially the same qualifications as those required of the inspector of mines. The salaries of such deputy inspectors shall be fixed by the inspector of mines, subject to the approval of the board of examiners, within the limits of any appropriation available therefor.

Approved March 22, 1967.
AN ACT

AMENDING SECTIONS 49-2202, 49-2203, 49-2204, AND 49-2206
BY STRIKING THE REFERENCE TO THE COMMISSIONER
OF LAW ENFORCEMENT AND SUBSTITUTING THEREFOR
THE STATE BOARD OF EDUCATION; AMENDING SECTION
49-2205, BY STRIKING THE REFERENCE TO THE COMMISSIONER
OF LAW ENFORCEMENT AND SUBSTITUTING
THE STATE BOARD OF EDUCATION AND BY DIRECTING
THAT THE PAYMENT OF SCHOOL LICENSE FEES AND
INSTRUCTOR'S LICENSE FEES SHALL BE CREDITED TO
THE DRIVER TRAINING FUND RATHER THAN TO THE
DEPARTMENT OF TRAFFIC SAFETY.

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

SECTION 1. That Section 49-2202, Idaho Code, be, and
the same is hereby amended to read as follows:

49-2202. DUTIES OF COMMISSIONER THE STATE
BOARD OF EDUCATION—REGULATIONS.—(A) The
commissioner of law enforcement shall adopt and prescribe such regulations concerning the
administration and enforcement of this act as are necessary to protect the public. The commissioner shall inspect the school facilities and equipment
of applicants and licensees and examine applicants for instructor's licenses.

(B) The commissioner shall administer and enforce this act and shall formulate and
promulgate the regulations for its administration and enforcement.

SECTION 2. That Section 49-2203, Idaho Code, be, and
the same is hereby amended to read as follows:

49-2203. SCHOOLS—LICENSE REQUIRED—CONTENTS OF APPLICATION FOR LICENSE.—No commercial driving training school shall be established nor shall
any existing school continue to operate on or after July 1, 1965, unless such school shall apply for and obtain from
the commissioner of law enforcement a license in the manner and form prescribed by the commissioner.

The application for license shall include a statement of
the location of the school, the equipment, courses of instruction, instructors, previous records of the school and instructors, financial statements, schedule of fees and charges, character and reputation of the operators, insurance and such other matters as the commissioner state board of education may prescribe for the protection of the public.

SECTION 3. That Section 49-2204, Idaho Code, be, and the same is hereby amended to read as follows:

49-2204. INSTRUCTORS — LICENSE REQUIRED — CONTENTS OF APPLICATION FOR LICENSE. — No person shall act as an instructor on or after July 1, 1965, unless such person applies for and obtains from the commissioner state board of education a license in the manner and form prescribed by the commissioner state board of education.

The regulations shall state the requirements for an instructor's license, including requirements concerning moral character, physical condition, knowledge of the courses of instruction, motor vehicle laws and safety principles, previous personal and employment records, and such other matters as the commissioner state board of education may prescribe for the protection of the public.

SECTION 4. That Section 49-2205, Idaho Code, be, and the same is hereby amended to read as follows:

49-2205. EXPIRATION AND RENEWAL OF LICENSES—FEES.—All licenses shall expire on the last day of the calendar year and may be renewed upon application to the commissioner law enforcement state board of education as prescribed by its regulations. Each application for an original or renewal school license shall be accompanied by a fee of twenty-five dollars ($25.00), and each application for an original or renewal instructor's license shall be accompanied by a fee of five dollars ($5.00). Such fees shall be payable to the treasurer of the state and credited to the department of traffic safety driver training fund. No license fees shall be refunded in the event any license is rejected, suspended, or revoked.

SECTION 5. That Section 49-2206, Idaho Code, be, and the same is hereby amended to read as follows:

49-2206. REFUSAL, SUSPENSION OR REVOCATION OF LICENSES.—The commissioner law enforcement state board of education may refuse to issue, or may suspend or revoke a license in any case where the board
finds the applicant or licensee has violated any of the provi­sions of this act or the regulations adopted by the commis­sioner state board of education. A suspended or revoked li­cense shall be returned to the commissioner state board of education by the licensee.

Approved March 22, 1967.

CHAPTER 179
(H. B. No. 221)

AN ACT

DESIGNATING THIS ACT AS THE "IDAHO STATE FIREWORKS ACT"; DEFINING THE TERMS "FIREWORKS," "DANGER­OUS FIREWORKS," "SAFE AND SANE FIREWORKS," "AG­RICULTURAL AND WILDLIFE FIREWORKS," "PUBLIC DISPLAY OF FIREWORKS," "FIRE NUISANCE," "PACK­AGE," AND "PERSON"; REQUIRING PERSONS MAKING PUBLIC DISPLAYS OF FIREWORKS TO MAKE APPLICA­TION WITH APPROPRIATE LOCAL OFFICIALS; AUTHO­RIZING THE GOVERNING BODY OF LOCAL GOVERNMENTS TO GRANT OR DENY SUCH APPLICATIONS; REQUIRING INVESTIGATIONS OF SUCH APPLICATIONS; EMPOWER­ING LOCAL GOVERNMENTS TO REQUIRE APPLICANTS TO FURNISH PROOF OF INSURANCE; REQUIRING SIG­NATURES ON SUCH APPLICATIONS; REQUIRING THE STAMPING OR LABELING OF FIREWORKS BY MANU­FACTURERS, IMPORTERS OR WHOLESALERS; PROHIBIT­ING THE SALE OF CERTAIN "SAFE AND SANE FIRE­WORKS"; PROVIDING THAT "SAFE AND SANE FIRE­WORKS" MAY BE SOLD AT RETAIL AT ANY TIME UN­LESS RESTRICTED BY COUNTIES, CITIES OR VILLAGES; PROHIBITING THE TRANSFER OF CERTAIN FIREWORKS; MAKING THE UNLAWFUL POSSESSION OF ANY CLASS OR KIND OF FIREWORKS IN VIOLATION OF THIS ACT A MISDEMEANOR; EXCEPTING THE PROVISIONS OF THIS ACT FROM CERTAIN TYPES OF SALES, USES AND ACTIVITIES; PROVIDING THAT A LOCAL PUBLIC AGENCY SHALL NOT CHARGE MORE THAN TEN DOLLARS AS A PERMIT FEE FOR ANY ONE YEAR OR DISPLAY; PROVID­ING THAT VIOLATION OF THE PROVISIONS OF THIS ACT OR OF RULES AND REGULATIONS ISSUED THEREUNDER IS A MISDEMEANOR; REPEALING SECTION 39-2601, IDAHO CODE; AND DECLARING AN EMERGENCY.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. This act shall be known and may be cited as the "Idaho State Fireworks Law."

SECTION 2. The definitions set forth in this act shall govern the construction of this act, unless the context otherwise requires.

SECTION 3. "Fireworks" are defined as those "common" and/or "special" fireworks devices primarily designed to produce a visible or audible effect by combustion, deflagration, explosion or detonation.

SECTION 4. "Fireworks" shall include blank cartridges, toy pistols, toy cannon, toy canes or toy guns in which explosives are used, fire balloons (balloons of a type which have burning material of any kind attached thereto or which require fire underneath to propel them), firecrackers, torpedoes, skyrockets, rockets, Roman candles, fountains, wheels, Dago bombs, sparklers, and other fireworks of like construction and any fireworks containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, deflagration, explosion or detonation.

Exempted from this part are all toy pistols, toy cannons, toy canes and toy guns and similar devices such as party poppers or party favors in which paper caps containing not more than twenty-five hundredths (.25) grain of explosive compound per cap are used and such caps whether single, roll or tape type.

SECTION 5. "Dangerous fireworks" includes any of the following:

(a) Firecrackers, cannon crackers, giant crackers, salutes, silver tube salutes, cherry bombs, mines, ground bombardment, grasshoppers and other explosive articles of similar nature;

(b) Blank cartridges;

(c) Skyrockets and rockets, including all similar devices employing any combustible or explosive material and which rise in the air during discharge;

(d) Roman candles, including all devices which discharge balls of fire into the air;

(e) Chasers and whistles, including all devices which
dart or travel about the surface of the ground during discharge;

(f) Snakes and hats containing bichloride of mercury;

(g) Sparklers more than ten (10) inches in length or one-quarter (\(\frac{1}{4}\)) inch in diameter or made with other than iron wires;

(h) All articles for pyrotechnic display such as aerial shells, salutes, flash shells, sky battles, parachute shells, mines, Dago bombs and similar devices;

(i) All torpedoes which explode by means of friction, or which contain arsenic, and all other similar fireworks devices including cracker balls;

(j) Fire balloons or balloons of any type which have burning material of any kind attached thereto;

(k) Such other fireworks as may be determined to be and which are then designated as dangerous by the governing body of the county, city or village in which they are licensed or used.

Such governing bodies may exempt from provisions of this act specific pyrotechnic items for commercial, industrial, agricultural, and wildlife use, with the restriction that such devices may be sold exclusively to persons holding the required local permits for their authorized use.

SECTION 6. “Safe and Sane Fireworks” includes any of the following:

(a) Cone fountains with pyrotechnic composition not exceeding fifty (50) grams each;

(b) Cylindrical fountains, whether base, spike or handle, with pyrotechnic composition not exceeding seventy-five (75) grams each and inside tube diameter not exceeding three-quarters (\(\frac{3}{4}\)) inch;

(c) Sparklers and “dipped sticks” not more than ten (10) inches in length or one-quarter (\(\frac{1}{4}\)) inch in diameter made on steel or iron wire and Suzuki and Morning Glories with pyrotechnic composition not exceeding four (4) grams each;

(d) Snakes which do not contain bichloride of mercury and pyrotechnic composition not exceeding two (2) grams each;

(e) Wheels with pyrotechnic composition not exceeding
sixty (60) grains for each driver unit or two hundred and forty (240) grains for each complete wheel. The inside tube diameter of driver unit shall not exceed one-half (1/2) inch;

(f) Whistles, without report and which do not dart or travel about the ground during discharge with pyrotechnic composition not exceeding six grams and containing no picric or gallic acid.

SECTION 7. "Agricultural and wildlife fireworks" includes fireworks designated or used to prevent damage to crops or unwanted occupancy of areas by animals or birds through the employment of sound or light, or both, whenever such fireworks are so classified.

SECTION 8. "Public Display of Fireworks" means an entertainment feature where the public is admitted or permitted to view the display or discharge of "dangerous fireworks."

SECTION 9. "Fire nuisance" means anything or any act which increases, or may cause an increase of, the hazard or menace of fire to a greater degree than customarily recognized as normal by persons in the public service of preventing, suppressing, or extinguishing fire; or which may obstruct, delay, or hinder, or may become the cause of any obstruction, delay, or a hinderance to the prevention or extinguishment of fire.

SECTION 10. "Package" includes any case, container, or receptacle used for holding fireworks, which shall be closed or sealed by tape, cordage, or by any other secure means.

SECTION 11. "Person" includes any individual, firm, partnership, joint adventure, association, concern, corporation, estate, trust, business trust, receiver, syndicate or any other group or combination acting as a unit.

SECTION 12. Any adult person or other group desiring to make a public display of fireworks, or use, or discharge agricultural or wildlife fireworks, shall first make written application to the chief of the fire department or the chief fire prevention officer of the village, city or county, or to such other person as may be named by a city, village or county, as prescribed in Section 39-2602, Idaho Code.

SECTION 13. The governing body shall have power in its discretion to grant or deny the application, subject to such reasonable conditions, if any, as it shall prescribe.
SECTION 14. It shall be the duty of the officer to whom the application for a permit was made to make an investigation and submit a report of his findings and his recommendation for or against the issuance of the permit, together with his reasons therefor, to the governing body of the city or county.

SECTION 15. It shall be the duty of the officer to whom the application for a permit for a public display of fireworks is made to make an investigation as to whether such a display as proposed will be of such character and will be so located that it may be hazardous to property or dangerous to any person, and that each person assisting in such display is fully qualified by training to properly handle such display without danger to themselves or to the public, and he shall in the exercise of reasonable discretion grant or deny the application, subject to such reasonable conditions, if any, as he may prescribe.

SECTION 16. Such village, city or county may require the applicant for a special permit for a public fireworks display or the use or discharge of agricultural or wildlife fireworks at the time of application to furnish proof that he carries compensation insurance for his employees as provided by the laws of this state, and adequate public liability and property damage insurance.

SECTION 17. The application for a license shall be signed by the applicant. If application is made by a partnership, it shall be signed by each partner of the partnership, and if application is made by a corporation, it shall be signed by an officer of the corporation and bear the seal of the corporation.

SECTION 18. The manufacturer, importer or wholesaler shall stamp or label each case or carton of fireworks offered for sale, sold, consigned or delivered within this state for sale or use within this state as “dangerous fireworks,” “safe and sane fireworks,” or “agricultural or wildlife fireworks,” and branded as required by Public Law 89-756, 89th Congress, S. 3298, November 3, 1966.

SECTION 19. No “safe and sane fireworks” shall be sold or offered for sale at retail unless the fuses or other igniting devices are protected by approved protective caps or each item or group of items is enclosed or sealed in a package bearing such brand and label.

SECTION 20. “Safe and sane fireworks” may be sold or offered for sale at retail or discharged at any time unless
restricted to specific periods by county, city or village ordinance.

SECTION 21. The transfer of "dangerous fireworks" or "agricultural or wildlife fireworks" or "safe and sane fireworks" ownership, whether by sale at wholesale or retail, by gift or other means of conveyance of title or the delivery of any fireworks to any person in the state, which is not labeled and branded as required by the federal law above noted, is prohibited.

SECTION 22. The unlawful possession of any class or kind of fireworks in violation of the provisions of this act shall be a misdemeanor.

SECTION 23. This act does not prohibit:

(a) Any manufacturer, wholesaler, or retailer from selling blank cartridges for use by persons for bona fide ceremonial purposes, athletic or sports events, or military ceremonials or demonstrations and theatrical or motion picture productions;

(b) The use of torpedoes, flares, or fuses by motor vehicles, railroads, or other transportation agencies for signal purposes of illumination or for use in forest protection activities; or

(c) The assembling, compounding, use and display of fireworks of whatever nature by any person engaged in the production of motion pictures, theatricals, or operas when such use and display is a necessary part of the production and such person possesses a valid permit to purchase, possess, transport or use "dangerous fireworks."

SECTION 24. The provisions of this act do not apply to research or experiments with rockets or missiles, or the production, transportation, or firing of rockets or missiles, by the Department of Defense of the United States, or by any agency or organization acting pursuant to a contract which it has with the Department of Defense for the development or production of rockets or missiles.

SECTION 25. A local public agency shall not charge more than ten dollars ($10.00) as a permit fee for any one year or display.

SECTION 26. Any person violating any of the provisions of this act or any rules or regulations issued thereunder is guilty of a misdemeanor.
SECTION 27. That Section 39-2601, Idaho Code, be, and the same is hereby repealed.

SECTION 28. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect from and after its passage and approval.

Approved March 22, 1967.

CHAPTER 180
(H. B. No. 227 As Amended)

AN ACT

AMENDING SECTION 39-260A, IDAHO CODE, BY DELETING CERTAIN CONDITIONS FOR THE TRANSPORTATION OF DEAD HUMAN BODIES AND ALLOWING SUCH TRANSPORTATION UPON COMPLIANCE WITH RULES AND REGULATIONS OF THE STATE BOARD OF HEALTH; PROVIDING FOR A PENALTY FOR VIOLATING THE RULES AND REGULATIONS OF THE STATE BOARD OF HEALTH.

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

SECTION 1. That Section 39-260A, Idaho Code, be, and the same is hereby amended to read as follows:

39-260A. TRANSPORTATION OF DEAD HUMAN BODIES.—The transportation of dead human bodies by common carrier shall be permitted under the following conditions: only after being embalmed upon compliance with rules and regulations adopted by the state board of health.

a. The body shall be thoroughly embalmed.

b. The coffin shall be enclosed in a strong outside box or shipping case made of good sound lumber.

No disinterred body shall be transported by common carrier unless approved by health authorities having jurisdiction at the place of disinterment and the state board of health, and a permit shall be required as herein provided.

All disinterred remains for transportation by common carrier shall be incased in metal caskets or metal lined boxes, and hermetically sealed; provided that bodies in a receiving vault, when prepared by a licensed embalmer, shall not be regarded as disinterred bodies until after the expiration of thirty days. The outside box or shipping case shall bear...
at least four handles, and when over five feet six inches in length shall bear six handles.

A failure or neglect by any licensed embalmer to follow the provisions of this statute, or the rules and regulations promulgated hereunder, shall, in addition to any other punishment prescribed, be sufficient cause for revocation of embalmer's license.

Approved March 22, 1967.

CHAPTER 181
(H. B. No. 229)

AN ACT

RELATING TO THE DEFENSE OF NEEDY PERSONS; DEFINING TERMS OF THE ACT; PROVIDING FOR REPRESENTATION FOR NEEDY PERSONS BY AN ATTORNEY; PROVIDING FOR NOTICE OF RIGHT TO LEGAL COUNSEL AND OF RIGHT OF NEEDY PERSON TO BE REPRESENTED BY COUNSEL AT PUBLIC EXPENSE; PROVIDING FOR DETERMINATION OF NEED; PROVIDING FOR QUALIFICATIONS OF ATTORNEY REPRESENTING NEEDY PERSONS UNDER THIS ACT; PROVIDING FOR SUBSTITUTE ATTORNEYS; PROVIDING FOR WAIVER OF COUNSEL BY NEEDY PERSON; PROVIDING FOR RECOVERY OR REIMBURSEMENT FOR SERVICES RENDERED UNDER ACT, THE LIMITATION OF ACTION, AND PAYMENT TO THE GENERAL FUND OF THE COUNTY; PROVIDING FOR REPRESENTATION OF NEEDY PERSONS BY PUBLIC DEFENDERS, ASSIGNED ATTORNEYS OR COMBINATION OF ALTERNATIVES AND PROVIDING FOR ESTABLISHMENT OF OFFICE OF PUBLIC DEFENDER; PROVIDING FOR JOINT OFFICE OF PUBLIC DEFENDER; PROVIDING FOR ADVANCE ASSIGNMENT OF ATTORNEYS; ALLOWING COUNTIES TO PRESCRIBE QUALIFICATIONS, TERM OF OFFICE AND COMPENSATION FOR PUBLIC DEFENDER; PROVIDING FOR METHOD OF APPOINTMENT OF PUBLIC DEFENDER; PROVIDING FOR COMPENSATION OF ATTORNEY ASSIGNED TO REPRESENT NEEDY PERSONS; PROVIDING FOR FACILITIES, EQUIPMENT, AND PERSONNEL FOR THE OFFICE OF PUBLIC DEFENDER; PROVIDING FOR SUPPORTING THE OFFICE OF PUBLIC DEFENDER BY COUNTY APPROPRIATION AND BY PRIVATE CONTRIBUTION; PROVIDING FOR DIRECT EXPENSE AND
FOR ALLOCATION BETWEEN JOINT OFFICES OF PUBLIC DEFENDER; PROVIDING FOR RECORDS AND REPORTS; PROVIDING FOR REPRESENTATION IN STATE AND FEDERAL COURTS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT PROTECTIONS OF THE ACT ARE NOT EXCLUSIVE; REPEALING SECTION 19-803, IDAHO CODE, RELATING TO THE TIME OF PROCEEDING WHEN A DEFENDANT APPEARING BEFORE A MAGISTRATE REQUIRES COUNSEL; REPEALING SECTION 19-803A, IDAHO CODE, RELATING TO THE APPOINTMENT OF COUNSEL UPON PRELIMINARY HEARING; AMENDING SECTION 19-1512, IDAHO CODE, TO DELETE REFERENCES TO THE ASSIGNMENT OF COUNSEL; REPEALING SECTION 19-1513, IDAHO CODE, RELATING TO THE APPOINTMENT OF COUNSEL FOR ACCUSED UPON TRIAL IN DISTRICT COURT.

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

SECTION 1. In this act, the term:

(a) "Detain" means to have in custody or otherwise deprive of freedom of action;

(b) "Expenses", when used with reference to representation under this act, includes the expenses of investigation, other preparation, and trial;

(c) "Needy person" means a person who at the time his need is determined is unable, to provide for the full payment of an attorney and all other necessary expenses of representation;

(d) "Serious crime" includes:

(1) a felony;

(2) a misdemeanor or offense the penalty for which includes the possibility of confinement for more than 6 months or a fine of more than $300, and

(3) an act that, but for the age of the person involved, would otherwise be a serious crime.

SECTION 2. (a) A needy person who is being detained by a law enforcement officer, or who is under formal charge of having committed, or is being detained under a conviction of, a serious crime, is entitled:

(1) to be represented by an attorney to the same extent as a person having his own counsel is so entitled; and
(2) to be provided with the necessary services and facilities of representation (including investigation and other preparation). The attorney, services, and facilities and the court costs shall be provided at public expense to the extent that the person is, at the time the court determines need, unable to provide for their payment.

(b) A needy person who is entitled to be represented by an attorney under subsection (a) is entitled:

(1) to be counseled and defended at all stages of the matter beginning with the earliest time when a person providing his own counsel would be entitled to be represented by an attorney and including revocation of probation or parole;

(2) to be represented in any appeal;

(3) to be represented in any other post-conviction proceeding that the attorney or the needy person considers appropriate, unless the court in which the proceeding is brought determines that it is not a proceeding that a reasonable person with adequate means would be willing to bring at his own expense and is therefore a frivolous proceeding.

(c) A needy person's right to a benefit under subsection (a) or (b) is unaffected by his having provided a similar benefit at his own expense, or by his having waived it, at an earlier stage.

SECTION 3.

(a) If a person who is being detained by a law enforcement officer, or who is under formal charge of having committed, or is being detained under a conviction of, a serious crime, is not represented by an attorney under conditions in which a person having his own counsel would be entitled to be so represented, the law enforcement officers concerned, upon commencement of detention, or the court, upon formal charge, as the case may be, shall:

(1) clearly inform him of his right to counsel and of the right of a needy person to be represented by an attorney at public expense; and

(2) if the person detained or charged does not have an attorney, notify the public defender or trial court concerned, as the case may be, that he is not so represented. As used in this subsection, the term "commencement of deten-
tion" includes the taking into custody of a probationer or parolee.

(b) Upon commencement of any later judicial proceeding relating to the same matter, including, but not limited to, preliminary hearing, arraignment, trial, or any post-conviction proceeding, the presiding officer shall clearly inform the person so detained or charged of his right to counsel and of the right of a needy person to be represented by an attorney at public expense.

(c) If a court determines that the person is entitled to be represented by an attorney at public expense, it shall promptly notify the public defender or assign an attorney, as the case may be.

(d) Upon notification or assignment under this section, the public defender or assigned attorney, as the case may be, shall represent the person with respect to whom the notification or assignment is made.

(e) Information given to a person under this section is effective only if:

(1) it is in writing or otherwise recorded;

(2) he records his acknowledgement of receipt and time of receipt, or, if he refuses to make this acknowledgement, the person giving the information records that he gave the information and that the person informed refused to acknowledge it; and

(3) the material so recorded under (1) and (2) is filed with the court next concerned.

SECTION 4.

(a) The determination of whether a person covered by section 2 is a needy person shall be deferred until his first appearance in court or in a suit for payment or reimbursement under section 8, whichever occurs earlier. Thereafter, the court concerned shall determine, with respect to each proceeding, whether he is a needy person.

(b) In determining whether a person is a needy person and in determining the extent of his inability to pay, the court concerned may consider such factors as income, property owned, outstanding obligations, and the number and ages of his dependents. Release on bail does not necessarily prevent him from being a needy person. In each case, the person shall, subject to the penalties for perjury, certify
in writing or by other record such material factors relating to his ability to pay as the court prescribes.

(c) To the extent that a person covered by section 2 is able to provide for an attorney, the other necessary services and facilities of representation, and court costs, the court may order him to provide for their payment.

SECTION 5. No person may be given the primary responsibility of representing a needy person unless he is licensed to practice law in this state and is otherwise competent to counsel and defend a person charged with a crime.

SECTION 6. At any stage, including appeal or other post-conviction proceeding, the court concerned may for good cause assign a substitute attorney. The substitute attorney has the same functions with respect to the needy person as the attorney for whom he is substituted. If the substitute attorney is not in the office of the Public Defender the court shall prescribe reasonable compensation for him and approve the expenses necessarily incurred by him in the defense of the needy person.

SECTION 7. A person who has been appropriately informed of his right to counsel may waive in writing, or by other record, any right provided by this act, if the court concerned, at the time of or after waiver, finds of record that he has acted with full awareness of his rights and of the consequences of a waiver and if the waiver is otherwise according to law. The court shall consider such factors as the person's age, education, and familiarity with the English language and the complexity of the crime involved.

SECTION 8.

(a) The prosecuting attorney of each county may, on behalf of the county, recover payment or reimbursement, as the case may be, from each person who has received legal assistance or another benefit under this act:

(1) to which he was not entitled;

(2) with respect to which he was not a needy person when he received it; or

(3) with respect to which he has failed to make the certification required by section 4(b); and for which he refuses to pay or reimburse. Suit must be brought within five (5) years after the date on which the aid was received.

(b) The prosecuting attorney of each county may, on
behalf of the county, recover payment or reimbursement, as the case may be, from each person other than a person covered by subsection (a) above, who has received legal assistance under this act and who, on the date on which suit is brought, is financially able to pay or reimburse the county for it according to the standards of ability to pay applicable under sections 1(c), 2(a), and 4(b), but refuses to do so. Suit must be brought within 3 years after the date on which the benefit was received.

(c) Amounts recovered under this section shall be paid into the county general fund.

SECTION 9.

(a) The board of county commissioners of each county shall provide for the representation of needy persons who with respect to serious crimes are subject to proceedings in the county or are detained in the county by law enforcement officers. They shall provide this representation by:

(1) establishing and maintaining an office of public defender;

(2) arranging with the courts of criminal jurisdiction in the county to assign attorneys on an equitable basis through a systematic, coordinated plan; or

(3) adopting a combination of these alternatives.

Until the board elects an alternative, it shall be considered as having elected alternative (a) (2).

(b) If it elects to establish and maintain an office of public defender, the board of county commissioners of a county may join with the board of county commissioners of one or more other counties to establish and maintain a joint office of public defender. In that case, the participating counties shall be treated for the purposes of this act as if they were one county.

(c) If the board of county commissioners of a county elects to arrange with the courts of criminal jurisdiction in the county to assign attorneys, a court of the county may provide for advance assignment of attorneys, subject to later approval by it, to facilitate representation of matters arising before appearance in court.

SECTION 10.

(a) If the board of county commissioners of a county elects to establish and maintain an office of public defender, the board shall:
(1) prescribe the qualifications of the public defender, his term of office (which may not be less than two years), and his rate of annual compensation, and, if so desired by the board, a rate of compensation for extraordinary services not recurring on a regular basis. So far as is possible, the compensation paid to the public defender shall not be less than the compensation paid to the county prosecutor for that portion of his practice devoted to criminal law.

(2) provide for the establishment, maintenance and support of his office. The board of county commissioners shall appoint the public defender from a panel of not more than 5 and not fewer than 3 persons (if that many are available) designated by a committee of lawyers appointed by the senior district judge having resident chambers within the county, or if there be no resident district judge, then by the senior district judge of the judicial district encompassing the county. To be a candidate, a person must be licensed to practice law in this state and must be competent to counsel and defend a person charged with a crime. During his incumbency, the public defender may not engage in the practice of criminal law other than in the discharge of the duties of his office; however, he may engage in civil practice, unless he is prohibited from doing so by the board of county commissioners.

(b) If a court assigns an attorney to represent a needy person, it shall prescribe a reasonable rate of compensation for his services and shall determine the direct expenses necessary to representation for which he should be reimbursed. The county shall pay the attorney the amounts so prescribed. The attorney shall be compensated for his services with regard to the complexity of the issues, the time involved, and other relevant considerations.

SECTION 11.

(a) If an office of public defender has been established, the public defender may employ, in the manner and at the compensation prescribed by the board of county commissioners, as many assistant public defenders, clerks, investigators, stenographers, and other persons as the board considers necessary for carrying out his responsibilities under this act. A person employed under this section serves at the pleasure of the public defender.

(b) If an office of public defender has been established, the board of county commissioners shall:

(1) provide appropriate facilities (including office
space, furniture, equipment, books, postage, supplies, and interviewing facilities in the jail) necessary for carrying out the public defender's responsibilities under this act; or

(2) grant the public defender an allowance in place of those facilities.

(c) A defending attorney is entitled to use the same state facilities for the evaluation of evidence as are available to the county prosecutor. If he considers their use impractical, the court concerned may authorize the use of private facilities to be paid for on court order by the county board of commissioners.

Section 12.

(a) The board of county commissioners of each county shall annually appropriate enough money to administer the program of representation that it has elected under section 9.

(b) If the board of county commissioners of a county elects to establish and maintain an office of public defender, the county may accept private contributions toward the support of his office.

Section 13.

(a) Subject to section 11, any direct expense, including the cost of a transcript that is necessarily incurred in representing a needy person under this act, is a county charge against the county on behalf of which the service is performed.

(b) If 2 or more counties jointly establish an office of public defender, the expenses not otherwise allocable among the participating counties under subsection (a) shall be allocated, unless the counties otherwise agree, on the basis of population according to the most recent decennial census.

Section 14.

(a) A defending attorney shall keep appropriate records respecting each needy person whom he represents under this act.

(b) The public defender in those counties electing to establish and maintain such an office, shall submit an annual report to the board of county commissioners showing the number of persons represented under this act, the crimes involved, the outcome of each case, and the expenditures
(totalled by kind) made in carrying out the responsibilities imposed by this act. A copy of the report shall also be submitted to each court having criminal jurisdiction in the counties that the program serves.

SECTION 15. This act applies only to representation in the courts of this state, except that it does not prohibit a public defender from representing a needy person in a Federal court of the United States, if:

(a) The matter arises out of or is related to an action pending or recently pending in a court of criminal jurisdiction of the state; or

(b) Representation is under a plan of the United States District Court as required by the Criminal Justice Act of 1964 (18 U.S.C. 3006A) and is approved by the board of county commissioners.

SECTION 16. If a provision, or an application of a provision, of this act is held invalid, the valid provisions and applications that can be given effect without the invalid provision or application are intended to be in effect. To this end, the provisions of this act are severable.

SECTION 17. The protections provided by this act do not exclude any protection or sanction that the law otherwise provides.

SECTION 18. That Section 19-803, Idaho Code, be, and the same is hereby repealed.

SECTION 19. That Section 19-803A, Idaho Code, be, and the same is hereby repealed.

SECTION 20. That Section 19-1512, Idaho Code, be, and the same is hereby amended to read as follows:

19-1512. If the defendant appears for arraignment without counsel he must be informed by the court that it is his right to have counsel before being arraigned, and must be asked if he desires the aid of counsel. If he desires and is unable to employ counsel the court must assign counsel to defend him.

SECTION 21. That Section 19-1513, Idaho Code, be, and the same is hereby repealed.

Approved March 22, 1967.
CHAPTER 182
(H. B. No. 234 As Amended in the Senate)

AN ACT
AMENDING SECTION 42-3111, IDAHO CODE, RELATING TO COMPENSATION OF FLOOD CONTROL DISTRICT COMMISSIONERS, BY INCREASING THE COMPENSATION OF SUCH COMMISSIONERS FROM FIVE TO FIFTEEN DOLLARS PER DAY.

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

SECTION 1. That Section 42-3111, Idaho Code, be, and the same is hereby amended to read as follows:

42-3111. COMPENSATION.—The commissioners of the flood control district shall each receive for their services the sum of five dollars (§5.00) fifteen dollars (§15.00) per day, and their necessary expenses for each day they shall be away from their place of residence and engaged in the business of their office. The commissioners shall present an itemized account under oath to the district court of the county wherein their office is located, which items shall be audited by the said district court and upon approval thereof certified to be correct by said court and the amount thus determined to be due shall be paid by the treasurer of the flood control district.

Approved March 22, 1967.

CHAPTER 183
(H. B. No. 237)

AN ACT
AMENDING SECTION 137 OF THE CHARTER OF THE CITY OF LEWISTON, BY INCREASING THE MAXIMUM LEVY FOR CURRENT EXPENSES AND GENERAL MUNICIPAL PURPOSES THAT MAY BE MADE FROM FORTY-FIVE MILLS ON THE DOLLAR TO FIFTY MILLS ON THE DOLLAR; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 137 of the Charter of the City of Lewiston, Idaho, be, and the same is hereby amended to read as follows:
Section 137. Taxes for General Municipal Purposes. The Council has full power and authority within the limits of the City of Lewiston to assess, levy and collect taxes for current expenses and general municipal purposes, not to exceed forty-five mills on the dollar per annum, upon all property, both real and personal, which is taxable by law for state and county taxes and shall, in addition, assess, levy and collect, in each fiscal year, a tax upon such real and personal property for the payment of the amount which may be certified to them by the controller to be raised by taxation for the payment of the principal of and interest upon the outstanding bonded indebtedness of the city.

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

Approved March 22, 1967.

CHAPTER 184
(H. B. No. 238)

AN ACT
AMENDING SECTION 170 OF THE CHARTER OF THE CITY OF LEWISTON, IDAHO RELATING TO OBJECTIONS BY PROPERTY OWNERS AGAINST IMPROVEMENTS PROPOSED IN A SPECIAL IMPROVEMENT DISTRICT, BY PROVIDING THAT NOTWITHSTANDING THE FILING OF REMONSTRANCES, EXCEPTIONS OR OBJECTIONS AGAINST THE PROPOSED IMPROVEMENTS BY MORE THAN ONE-HALF IN NUMBER OF THE OWNERS OF PROPERTY DESCRIBED IN THE RESOLUTION PROPOSING THE SAID SPECIAL IMPROVEMENT DISTRICT THE COUNCIL MAY PROCEED WITH THE WORK UPON A VOTE OF THREE-FOURTHS OF THE ENTIRE COUNCIL TO SO PROCEED.

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

SECTION 1. That Section 170 of the Charter of the City of Lewiston, Idaho, be, and the same is hereby amended to read as follows:

SECTION 170. At such meeting, property owners who are opposed to the making of such improvements or to the creating of such district, but who do not desire to question
the formality, validity, regularity or legality of the proceed­ings of the mayor and council or other city officers there­tofore had with regard to the creating of such district or the making of such improvements, may file general remon­strances, objections or exceptions in writing against the creation of such district or the making of such improve­ments, setting forth in general terms the reasons for such objections, exceptions or remonstrances; and two or more owners of property may unite in one such objection, exception or remonstrance, it being the intent of this provision that all persons who in good faith desire to oppose the making of such improvements without questioning the manner, form or effect of the acts or proceedings of the mayor and council or other city officers may have a timely and easy means of expressing and making their protests effective.

If more than one-half in number of the owners of prop­erty described in such resolution file with the city clerk written remonstrances, objections or objections against the proposed improvements, as above provided, the same shall not be further proceeded with or made and any improve­ment so defeated by remonstrance shall not be again pro­posed for six (6) months, except upon petition of a majority of the owners of property to be affected thereby, unless three-fourths of the entire council shall vote to proceed with such work.

At such meeting for the purpose of hearing objections, the mayor and council shall hear and determine all remon­strances, objections and suggestions which may be made. If one-half in number of the owners of the property de­scribed in such resolution do not file remonstrances against the making of such improvements at the said meeting or if the council votes to proceed with the work even though more than one-half in number of the owners of property de­scribed in such resolution file written remonstrances, excep­tions or objections, as above provided, the council shall be authorized to proceed with the making of such improve­ments.

If at such meeting objections are made to the inclusion of any specific piece of property or requests are made to have specific tracts included, the council shall pass upon and de­termine each specific case as may seem best in their judg­ment. Any tract erroneously included may be omitted, but no tract shall be included in such district except at the re­quest of the owner without ten (10) days' notice in writing to the owner thereof.
Such meeting for the purpose of hearing objections may be adjourned from day to day and from time to time until the business thereof is completed.

(1) Any person interested, desiring to make, raise, plead or rely at any time upon any objection to such improvements or the collection of assessments therefor on account of any error, defect, omission, invalidity or irregularity in any of the proceedings of the mayor and council or other city officers or the failure of the proceedings in any respect to comply with or conform to the provisions of this act or for any other cause of invalidity whatsoever shall file with the city clerk at or prior to such meeting an objection, protest or exception in writing, describing the particular lot or parcel of land in which the person objecting is interested, and the particular error, irregularity, omission, defect or other matter complained of, together with a statement in detail of the grounds and reasons for the objection. The mayor and council shall consider such objection and, if the same be well taken, in their opinion, the same shall be allowed and the council shall thereupon take such steps as may be necessary to amend its proceedings. If the objection be not well taken, in the opinion of the mayor and council, the same shall be overruled and not allowed, it being the intent of this and of the next succeeding subsection of this section that persons who desire to question or test the manner, form, regularity, legality or validity of any of the acts or proceedings of the mayor and council or other city officers, with respect to the creation of such improvement district and the making of such improvements shall be first required to submit the matters upon which they rely to the mayor and council, to the end that the proceedings may be duly amended, or, if not amended, the question raised may be speedily tried and determined in the courts, that unnecessary expense and litigation may be avoided, that persons receiving the benefits of special improvements shall not, by technicalities, escape the payment therefor and that the faith and credit of said city may be preserved.

(2) Any person who has filed any such objections, protests or exceptions, as provided in the preceding subsection, shall have the right to appeal to the district court of this state in and for the County of Nez Perce. Such appeal shall be made by filing a written notice of appeal with the city clerk of such city, within ten (10) days after such determination or decision by the council, and said notice shall describe the property and the objections of such appellant to such proceedings, and such appellant shall also file with
the clerk of the district court aforesaid, within said period of ten (10) days, a copy of said notice, appeal, resolution and decision and the proceedings thereon, certified by the clerk of such city, together with a bond in the sum of two hundred ($200) dollars, with such security as shall be approved by the judge of said court, to such city, conditioned to pay all costs that may be awarded against the appellant, and the case shall be docketed by the clerk of such court in the name of the person taking the appeal against said city, as "An appeal from assessments." The cause shall then be at issue and shall have precedence over all civil cases pending in said court, except under the act relating to the eminent domain by cities and towns and actions of forcible entry and detainer. Such appeals shall be tried in said court as in the case of equitable causes, except that no pleadings shall be necessary. The judgment of the court shall be either to confirm the proceedings, judgment or determination of the mayor and council, insofar as the same affects the property of the appellant, or to direct the same to be modified in accordance with the judgment of the court, from which judgment an appeal shall lie to the supreme court, as in other cases. In case the determination of the council is confirmed, the fees of the clerk of the city for copies of the record shall be taxed against the appellant with other costs. Such appeal shall not stay further proceedings of the council pending the appeal.

Approved March 22, 1967.

CHAPTER 185
(H. B. No. 242)

AN ACT

AMENDING SECTION 71-402, IDAHO CODE, BY ADDING TO THE LIST OF PERSONS WHO SHALL MAKE APPLICATION TO THE COMMISSIONER OF AGRICULTURE FOR A WEIGHMASTER'S LICENSE, THOSE PERSONS WEIGHING SUGAR BEETS.

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

SECTION 1. That Section 71-402, Idaho Code, be, and the same is hereby amended to read as follows:

71-402. LICENSING OF WEIGHMASTERS. Any
person acting as a public weighmaster of grains, dry peas, potato starch, dry beans, leguminous and all other small seeds, hay, wool, bulk potatoes, bulk fertilizers, sugar beets and feeds (not including minerals) or any of them shall make application to the commissioner of agriculture for a weighmaster's license. Application for a weighmaster's license shall be in writing on a form prescribed by the commissioner of agriculture. Each applicant shall furnish satisfactory evidence of good moral character, ability to weigh accurately and to make correct weight tickets. Upon receipt of the application with satisfactory evidence of qualifications, on or before July 1, 1949, and annually thereafter, and a license fee of $2.50, the commissioner shall issue an annual weighmaster's license. No weighmaster's license shall be issued to any applicant for such license who is under the age of eighteen or who has been convicted of any felony within five years or has paid any fine or completed any sentence of confinement for any felony within five years, or to any person whose license issued under this act has been revoked.

Approved March 22, 1967.

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CHAPTER 186
(H. B. No. 277)

AN ACT

AMENDING SECTION 42-3207, IDAHO CODE, RELATING TO HEARINGS AND ELECTIONS FOR WATER AND SEWER DISTRICTS, BY PROVIDING THAT THE COURT SHALL ESTABLISH ELECTION PRECINCTS WITHIN THE PROPOSED DISTRICT, AND IF A DISTRICT IS FORMED, THE BOARD OF DIRECTORS MAY CHANGE THE PRECINCTS AND THAT THE COURT, OR BOARD SHALL DETERMINE HOURS THE POLLS SHALL BE Open AND SHALL APPOINT THREE JUDGES OF ELECTIONS; AMENDING SECTION 42-3224, IDAHO CODE, RELATING TO ELECTIONS FOR INDEBTEDNESS OF FIVE THOUSAND DOLLARS OR MORE, BY PROVIDING THAT PRECINCTS SHALL BE AS PROVIDED IN SECTION 42-3207, IDAHO CODE; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. That Section 42-3207, Idaho Code, be, and the same is hereby amended to read as follows:

42-3207. HEARINGS ON PETITIONS — ELECTION FOR ORGANIZATION AND OFFICERS.—On the day fixed for such hearing or at any adjournment thereof the court shall ascertain from the tax rolls of the county or counties in which the district is located or into which it extends, the total number of taxpayers within the proposed district, who pay a general tax on real property owned by him or her within the district.

If the court finds that no petition has been signed and presented in conformity with this act, or that the material facts are not as set forth in the petition filed, it shall dismiss said proceedings and adjudge the costs against the signers of the petition in such proportion as it shall deem just and equitable. No appeal or writ of error shall lie from an order dismissing said proceedings; but nothing herein shall be construed to prevent the filing of a subsequent petition or petitions for similar improvements or for a similar district, and the right so to renew such proceedings is hereby expressly granted and authorized.

Any time after the filing of the petition for the organization of a district and before the day fixed for the hearing thereon, the owner or owners of any real property within the proposed district may file a petition with the court stating reasons why said property should not be included therein, why his land or any part thereof will not be benefited by the proposed district, or should not be embraced in said district and made liable to taxation therefor, and praying that said property be excluded therefrom. Such petition shall be duly verified and shall describe the property sought to be excluded. The court shall conduct a hearing on said petition and shall hear all objections to the inclusion in the district of any lands described in said petition. In case any owner of real estate included in said proposed district shall satisfy the court that his real estate, or any part thereof, has been wrongfully included therein or will not be benefited thereby then the court shall exclude such real estate as will not be benefited.

Upon said hearing, if it shall appear that a petition for the organization of a district has been signed and presented as hereinabove provided, in conformity with this act, and the allegations of the petition are true, the court shall, by order duly entered of record, direct that the question of the organization of the district shall be submitted to the
qualified electors of the district at an election to be held for that purpose, and such order shall appoint three qualified electors of the district as judges of said election. The clerk of the court having jurisdiction shall give published notice of the time and place of an election to be held in the district, not less than twenty (20) days after the first publication of said notice.

Such election shall be held and conducted as nearly as may be in the same manner as general elections in this state, except that the court shall establish as many election precincts within such proposed district as are deemed necessary, and shall define the boundaries thereof, which precincts and boundaries may thereafter be changed by the board of directors of such district if so organized. Such court, and thereafter the board of directors of such district, if so organized, shall determine the hours that the polls shall be open, which shall not be less than seven, and shall appoint three judges of election, one of whom shall act as clerk for such election precinct. Each elector shall take an oath that he has the qualifications of an elector before casting his vote.

At any time after the filing of the petition herein referred to and before the day fixed for hearing, nominees for the board of directors of the district may be nominated by the filing of a petition designating the name or names of the nominee or nominees, signed by at least 20 qualified electors of the district. If upon the hearing as herein provided the court shall order an election for the creation of the district, the court shall also ascertain the names of persons nominated by the board of directors, and shall order that the names of persons whom the court finds to have been properly nominated shall be listed upon a ballot submitted to the electors at such election. In the event the court makes its order providing for such election, it shall prescribe the form of the question and ballot relating to the creation of the district, and also the form of the ballot relating to the election of the directors; provided that all matters may be contained upon one ballot to be submitted to the voters.

At such election the voters shall vote for or against the organization of the district, and for five qualified electors, who shall constitute the board of directors of the district, if organized, one director to act until the first biennial election, two until the second, and two until the third biennial election.

The judges of election shall certify the returns of the elec-
tion to the district court having jurisdiction. If a majority of the votes cast at said election are in favor of the organization, the district court shall declare the district organized and give it a corporate name by which, in all proceedings, it shall thereafter be known, and designated the first board of directors elected, and thereupon the district shall be a governmental subdivision of the state of Idaho and a body corporate with all the powers of a public or quasi-municipal corporation.

If an order be entered establishing the district, such order shall be deemed final and no appeal or writ of error shall lie therefrom, and the entry of such order shall finally and conclusively establish the regular organization of the said district against all persons except the state of Idaho, in an action in the nature of a writ of quo warranto, commenced by the attorney-general within thirty days after said decree declaring such district organized as herein provided, and not otherwise. The organization of said district shall not be directly or collaterally questioned in any suit, action or proceeding except as herein expressly authorized.

SECTION 2. That Section 42-3224, Idaho Code, be, and the same is hereby amended to read as follows:

42-3224. CONDUCT OF ELECTION—CANVASS OF RETURNS.—The election board or boards shall conduct the election in the manner prescribed by law for the holding of general elections, and shall make their returns to the secretary of the district, provided that precincts shall be as provided in Section 42-3207, Idaho Code. At any regular or special meeting of the board held within five days following the date of such election, the returns thereof shall be canvassed and the results thereof declared.

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

Approved March 22, 1967.

CHAPTER 187
(H. B. No. 279)

AN ACT
AMENDING SECTION 42-233A, IDAHO CODE, RELATING TO
"CRITICAL GROUND WATER AREAS" BY PROVIDING FOR CONSIDERATION OF VALID AND OUTSTANDING APPLICATIONS AND PERMITS, BY PROVIDING FOR PUBLIC NOTICE AND HEARING UPON DESIGNATION OR PROPOSED MODIFICATION OF SUCH AREAS, BY PROVIDING FOR ISSUANCE OF PERMITS IN AREAS NOT DESIGNATED AS "CRITICAL GROUND WATER AREAS".

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

SECTION 1. That Section 42-233a, Idaho Code, be, and the same is hereby amended to read as follows:

42-233a. "CRITICAL GROUND WATER AREA" DEFINED—PUBLIC HEARINGS—PUBLICATION OF NOTICE—GRANTING OR DENIAL OF APPLICATION—APPEAL.—"Critical ground water area" is defined as any ground water basin, or designated part thereof, not having sufficient ground water to provide a reasonably safe supply for irrigation of cultivated lands, or other uses in the basin at the then current rates of withdrawal, or rates of withdrawal projected by consideration of valid and outstanding applications and permits, as may be determined and designated, from time to time, by the state reclamation engineer.

Upon the designation of a "critical ground water area" it shall be the duty of the state reclamation engineer to conduct a public hearing in the area concerned to apprise the public of such designation and the reasons therefor. Notice of the hearing shall be published in two consecutive weekly issues of a newspaper of general circulation in the area immediately prior to the date set for hearing.

In the event an area has been designated as a "critical ground water area" and the state reclamation engineer desires to remove such designation or modify the boundaries thereof, he shall likewise conduct a public hearing following similar publication of notice prior to taking such action.

In the event the application for permit is made with respect to an area that has not been designated as a critical ground water area the state reclamation engineer shall forthwith issue a permit in accordance with the provisions of section 42-203 and section 42-204 provided said application otherwise meets the requirements of such sections.

In the event the application for permit is made in an area which has been designated as a critical ground water
area, if the state reclamation engineer from the investigation made by him on said application as herein provided, or from the investigation made by him in determining the area to be critical, or from other information that has come officially to his attention, has reason to believe that there is insufficient water available subject to appropriation at the location of the proposed well described in the application, the state reclamation engineer may forthwith deny said application; provided, however, that if ground water at such location is available in a lesser amount than that applied for the state reclamation engineer may issue a permit for the use of such water to the extent that such water is available for such appropriation.

Any applicant dissatisfied with the decision of the state reclamation engineer may appeal to the district court in the manner provided for in section 42-237e.

Approved March 22, 1967.

CHAPTER 188
(H. B. No. 294)

AN ACT

AMENDING SECTION 42-311, IDAHO CODE, RELATING TO CANCELLATION OF PERMITS AT INSTANCE OF DEPARTMENT OF RECLAMATION, BY PROVIDING FOR CANCELLATION FOR FAILURE TO SUBMIT PROOF OF APPLICATION TO BENEFICIAL USE.

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

SECTION 1. That Section 42-311, Idaho Code, be, and the same is hereby amended to read as follows:

42-311. CANCELLATION OF PERMITS AT INSTANCE OF DEPARTMENT.—Whenever the department of reclamation shall deem it advisable to clear the records of its office of permits, the owners of which have failed or neglected to comply with the law and the requirements of said permits as to the date of commencing work or the filing of bond thereunder, or the completion of one-fifth of the construction work within one-half the time allowed for the completion of such construction work, or the final completion of such construction work, or the proof of application to beneficial use, or the payment
of statutory fees, and has reason to believe that any permit or permits are subject to cancellation, as in this chapter provided, the department shall prepare and mail by registered certified mail to the holder of each permit which it believes subject to cancellation and which it desires to cancel a notice fully describing the permit in question, with the date of issuance thereof, point or points of diversion, and setting forth in clear and concise manner the reasons why the cancellation of said permit is proposed. Said notice shall be mailed to the last known post-office address of the holder of said permit and shall require said permit holder to show cause before the department of reclamation on or before a date therein set, which shall be not less than thirty days from the mailing of said notice, why said permit should not be canceled.

The provisions of the section, as amended, shall apply equally to permits heretofore issued by the department of reclamation and permits which may hereafter be issued by the department.

Any party aggrieved by the decision of the department under the provisions of this section may appeal to the district court in the manner provided in sections 42-306—42-308.

On failure to appear and make such showing on or before the date set or on failure, in the opinion of the department, to make sufficient showing, said permit may be cancelled. In lieu of the mailing of said notice by registered certified mail, service of the same may be made as provided by the laws of Idaho for the service of a summons in civil actions.

Approved March 22, 1967.

CHAPTER 189
(H. B. No. 296)

AN ACT

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

SECTION 1. There is hereby appropriated out of the general fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and payment as agent, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated:          Appropriations:
GOVERNOR:                      
For:                           
Salaries and Wages            $126,000
Travel Expense                15,000
Other Current Expense         37,000
Capital Outlay                10,000
Payment as Agent              7,200
Total                         $195,200

From: General Fund            $195,200

Approved March 22, 1967.

CHAPTER 190
(H. B. No. 297)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:
CHAPTER 191
(H. B. No. 299)

AN ACT

APPROPRIATING MONIES FROM THE GENERAL FUND AND
FROM FUNDS OF CERTAIN STATE AGENCIES TO THE
BUREAU OF PUBLIC ACCOUNTS FOR THE PURPOSE OF
PAYING SALARIES AND WAGES, TRAVEL EXPENSE,
OTHER CURRENT EXPENSE, AND CAPITAL OUTLAY, FOR
THE PERIOD COMMENCING JULY 1, 1967, AND ENDING
JUNE 30, 1969; SUBJECT TO THE PROVISIONS OF THE
STANDARD APPROPRIATIONS ACT OF 1945.

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

SECTION 1. There is hereby appropriated out of the
general fund and funds of certain state agencies the fol­
lowing sums of money, or so much thereof as may be neces­
sary, for the purpose of paying salaries and wages, travel
expense, other current expense, and capital outlay, of the
agency herein named, for the period commencing July 1,
1967, and ending June 30, 1969; subject to the provisions
of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
BUREAU OF PUBLIC ACCOUNTS:
For: Salaries and Wages $117,700
Travel Expense 7,500
Other Current Expense 17,300
Capital Outlay 1,500
Total $144,000
From: General Fund ........................................ $ 86,450
Various Agricultural Funds ................. 6,000
Bean Commission Fund .................. 200
Wheat Commission Fund .................. 400
Brand Inspection Fund .................. 600
Prune Advertising Fund ................ 250
Potato and Onion Fund .................. 1,000
Industrial Administration Fund ........... 600
Occupational License Fund ............... 3,000
Board of Accountancy Fund .............. 400
Electrical Board Account Fund ........... 350
Athletic Fund ........................... 200
Bar Commission Fund ................... 300
Aeronautics Fund ..................... 1,500
Pharmacy Fund ........................... 350
Professional Engineers Fund ............. 250
Public Works Contractors
  License Fund ........................... 600
Board of Nursing Fund .................. 750
Plumbing Board Fund ................... 300
Real Estate Brokers Fund ............... 400
Board of Medicine Fund ................. 400
Fish and Game Fund .................... 5,000
Highway Fund .......................... 12,000
Motor Vehicle Fund .................... 6,500
Surplus Property Fund .................. 500
Lava Hot Springs Foundation Fund ....... 1,500
Liquor Fund ........................... 7,000
State Insurance Fund ................... 4,000
Department of Employment Fund ........... 2,500
Pea and Lentil Commission Fund ........... 500
Horse Racing Act Fund .................. 200

Total ................................................. $144,000

Approved March 22, 1967.

CHAPTER 192
(H. B. No. 300)

AN ACT

APPROPRIATING MONIES FROM THE GENERAL FUND AND
THE GROUND WATER ADMINISTRATION FUND TO THE
RECLAMATION ADMINISTRATION AND GROUND WATER

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

SECTION 1. There is hereby appropriated out of the general fund and the Ground Water Administration fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
RECLAMATION ADMINISTRATION AND GROUND WATER:
For:  Salaries and Wages $345,040
      Travel Expense 20,000
      Other Current Expense 63,050
      Capital Outlay 7,645
  Total $435,735

From:  General Fund $389,735
       Ground Water Administration Fund 46,000
  Total $435,735

Approved March 22, 1967.

CHAPTER 193
(H. B. No. 301)

AN ACT

APPROPRIATING MONIES FROM THE DAIRY INDUSTRY AND INSPECTION FUND TO THE DAIRY INDUSTRY AND INSPECTION FOR THE PURPOSE OF PAYING SALARIES AND WAGES, TRAVEL EXPENSE, OTHER CURRENT EXPENSE, AND CAPITAL OUTLAY, FOR THE PERIOD COMMENCING JULY 1, 1967, AND ENDING JUNE 30, 1969; SUBJECT TO

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

SECTION 1. There is hereby appropriated out of the Dairy Industry and Inspection fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
DAIRY INDUSTRY AND INSPECTION:
For: Salaries and Wages $180,038
      Travel Expense 41,103
      Other Current Expense 25,647
      Capital Outlay 2,362
      Total $249,150

From: Dairy Industry and Inspection Fund $249,150

Approved March 22, 1967.

CHAPTER 194
(H. B. No. 302)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; sub-
subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:

INDUSTRIAL DEVELOPMENT:
For: Salaries and Wages $35,000
     Travel Expense 7,400
     Other Current Expense 29,400
     Capital Outlay 1,200

Total $73,000

From: General Fund $73,000

Approved March 22, 1967.

CHAPTER 195
(H. B. No. 322)

AN ACT

PROVIDING FOR EXAMINATION OF SCHOOL PERSONNEL FOR TUBERCULOSIS; PROVIDING FOR THE RETENTION OF X-RAYS; PROVIDING FOR THE STATUS OF FUTURE EMPLOYMENT WHEN INFECTIOUS TUBERCULOSIS IS FOUND; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. SCHOOL PERSONNEL — EXAMINATIONS FOR TUBERCULOSIS.—It shall be unlawful for public school authorities to employ teachers, custodians, bus drivers, food handlers, nurses or other persons who might come in direct contact with school students, when such personnel have tuberculosis in an infectious stage. Every board of trustees shall require of all such employees an initial intradermal tuberculin skin test for tuberculosis within one year from the date this act becomes effective, unless the employee can produce evidence of a skin test having been done and read as negative within the preceding three (3) year period. If the initial intradermal skin test is negative then the skin test shall be repeated each third year as long as the employee remains negative, and the report furnished to the board of trustees.

If the intradermal skin test is positive, a chest X-ray shall be made to determine whether the disease may be in an infectious state, and the report submitted to the board of
trustees, or their medical advisor. If the disease is not in an infectious state the employee shall be eligible for service but such an employee shall annually thereafter submit to a chest X-ray to determine his continued eligibility for such employment, and furnish an appropriate report to the board of trustees. Such X-ray reports shall be made only by physicians holding an unlimited license to practice medicine. The cost of such skin tests and X-rays shall be borne by the board of trustees. An employee may be tested at his own expense if he so chooses.

Recognizing that individuals may have legitimate medical contraindications to having a skin test, and that certain medications may interfere with the skin test reaction, the report of a satisfactory chest X-ray may be accepted in lieu of the skin test by the board of trustees.

SECTION 2. SCHOOL PERSONNEL — RETENTION OF X-RAYS.—The X-ray film shall be retained by the person taking it for a minimum period of six (6) years. At any time within such period, upon request of the state board of education or the health department having proximate authority, the employee shall permit such films to be delivered to the state board of education or its designated agent at such place as it may designate. If the state board or its agent, upon viewing such film, finds that due to the condition of the same, proper interpretation cannot be made from such film, a new one, conforming to the uniform rules as shall be prescribed by the state board, shall be taken within ten (10) days and submitted in like manner.

SECTION 3. SCHOOL EMPLOYEE — PRESENCE OF TUBERCULOSIS-EFFECT.—If the interpretation of the X-ray indicates a high degree of suspicion of, or the presence of tuberculosis in a probably infectious state, the health department having jurisdiction shall be notified, and the employee shall be ineligible for further service until satisfactory proof is furnished that the individual is not a potential hazard to the health of the public. If such employee is under contract or tenure protection, he may be granted any sick leave compensation provided by the board of trustees for other employees and shall, upon satisfactory recovery, be permitted to complete the term of his contract, or, if under tenure, shall be reinstated with the same tenure status as he possessed at the time his services were discontinued, provided the absence does not exceed a period of three (3) years.
SECTION 4. This act shall be in full force and effect from and after July 1, 1967.

Approved March 22, 1967.

CHAPTER 196
(H. B. No. 326)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, other current expense, and capital outlay, of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the Standard Appropriations Act of 1945:

To Whom Appropriated:  
GOVERNOR'S RESIDENCE:

<table>
<thead>
<tr>
<th>Appropriations:</th>
<th></th>
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<tr>
<td>For:</td>
<td></td>
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<tr>
<td>Salaries and Wages</td>
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<td>Other Current Expense</td>
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<tr>
<td>Capital Outlay</td>
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<tr>
<td>Total</td>
<td>$22,325</td>
</tr>
</tbody>
</table>

From: General Fund  
$22,325

Approved March 22, 1967.

CHAPTER 197
(H. B. No. 326)

AN ACT

APPROPRIATING MONIES FROM THE GENERAL FUND, TO FRANKLIN COUNTY PIONEER RELIC HALL FOR THE

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

SECTION 1. There is hereby appropriated out of the general fund, the following sums of money, or so much thereof as may be necessary, for the purpose of paying other current expense, and capital outlay, of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
FRANKLIN COUNTY PIONEER RELIC HALL:
For: Other Current Expense $2,500
     Capital Outlay 500

Total $3,000
From: General Fund $3,000

Approved March 22, 1967.

CHAPTER 198
(H. B. No. 328)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund, the following sums of money, or so much thereof as may be necessary, for the purpose of paying relief and pensions of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the Standard Appropriations Act of 1945:
CHAPTER 199
(H. B. No. 329)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay, of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
UNIVERSITY OF IDAHO—PURE SEED:
For: Salaries and Wages $50,999
      Travel Expense 500
      Other Current Expense 14,300
      Capital Outlay 2,000

Total $67,799
From: General Fund $67,799

Approved March 22, 1967.
CHAPTER 200
(H. B. No. 330)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, other current expense, and capital outlay, of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
CAPITOL MAINTENANCE:
For: Salaries and Wages $259,040
     Other Current Expense 129,500
     Capital Outlay 77,500
Total $466,040
From: General Fund $466,040

Approved March 22, 1967.

CHAPTER 201
(H. B. No. 331)

AN ACT


Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. There is hereby appropriated out of the general fund, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, other current expense, and capital outlay, of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the Standard Appropriations Act of 1945:

To Whom Appropriated: CENTRAL POSTAL SYSTEM:

| Appropriations: | 
|-----------------|-----------------|
| For: Salaries and Wages | $31,500 |
| Other Current Expense | 6,000 |
| Capital Outlay | 500 |
| Total | $38,000 |

From: General Fund: $38,000

Approved March 22, 1967.

CHAPTER 202
(H. B. No. 332)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund, the following sums of money, or so much thereof as may be necessary, for the purpose of paying other current expense, and payment as agent of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the Standard Appropriations Act of 1945:

To Whom Appropriated: BLISTER RUST CONTROL, LAND ACQUISITION AND FIRE EMERGENCY:

| Appropriations: | 
|-----------------|-----------------|
| For: Other Current Expense | $346,101 |
| Payment as Agent | 260,000 |

CHAPTER 203
(H. B. No. 333)

AN ACT

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

SECTION 1. There is hereby appropriated out of the general fund, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, and other current expense of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
NOXIOUS WEED ERADICATION AND RANGE IMPROVEMENT:
For: Salaries and Wages $5,874
Travel Expense 400
Other Current Expense 45,100

Total $51,374

From: General Fund $51,374

Approved March 22, 1967.

CHAPTER 204
(H. B. No. 335)

AN ACT
APPROPRIATING MONIES FROM THE STATE BRAND FUND

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

SECTION 1. There is hereby appropriated out of the state brand fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay, of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
STATE BRAND INSPECTION: For: Salaries and Wages $479,238
Travel Expense 67,000
Other Current Expense 110,000
Capital Outlay 20,000
Total $676,238
From: State Brand Fund $676,238

Approved March 22, 1967.

CHAPTER 205
(H. B. No. 336)

AN ACT


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

SECTION 1. There is hereby appropriated out of the sheep commission fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, and other current
expense of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
SHEEP COMMISSION:
For: Salaries and Wages $144,800
Travel Expense 1,200
Other Current Expense 50,000
Total $196,000
From: Sheep Commission Fund $196,000
Approved March 22, 1967.

CHAPTER 206
(H. B. No. 337)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund, the following sums of money, or so much thereof as may be necessary, for the purpose of paying relief and pensions of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
LEWISTON CHILDREN'S HOME:
For: Relief and Pensions $125,000
Total $125,000
From: General Fund $125,000
Approved March 22, 1967.
C. 207 '67  IDAHO SESSION LAWS

CHAPTER 207
(H. B. No. 140, As Amended, As Amended in the Senate)

AN ACT

AMENDING CHAPTER 26, TITLE 36, IDAHO CODE, RELATING TO FEDERAL AID FOR WILDLIFE RESTORATION PROJECTS, BY ADDING A NEW SECTION THERETO TO BE KNOWN AS SECTION 36-2606, BY PROVIDING THAT BEFORE APPROVING, CONSENTING OR ASSenting IN THE ESTABLISHMENT OF WILDLIFE RESTORATION PROJECTS OR MIGRATORY BIRD RESERVATIONS AS PROVIDED BY FEDERAL STATUTES, THE IDAHO FISH AND GAME COMMISSION SHALL HOLD PUBLIC HEARINGS IN THE COUNTY OR COUNTIES AFFECTED; PROVIDING THE INFORMATION TO BE PRESENTED, RECEIVED AND CONSIDERED AT SUCH HEARINGS; PROVIDING FOR NOTICE OF HEARINGS; PROVIDING FOR APPROVAL OR DISAPPROVAL BY THE COMMISSIONERS OF THE COUNTY OR COUNTIES AFFECTED; PROVIDING THAT NO SUCH ASSENT, APPROVAL OR CONSENT SHALL BE OF ANY LEGAL EFFECT UNLESS THE PROCEDURES HEREIN PROVIDED SHALL HAVE BEEN FOLLOWED; PROVIDING THAT THIS ACT SHALL NOT APPLY TO PURCHASERS OF FIVE ACRES OF LAND OR LESS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 26, Title 36, Idaho Code, be, and the same is hereby amended by adding a new section thereto, to be known and designated as Section 36-2606, and to read as follows:

36-2606. PUBLIC HEARINGS — INFORMATION — APPROVAL OR DISAPPROVAL — PURCHASES OF FIVE ACRES OR LESS.—Whenever the creation, establishment or enlargement of any heretofore established or, hereafter to be established cooperative wildlife restoration project or migratory bird reservation as provided in Sections 36-2601 and 36-2605, Idaho Code, shall contemplate, require or involve the acquisition of privately owned property by either the state of Idaho or the United States, neither the state of Idaho, the Idaho Fish and Game Commission, nor any other officer, person or agency of the state of Idaho authorized to act for the state of Idaho shall consent to, approve of, concur in, assent to or authorize establishment of or enlargement of any cooperative wildlife restoration project or migratory bird reservation unless a
public hearing has been held in the county or counties where the proposed cooperative wildlife restoration project or migratory bird reservation is to be established or enlarged or the proposed lands are to be acquired and until fifteen days shall have elapsed following such hearing.

Notice of such public hearing shall be given by certified mail to the board of county commissioners of the county or counties affected and by publication in a newspaper or newspapers having general circulation within such county or counties. Such publication shall be given so that the first such publication shall be at least ten (10) and not more than fifteen (15) days before the date of hearing and if published weekly shall be published in at least two (2) successive issues and if published daily shall be published in at least seven (7) successive issues. The notice shall contain a brief description of the proposed project and a general description of the proposed location thereof and the place and time of hearing and state that all interested persons may appear and be heard.

At the hearing, the Idaho Fish and Game Commission shall present or cause to be presented oral and documentary evidence as to the land areas affected, the existing use of and production from said lands, the probable changes in use and production of said lands if included in such project, the existing tax to all taxing districts payable from such lands and the estimated amount of any payments in lieu of taxes, if any, and to what taxing districts such in lieu payments will be made if the lands be included in such project. The board of county commissioners of the county or counties affected and any other persons present may present oral or documentary evidence upon any of the above matters and upon any other matters showing the economic effect the proposal would have upon the county or counties and their residents. Statements shall be received, either oral or written, from any county resident present who shall wish to make his views known either in favor of or in opposition to such proposed project.

From and after such hearing the board of county commissioners of the county or counties affected shall have fifteen (15) days to recommend and file approval or disapproval of such proposed project. Failure of the board to act within said period shall be deemed approval by them of the proposed project. If the board of any county affected shall recommend disapproval of such project, then the state of Idaho or any agency, commission or officer thereof shall not consent, concur, approve or assent to such project with-
out first giving serious consideration to the objections of the board of county commissioners and filing with the board of county commissioners a written statement reasonably explaining the reasons for giving the consent, concurrence, approval or assent in the face of such objections. In the event no such consent, concurrence, approval or assent is given, nothing herein contained shall be construed to prevent reconsideration of such proposals, or modification thereof, from time to time upon the same procedures for notice and hearing as set forth hereinabove.

No assent, approval, consent or recommendation, as required by Sections 36-2601, or 36-2605, Idaho Code, shall be of any force or effect until the requirements for notice and hearing as set forth herein have been satisfied. Nothing in this act shall be applicable to purchases of five acres of land or less.

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

Approved March 24, 1967.

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CHAPTER 208
(H. B. No. 232)

AN ACT

AMENDING SECTION 31-3501, IDAHO CODE, RELATING TO POWER OF BOARD OF COUNTY COMMISSIONERS BY PROVIDING FOR THE CREATION OF A RESERVE SINKING FUND TO ACCUMULATE MONEY TO BUILD OR IMPROVE EXISTING HOSPITAL BUILDINGS OR TO PURCHASE HOSPITAL EQUIPMENT.

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

SECTION 1. That Section 31-3501, Idaho Code, be, and the same is hereby amended to read as follows:

31-3501. POWER OF BOARDS OF COUNTY COMMISSIONERS.—The boards of county commissioners in their respective counties shall have the jurisdiction and power under such limitations and restrictions as are prescribed by law,

(1) To care for and maintain the indigent sick or other-
wise dependent poor, aged and infirm of the county and for this purpose said boards are authorized to levy an ad valorem tax not to exceed five (5) mills on the dollar on all taxable property in the county.

(2) To provide 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, 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 term hospitals as used in this chapter shall be construed to include nursing homes.

(3) If it becomes necessary and expedient so to do, it shall be lawful for the board to levy additional taxes and collect revenue for the purpose of creating a reserve sinking fund for the purpose of accumulating moneys with which to construct new hospital buildings or purchase necessary equipment, and to provide extensions of and betterments to the improvements of hospitals, and for such purposes may levy an additional tax not to exceed two (2) mills on the dollar.

Approved March 22, 1967.

CHAPTER 209
(H. B. No. 303)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund and the Development and Publicity fund the
following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and refunds of erroneous receipts, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
DEPARTMENT OF COMMERCE AND DEVELOPMENT:
For: Salaries and Wages $165,000
      Travel Expense 35,000
      Other Current Expense 394,149
      Capital Outlay 2,551
      Refunds of Erroneous Receipts 300
      
      Total $597,000

From: General Fund $457,352
      Development and Publicity Fund 139,648
      
      Total $597,000

Approved March 24, 1967.

CHAPTER 210
(S. B. No. 24)

AN ACT

AMENDING SECTION 36-404, IDAHO CODE, RELATING TO RESIDENT FISH AND GAME LICENSES, PERMITS AND TAGS; BY PROVIDING FOR APPLICATION OF 12 YEAR MINIMUM AGE TO BOTH NONRESIDENTS AND RESIDENTS FOR PURCHASE OF A HUNTING LICENSE; BY DELETING EXCESS AND UNNECESSARY WORDAGE; BY COMBINING NONRESIDENTS WITH RESIDENTS RELATIVE TO GAME TAG PURCHASE PROVISION; BY PROVIDING FOR A TURKEY TAG AND A FEE THEREFOR AND PROVIDING FOR AN INCREASE IN THE FEE FOR ANTELOPE TAGS.

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

SECTION 1. That Section 36-404, Idaho Code, be, and the same is hereby amended to read as follows:
36-404. RESIDENT FISH AND GAME LICENSES AND PERMITS—ISSUANCE—MEMBERS OF UNITED STATES SERVICES.—Any person over the age of 12 years, who has been a bona fide resident of the state of Idaho for a period of six (6) months last preceding the application for a license, upon the payment of the fee fixed by section 36-407 to the state fish and game director, or to any license vendor, shall be entitled to receive from the officer, or any authorized agent to whom such payment is made, a resident fish and game license combined, or a resident fish or game license or both.

Any resident or nonresident person 12 years of age or older holding a license of the proper class and kind, as provided for in this chapter, which shall permit such person to pursue, hunt and kill, in accordance with the laws of this state, any of the game wild animals and/or birds except deer, pronghorn antelope, mountain sheep, moose, elk, or goats, or turkeys, mentioned in this act, during the time when it shall be lawful to kill the same in any of the counties of this state subject to the limitations as to the number of each kind of animals or birds provided herein, and to catch fish with a hook and line according to the provisions of this act, provided however, that any such properly licensed person shall be entitled to receive from the officer or any authorized agent to whom such payment is made, a permit, evidenced by a tag, authorizing said person to pursue, hunt and to kill deer, pronghorn antelope, mountain sheep, moose, elk or goats, in accordance with the laws of this state. Such a permit shall be issued to a person holding a license provided for in this section, and shall be evidenced by a tag which may be purchased, animals or birds of the above species upon payment to an authorized agent of the following respective fees: one five dollars ($5.00) each for the privilege of hunting pronghorn antelope and turkeys, two dollars ($2.00) for deer, three dollars ($3.00) for elk, and ten dollars ($10.00) each for moose, mountain sheep and goat. Provided that a tag must be had for the hunting or taking of each and every one of said animals or birds. Said tags are to bear and have serial numbers to be endorsed on said license by the vendor at the time of sale. Said tags are to be prepared, constructed and handled by and under the direction of the state fish and game director in such manner as he shall deem expedient. Provided, that any regularly appointed officer or members of the military and naval forces of the United States who are employed and lodged in the state, shall be entitled to purchase resident licenses, irrespective of their
residence or the length of time they have resided within the state.

Approved March 24, 1967.

CHAPTER 211
(S. B. No. 58 As Amended)

AN ACT
AMENDING SECTION 43-322, IDAHO CODE, RELATING TO POWERS AND DUTIES OF BOARD OF DIRECTORS OF IRRIGATION DISTRICTS, BY ADDING A PROVISION TO ALLOW AN IRRIGATION DISTRICT, ONCE ORGANIZED AND WITH NO WARRANTS OUTSTANDING, TO OPERATE ON A CASH BASIS; AMENDING SECTION 43-904, IDAHO CODE, RELATING TO MANNER OF PAYMENT OF CLAIMS, TO REFLECT THE ADDED METHOD.

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

SECTION 1. That Section 43-322, Idaho Code, be, and the same is hereby amended to read as follows:

43-322. POWER TO INCUR DEBTS—WARRANTS.—The board of directors, or other officers of the district, shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this section; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void: provided, that for the purpose of organization, or for any of the purposes of this title, the board of directors may, before the collection of the first assessment, incur indebtedness and cause warrants of the district to issue therefor according to the following limitations: Districts embracing 50,000 acres, or more, of irrigable land, not in excess of $15,000 of warrants; districts embracing 40,000 acres, or more, and less than 50,000 acres of irrigable land, up to $12,000 of warrants; districts embracing 30,000 acres, or more, and less than 40,000 acres of irrigable land, up to $9,000 of warrants; districts embracing 20,000, or more, and less than 30,000 acres of irrigable land, up to $6,000 of warrants; districts embracing 10,000 acres, or more, and less than 20,000 acres of irrigable land, up to $4,000 of warrants; districts embracing more than 2,000 acres, or more, and less than 10,000 acres of ir-
rigable land up to $3,000 of warrants, and district embrac­ing less than 2,000 acres of irrigable land up to $2,000 of warrants.

Provided, further, that for the purpose of defraying the expenses in the care, operation, repair and improvement of such portion of the irrigation works of the district as are completed and in use, including salaries of officers and employees, the board of directors of an irrigation district may at any time issue warrants of such district in payment of claims of indebtedness against the district, not to exceed the district's anticipated revenue.

The warrants herein authorized shall be in form and substance the same as county warrants or as near the same as may be practicable and shall be signed by the chairman and attested by the secretary of said board. All such war­rants shall be presented by the holder thereof to the trea­surer of the district for payment who shall indorse thereon the day of presentation for payment with the additional endorsement thereon, in case of nonpayment, that they are not paid for want of funds, and such warrants shall draw interest at seven per cent per annum from the date of their presentation to the treasurer for payment as afore­said until such warrants are paid. No warrants shall be issued in payment of any indebtedness of such district for less than face or par value. It shall be the duty of the trea­surer from time to time when he has sufficient funds in his hands for that purpose to advertise in some newspaper in the county in which the district is situated requiring the presentation to him for payment of as many of the out­standing warrants as he may be able to pay. Ten days after the first publication of said notice by the treasurer calling in any of said outstanding warrants, said warrants shall cease to bear interest, which shall be stated in the notice. Said notice shall be published two weeks consecutively and said warrants shall be called in and paid in the order of their indorsement.

Provided, further, after an irrigation district has organ­ized and has no warrants outstanding, the district may maintain its operation on a cash basis and pay by check the expenses of operation and maintenance, repair, improve­ment, obligations on contractual or bonded indebtedness, and all other general necessary expenses incurred by the district.

SECTION 2. That Section 43-904, Idaho Code, be, and the same is hereby amended to read as follows:
43-904. PAYMENT OF CLAIMS.—No claim shall be paid by the treasurer of a district until allowed by the board of directors, and only upon a warrant or check signed by the president and countersigned by the secretary by two officers authorized by the board.

Approved March 24, 1967.

CHAPTER 212
(S. B. No. 60)

AN ACT
REPEALING CHAPTER 14, TITLE 37, IDAHO CODE, RELATING TO THE TAX ON THE SALE OF OLEOMARGARINE PRODUCTS.

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

SECTION 1. That Chapter 14, Title 37, Idaho Code, be, and the same is hereby repealed.

Approved March 24, 1967.

CHAPTER 213
(S. B. No. 62 As Amended)

AN ACT
AMENDING SECTION 27-1911, IDAHO CODE, BY STRIKING THEREFROM REFERENCES TO SMALL MONEY LENDERS, DEFINED IN CHAPTER 20 OF TITLE 26, IDAHO CODE, THEREBY AUTHORIZING SMALL MONEY LENDERS TO OPERATE UNDER THE PROVISIONS OF SECTIONS 27-1908 AND 27-1909, IDAHO CODE.

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

SECTION 1. That Section 27-1911, Idaho Code, be, and the same is hereby amended to read as follows:

27-1911. APPLICATION OF §§ 27-1908, 27-1909.—This act shall apply only to national banks, state banks, savings and loan associations and those corporations operating under the supervision of the Idaho state commission-
er of finance, with the exception of Small Money Lenders, defined in chapter 20 of title 26, Idaho Code, and Credit Unions, as defined in chapter 21 of title 26, Idaho Code. Conditional sales contracts, as the same are defined under the laws of the state of Idaho, shall not be subject to the provisions of this act.

Approved March 24, 1967.

CHAPTER 214
(S. B. No. 75, As Amended)

AN ACT

AMENDING SECTION 28-101, IDAHO CODE, TO CLARIFY THE CEMETERY MAINTENANCE DISTRICT LAW TO APPLY TO CEMETERIES FOR BURIAL OF THE HUMAN DEAD; AMENDING SECTION 28-116, IDAHO CODE, RELATING TO CORPORATE POWERS OF THE DISTRICT, BY ADDING POWER TO ACQUIRE, USE, MANAGE, OCCUPY, POSSESS, LEASE, EXCHANGE, SELL AND CONVEY LANDS, PERSONAL PROPERTY AND CEMETERIES; AMENDING SECTION 28-118, IDAHO CODE, RELATING TO LEGAL TITLE TO PROPERTY OF CEMETERY MAINTENANCE DISTRICT BY ENLARGING THE POWERS AND PROVIDING THE PROCEDURE FOR SALE OR EXCHANGE OF SUCH PROPERTY.

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

SECTION 1. That Section 28-101, Idaho Code, be, and the same is hereby amended to read as follows:

28-101. PURPOSE AND POLICY OF LAW—SHORT TITLE.—The maintaining, improving and beautifying of cemeteries for the burial of the human dead is hereby declared to be one of the first considerations of a civilized people and a fixed and permanent policy of the state of Idaho, and the same is hereby declared to be a public benefit, use and purpose, and there is hereby imposed upon the cemetery maintenance boards, provided for in this act, the duty of beautifying, improving and maintaining the cemetery or cemeteries within their cemetery maintenance districts. And it is hereby declared and determined that any and all property within any cemetery maintenance district created under the provisions of this act is and shall be
benefited ratably with all other property within such dis-
trict, in proportion to its assessed valuation by the crea-
tion of such district and by any and all improvements to 
the cemetery or cemeteries within such district for the 
maintenance of which such district was created, and that 
all property within any such district shall be assessed 
equally in proportion to its assessed valuation for the pur-
pose of cemetery improvement and maintenance under the 
provisions of this act.

This act shall be known as the Cemetery Maintenance 
District Law of the state of Idaho, and whenever cited, 
enumerated, referred to or amended, may be designated 
as the Cemetery Maintenance District Law, adding when 
necessary, the number of the section.

SECTION 2. That Section 28-116, Idaho Code, be, and 
the same is hereby amended to read as follows:

28-116. CORPORATE POWERS. — Each cemetery 
maintenance district has power:

1. To sue and be sued.

2. To purchase and acquire, hold, use, manage, occupy, 
possess, lease, exchange, sell and convey lands, make such 
contracts, and purchase and 
acquire, hold, use, manage, oc-
cupy, possess, lease, exchange, sell and convey such per-
sonal property as may be necessary or convenient for the 
purposes of this chapter.

3. To levy and apply such taxes for purposes under its 
exclusive jurisdiction as are authorized by law.

4. To acquire from a city or village, by gift or purchase, 
a municipal cemetery and endowment, or other, funds per-
taining thereto and to hold, use, manage, occupy, possess, 
lease, exchange, sell, convey, operate, maintain, improve 
and beautify such cemetery for the burying of the dead.

SECTION 3. That Section 28-118, Idaho Code, be, and 
the same is hereby amended to read as follows:

28-118. CEMETERY MAINTENANCE DISTRICT 
HAS LEGAL TITLE TO PROPERTY — PROCEDURE 
FOR SALE OR EXCHANGE.—The legal title to all prop-
erty acquired under the provisions of this chapter shall im-
mEDIATELY and by operation of law, vest in such cemetery 
maintenance district, and shall be held by such district in 
trust for, and is hereby dedicated and set apart to the uses 
and purposes set forth in this chapter. Said board is here-
by authorized and empowered to hold, use, acquire, manage, occupy, and possess, lease, exchange, sell and convey said property as herein in this chapter provided; and to institute and maintain any and all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the provisions of this chapter, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities created by this chapter or acquired in pursuance thereof. In all courts, actions, suits or proceedings, the said board may sue, appear and defend, in person or by attorneys, and in the name of such cemetery maintenance district.

Real or personal property may be sold, exchanged, conveyed and disposed of by the board of commissioners whenever it finds and by resolution declares that the district no longer has use therefor, subject to the following procedure:

(a) If in the opinion of the board any such property does not exceed $500.00 in value, the same may be sold or exchanged without independent appraisal, notice or competitive bids.

(b) All such real property, and any such personal property exceeding $500.00 in value, shall be appraised by three disinterested residents of the county in which the district is located, who shall be selected by the board. It may then be sold or exchanged at private or public sale after due notice, to the highest bidder for cash or on terms, at not less than its appraised value.

(c) Due notice of sale or exchange shall be accomplished if the notice shall describe the property to be sold or exchanged (legal description, if real property), state the appraised value thereof (by separate items, if so appraised), and specify the time, place and conditions of sale. Said notice shall be published in a newspaper having general circulation in the district at least twice, the first publication thereof to be not less than 10 days preceding the day of sale.

(d) If such property is sold on terms, the board may contract for the sale of the same for a period not exceeding 10 years, with interest at the legal rate on all deferred payments. The title to all property sold on contract shall be retained in the name of the district until full payment has been made by the purchaser. Any property sold by the board under the provisions of this section, either for cash or on contract, shall be assessed by the county assessor in the same manner and upon the same basis of valuation as
though the purchaser held a record title to the property so sold. The board shall have authority to cancel any con­tract of sale, pursuant to law, if the purchaser shall fail to comply with any of the terms of such contract, and retain all payments paid thereon. The board may by agreement with the purchaser modify or extend any of the terms of any contracts of sale, but the total term shall not exceed 10 years.

(e) Upon final payment pursuant to the sale or exchange of such property, the president and secretary, pursuant to resolution of the board, shall duly execute and deliver an appropriate deed or bill of sale to the purchaser.

Approved March 24, 1967.

CHAPTER 215
(S. B. No. 107)

AN ACT
REQUIRING AND PROVIDING FOR THE PERPETUATION OF SURVEY CORNERS; DEFINING TERMS AND PROVIDING FOR FILING OF SURVEY INFORMATION WITH COUNTY CLERKS; REQUIRING SURVEYORS TO RECONSTRUCT CORNER MONUMENTS TO MAKE AS PERMANENT AS POSSIBLE; REQUIRING CORNER RECORDS TO BE SIGNED BEFORE FILING; PROVIDING THAT PRE-EXISTING RECORDS MAY BE FILED BEFORE THIS ACT BECOMES EFFECTIVE; EXEMPTING FEDERAL GOVERNMENT FILINGS FROM PAYMENT OF FILING FEES; PROVIDING FOR PENALTY BUT EXEMPTING GOVERNMENT SURVEYORS FROM PENALTY; AND PROVIDING FOR SEVERABILITY.

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

SECTION 1. SHORT TITLE.—This act may be cited as the “Corner Perpetuation and Filing Act.”

SECTION 2. DECLARATION OF POLICY.—It is the purpose of this act to protect and perpetuate public land survey corners and information concerning the location of such corners by requiring the systematic establishment of monuments and filing of information concerning the marking of the location of such public land survey corners and to allow the systematic location of other property corners, thereby providing for property security and a coherent
system of property location and identification; and thereby eliminating the repeated necessity for reestablishment and relocations of such corners once they are established and located.

SECTION 3. DEFINITIONS.—Except where the context indicates a different meaning, terms used in this act shall be defined as follows:

(a) A "property corner" is a geographic point on the surface of the earth, and is on, a part of, and controls a property line.

(b) A "property controlling corner" for a property is a public land survey corner, or any property corner, which does not lie on a property line of the property in question, but which controls the location of one or more of the property corners of the property in question.

(c) A "public land survey corner" is any corner actually established and monumented in an original survey or re-survey used as a basis of legal description for issuing a patent for the land to a private person from the United States Government.

(d) A "corner", unless otherwise defined, means a property corner, or a property controlling corner, or a public land survey corner, or any combination of these.

(e) An "accessory to a corner" is any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects.

(f) A "monument" is a physical structure that occupies the exact position of a corner.

(g) A "reference monument" is a special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is recorded, and which serves to witness the corner.

(h) A "surveyor" means any person who is authorized by the laws of this state to practice land surveying.

(k) The "board" is the state board of engineering examiners.

SECTION 4. FILING REQUIREMENTS. — A surveyor shall complete, sign, and file with the county clerk and re-
corder of the county where the corner is situated, a written record of the establishment or restoration of a corner. This record shall be known as a "corner record" and such a filing shall be made for every public land survey corner and accessory to such corner which is established, reestablished, monumented, remonumented, restored, rehabilitated, perpetuated or used as control in any survey. The survey information shall be filed within 90 days after the survey is completed, unless the corner and its accessories are substantially as described in an existing corner record filed in accordance with the provisions of this act.

SECTION 5. FILING.—A surveyor may file any corner record as to any property corner, property controlling corner, reference monument or accessory to a corner.

SECTION 6. FILING INFORMATION. — The board shall, by regulation, provide and prescribe the information which shall be necessary to be included in the corner record and the board shall prescribe the form in which such corner record shall be presented and filed.

SECTION 7. COUNTY CLERK TO KEEP RECORD—FEES.—(a) The county clerk and recorder of the county containing the corner shall receive the completed corner record and preserve it in a hard-bound book. The books shall be numbered in numerical order.

(b) The county clerk and recorder shall make these records available for public inspection during all usual office hours.

(c) For purposes of determining the filing fee hereunder, the corner record shall be considered as a similar service to the filing of instruments as provided in Section 31-3205, Idaho Code. However, all corners, monuments and their accessories established prior to the effective date of this act, for which a written record is completed as required herein, and which are offered for filing within six months of the effective date of this act, shall be accepted and filed by the county clerk without requiring the payment of fees therefor.

SECTION 8. SURVEYOR TO RECONSTRUCT MONUMENTS.—In every case where a corner record of a public land survey corner is required to be filed under the provisions of this act, the surveyor must reconstruct or rehabilitate the monument of such corner, and accessories to such corner, so that it will be as permanent a monument as is
reasonably possible to provide and so that it may be located with facility at any time in the future.

SECTION 9. TO BE SIGNED BY SURVEYOR. — No corner record shall be filed unless the same is signed by a land surveyor as defined herein, or, in the case of an agency of the United States government, the certificate may be signed by the survey party chief making the survey.

SECTION 10. PRE-EXISTING RECORDS. — Corner records concerning corners established, reestablished or restored may be filed before the effective date of this act.

SECTION 11. FEDERAL GOVERNMENT FILINGS WITHOUT FEES.—All federal government surveys performed by authorized personnel of agencies of the federal government shall not be subject to the provisions of this act, except that federal agencies may comply with the act's provisions, and shall be exempt from filing fees required in Section 7(c).

SECTION 12. PENALTY. — (a) Surveyors failing to comply with the provisions hereof shall be deemed to be within the purview of Section 54-1220(b), Idaho Code, and shall be subject to the revocation or suspension of their certificate as in said section provided.

(b) Government surveyors shall be exempt from the provisions of Section 12(a) of this act.

SECTION 13. SEVERABILITY. — If any provision of this Act shall be declared invalid, such invalidity shall not affect any other portion of this Act which can be given effect without the invalid portion, and to this end the provisions of this Act are declared to be severable.

Approved March 24, 1967.

CHAPTER 216
(S. B. No. 109, As Amended in the House)

AN ACT
AMENDING SECTION 22-3104, IDAHO CODE, RELATING TO CREATION AND MEMBERSHIP OF THE IDAHO HOP GROWER'S COMMISSION, BY DELETING THE PROVISION THAT MEMBERS SHALL BE APPOINTED BY THE GOVERNOR AND PROVIDING INSTEAD FOR ELECTION BY
GROWER MEMBERS, AND SPECIFYING THE METHOD OF ELECTION, HANDLING VACANCIES, AND REMOVAL FOR STATED CAUSES; PROVIDING THAT MEMBERS, OFFICERS AND EMPLOYEES RECEIVE ACTUAL TRAVEL AND OTHER EXPENSES IN PERFORMANCE OF OFFICIAL DUTIES, AND AUTHORIZING THE COMMISSION TO ADOPT REGULATIONS THEREFOR; AMENDING SECTION 22-3105, IDAHO CODE, RELATING TO POWERS AND DUTIES OF THE COMMISSION, BY PROVIDING POWER TO PROSECUTE SUIT IN THE NAME OF THE STATE OF IDAHO FOR COLLECTION OF ASSESSMENTS; AMENDING SECTION 22-3107, IDAHO CODE, RELATING TO LEVY ON HOPS, BY CHANGING THE WORD "TAX" TO "ASSESSMENT", PROVIDING THAT SUCH ASSESSMENTS UNTIL COLLECTION SHALL CONSTITUTE A LIEN, AND PROVIDING FOR CANCELLATION OF DELINQUENT ASSESSMENTS UNDER CERTAIN CONDITIONS; AMENDING SECTION 22-3108, IDAHO CODE, RELATING TO PAYMENT OF ASSESSMENTS BY PROVIDING THAT ASSESSMENT BE PAID TO THE IDAHO HOP GROWER'S COMMISSION RATHER THAN TO THE COMMISSIONER OF AGRICULTURE; AMENDING SECTION 22-3109, IDAHO CODE, RELATING TO ASSESSMENT RETURNS, BY CHANGING THE WORD "TAX" TO "ASSESSMENT"; AMENDING SECTION 22-3110, IDAHO CODE, RELATING TO PENALTIES FOR ASSESSMENT DEFAULTS, PROVIDING THAT SUCH PENALTIES SHALL BE PAID TO THE COMMISSIONER RATHER THAN TO THE COMMISSIONER OF AGRICULTURE; AMENDING SECTION 22-3111, IDAHO CODE, RELATING TO ENFORCEMENT OF THE ACT, BY CHANGING THE WORD "TAX" TO "ASSESSMENT"; REPEALING SECTION 22-3112, IDAHO CODE, RELATING TO IDAHO HOP GROWER'S COMMISSION FUNDS IN THE STATE TREASURY, AND REENACTING SAID SECTION BY PROVIDING FOR THE CREATION, APPROPRIATION, DISBURSEMENT AND LIMITATIONS OF THE IDAHO HOP GROWER'S FUND AND THAT ALL MONEYS RECEIVED BY THE COMMISSION BE DEPOSITED TO BANKS OR TRUST COMPANIES APPROVED BY THE STATE, AND PROVIDING FOR THE TRANSFER OF FUNDS FROM THE STATE OF IDAHO TO SUCH DEPOSITORY SELECTED UNDER THIS ACT BY THE COMMISSION; REPEALING SECTION 22-3113, IDAHO CODE, RELATING TO APPROPRIATION OF EXCESS INSPECTION FEES, AND REENACTING A NEW SECTION SPECIFYING THE PROCEDURE FOR ELECTION OF COMMISSION MEMBERS BY THE GROWERS AND HANDLING OF VACANCIES ON THE COMMISSION; AMENDING SECTION 22-3114, IDAHO CODE, RELATING TO DEALER'S LICENSE AND REVOCATION,
FEES, SURETY BONDS AND FORFEITURE, BY DELETING THE REQUIREMENT THAT ALL LICENSE FEES AND BOND FORFEITURES BE PAID INTO THE IDAHO HOP GROWER'S COMMISSION FUND, AND PROVIDING INSTEAD THAT THEY BE DEPOSITED AS PROVIDED IN SECTION 22-3112, IDAHO CODE; AMENDING SECTION 22-3115, IDAHO CODE, RELATING TO CRIMINAL PENALTIES FOR VIOLATION, BY DELETING THE REQUIREMENT THAT SUCH FINES BE PAID INTO THE IDAHO HOP GROWER'S COMMISSION FUND, AND PROVIDING INSTEAD THAT THEY BE DEPOSITED AS PROVIDED IN SECTION 22-3112, IDAHO CODE; AND ADDING TWO NEW SECTIONS TO BE KNOWN AS SECTIONS 22-3116 AND 22-3117, TO PROVIDE FOR TERMINATION OF THE COMMISSION AFTER A REFERENDUM VOTE IN FAVOR OF DISCONTINUATION AND FOR WINDING UP OF THE COMMISSION'S AFFAIRS; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

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

SECTION 1. That Section 22-3104, Idaho Code, be, and the same is hereby amended to read as follows:

22-3104. IDAHO HOP GROWER'S COMMISSION CREATED—QUALIFICATIONS. — There is hereby created and established an Idaho Hop Grower's Commission to be known and designated as such which shall be composed of the commissioner of agriculture and five practical growers, appointed by the governor, upon the recommendation of a representative group of growers of the state of Idaho elected as provided in Section 22-3113. Each appointed member of the commission shall be a resident citizen of the state of Idaho for a period of four years prior to his appointment, shall have had active experience and be now actually engaged in growing hops in Idaho and shall derive a substantial portion of his income from growing hops or be the directing or managing head of a corporation, firm, partnership or other business unit which derives a substantial portion of its income from growing hops. The qualifications for members of the commission shall continue throughout the terms of office of all members. To continue holding office, each member must remain qualified. The commissioner of agriculture may remove a member if he becomes disqualified during his term of office or for inability to carry out his duties as commissioner. Upon the establishment of the commission, one member shall serve for a term of one year, two members shall serve for a term of two years, two members shall serve for a term of three
years and thereafter all terms of office shall be for a term of three years. The term of office of each member of the commission shall terminate on the third Monday of January of the year in which the term for which the member was appointed ends, but each member of the commission shall serve until his respective successor is appointed and has qualified. Before entering on the discharge of their duties as members of the commission, each member shall take and subscribe to the oath of office prescribed by law. A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of all duties of the commission. No salary, expenses or mileage shall be paid to any member of the commission except that upon the unanimous vote of the five greater members, any members may be paid his actual expenses together with mileage at the rate allowed by law to state employees while such member is engaged on any business for the commission. Members of the commission shall receive no salary except upon the unanimous vote of the commission; however, members, officers and employees of the commission shall receive their actual and necessary travel and other expenses incurred in the performance of their official duties. The commission shall adopt uniform and reasonable regulations governing the incurring and paying of such expenses.

SECTION 2. That Section 22-3105, Idaho Code, be, and the same is hereby amended to read as follows:

22-3105. POWERS AND DUTIES OF COMMISSION. —The powers and duties of the commission shall include the following:

1. To administer and enforce this act.

2. To contract in the name of the commission and be contracted with.

3. To employ and at pleasure discharge a secretary, advertising manager, advertising agents, agents, research director, research staff, attorneys and such clerical and other help as it deems necessary and to control their powers and duties and to fix their compensation.

4. To keep books, records and accounts of all its dealings, which books, records and accounts of all its dealings shall be open to inspection and audit by the state auditor at all times.

5. To purchase or authorize the purchase of all office
equipment and supplies and incur all other reasonable and necessary expenses and obligations in connection with and required for the proper carrying out of the provisions of this act.

6. To become a member of and purchase membership in trade organizations and to subscribe to and purchase trade bulletins, journals, and other trade publications.

7. To plan and conduct an advertising, publicity and sales promotion campaign to increase the sales of hops and to make such advertising, publicity and sales promotion contracts and other agreements as may be necessary.

8. To plan and conduct a research program on marketing of and markets for hops and a research program to improve the quality of hops, to develop and improve control measures for disease and pests which attack hops and to improve hop growing culture and to disseminate such information among the growers and to make such research contracts and other agreements as may be necessary.

9. To define and designate the character of the brands, labels, stencils or other distinctive marks under which hops may be marketed and to define or designate one distinctive mark identifying the hops as having been grown in Idaho and to patent, copyright or otherwise protect such identifying distinctive mark, all for the purposes of securing the greatest returns to the grower and of meeting requirements of the advertising campaign of the commission and of protecting the identity of the hops as Idaho hops as near to the final consumer as possible.

10. To prevent any substitution of other hops for Idaho hops and to prevent the misrepresentation or the misbranding of Idaho hops at any and all times and at any and all points.

11. To establish and maintain the executive office of the commission at any place within the state of Idaho which designated place may be changed at the discretion of the commission.

12. To adopt and from time to time alter, rescind, modify or amend all proper and necessary rules, regulations and orders for the exercise of its powers and the performance of its duties and under this act.

13. To cooperate with the commissioner of agriculture in and to pay all or any portion of the costs incurred in the creation, administration and enforcement of any quaran-
tine and inspection affecting hops and hop plants established pursuant to the laws of the state of Idaho.

14. To plan and conduct a research program for improving old varieties and developing new varieties of hops; to propagate any such improved old varieties or such new varieties of hops; to patent any such improved old varieties or such new varieties of hops and to license the propagation, growing and sale thereof; to adopt such trade names or trade marks in relation to any such improved old varieties or such new varieties of hops and to patent, copyright, or otherwise protect such names; to buy, contract to buy, receive by gift or otherwise acquire, hold, or retain legal title to such improved old varieties or such new varieties of hops including the root stock thereof and the hops produced therefrom; to sell, lease, consign, trade, exchange, or give away or otherwise dispose of any such improved old varieties or such new varieties of hops including the root stock thereof and the hops produced therefrom; to advertise and promote the commercial use of such improved old varieties and new varieties of hops; and to impose, by contract or regulation or otherwise, such conditions and restrictions as may be determined by the commission pertaining to such improved old varieties and such new varieties of hops including the root stock thereof including but not limited to conditions and restrictions limiting, restricting, prohibiting or affecting the use, distribution, acreage, production, geographical areas of planting, cultural practices used in propagation, leasing, assigning, selling, sale price, and the use of trade names and trade marks relating to such improved old varieties or such new varieties of hops including the root stock thereof and the increase thereof and the use of trade names and trade marks to designate hops produced from any such old varieties or such new varieties of hops.

15. To prosecute in the name of the state of Idaho any suit or action for collection of the assessment provided for in this chapter.

SECTION 3. That Section 22-3107, Idaho Code, be, and the same is hereby amended to read as follows:

22-3107. HOP TAX ASSESSMENT LEVY. — (1) There is hereby levied an initial tax assessment of 20 cents per bale on each bale of hops handled in the primary channels of trade.

(2) In addition to such initial tax assessment, there is hereby levied an additional tax assessment of not exceeding
$1.80 per bale on each bale of hops handled in the primary channels of trade. The amount of such additional tax assessment, if any, shall be determined by resolution of the commission after February first but before July first of each year and shall be submitted to the growers by referendum. The term "production" for the purposes of this subsection means the number of pounds of hops produced by a grower during the calendar year immediately next preceding each annual registration of growers as herein provided. Each grower, whether an individual, a partnership, a corporation, an association or other business unit, shall have one vote at such referendum. No grower shall vote at any such referendum during any year unless such grower has, after January first but prior to January fifteenth of such year, registered with the commission on forms to be supplied by the commission giving such grower's name, mailing address and production, except that for the calendar year in which this subsection takes effect, the period for the registration of growers shall be the fifteen days immediately succeeding the effective date of this subsection. The qualifications of any grower to vote or the amount of such grower's production as shown by such grower's registration may be challenged by any other grower qualified to vote or any member of the commission. All such challenges shall be presented to the commission in writing within ten days after the close of registration and shall be heard and determined by the commission prior to canvassing the returns of any such referendum. After the adoption of a resolution by the commission fixing the amount of the additional tax assessment to be submitted to a referendum of the growers, the commission shall cause to be mailed by United States registered mail to each grower so registered, at the address appearing on such grower's registration, a ballot setting forth the name of such grower, the grower's production, a copy of the resolution so adopted, and the words "For additional tax assessment as provided in the foregoing resolution" followed by a circle and the words "Against the additional tax assessment as provided in the foregoing resolution" followed by a circle and such ballot shall provide a space at the bottom thereof for the grower's signature. A grower desiring to vote upon the amount of the additional tax assessment shall mark the ballot received to express the grower's vote, shall sign the ballot and shall return the ballot to the commission within twenty days after the date on which the ballot was mailed to the grower by the commission. Any ballot which is not returned within such time limit, or which is not voted, or which is not signed, or which is marked both for and against
the question submitted, shall be deemed not to have been voted and shall not be counted for any purpose. The commission shall meet and canvass all ballots cast at any such referendum within ten days after the date by which all ballots are herein required to be returned to the commission. Upon the canvass, if the commission finds that two-thirds or more of the growers voting at such referendum have voted in favor of the amount of such additional tax assessment and that growers representing two-thirds or more of the production of all growers voting as such referendum have voted in favor of the amount of such additional tax assessment, then the amount of such additional tax assessment shall have been approved, but if the commission finds otherwise, then the amount of such additional tax assessment shall have failed. The commission shall record the results of each canvass in its official records and shall retain all election records, grower registrations and ballots for one year after the date of such canvass when it may cause the same to be destroyed. If the canvass shows that the amount of such additional tax assessment shall have been approved, the commission shall immediately adopt a resolution levying the amount thereof. Such additional tax assessment when so levied shall apply only to the bales of hops grown during the calendar year in which the referendum approving the same was held, but shall so apply regardless of the calendar year in which such bales of hops are first handled in the primary channels of trade. If the canvass shows that the amount of such additional tax assessment shall have failed, the commission shall not levy the amount thereof, but the commission may re-submit the same or another amount for such additional tax assessment to the growers by referendum as herein provided as often as the commission deems necessary.

(3) All tax assessments levied under this act shall be due on or before the time when such hops are first handled in the primary channels of trade and shall be paid at such time or times as the commission may by rule or regulation prescribe, but not later than the last day of the month next succeeding the month in which such hops were first handled in the primary channels of trade.

(4) The assessment constitutes a lien prior to all other liens and encumbrances upon such hops except liens which are declared prior by operation of a statute of this state.

(5) The commission by order may cancel an assessment which has been delinquent for five years or more, if it determines that:
(a) The amount of the assessment is less than $1.00, and that further collection effort or expense does not justify the collection thereof, or

(b) The assessment is wholly uncollectible.

SECTION 4. That Section 22-3108, Idaho Code, be, and the same is hereby amended to read as follows:

22-3108. PAYMENT OF TAX ASSESSMENT. — All taxes assessments levied and imposed under and pursuant to the provisions of this act chapter shall be paid to the commissioner of agriculture commission by the person, either grower or dealer, by whom the hops are first handled in the primary channels of trade.

SECTION 5. That Section 22-3109, Idaho Code, be, and the same is hereby amended to read as follows:

22-3109. TAX ASSESSMENT RETURN. — Every grower and dealer shall at such times as the commission may by rule or regulation prescribed, file with the commission a return under oath on forms to be prescribed by and furnished by the commission, stating the number of bales handled in the primary channels of trade during the period or periods of time prescribed by the commission and such other information as the commission may require.

SECTION 6. That Section 22-3110, Idaho Code, be, and the same is hereby amended to read as follows:

22-3110. PENALTY FOR TAX ASSESSMENT DEFAULTS.—Any grower or dealer who fails to make collection or to file return or to pay any tax assessment within the time required pursuant to this act shall thereby forfeit to the state commission a penalty of five per cent of the amount of the tax assessment determined to be due, as provided in this act, plus one per cent of such amount for each month of delay or fraction thereof after the expiration of the first month after such return was required to be filed or such tax assessment became due. The commission, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the commissioner of agriculture commission and disposed of as provided with respect to moneys derived from the tax assessments levied and imposed by this act.

SECTION 7. That Section 22-3111, Idaho Code, be, and the same is hereby amended to read as follows:

22-3111. ENFORCEMENT OF ACT.—The commission
shall have the power by its duly authorized agent or representative to enter upon the premises of any grower or dealer to examine any books, papers, records or memorandum bearing on the amount of taxes assessments or license fees payable and to secure other information directly or indirectly concerned in the enforcement of this act. No person who is required to pay the taxes assessments or license fees levied and imposed by this act shall by any practice or evasion make it difficult to enforce the provisions of this act by inspection, nor shall such person after demand by the commission, or any agent or representative designated by it for that purpose, refuse to allow full inspection of the premises or any part thereof or any books, records, documents or other instruments in any way relative to the liability of such person for the tax assessment or license fee herein imposed nor shall such person hinder or in any wise manner delay or prevent such inspection.

SECTION 8. That Section 22-3112, Idaho Code, be, and the same is hereby repealed and reenacted to read as follows:

22-3112. DISPOSITION OF RECEIPTS — USE OF MONEYS BY COMMISSION—TRANSFER OF FUND.—
1. As soon as possible after receipt, all moneys received by the commission from the assessment levied under Section 22-3107, Idaho Code, and all other moneys received by the commission shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under Chapter 27, Title 67, Idaho Code, as state depositories. The commission shall designate such accounts and such banks or trust companies. All funds so deposited in said institutions are hereby appropriated for the purpose of carrying out the provisions of this act.

2. (a) No moneys shall be withdrawn from or paid out of such accounts except upon order of the commission, and upon checks or other orders upon such accounts signed by such member of the commission as the commission designates and countersigned by such other member, officer or employee of the commission as the commission designates. A receipt, voucher or other written record, showing clearly the nature and items covered by each check or other order, shall be kept.

(b) All moneys referred to in subsection 1 of this section shall be used by the commission only for the payment of
expenses of the commission in carrying out the powers conferred on the commission.

3. Funds presently held by the state of Idaho in the Idaho Hop Grower's Commission Fund shall be, and hereby are, transferred therefrom to the depository or depositories selected under this act by the commission, and the treasurer of the state of Idaho is hereby directed to transfer such funds.

4. The right is reserved to the state of Idaho to audit all funds of the commission at any time.

SECTION 9. That Section 22-3113, Idaho Code, be, and the same is hereby repealed and reenacted to read as follows:

22-3113. ELECTION OF COMMISSION MEMBERS BY GROWERS—PROCEDURES FOR SAID ELECTIONS—VACANCY.—1. The members of the commission shall be elected by secret mail ballot under the supervision of the commissioner of agriculture. Members of the commission shall be elected by a majority of the votes cast by the grower members, each grower being entitled to one vote. If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes. The cost of said election shall be paid by the commission although it is supervised by the department of agriculture.

2. Any office which becomes vacant before expiration of the member's term shall be filled by election in the manner provided for regular elections, except that such office may remain vacant until the next regular election if the vacancy is for less than one year. The term of the new commissioner under this subsection shall be only for the unexpired term for which he was elected.

SECTION 10. That Section 22-3114, Idaho Code, be, and the same is hereby amended to read as follows:

22-3114. DEALER'S LICENSE REQUIRED—APPLICATION—FEES—SURETY BOND—REVOCATION OF LICENSE—FORFEITURE OF BOND.—No person shall act as dealer in hops without having obtained a license as provided in this act. Every person acting as a dealer shall file a written application with the commission for a license as such which application shall state the applicant's name, principal business addresses within and without the state of
Idaho, the name of the person authorized to receive and accept service of summons and legal notices of all kinds for the applicant within the state of Idaho and such other information as the commission may require. Each application shall be accompanied with a license fee of $50.00 and by a good and sufficient surety bond in the penal sum of $2,000.00 executed by the applicant as principal and by a surety company authorized to do business in the state of Idaho as surety and conditioned upon the applicant's full and complete compliance with the provisions of this act and all of the rules, regulations and order of the commission. The commission shall investigate each applicant thoroughly and if the commission is satisfied that the applicant is of good character and reputation and is financially responsible, a license shall be issued for the period ending on the next succeeding first Monday of January, otherwise the application shall be denied. The commission may revoke a license after thirty days' written notice of its intention so to do, if the licensee shall wilfully fail to fully and completely comply with the provisions of this act and all of the rules, regulations and orders of the commission. Upon the revocation of such license the full amount of the bond shall be forfeited and damages in that sum shall be conclusively presumed to have been incurred by the commission. All license fees and all bond forfeitures shall be paid into the Idaho Hop Grower's Commission Fund deposited as provided in Section 22-3112.

SECTION 11. That Section 22-3115, Idaho Code, be, and the same is hereby amended to read as follows:

22-3115. PENALTY FOR VIOLATION.—Every person who shall violate or aid in the violation of any of the provisions of this act or any of the rules, regulations or orders of the commission adopted pursuant to the authority conferred by this act, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not exceeding ninety days or by both such fine and imprisonment and all fines collected for violation of this act shall be paid into the Idaho Hop Grower's Commission Fund deposited as provided in Section 22-3112.

SECTION 12. That Chapter 31 of Title 22, Idaho Code, be, and the same is hereby amended by adding a new section thereto, following Section 22-3115, to be known and designated as Section 22-3116, and to read as follows:

22-3116. REFERENDUM ON CONTINUANCE OF COMMISSION—PROCEDURES.—After five years from
the date the commission was created, a referendum may be held at the petition of the growers or at the request of the commission. The question shall be submitted by secret mail ballots upon which the words "For continuance of the Idaho Hop Grower’s Commission" and "Against continuance of the Idaho Hop Grower’s Commission" are printed, with a square before each proposition and a direction to insert an "X" mark in the square before the proposition which the voter favors. In the event a referendum is held as provided in this section, no further referendum on the question of discontinuance of such commission shall be held within five years from the date the results of the previous referendum was declared.

The referendum must be held and supervised by the department of agriculture upon its receiving either of the following:

1. A petition signed by 20% of the growers, or 200 growers, whichever is less. The petitioners shall pay the cost of such referendum if the commission continues but the commission must bear the cost if the majority vote is in favor of discontinuance.

2. A written request from the commission. The commission shall pay the cost of such referendum.

The referendum shall be held, notice thereof given, expenses thereof paid and the result determined, declared and recorded in the office of the secretary of state. No hearing or district meetings of the grower members shall be made prior to the referendum upon the question of determining whether such referendum should be held.

Notice of such referendum must be given by the commission in a manner determined by them. The ballots must also be prepared by the commission and forwarded to the grower members, who shall return them within 20 days after mailing by the commission.

SECTION 13. That Chapter 31 of Title 22, Idaho Code, be, and the same is hereby amended by adding a new section thereto, following Section 22-3116, to be known and designated as Section 22-3117, and to read as follows:

22-3117. WINDING UP OF COMMISSION’S AFFAIRS IF VOTE IS IN FAVOR OF DISCONTINUANCE. —If the vote at the referendum provided in Section 22-3114, Idaho Code, is in favor of discontinuation, the commission shall as rapidly as possible terminate its activities, convert
its assets to cash and do all other things necessary to terminate its activities. At the termination of such activities, any funds remaining in possession of the commission shall be paid to the University of Idaho for research regarding hops.

SECTION 14. SEVERABILITY.—If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 15. This Act shall take effect and be in force from and after July 1, 1967.

Approved March 24, 1967.

CHAPTER 217
(S. B. No. 112)

AN ACT
AMENDING SECTION 19-4233, IDAHO CODE, RELATING TO PENAL PROVISIONS FOR REFUSAL TO ISSUE WRITS OF HABEAS CORPUS, TO DELETE JUDGES THEREFROM.

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

SECTION 1. That Section 19-4233, Idaho Code, be, and the same is hereby amended to read as follows:

19-4233. DAMAGES FOR REFUSAL OR DISREGARD OF WRIT. If any judge, after a proper application is made, refuses to grant an order for a writ of habeas corpus, or if the officer or person to whom such a writ of habeas corpus may be directed, refuses obedience to the command thereof, he shall forfeit and pay to the person aggrieved a sum not exceeding $5,000, to be recovered by action in any court of competent jurisdiction.

Approved March 24, 1967.
CHAPTER 218  
(S. B. No. 119)  

AN ACT

AMENDING SECTION 37-1936, IDAHO CODE, RELATING TO THE FACT THAT NO FEES ARE CHARGED FOR MEAT INSPECTION SERVICES, EXCEPT MEAT INSPECTION SERVICES PERFORMED AS OVERTIME, SO AS TO CLARIFY SAID SECTION AS TO THE MEANING OF OVERTIME; AMENDING SAID SECTION SO AS TO DELETE THEREFROM CERTAIN WORDS RELATING TO INSPECTION FEES TO BE FIXED BY THE DEPARTMENT OF AGRICULTURE, WHICH WORDS WERE MISTAKENLY LEFT IN SAID SECTION WHEN IT WAS AMENDED IN 1965; AMENDING SAID SECTION TO PROVIDE FOR COLLECTION OF OVERTIME FEES BY THE DEPARTMENT OF AGRICULTURE RATHER THAN BY THE MEAT INSPECTORS THEMSELVES; AND AMENDING SAID SECTION TO PROVIDE THAT THE DEPARTMENT OF AGRICULTURE IS AUTHORIZED TO PAY MEAT INSPECTORS OVERTIME PAYMENTS IN ADDITION TO THEIR USUAL SALARIES.

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

SECTION 1. That Section 37-1935, Idaho Code, be, and the same is hereby amended to read as follows:

37-1935. FEES.—No fee shall be charged by the state of Idaho to any person, firm, corporation or association having carcasses of animals inspected as in this act provided, compensate the state for the expense of carrying out such inspection. For this purpose the department may collect a reasonable fee to be fixed by the department not exceeding the actual cost to the state, or the following sum, whichever shall be higher. If such inspection service is provided during normal working hours as designated by the commissioner of agriculture; provided, however, if any person, firm, corporation or association requests or requires such inspection service at any other time or times the commissioner shall assess such person, firm, corporation or association such fees as he deems necessary to defray any additional cost or expense incurred by the meat inspection division of the department of agriculture in providing such services.

In the event any person, firm, corporation or association having carcasses of animals inspected as provided herein should require the services of an official inspector on any
Saturday, Sunday or holiday or for more than eight hours on any other day Monday through Friday inclusive, the hours so worked by said inspector shall be considered as overtime pay hours. The commissioner of agriculture of the state of Idaho shall be authorized to determine said hourly overtime pay rates and said rates shall be charged to the party requesting such inspection. The commissioner of agriculture is further authorized to pay said official inspector said overtime pay rates in addition to his usual salary.

Such fees shall be collected by the meat inspector at the time of inspection and delivered to the commissioner—meat inspection division of the department of agriculture and deposited by him in the state treasury in the meat inspection fund. All wages and expenses of the meat inspectors appointed under the provisions of this act shall be paid out of either the meat inspection fund, the general fund, or any other moneys to be made available for this purpose.

Approved March 24, 1967.

CHAPTER 219
(S. B. No. 122, As Amended)

AN ACT

AMENDING SECTION 31-862, IDAHO CODE, RELATING TO SPECIAL TAX TO BE USED SOLELY AND EXCLUSIVELY FOR PREVENTIVE HEALTH SERVICES, BY INCREASING THE SPECIAL TAX FROM NOT TO EXCEED TEN CENTS (10¢) ON THE HUNDRED DOLLARS ($100.00) TO NOT TO EXCEED TWENTY CENTS (20¢) ON THE HUNDRED DOLLARS ($100.00).

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

SECTION 1. That Section 31-862, Idaho Code, be, and the same is hereby amended to read as follows:

31-862. AUTHORIZING SPECIAL TAX TO BE USED SOLELY AND EXCLUSIVELY FOR PREVENTIVE HEALTH SERVICES.—The board of county commissioners is hereby authorized to levy a special tax not to exceed twenty cents (20¢) on the hundred dollars ($100.00) of the assessed valuation of all property in the county, above the statutory limitation, to be expended solely and
exclusively for preventive health services by county boards of health.

Approved March 24, 1967.

CHAPTER 220
(S. B. No. 136)

AN ACT

AMENDING SECTION 36-604, IDAHO CODE, RELATING TO RESIDENT FISH AND GAME LICENSES, PERMITS AND TAGS; BY PROVIDING THAT SPOUSES, AND DEPENDENTS UNDER 18 OF MILITARY PERSONNEL, EMPLOYED AND LODGED IN THE STATE, MAY PURCHASE RESIDENT LICENSES WITHOUT ESTABLISHING RESIDENCE.

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

SECTION 1. That Section 36-404, Idaho Code, be, and the same is hereby amended to read as follows:

36-404. RESIDENT FISH AND GAME LICENSES AND PERMITS—ISSUANCE—MEMBERS OF UNITED STATES SERVICES AND THEIR DEPENDENTS. — Any person over the age of 12 years, who has been a bona fide resident of the state of Idaho for a period of six (6) months last preceding the application for a license, upon the payment of the fee fixed by section 36-407 to the state fish and game director, or to any license vendor, shall be entitled to receive from the officer, or any authorized agent to whom such payment is made, a fish and game license combined, or a fish or game license or both, which shall permit such person to pursue, hunt and kill any of the game or birds, except deer, pronghorn antelope, mountain sheep, moose, elk or goats, mentioned in this act, during the time when it shall be lawful to kill the same in any of the counties of this state subject to the limitations as to the number of each kind of animals or birds provided herein, and to catch fish with a hook and line according to the provisions of this act. Any such person shall be entitled to receive from the officer or any authorized agent to whom such payment is made, a permit to kill deer, pronghorn antelope, mountain sheep, moose, elk or goats in accordance with the laws of this state. Such a permit shall be issued to a person holding a license provided for in this section, and shall be evidenced by a tag which may be purchased upon
payment of one dollar ($1.00) for the privilege of hunting pronghorn antelope, two dollars ($2.00) for deer, three dollars ($3.00) for elk, and ten dollars ($10.00) for moose, mountain sheep and goat. Provided that a tag must be had for the hunting or taking of each and every one of said animals. Said tags are to bear and have serial numbers to be endorsed on said license by the vendor at the time of sale. Said tags are to be prepared, constructed and handled by and under the direction of the state fish and game director in such manner as he shall deem expedient. Provided, that any regularly appointed officer or members of the military and naval armed forces of the United States who are is employed and lodged in the state, together with his or her spouse and children under 18 years of age, residing in his or her household, shall each be entitled to purchase resident licenses, irrespective of their residence or the length of time they have resided within this state.

Approved March 24, 1967.

CHAPTER 221
(S. B. No. 159)

AN ACT

AMENDING SECTION 25-1729, IDAHO CODE, BY CHANGING THE FEES REQUIRED ON TRANSFERS OF MARKET CHARTERS; AMENDING SECTION 25-1732, IDAHO CODE, TO PROVIDE THAT THE PUBLIC LIVESTOCK MARKET BOARD SHALL ONLY USE AUDITS OF OR APPROVED BY THE PACKERS AND STOCKYARDS DIVISION OF THE UNITED STATES DEPARTMENT OF AGRICULTURE; AND AMENDING SECTION 25-1737, IDAHO CODE, BY TRANSFERRING THE POWER TO ESTABLISH RULES CONCERNING SANITARY CONDITIONS OF MARKETS FROM THE BOARD TO THE COMMISSIONER OF AGRICULTURE.

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

SECTION 1. That Section 25-1729, Idaho Code, be, and the same is hereby amended to read as follows:

25-1729. TRANSFERS OF MARKET CHARTERS — HEARING AND CHARTER FEES.—Each market charter is personal to the holder and the facilities covered thereby, and transferable only upon application in the same form
and manner as new applications for such market charters. Each application for a. Any transfer of a market charter shall be accompanied by a hearing processing fee of two hundred fifty dollars ($250). $100, which sum shall not be returnable to the applicant and which sum shall be remitted by the board to the public livestock market fund. Each such application shall also be accompanied by a separate remittance of the annual charter fee. If within ten (10) days after notice to those persons to whom notice is required to be given by section 25-1725, Idaho Code, a request for a hearing is not made by such a person, the board may transfer a market charter without a hearing if it finds that such a transfer meets the conditions required for a new charter but should a hearing be necessary, an additional fee of $150 shall be remitted to the board before the proceedings shall begin.

SECTION 2. That Section 25-1732, Idaho Code, be, and the same is hereby amended to read as follows:

25-1732. INVESTIGATION OF ACTIONS OF MARKET CHARTER HOLDERS — HEARINGS ON COMPLAINTS—WITNESSES—SUSPENSION OR REVOCATION OF MARKET CHARTERS — VIOLATION OF PACKERS AND STOCKYARDS ACT OF 1921—INJUNCTION—HEARING—AUDIT.—The board may, upon its own motion, whenever it has reason to believe the provisions of this act have been violated, or upon verified complaint of any person in writing investigate the actions of any market charter holder, and if it finds probable cause to do so, shall file a complaint against the market charter holder which shall be set down for hearing before the board upon fifteen (15) days' notice served upon such market charter holder either by personal service upon him or by registered mail or telegram prior to such hearing.

The commissioner shall have the power to administer oaths, certify to all official acts and shall have the power to subpoena and bring before the board any person in this state as a witness, to compel the producing of books and papers and to take the testimony of any person on deposition in the same manner as is prescribed by law in the procedure before the courts of this state in civil cases. Processes issued by the commissioner shall extend to all parts of the state and may be served by any person authorized to serve processes. Each witness that shall appear by the order of the commissioner at any hearing before the board shall receive for his attendance the same fees and mileage allowed by law to witnesses in civil cases appearing
in the district court, which amount shall be paid by the party at whose request such witness is subpoenaed. When any witness has not been required to attend at the request of any party, but subpoenaed by the commissioner, his fees and mileage shall be paid by the commissioner in the same manner as other expenses of the board are paid.

All powers of the commissioner herein enumerated in respect to administering oaths, power of subpoena, etc., in hearings on complaints shall likewise be applicable to hearings held on applications for the issuance of a market charter.

Formal finding by the board after due hearing that any market charter holder:

(a) Has ceased to conduct a public livestock market business for at least twelve (12) months; or

(b) Has been guilty of fraud or misrepresentation as to the titles, charges, number, brands, weights, proceeds of sale or ownership of livestock; or

(c) Has violated any of the provisions of this act; or

(d) Has violated any of the rules or regulations adopted and published by the board; or

(e) Has violated any of the provisions of the United States Packers and Stockyards Act, 1921, as amended, or regulations relating thereto, shall be deemed a sufficient cause for the suspension or revocation of the market charter of the offending public livestock market operator. Provided, however, that if the board has reasonable cause to believe that a market operator has violated this act or said Packers and Stockyards Act, 1921, as amended, or regulations pertaining thereto, it may petition the district court of the district in which said market is located to enjoin such violation by filing a verified complaint setting forth the acts constituting such violation. The court, if satisfied from such complaint that the act or acts complained of have been or are being or are about to be committed, may issue a temporary writ without notice or bond enjoining the defendant from operating said market pending a hearing of the board but no longer than twenty-one (21) days. An audit by the Packers and Stockyards Division of the United States Department of Agriculture of said market shall be prima facie evidence of the facts therein contained. The board shall only use such audit or
audits approved by the Packers and Stockyards Division of the United States Department of Agriculture.

SECTION 3. That Section 25-1737, Idaho Code, be, and the same is hereby amended to read as follows:

25-1737. SANITATION.—Every public livestock market shall be maintained in a sanitary condition conforming to standards established by rules of the board commissioner of agriculture.

Approved March 24, 1967.

CHAPTER 222
(S. B. No. 160)

AN ACT
CREATING THE IDAHO BEEF COUNCIL, WITH MEMBERS TO BE APPOINTED OR REMOVED BY THE GOVERNOR; ESTABLISHING THE QUALIFICATIONS AND TERMS OF OFFICE OF MEMBERS; PROVIDING DEFINITIONS OF THE TERMS USED IN THIS ACT; PROVIDING POWERS AND DUTIES OF THE COUNCIL; PROVIDING A MANDATORY ASSESSMENT OF NOT MORE THAN 10 CENTS A HEAD ON ALL CATTLE SOLD IN THIS STATE, TO BE COLLECTED BY THE STATE BRAND INSPECTOR AND REMITTED TO THE COUNCIL AND ALLOWING PERSONS PAYING SUCH ASSESSMENT TO RECEIVE A REFUND; PROVIDING THAT 20 PERCENT OF FUNDS COLLECTED SHALL BE PAID TO THE NATIONAL LIVESTOCK AND MEAT BOARD AND THE BEEF INDUSTRY COUNCIL; PROVIDING FOR THE DISPOSITION AND USE OF COUNCIL FUNDS AND FOR DEPOSIT IN BANKS OR TRUST COMPANIES APPROVED BY THE STATE; REQUIRING THAT THE PERSON HANDLING COUNCIL FUNDS BE BONDED; PROVIDING THAT UNPAID ASSESSMENTS SHALL BECOME A LIEN AGAINST THE CATTLE SOLD; PROVIDING THAT FAILURE OR REFUSAL TO PAY THE ASSESSMENT SHALL BE A MISDEMEANOR; REPEALING CHAPTER 29, TITLE 25, IDAHO CODE, RELATING TO BEEF PROMOTION; PROVIDING A SEVERABILITY CLAUSE; AND AN EFFECTIVE DATE.

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

SECTION 1. There is hereby created the Idaho beef
council, which shall be composed of seven members ap­
pointed by the governor. The membership of the board
shall consist of one dairyman, three beef producers, two
cattle feeders and one marketman. In making the appoint­
ments, the governor shall take into consideration recom­
mandations made to him by organizations who represent
or who are engaged in the same type of production as the
proposed member of the council.

SECTION 2. Each member of the council shall be a citi­
gen of the United States and a bona fide resident of this
state, a member of the organization which has recommended
his appointment to the governor, and shall derive a sub­
stantial portion of his income from the production or busi­
ness which he represents upon the council. The qualifica­
tions of each member shall remain in effect during his
entire term of office or his office shall be declared vacant
by the governor. The governor shall have the power to re­
move any council member at will.

SECTION 3. On July 1, 1967, the governor shall appoint
three members for a term of one year, two members for a
term of two years and two members for a term of three
years. At the end of each of the above terms the governor
shall appoint all successors in office for a term of three
years.

Vacancies in any unexpired term shall be filled by the
governor for the remainder of the unexpired term. The
member appointed to fill the vacancy shall represent the
same interests as the person whose office has become vacant.

SECTION 4. The council shall elect annually a chairman,
vice-chairman and a secretary-treasurer from among its
members. The council shall meet regularly once each six
months, and at such other times as called by the chairman
or when requested by two or more members of the council.
Members shall receive their actual and necessary traveling
and other expenses incurred in the performance of their
official duties and a per diem of not more than $25.00 per
day for each day spent in the performance of their official
duties. The council shall adopt reasonable rules and regu­
lations governing the incurring and payment of such ex­
penses.

SECTION 5. As used in this act, unless the context re­
quires otherwise:

1. The term "beef" means and includes beef, beef prod­
ucts, veal and veal products.
2. The term “council” means the Idaho beef council.

3. The term “board” means the state brand board.

4. The term “fiscal year” means the fiscal year commencing on July 1, and ending on the next succeeding June 30.

5. The term “dairyman” means a person engaged in the production of fluid milk.

6. The term “beef producer” means a person who raises, breeds or grows cattle or calves for beef production.

7. The term “cattle feeder” means a person engaged in feeding cattle.

8. The term “cattle” means and includes calves.

9. The term “marketman” means a person actively engaged in operating a public livestock auction in this state.

Section 6. The council shall have the following powers and duties:

1. Conduct scientific research to discover and develop the commercial value of beef.

2. Enter into contracts which it deems appropriate in carrying out the promotion of the cattle industry of this state.

3. Sue and be sued as a council, without individual liability of the council members, when the council is acting within the scope of the powers of this act.

4. Make grants, donations or contributions to any agency which will promote the cattle industry of this state on both a national, state or local level.

5. Employ subordinate officers and employees of the council, prescribe their duties and fix their compensation.

6. Accept grants, donations, contributions or gifts, from any source, for expenditures for any purpose consistent with the provisions of this act.

7. Prepare each year a proposed budget of the council for the next succeeding fiscal year, and provide upon request a copy of this budget to any person who pays an assessment under this act.

8. Adopt, rescind, modify or amend all proper functional regulations, orders and resolutions for the exercise of its
powers and duties, which shall be provided to anyone upon request.

9. Conduct public relation programs for beef and beef products.

SECTION 7. There is hereby levied and imposed upon all cattle hereafter sold in this state an assessment of not more than 10 cents per head, to be paid by the seller. The state brand inspector shall collect said assessment in addition to, at the same time, in the same manner and upon the same animals as, the fee charged for the state brand inspection required upon the transfer of title to such cattle. Such assessment so collected belongs to and shall be paid to the Idaho beef council, either directly or later by remittance together with a report. The council shall reimburse the state brand inspector for the reasonable and necessary expenses incurred for such collection, in an amount determined by the council and the inspector.

SECTION 8. A total of at least 20 percent of all funds so collected by the council, minus refunds, shall be paid by it to the national livestock and meat board and the beef industry council for their use in promotional, research and educational activities.

Any person shall have the right to request from the council in writing, within 30 days after payment thereof, a refund of all or any portion of the assessment levied hereunder and paid by him.

SECTION 9. Immediately upon receipt, all moneys received by the council shall be deposited in one or more separate accounts in the name of the council in one or more banks or trust companies approved under Chapter 27 of Title 67, Idaho Code, as state depositories. The council shall designate such banks or trust companies. All funds so deposited are hereby appropriated for the purpose of carrying out the provisions of this act.

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

Any assessments or money that may be deposited hereunder with the treasurer of the state of Idaho shall be paid to the council, and the state treasurer shall be reimbursed for the reasonable and necessary expense incurred.

The right is reserved to the state of Idaho to audit the funds of the council at any time.
SECTION 10. The person or persons who receive and disburse the moneys of the council shall be bonded, by and in an amount to be determined by the council.

Accurate records of all receipts and disbursements shall be kept, and audited annually by a certified public accountant, whose report shall be filed in the council office and made available upon request to any person paying assessments under this act.

SECTION 11. All assessments which become due and owing under the provisions of this act shall constitute a lien upon the cattle sold which shall be prior to all liens except those having priority under state law.

SECTION 12. The assessment levied by this chapter is mandatory; and failure or refusal to pay the same shall constitute a misdemeanor.

SECTION 13. That Chapter 29 of Title 25, Idaho Code, be, and the same is hereby repealed.

SECTION 14. SEVERABILITY. — If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 15. This Act shall take effect and be in force from and after July 1, 1967.

Approved March 24, 1967.

CHAPTER 223
(S. B. No. 177)

AN ACT

AMENDING SECTION 67-431, IDAHO CODE, RELATING TO COMPENSATION AND EXPENSES OF MEMBERS OF THE LEGISLATIVE COUNCIL AND COMMITTEES THEREOF, BY PROVIDING FOR COMPENSATION OF $25.00 FOR EACH DAY’S ATTENDANCE AT MEETINGS.

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

SECTION 1. That Section 67-431, Idaho Code, be, and the same is hereby amended to read as follows:
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67-431. COMPENSATION AND EXPENSES. — Members of the Council and the committees thereof shall serve without compensation, but receive $25.00 for each day's attendance at meetings, and shall be reimbursed for actual expenses necessarily incurred in attending meetings and in the performance of their official duties, provided that no member of the council or a committee thereof shall claim expenses for more than thirty (30) days in any one year.

Approved March 24, 1967.

CHAPTER 224
(S. B. No. 181)

AN ACT

AMENDING CHAPTER 7 OF TITLE 49, IDAHO CODE, BY ADDING A NEW SECTION THERETO TO FOLLOW SECTION 49-761, IDAHO CODE, TO BE KNOWN AS SECTION 49-761A, PROVIDING THAT PERSONS RIDING UPON A MOTORCYCLE AS OPERATOR OR PASSENGER, UPON ANY PUBLIC ROAD OR HIGHWAY, SHALL WEAR, AS PART OF THE MOTORCYCLE EQUIPMENT, A PROTECTIVE SAFETY HELMET; DEFINING "MOTORCYCLE"; AUTHORIZING THE COMMISSIONER OF LAW ENFORCEMENT TO ADOPT RULES AND REGULATIONS; AND FIXING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 7, Title 49, Idaho Code, be, and the same is hereby amended by adding a new section thereto, following Section 49-761, to be known and designated as Section 49-761A, and to read as follows:

49-761A. (a) No person shall ride upon a motorcycle as operator or passenger, upon any public road or highway, unless at all times when so operating or riding upon said vehicle he is wearing, as part of his motorcycle equipment, a protective safety helmet of a type and quality equal to or better than the standards established for such helmets by the commissioner of law enforcement.

(b) "Motorcycle" as used in this section shall mean every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such
motor vehicle as may be included within the term "tractor" as defined by Chapter 1, Title 49, Idaho Code.

(c) The commissioner is hereby authorized to adopt and publish rules and regulations establishing reasonable standards for such safety helmets.

SECTION 2. This Act shall take effect and be in force on and after January 1, 1968.

Approved March 24, 1967.

CHAPTER 225
(S. B. No. 193)

AN ACT

AMENDING SECTION 47-704, IDAHO CODE, TO CLARIFY THE EXISTENCE OF THE RIGHT OF RENEWAL OF MINERAL LEASES, AND AMENDING SECTION 47-707, IDAHO CODE, RELATING TO FORFEITURE OF LEASES AT THE END OF ANY LEASE PERIOD, DELETING FIVE YEARS.

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

SECTION 1. That Section 47-704, Idaho Code, be, and the same is hereby amended to read as follows:

47-704. LEASES OF MINERAL RIGHTS IN STATE LANDS.—The state board of land commissioners may lease in tracts not exceeding 640 acres for prospecting and mining purposes, and mineral deposits, except for leases for oil, gas and other hydrocarbons, that may be contained in any portion of the unsold lands of the state or that may be contained in state lands sold with a reservation of mineral deposits or belong to the state of Idaho by reason of being situate between the high water marks of navigable rivers of the state, for such annual rental, not less than twenty-five cents per acre per annum, and for such royalty upon the product as the board may deem fair and in the interest of the state, except in the case of state oil and gas leases wherein the royalty to the state shall be not less than twelve and one-half per cent, and provided that the minimum royalty shall not be less than two and one-half per cent. The rental paid for any year shall be deducted from the royalties as they accrue for that year.

All mineral leases, except leases for oil, gas, and other
hydrocarbons, of state school lands and for lands belonging to the state of Idaho, other than school lands, shall be for a term of ten years, and so long thereafter as precious metals, minerals, and ores, or any of them, are produced in paying quantities, or as much longer thereafter as the lessee in good faith shall conduct mining operations thereon, together with the right to use and occupy so much of the surface of said land as may be required for all purposes reasonably incident to the prospecting for, exploration for, development of, production, refining, processing and marketing of said precious metals, minerals and ores produced from said lands, including the right to construct and maintain thereon all works, buildings, plants, waterways, roads, communication lines, reservoirs, tanks or other structures necessary to the full enjoyment thereon for the purpose of the lease.

Provided, that the leaseholder of any mineral lease except leases for oil, gas, and other hydrocarbons, heretofore or hereafter issued shall be given a preferential right of renewal under such readjustment of the terms and conditions as the board may determine to be necessary in the interest of the state.

Applications for mineral leases shall be made under oath in such form as the board may prescribe, and the applicant shall describe the land, indicate the annual rental and royalty offered by him, specify the particular mineral or minerals, and give such additional information as may be required by the rules and regulations of the board. If the applicant for a lease has previously filed a certificate of location, as provided in section 47-703, upon any part of the land desired to be leased, such application shall be given a preferential right to the land covered by his location; that no lands upon which a mineral location has been duly made and recorded as provided in section 47-703, shall be leased for mining purposes during the two-year periods to any applicant except the person having made such location; provided, however, that no locations may be made for oil and gas deposits or lands.

Upon receipt by the state board of land commissioners of an application to lease any lands which may belong to the state of Idaho by reason of being situate between the high water marks of navigable rivers of the State, the board shall cause at the expense of the applicant, a notice of such application to be published once a week for two issues in a newspaper of general circulation in the county
or counties in which said lands described in said application are situated, which notice shall be substantially as follows:

"Notice is hereby given that ______________ of ______________ has applied to the State Board of Land Commissioners of the State of Idaho for a lease, for prospecting and mining purposes and mineral deposits that may be contained in any portion of the lands in the bed of the following navigable river to-wit: ______________ ______________ and that, on the ___ day of ______________, A.D. 19____, at ______, before the State Board of Land Commissioners, or its authorized agent, the opportunity will be given to any and all persons to appear and present for its consideration any reason or reasons why a lease of the aforesaid lands for the aforementioned purposes should not be granted."

Provided, however, that the state board of land commissioners shall send notice of any such application for leasing the bed of navigable rivers to the state reclamation engineer, who, if he thinks advisable, shall at the expense of the applicant make an investigation. If said investigation shows that the rights of interested parties may be jeopardized by the issuance of the proposed lease, he shall give notice of such applications to parties affected thereby. If, at the above hearing, it shall appear to the state board of land commissioners that the leasing of any lands between the high water marks of any navigable river will be injurious to the rights of any person or persons having the right to the use of the waters thereof for irrigation, power, or any other lawful purpose, the state board of land commissioners shall deny such application.

SECTION 2. That Section 47-707, Idaho Code, be, and the same is hereby amended to read as follows:

47-707. FORFEITURE OF LEASES. All leases of mineral deposits shall be conditional upon payment of the rental in advance annually, and upon the payment of the royalty provided for in the lease, and such other provisions as may be provided by the board, and upon the violation of any of the conditions of the lease, the board may at its option, after thirty days' notice by registered mail, cancel the lease. Upon failure or refusal of the lessee to accept the readjustment of terms and conditions determined by the board at the end of any five year lease period, such failure or refusal shall work a forfeiture of the preferential right of the lessee. A forfeiture of such lease, and all rights of the lessee thereunder, may be declared by the state board of land commissioners for a violation of any of the terms
or conditions of said lease or of any rule or regulation of said board with respect thereto or of any of the provisions of this chapter.

Approved March 24, 1967.

CHAPTER 226
(S. B. No. 196)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agencies herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
PUBLIC UTILITIES COMMISSION:
For: Salaries and Wages $355,892.00
     Travel Expense 46,350.00
     Other Current Expense 128,080.00
     Capital Outlay 4,500.00

$534,822.00

Less: Public Utilities Commission Fund 427,858.00

$534,822.00
TOTAL $106,964.00

From: General Fund $106,964.00

To Whom Appropriated:

<table>
<thead>
<tr>
<th>Appropriations:</th>
<th>Vocational Rehabilitation</th>
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<tbody>
<tr>
<td><strong>For:</strong></td>
<td></td>
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<tr>
<td>Salaries and Wages</td>
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<tr>
<td>Other Current Expense</td>
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<td><strong>Total</strong></td>
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From: General Fund $13,000.00

Approved March 24, 1967.

CHAPTER 227
(S. B. No. 203)

AN ACT


BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF IDAHO:

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho and various federal funds, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and relief and pensions of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:

<table>
<thead>
<tr>
<th>Appropriations:</th>
<th>Vocational Rehabilitation</th>
</tr>
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<tbody>
<tr>
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<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$13,000.00</td>
</tr>
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</table>
For:  Salaries and Wages .......... $ 361,788.00
      Travel Expense .............. 60,993.00
      Other Current Expense ....... 83,383.00
      Capital Outlay .............. 8,000.00
      Relief and Pensions ......... 1,041,914.00

      Total ................................ $1,556,078.00

From:  General Fund ........ $ 386,807.00
       Federal-Vocational
              Rehabilitation .......... $1,160,421.00
       Federal-OASI .............. 8,850.00

      Total ................................ $1,556,078.00

Approved March 24, 1967.

CHAPTER 228
(S. B. No. 225)

AN ACT

REPEALING AND REENACTING SECTION 13 OF CHAPTER 317
OF THE SESSION LAWS OF 1965, AS AMENDED BY SECTION 1 OF CHAPTER 318 OF THE SESSION LAWS OF 1965,
RELATING TO PAY AND ALLOWANCES OF MEMBERS OF THE COMMISSION ON CONSTITUTIONAL REVISION BY
PROVIDING THAT MEMBERS SHALL RECEIVE THE SUM OF $25.00 FOR EACH DAY SPENT IN ATTENDANCE AT
MEETINGS OF THE COMMISSION OR ITS SUBCOMMITTEES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 13 of Chapter 317 of the Session Laws of 1965, as amended by Section 1 of Chapter 318
of the Session Laws of 1965, be, and the same is hereby repealed and reenacted to read as follows:

SECTION 13. PAY AND ALLOWANCES.—Members of the commission shall receive travel and subsistence expenses in accordance with the provisions of the Standard Travel Pay and Allowance Act, and they shall receive the sum of $25.00 for each day spent in attendance at meetings of the commission or any of its subcommittees.
SECTION 2. This Act shall be in full force and effect from and after July 1, 1967.

Approved March 24, 1967.

CHAPTER 229
(S. B. No. 228)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, receipts to appropriations and federal funds, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR AGRICULTURAL EXTENSION:
For: Salaries and Wages $3,053,864.00
     Travel Expense 186,840.00
     Other Current Expense 205,174.00
     Capital Outlay 10,496.00
Total $3,456,374.00
CHAPTER 230  
(S. B. No. 230)  
AN ACT  


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:  

BOARD OF LAND COMMISSIONERS  
FOR LANDS ADMINISTRATION:

For:  
Salaries and Wages \$279,766.00  
Travel Expense 15,000.00  
Other Current Expense 61,884.00  
Capital Outlay 8,630.00  

Total \$365,280.00

From: General Fund \$365,280.00

Approved March 24, 1967.
CHAPTER 231
(S. B. No. 20, As Amended)

AN ACT

AMENDING SECTION 72-310(a), IDAHO CODE, TO PROVIDE INCREASED BENEFITS FOR CERTAIN TOTAL DISABILITIES UNDER THE WORKMEN'S COMPENSATION LAW; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 72-310(a), Idaho Code, be, and the same is hereby amended to read as follows:

72-310(a). TOTAL DISABILITY COMPENSATION. —Where the injury causes total disability for work, the employer during such disability shall pay the injured employee weekly compensation in accordance with the following schedule, subject to deductions, if any, on account of waiting period, partial disability, and limited wages, as set forth in section 72-310(b), 72-310(c) and 72-310(d):

(1) Workman without Dependents.—To an injured employee without dependents, weekly compensation equal to 55% of his average weekly wages, but not more than $22.00 nor less than $18.00 per week for a period not exceeding 400 weeks, and thereafter a weekly compensation of $18.00 per week.

(2) Workman with Dependent Wife.—If such injured employee have a dependent wife, but no dependent minor child, weekly compensation equal to 60% of his average weekly wages, but not more than $27.00 nor less than $18.00 per week for a period not exceeding 400 weeks, and thereafter a weekly compensation of $18.00 per week. If during the period of compensation a wife's dependency ceases by reason of her death or divorce, the increase of compensation on her account shall cease.

(3) Workman with Dependent Child or Children.—If the injured employee, whether married, widowed or divorced, have a dependent child or children under the age of 18 years, his weekly compensation shall be the same as for an injured employee having a dependent wife and in addition shall be increased as follows: For one (1) child $4.00. For two (2) such children $8.00. For three (3) children $12.00. For four (4) or more such children $15.00. If during the period of compensation a child attains the age of 18 years, marries, dies or other-
wise ceases to be dependent, the increase in compensation on his account shall cease.

Section 2. This amendatory Act shall take effect and be in force on and after July 1, 1967.

Approved March 28, 1967.

CHAPTER 232
(S. B. No. 247)

AN ACT

Amending Section 67-809, Idaho Code, relating to duties of the lieutenant governor, by adding duties in connection with special sessions of the legislature; providing that in addition to legislative duties he shall perform additional duties on a day to day basis as the governor may direct or as may be necessary and desirable to promote state government and develop resources; providing that the lieutenant governor while performing the duties of his office on a day to day basis shall receive his actual and necessary expenses, and exempting such expenses from the standard pay and allowance act of 1949; defining actual and necessary expenses; repealing and reenacting Section 67-810, Idaho Code, by authorizing the lieutenant governor to employ all necessary help in preparing the legislative chambers and in the performance of his official duties, and providing for payment of the respective expenses thereof.

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

Section 1. That Section 67-809, Idaho Code, be, and the same is hereby amended to read as follows:

67-809. DUTIES OF LIEUTENANT GOVERNOR — ACTUAL AND NECESSARY EXPENSES—PREPARATION BY LIEUTENANT GOVERNOR FOR CONVENING OF SESSIONS OF LEGISLATURE.—It shall be the duty of the lieutenant governor of the state of Idaho, immediately preceding the convening of any regular or special session of the state legislature, to prepare the senate cham-

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ber, house chamber and other rooms required for said session, have the necessary telephones installed, rent the furniture, typewriters, etc. required, and purchase journals, dockets and supplies necessary and needed for the convening and carrying on of said session, and to make all necessary and required arrangements pursuant thereto.

The lieutenant governor in addition shall perform on a day to day basis such duties in and for the government of this state as the governor may from time to time direct. The lieutenant governor shall perform such additional duties as he may deem necessary and desirable to promote the improvement of state government and the development of the human, natural and industrial resources of this state. At the written direction of the governor, the lieutenant governor may represent the state in negotiations, compacts, hearings and other matters dealing with the states or the federal government. He shall cooperate with all state and local governmental agencies to promote and encourage the orderly development of the resources of Idaho.

The lieutenant governor, while performing the duties of his office on a day to day basis, shall receive his actual and necessary expenses, as such are defined in Article IV, Section 19, Idaho Constitution. His actual and necessary expenses on a day to day basis are hereby expressly defined as being the total daily amount paid to the lieutenant governor while acting as President of the Senate, together with his actual travel and lodging expense.

The actual and necessary expenses of the lieutenant governor while performing his official duties are hereby expressly exempted from the provisions of Section 67-2007 and Section 67-2008, Idaho Code (Standard Travel Pay and Allowance Act of 1949).

SECTION 2. That Section 67-810, Idaho Code, be, and the same is hereby repealed and reenacted to read as follows:

Section 67-810. EMPLOYEES.—The lieutenant governor is authorized to employ all necessary help and assistance in preparing the legislative chambers, and the expense and costs thereof shall be paid from the legislative current expense appropriation for the session for which preparations are made. The lieutenant governor is also authorized to employ such necessary help in the performance of his official duties as shall be necessary, and the cost and expense thereof shall be paid out of the regular appropriation for the lieutenant governor.

Approved March 28, 1967.
CHAPTER 233
(H. B. No. 157)

AN ACT

AMENDING SECTION 28-404, IDAHO CODE, RELATING TO ENDOWMENT CARE CEMETERIES, BY DELETING THAT PORTION PROVIDING THAT THE PROVISIONS SHALL NOT APPLY TO ANY PERSON LICENSED UNDER THE PROVISIONS OF CHAPTER 11, TITLE 54, IDAHO CODE, IF THE PERSON WAS LICENSED ON THE EFFECTIVE DATE OF THIS ACT.

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

SECTION 1. That Section 28-404, Idaho Code, be, and the same is hereby amended to read as follows:

28-404. CORPORATE FORM REQUIRED HEREAFTER FOR PERPETUAL OR ENDOWED CARE CEMETERY.—From and after the effective date of this act it shall be unlawful to operate a perpetual or endowed care cemetery in this state except by means of a corporation organized under the laws of this state; provided, however, that this section shall not apply to any person, firm, corporation or association which, prior to the effective date of this act, was engaged in the business of operating a cemetery or cemeteries and had sold or contracted to sell burial space with a provision for perpetual or endowed care, if such person, firm or corporation has otherwise complied with the provisions of this act. It is further provided that the provisions of this act shall not apply to any person licensed under the provisions of chapter 11, title 54, Idaho Code, if said person was licensed as provided therein on the effective date of this act. Provided, however, that said exemption shall not be transferable.

Approved March 29, 1967.

CHAPTER 234
(H. B. No. 185 As Amended)

AN ACT

AMENDING SECTION 72-1207, IDAHO CODE, TO PROVIDE THAT THE LAST EMPLOYER OF AN EMPLOYEE SHALL BE LIA-
BLE FOR OCCUPATIONAL DISEASE COMPENSATION AND THAT THE MAXIMUM COMPENSATION FOR OCCUPATIONAL DISEASES, INCLUDING SILICOSIS, SHALL BE AS PROVIDED IN THE WORKMEN'S COMPENSATION LAW; AMENDING SECTION 72-1209, IDAHO CODE, TO PROVIDE THAT AN EMPLOYER SHALL NOT BE LIABLE FOR COMPENSATION UNLESS DEATH OR DISABLEMENT RESULTS WITHIN FOUR YEARS IN THE CASE OF SILICOSIS, OR ONE YEAR IN THE CASE OF ANY OTHER OCCUPATIONAL DISEASE, AFTER THE LAST INJURIOUS EXPOSURE; AMENDING SECTION 72-1216, IDAHO CODE, TO PROVIDE, EXCEPT AS OTHERWISE PROVIDED IN SECTION 72-1224, THAT IN CASE OF SILICOSIS "DISABLEMENT" MEANS THE EVENT OF FIRST BECOMING ACTUALLY INCAPACITATED, BECAUSE OF SUCH DISEASE, FROM PERFORMING ANY WORK IN ANY REMUNERATIVE EMPLOYMENT; AMENDING SECTION 72-1217, IDAHO CODE, TO PROVIDE THAT NO CLAIM FOR DISABILITY OR DEATH FROM SILICOSIS SHALL BE MAINTAINED UNLESS DURING THE TEN YEARS IMMEDIATELY PRECEDING THE DATE OF DISABLEMENT THE EMPLOYEE HAS BEEN EXPOSED TO THE INHALATION OF SILICA DUST OVER A PERIOD OF NOT LESS THAN FIVE YEARS, THE LAST TWO OF WHICH SHALL HAVE BEEN IN THIS STATE UNDER A CONTRACT OF EMPLOYMENT EXISTING IN THIS STATE, EXCEPT THAT IF THE EMPLOYEE SHALL HAVE BEEN EMPLOYED BY THE SAME EMPLOYER DURING THE WHOLE OF SUCH FIVE-YEAR PERIOD HIS RIGHT TO COMPENSATION AGAINST SUCH EMPLOYER SHALL NOT BE AFFECTED BY THE FACT THAT HE MAY HAVE BEEN EMPLOYED DURING ANY PART OF SUCH PERIOD OUTSIDE OF THIS STATE; AMENDING CHAPTER 12, TITLE 72, IDAHO CODE, BY ADDING A NEW SECTION THERETO, TO BE KNOWN AND DESIGNATED AS SECTION 72-1218, IDAHO CODE, TO PROVIDE THAT NO COMPENSATION SHALL BE PAYABLE FOR PARTIAL DISABILITY FROM SILICOSIS; AMENDING CHAPTER 12, TITLE 72, IDAHO CODE, BY ADDING A NEW SECTION THERETO, TO BE KNOWN AND DESIGNATED AS SECTION 72-1224, IDAHO CODE, TO PROVIDE THAT WHEN AN EMPLOYEE BECAUSE HE HAS NON-DISABLING SILICOSIS, DISCHARGED FROM EMPLOYMENT IN WHICH HE IS ENGAGED, OR WHEN AFTER EXAMINATION BY A MEDICAL PANEL IT IS FOUND THAT IT IS INADVISABLE FOR SUCH EMPLOYEE TO CONTINUE HIS EMPLOYMENT, TERMINATES HIS EMPLOYMENT, THE INDUSTRIAL ACCIDENT BOARD MAY ALLOW SUCH COMPENSATION ON ACCOUNT OF SUCH DISCHARGE OR TERMINATION AS IT MAY DEEM JUST AS
SUPPORT MONEY PENDING HIS CHANGE OF EMPLOYMENT, PAYABLE AS IN THIS LAW ELSEWHERE PROVIDED, BUT IN NO CASE IN EXCESS OF $5000.00, PROVIDING FOR EXAMINATION BY A MEDICAL PANEL AT THE REQUEST OF THE EMPLOYEE OR EMPLOYER, AND PROVIDING THAT IF ANY EMPLOYEE SHALL REFUSE TO SUBMIT TO SUCH EXAMINATION AFTER DIRECTION BY THE BOARD, OR SHALL IN ANY WAY OBSTRUCT THE SAME, HIS RIGHT TO COMPENSATION UNDER THIS SECTION SHALL BE BARRIED; AMENDING SECTION 72-1228, IDAHO CODE, TO PROVIDE THAT IN CASES OF SILICOSIS NOTICE OF CONTRACTION AND CLAIM FOR COMPENSATION MAY BE GIVEN AT ANY TIME WITHIN THE FOUR YEAR LIMITATION PERIOD PROVIDED IN SECTION 72-1209, IDAHO CODE, AND TO PROVIDE THAT UNLESS WRITTEN NOTICE OF OTHER OCCUPATIONAL DISEASES, EXCEPT CASES RESULTING FROM EXPOSURE TO RADIOACTIVE PROPERTIES OR SUBSTANCES OR SOURCE OF IONIZING RADIATION, SHALL HAVE BEEN GIVEN BY THE WORKMAN TO THE EMPLOYER WITHIN 60 DAYS AFTER THE FIRST MANIFESTATION THEREOF, AND WITHIN FIVE MONTHS AFTER THE EMPLOYMENT CEASES IN WHICH IT IS CLAIMED THE DISEASE WAS CONTRACTED, AND IN CASE OF DEATH, UNLESS WRITTEN NOTICE OF SUCH DEATH SHALL BE GIVEN WITHIN 90 DAYS AFTER THE OCCURRENCE AND UNLESS CLAIM FOR DISABILITY OR DEATH SHALL BE MADE WITHIN ONE YEAR AFTER DISABLEMENT OR DEATH, RESPECTIVELY, ALL RIGHTS TO COMPENSATION SHALL BE BARRIED; AND REPEALING SECTION 72-1217A, IDAHO CODE.

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

SECTION 1. That Section 72-1207, Idaho Code, be, and the same is hereby amended to read as follows:

72-1207. LAST EMPLOYER LIABLE—AMOUNT OF COMPENSATION. Except for silicosis cases, Where compensation is payable for an occupational disease, the employer in whose employment the employee was last injuriously exposed to the hazards of such disease shall be liable therefor; the amount of the compensation shall be based upon the average weekly wages (as defined in the Workmen's Compensation Law) of the employee when last so exposed under such employer; and the notice of disability and claim for compensation shall be given and made to such employer; provided, however, that the maximum compensation to be allowed for disability, or death, or both,
on account of any occupational disease, including silicosis, shall be as provided in the Workmen’s Compensation Law.

SECTION 2. That Section 72-1209, Idaho Code, be, and the same is hereby amended to read as follows:

72-1209. LIMITATIONS.—An employer shall not be liable for any compensation for an occupational disease unless such disease shall be due to the nature of an employment in which the hazards of such disease actually exist, are characteristic of, and peculiar to the trade, occupation, process, or employment, and is actually incurred in his employment and, except in silicosis cases, unless disablement or death results within four (4) years in case of silicosis, or one (1) year in case of any other occupational disease, after the last injurious exposure to such disease in such employment, or, in case of death, unless death follows continuous disability from such disease, commencing within the period above limited, for which compensation has been paid or awarded or claim made as provided in this chapter, and results within two (2) four (4) years after such last exposure.

An employer shall not be liable for any compensation for a non-acute occupational disease unless such claimant was exposed to the hazard of such disease for a period of sixty (60) days for the same employer.

SECTION 3. That Section 72-1216, Idaho Code, be, and the same is hereby amended to read as follows:

72-1216. DEFINITION OF DISABILITY IN SILICOSIS CASES.—In the case of silicosis, “disablement” means the event of the first an employee’s becoming actually wholly or partially incapacitated, because of such disease, from performing any work in any remunerative employment; and “disability” means the state of being so incapacitated.

SECTION 4. That Section 72-1217, Idaho Code, be, and the same is hereby amended to read as follows:

72-1217. PERIOD OF EXPOSURE IN SILICOSIS CASES.—No claim for disability or death from silicosis shall be maintained or prosecuted otherwise than under the provisions of this chapter, or come within the provisions of this chapter, unless during the ten years immediately preceding the date of disablement the employee has been exposed to the inhalation of silica dust over a period of not less than five years, the last two of which shall have been in this state, under a contract of employment existing
in this state, provided, however, An employee shall not be
entitled to full compensation for silicosis unless he shall
have been injuriously exposed to the inhalation of silica
dust over a period of not less than two (2) years within
this state, unless such employee has not been exposed to the
inhalation of silica dust except in this state. Provided that
if the employee shall have been employed by the same em­
ployer during the whole of such five two-year period, his
right to compensation against from such employer shall
not be affected by the fact that he had been employed dur­
ing any part of such period outside of this state.

In the event of an exposure of less than two (2) years
within this state, compensation shall be prorated in propor­
tion to the relation to which the period of exposure in the
state bears to two (2) years, unless the employee shall
not have been exposed to the inhalation of silica dust ex­
cept in this state, in which event he shall be entitled to
full compensation.

SECTION 5. That Chapter 12, 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 72-1218,
Idaho Code, to read as follows:

72-1218. NO COMPENSATION FOR PARTIAL DIS­
ABILITY FROM SILICOSIS.—Compensation shall not be
payable for partial disability due to silicosis.

SECTION 6. That Chapter 12, 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 72-1224,
Idaho Code, to read as follows:

72-1224. NON-DISABLING SILICOSIS — COMPEN­
SATION UPON SEVERANCE FROM EMPLOYMENT.—
(1) When an employee working subject to this chapter,
and who would be entitled to compensation under this law
if disabled, is, because he has non-disabling silicosis, dis­
charged from employment in which he is engaged, or when
such an employee, after an examination as provided in sub­
section (2) and a finding by the medical panel that it is
inadvisable for him to continue in his employment, ter­
mminates his employment, the industrial accident board may
allow such compensation on account of such discharge or
termination of employment as it may deem just as support
money pending his change of employment, payable as in
this law elsewhere provided, but in no case to exceed
$5,000.00.
(2) Upon application of any employer or employee the industrial accident board may direct any employee of such employer or such employee who, in the course of his employment has been exposed to the inhalation of silica dust, to submit to examination by the medical panel to determine whether such employee has silicosis, and the degree thereof. The results of such examination shall be submitted by the medical panel to the industrial accident board, which shall submit copies of such reports to the employer and employee, who shall have opportunity to rebut the same, provided, request therefor is made to the board within thirty days from the mailing of such report to the parties. The board shall make its findings as to whether or not it is advisable for the employee to continue in his employment.

SECTION 7. That Section 72-1228, Idaho Code, be, and the same is hereby amended to read as follows:

72-1228. NOTICE OF CONTRACTION OF DISEASE AND CLAIM FOR COMPENSATION.—Except in cases of silicosis for which notice of contraction and claim for compensation may be given at any time within the four (4) year limitation provided in Section 72-1209, Idaho Code, unless written notice of the manifestation of an occupational disease shall be given by the workmen to the employer within 60 days after the first manifestation thereof, and within five (5) months after the employment has ceased in which it is claimed the disease was contracted, and, in case of death, unless written notice of such death shall be given within 90 days after the occurrence, and, unless claim for disability, or death, shall be made within one (1) year after the disablement, or death, respectively, all rights to compensation for disability, or death, from an occupational disease shall be forever barred, provided that when disablement or death is the result of silicosis or exposure to radioactive properties or substances or source of the ionizing radiation in any occupation involving direct contact therewith, handling thereof or exposure thereto, written notice may be given any time and a claim filed within one (1) year after the date upon which the employee first suffered incapacity, disability or death from such exposure and knew, or in the exercise of reasonable diligence should have known, that the occupational disease was caused by his present or prior employment.

Where compensation payments have been made and discontinued and further compensation is claimed, the claim for such further compensation shall be made within one year after the last payment.
SECTION 8. That Section 72-1217A, Idaho Code, be, and the same is hereby repealed.

Approved March 29, 1967.

CHAPTER 235
(H. B. No. 190)

AN ACT

AMENDING SECTION 31-3105, IDAHO CODE, RELATING TO COUNTY COMMISSIONERS BEING FULL TIME OFFICERS IN CERTAIN COUNTIES, BY INCREASING THE SALARY LIMITATION FROM FOUR THOUSAND DOLLARS ($4,000.00) TO FIVE THOUSAND DOLLARS ($5,000.00); AND DECLARING AN EMERGENCY.

SECTION 1. That Section 31-3105, Idaho Code, be, and the same is hereby amended to read as follows:

31-3105. COMMISSIONERS FULL TIME OFFICERS IN CERTAIN COUNTIES — MEETINGS. — All county commissioners of counties receiving $4,5000.00 or more per annum shall devote their entire time to the performance of their office duties. In addition to the special days which now are or may hereafter be provided by law for meetings of the board of county commissioners the county commissioners shall, during one-half ($\frac{1}{2}$) of each and every month, have designated office days on which days they shall be at their office at the county seat in session for all business which may be brought before them, which office days shall be designated by resolution, and a copy of such resolution shall be placed on file with the clerk of the board of county commissioners.

During the other half of each month the county commissioners of counties receiving $4,5000.00 or more per annum shall spend their time either at their office at the county seat during office hours or in the performance of their actual duties throughout the county: provided, that in counties whose county commissioners receive $4,5000.00 or more per annum, the county commissioners shall not be entitled to their hotel expenses incurred while at the county seat.
SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect from and after its passage and approval.

Approved March 29, 1967.

CHAPTER 236
(H. B. No. 258 As Amended, As Amended in the Senate)

AN ACT
AMENDING SECTION 58-104, IDAHO CODE, RELATING TO THE POWERS AND DUTIES OF THE STATE LAND BOARD BY ADDING NEW MATERIAL; PROVIDING THE BOARD WITH POWER TO REGULATE AND CONTROL THE USE OR DISPOSITION OF LANDS IN THE BEDS OF NAVIGABLE LAKES, RIVERS AND STREAMS TO THE HIGH WATER MARK AND EXCEPTING LANDS LYING BELOW MEANDER LINE OF A LAKE ENCOMPASSING A NATIONAL WILDLIFE REFUGE.

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

SECTION 1. That Section 58-104, Idaho Code, be, and the same is hereby amended to read as follows:

58-104. STATE LAND BOARD—POWERS AND DUTIES.—The state board of land commissioners shall have power:

1. To exercise the general direction, control and disposition of the public lands of the State.

2. To appoint its executive officer, the land commissioner.

3. To perform legislative functions not inconsistent with law and to delegate to its executive officer and his assistants the execution of all policies adopted by it.

4. To review upon appeal all decisions of the land commissioner in contested matters.

5. To determine the policy, direct the work to be undertaken and appropriate from its funds the money necessary to carry out such work.

6. To prescribe regulations, not inconsistent with law, for the government of the department, the conduct of its employees and clerks, the distribution and performance of
its business and the custody, use and preservation of the records, papers, books, documents, and property pertaining thereto.

7. To engage in reseeding and reforestation programs on the public lands of the state.

8. To exchange any public lands of the state, over which the board has power of disposition and control, for lands of equal value, the title to which, or power of disposition, belongs or is vested in the governing body or board of trustees of any state governmental unit, agency or institution.

9. To regulate and control the use or disposition of lands in the beds of navigable lakes, rivers and streams, to the natural or ordinary high water mark thereof, so as to provide for their commercial, navigational, recreational or other public use; provided, that the board shall take no action in derogation of or seeking to interfere with the riparian or littoral rights of the owners of upland property abutting or adjoining such lands; except that when necessary to provide for the highest and best use of such lands for commercial, navigational, recreational or other public purposes, the board may acquire the riparian or littoral rights of upland owners by purchase or gift. The term "natural or ordinary high water mark" as herein used shall be defined to be the line which the water impresses on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes. Provided that this definition shall not be construed so as to affect or change the vested property rights of either the state of Idaho or of riparian or littoral property owners.

Lands lying below the meander line of a lake bed encompassing a national wildlife refuge as established under the authority of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222), as amended, or the Fish and Wildlife Coordination Act (48 Stat. 401), as amended, or the Fish and Wildlife Act of 1956 (70 Stat. 1119), as amended, (16 USC 742a through 742i), are not subject to the application of this act.

Approved March 29, 1967.
CHAPTER 237
(H. B. No. 212, As Amended in the Senate)

AN ACT

AMENDING SECTION 59-508, IDAHO CODE, RELATING TO SALARIES OF APPOINTIVE OFFICIALS, BY PROVIDING THAT SALARIES OF THE MEMBERS OF THE PUBLIC UTILITIES COMMISSION AND INDUSTRIAL ACCIDENT BOARD BE FIXED BY THE LEGISLATURE AND BY INCLUDING THE INSPECTOR OF MINES AS AN APPOINTIVE OFFICIAL; AND DECLARING AN EFFECTIVE DATE.

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

SECTION 1. That Section 59-508, Idaho Code, be, and the same is hereby amended to read as follows:

59-508. SALARIES FOR APPOINTIVE ADMINISTRATIVE OFFICERS.—From and after July 1, 1963, the salaries of the appointive administrative officers hereinafter listed in this section shall be fixed by the officer or authority making such appointment within the limits of appropriations made therefor by each successive session of the legislature, the provisions of any other statute to the contrary notwithstanding; provided, however, that each member of the public utilities commission and the industrial accident board shall receive, from whatever source or sources, a total salary equal to the salary provided by law from time to time for judges of the District Courts of Idaho to be fixed by the legislature.

State Reclamation Engineer
Tax Collector
Commissioner of Law Enforcement
State Land Commissioner
State Forester
Commissioner of Agriculture
Commissioner of Finance
Commissioner of Public Works
State Liquor Superintendent
Adjutant General
State Purchasing Agent
State Insurance Commissioner
Commissioner of Labor
Director of Aeronautics
Members of the State Board of Correction, each
Manager of the State Insurance Fund
Director of Disaster Relief and Civil Defense
Commandant of Soldiers’ Home  
*Inspector of Mines*

**SECTION 2.** This act shall be in full force and effect from and after December 31, 1970.

Approved March 29, 1967.

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**CHAPTER 238**  
(H. B. No. 315)

**AN ACT**

AMENDING SECTION 40-131, IDAHO CODE, TO ALLOW COUNTIES TO PURCHASE OR CONDEMN RIGHTS OF WAY FOR NEW ALIGNMENTS OF URBAN EXTENSIONS OF EXISTING COUNTY ROADS IN CITIES AND VILLAGES OF 2500 POPULATION OR LESS AND ALLOWING COUNTIES TO CONSTRUCT, MAINTAIN AND CONTROL SUCH EXTENSION OR TO CONTRACT THEREFOR WITH SUCH CITIES OR VILLAGES.

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

**SECTION 1.** That Section 40-131, Idaho Code, be, and the same is hereby amended to read as follows:

40-131. COUNTY ROAD CONSTRUCTION, MAINTENANCE AND RIGHT-OF-WAY COSTS BORNE BY COUNTY—EXCEPTIONS.—The costs of constructing, reconstructing, maintaining and acquiring rights-of-way for roads in a county road system shall be borne by the county, provided, however, this section shall not be construed as preventing counties from contracting with the state for engineering or other services, provided a just compensation is paid therefor. A county may participate to the full extent necessary in the costs of constructing or reconstructing any urban extensions to county roads built with federal assistance through cities and villages of 2,500 population or less, but said urban extensions shall be and continue to be a part of the municipal street system of said village or city for all other purposes set forth in this act. *Provided, however, if planning studies show the existence of a need a county may purchase, condemn or otherwise acquire a right-of-way for a new alignment of an urban extension of an existing county road built with federal assistance through such cities or villages if said urban extension does*
not eliminate access thereto of adjacent property owners. A
county shall have the authority to construct, maintain and
control such urban extension within a city or village and
may enter into any mutual agreement for the transfer of
such maintenance and control of said urban extension to
said city or village. A county may contract with an adjoining
county for the construction and/or maintenance of any
part of its road system.

Approved March 29, 1967.

CHAPTER 239
(H. B. No. 320)

AN ACT
RELATING TO VEHICLE INSPECTION; REQUIRING INSPECTION
OF VEHICLES AT LEAST ONCE IN THE CALENDAR YEAR 1968, AND EACH SUCCEEDING TWELVE MONTH PERIOD; IDENTIFYING EQUIPMENT TO BE INSPECTED; PROVIDING FOR LICENSES FOR OFFICIAL INSPECTION STATIONS, AND APPLICATIONS FOR LICENSES; PROVIDING FOR INSPECTION OF STATIONS, REVOCATION OF LICENSE AND HEARING; PROVIDING FOR SPECIAL LICENSES; RESTRICTING ASSIGNMENT AND TRANSFER OF LICENSES; PROVIDING FOR CERTIFICATES OF INSPECTION AND APPROVAL, FEE TO BE COLLECTED, AND PLACEMENT OF CERTIFICATE; PROVIDING FOR REPAIR AND ADJUSTMENT OF VEHICLE OR EQUIPMENT; PROVIDING THAT FEE MAY BE INCLUDED IN LABOR COSTS; PROVIDING FOR PAYMENT OF FEE FROM LICENSE HOLDER; RESTRICTING REPRESENTATION AS OFFICIAL INSPECTION STATION, AND PROVIDING FOR APPROVAL OF SIGNS OR POSTERS AND ISSUANCE OF CERTIFICATES OF INSPECTION AND APPROVAL; RESTRICTING USE, DISPLAY, AND POSSESSION OF CERTIFICATES; EXCEPTING CERTAIN VEHICLES FROM ACT; PROVIDING FOR NECESSARY RULES AND REGULATIONS; PROVIDING AUTHORITY TO STOP VEHICLES TO REQUIRE DISPLAY OF OFFICIAL CERTIFICATES OF INSPECTION AND APPROVAL; PROVIDING FOR REVOCATION OF VEHICLE REGISTRATIONS; PROVIDING PENALTY FOR VIOLATION OF PROVISIONS OF THIS ACT; PROVIDING PENALTY FOR FAILURE OF INSPECTOR OR LICENSE HOLDER TO COMPLY WITH PROVISIONS OF THIS ACT; AND PROVIDING A SEVERABILITY CLAUSE.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. From and after the first day of January, 1968, the commissioner of the department of law enforcement shall require every vehicle as defined by Section 49-101, Idaho Code, registered in this state, excepting house trailers not operated upon the highways, and excepting vehicles granted inspection reciprocity by other jurisdictions, to be inspected at least once in the calendar year 1968, and again in each succeeding twelve month period, at official inspection stations as designated by said commissioner.

SECTION 2. Said inspection shall be made with respect to the brakes, lights, turn signals, if any, steering, sound devices, glass, mirror, exhaust system, windshield wipers, tires, and such other items of equipment as may be determined by the commissioner.

SECTION 3. The department shall designate and issue licenses for and furnish instructions and all necessary forms to official inspection stations for the inspection of vehicles are herein required. Application for a license shall be made upon an official form and shall be granted only when the department is satisfied that the garage, service station or shop listed on the application is properly equipped and has competent personnel to make such safety inspections and that they will be properly conducted. Said garage, service station or shop need not be equipped to complete all necessary repair and adjustments in order to acquire a license as an official inspection station.

SECTION 4. The commissioner shall supervise and cause inspection to be made of such stations, and may revoke any license issued to a station which he finds is not properly conducted. To cause the inspection of all licensed inspection stations, the commissioner may obtain the services of not to exceed two (2) inspectors. Provided, that no license may be revoked unless the licensee has had an opportunity to be heard before the commissioner. A declaration of intention to revoke said license shall be sent to said licensee, in writing, not less than twenty (20) days prior to any hearing date, said declaration to specify the reasons for said revocation, and the date, time and place of said hearing. Determination shall be subject to review in the same manner as appeals to the district court. The department shall maintain lists of all stations holding licenses and of those whose licenses have been revoked.

SECTION 5. The commissioner shall establish special
rules and regulations for, and shall cause to be issued, special licenses for the inspection of vehicles used exclusively by fleet or commercial common carriers as defined in Section 49-127B, Idaho Code. Said license shall authorize the inspection of fleet or common carrier vehicles only and shall not authorize the inspection of any other vehicles. The department shall receive a fee of fifty cents ($0.50) for each certificate of inspection and approval issued to said special license holder. Special licenses may also be issued for the inspection of state, county, city and military vehicles, but no fee shall be required for certificate of inspection and approval.

SECTION 6. No license for an official station shall be assigned or transferred or used at any location other than therein designated, except upon prior approval of the commissioner, and licenses shall be posted in a conspicuous place at the location designated.

SECTION 7. The person operating an official inspection station shall issue a certificate of inspection and approval upon an official form furnished by the department for a vehicle only upon inspecting such vehicle and determining that its equipment is in good condition and proper adjustment. A record and report shall be made on every inspection and every certificate issued. These records shall be forwarded to the department at such times as the commissioner, by regulation, shall specify.

The fee for inspection, including the issuance of the certificate of inspection and approval, shall be two dollars ($2.00). No certificate of inspection and approval shall be issued until and unless the prescribed inspection is completed and the licensee has complied with the provisions of this act.

The appropriate inspection certificate shall be placed in or on such vehicle as shall be established by the commissioner of the department of law enforcement.

SECTION 8. In the event repair or adjustment of any vehicle or its equipment is found necessary upon inspection, the owner of said vehicle may obtain such repair or adjustment at any place he may choose, within ten (10) days, but in every event an official certificate of inspection and approval shall be obtained from an official inspection station within ten (10) days before such vehicle shall be operated upon the highways of this state. The fee shall be collected at the time of the original inspection. No additional fee shall
be charged if the vehicle is repaired and returned to the same inspection station within ten (10) days.

SECTION 9. The fee for inspection, including the issuance of the certificate of inspection and approval, shall be two dollars ($2.00), but should the official inspecting station be specially designated by the owner of a vehicle to do any work because of adjustment or repair, then the inspection station shall charge only for the actual parts and labor involved, and the inspection fee shall be considered as part of the labor.

SECTION 10. A fee of fifty cents ($.50) shall be collected from each license holder for each certificate of inspection and approval issued by the department of law enforcement, said fee to be paid into the state motor vehicle fund. A refund shall be made, or credit allowed, for unused certificates of inspection and approval, or for certificates lost, mutilated, or destroyed, to the extent provided by the regulations promulgated by the commissioner.

SECTION 11. No person shall in any manner represent any place as an official inspection station unless such station is operated under a valid license issued by the department. All signs or posters pertaining to the safety inspection program to be used by an official station shall be approved by the department before being distributed or posted.

No person other than a duly authorized license holder, or appointed employee of the license holder, shall issue a certificate of inspection and approval.

SECTION 12. No person shall make, issue or knowingly use any imitation or counterfeit of an official certificate of inspection and approval.

No person shall display or cause or permit to be displayed for any vehicle any certificate of inspection and approval knowing it to be fictitious or issued for another vehicle or issued without an inspection having been made.

No unauthorized person shall knowingly possess vehicle inspection certificates.

SECTION 13. A motor vehicle which is thirty years (30) and older, and is registered as an "Idaho Old Timer" by Section 49-134, Idaho Code, and which is not for general transportation, is exempt from the provisions of this act.

SECTION 14. The commissioner is hereby authorized to
make the necessary rules and regulations for the administration and enforcement of this act.

SECTION 15. From and after January 1, 1969, any police officer or examiner who shall exhibit his badge or other sign of authority may stop any vehicle required to be inspected under this act and require the owner or operator to display an official certificate of inspection and approval for the vehicle being operated.

SECTION 16. The commissioner may revoke the registration of a vehicle registered in this state and operated on the highways of the state which:

(a) does not carry a current certificate of inspection and approval issued in accordance with this act;

(b) is shown by the inspection to be incapable of being placed in a proper condition to make its use safe on the highway, and for which a certificate of inspection and approval cannot be issued; and

(c) is found to have violated the provisions of section 17 of this act.

SECTION 17. Any person who refuses to have his vehicle examined, or, after having had it examined, refuses to carry a certificate of inspection and approval, if issued, or who fraudulently obtains a certificate of inspection and approval or who refuses to place his vehicle in proper condition after having had the same examined, or who, in any manner, fails to conform to the provisions of this act, shall be guilty of a misdemeanor.

SECTION 18. Wilful failure on the part of any inspector or license holder to comply with the provisions of this act shall be a misdemeanor.

SECTION 19. If any section, subsection, paragraph, sentences, part or provision of this act shall be found to be invalid or ineffective by any court it shall be conclusively presumed that this act would have been passed by this legislature without such invalid section, subsection, paragraph, sentence, part or provision, and this act as a whole shall not be declared invalid by reason of the fact that one or more sections, subsections, paragraphs, sentences, parts or provisions may be found invalid.

Approved March 29, 1967.
CHAPTER 240
(S. B. No. 49, As Amended)

AN ACT
AMENDING SECTION 67-2507, IDAHO CODE, WHICH DEALS WITH PAID LEAVE OF ABSENCE OF EMPLOYEES OF THE SEVERAL DEPARTMENTS OF STATE GOVERNMENT, BY ALTERING THE RIGHTS OF SUCH EMPLOYEES AND BY OTHERWISE TREATING IN DETAIL THE SUBJECT OF VACATION LEAVE WITH PAY OF EMPLOYEES OF THE STATE OF IDAHO, AND EXCEPTING OFFICERS AND TEACHERS OF STATE INSTITUTIONS UNDER BOARD OF REGENTS AND BOARD OF EDUCATION.

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

SECTION 1. That Section 67-2507, Idaho Code, be, and the same is hereby amended to read as follows:

67-2507. ANNUAL VACATION LEAVE. — Each employee in the several departments of the state of Idaho shall be entitled during each calendar year to only fourteen days’ leave of absence with full pay, to vacation leave with pay as follows:

Vacation leave shall accrue at the rate of one day for each full month of service during the first ten years of continuous employment; one and one-fourth days for each full month during the next five years of continuous employment, and one and one-half days for each full month of employment thereafter. Provided, however, that an employee must have worked for at least six full months before being eligible to take vacation leave with pay.

A day of such vacation leave shall be considered as a day of leave on what would otherwise be an ordinary working day and shall be in addition to sick leave, compensatory leave, regular days off and holidays. Vacation leave shall not accrue beyond a total of thirty days.

Past service of employees of the state of Idaho shall be included in ascertaining the number of months of employment of such employees, provided that such service is continuous with no separation longer than six months, or for military service in the Armed Forces, or on written approved leave of absence. For the purpose of accruing vacation leave employees shall be credited with service only while actually working for the state of Idaho.
Department heads shall grant vacation leave on the basis of the work requirements of the department, giving, nevertheless, reasonable consideration to the needs and desires of the employee as to the time of taking such leave.

Each department shall keep accurate records concerning accrued vacation leave of employees in that department, including any unused leave of an employee transferred from another department.

The word "department", as herein used, means every office and agency of the state of Idaho; and the word "employees", as herein used, means every officer and employee of the state of Idaho, except officers and members of the teaching staffs of state institutions administered by the Board of Regents and the Board of Education, but not independent contractors; and the term "full month" means any month in which the employee was employed for at least fifteen calendar days.

Approved March 29, 1967.

CHAPTER 241
(S. B. No. 133)

AN ACT

PROVIDING FOR PERIODS OF LIMITATION APPLICABLE TO ACTIONS OR PROCEEDINGS IN CASES OF IONIZING RADIATION INJURY, AND FOR RELATED PURPOSES.

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

SECTION 1. For purposes of this act, "ionizing radiation" means any particulate or electromagnetic radiation capable of producing ions directly or indirectly in its passage through matter.

SECTION 2. No action or proceeding may be brought to recover for an ionizing radiation injury more than three years after the person suffering such injury had knowledge or ought reasonably to have had knowledge of having suffered the injury and of the cause thereof, but in no event more than thirty years from the date of the last occurrence to which the injury is attributed.

SECTION 3. No action or proceeding to recover for latent ionizing radiation damage shall be barred by recovery in
any earlier action or proceeding, unless the plaintiff in the earlier action or proceeding shall actually have been awarded damages for the latent injury, or shall have known or reasonably have been expected to know that such latent damage would occur, and its nature and extent with sufficient particularity to establish entitlement to a specific amount of damages on account thereof.

Approved March 29, 1967.

CHAPTER 242
(S. B. No. 195, As Amended)

AN ACT

AMENDING CHAPTER 32 OF TITLE 42, IDAHO CODE, BY ADDING A NEW SECTION TO BE DESIGNATED 42-3219A, RELATING TO THE EXCLUSION AND REMOVAL OF LANDS FROM A WATER AND SEWER DISTRICT FOLLOWING REJECTION TWICE BY THE ELECTORATE OF SUCH DISTRICT OF PROPOSALS FOR CREATION OF INDEBTEDNESS FOR IMPROVEMENTS, SAID EXCLUSION AND REMOVAL OF SUCH AREA TO BE ALLOWED UPON PETITION TO THE DISTRICT COURT AND UPON THE COURT'S FINDING THAT SAID AREA PETITIONED FOR EXCLUSION AND REMOVAL FORMS A CONTIGUOUS AREA WHICH COULD REASONABLY CONSTITUTE A SEPARATE AREA FOR WATER AND SEWAGE DISPOSAL PURPOSES; AND DECLARING AN EMERGENCY.

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 adding a new section thereto, following Section 42-3219, to be known and designated as Section 42-3219A, and to read as follows:

42-3219A. EXCLUSION AND REMOVAL OF LANDS FOLLOWING REJECTION TWICE BY ELECTORATE OF CERTAIN PROPOSALS FOR CREATION OF INDEBTEDNESS.—Upon rejection by the district electorate of substantially the same proposal in two separate elections for the creation of indebtedness for the purpose of acquisition, construction, installation or completion of any works or other improvements or facilities or the making of any contract to carry out the purposes of the district, and after
denial by the board of a petition for exclusion of property filed and heard, as provided under Section 42-3219, the owners in fee, or their representatives, of real property located in the district may petition the district court of the judicial district in which the majority of the property subject of said petition is located for exclusion and removal of their lands from such water and sewer district. Such petition shall be signed by not less than fifty-one percent (51%) of the qualified electors of the area to be excluded from the district, shall include a legal description of the real property, the subject of said petition, shall be acknowledged in the same manner and form as required in case of a conveyance of land and shall be accompanied by a deposit of money sufficient to pay all costs of the exclusion and removal proceedings. The petitioners shall cause notice of filing of such petition to be filed with the district, and to be published in a newspaper of general circulation in the county in which said property, or the major portion thereof, is located, once a week for three consecutive weeks. Such notice shall state the date of filing of such petition and the names of the petitioners, shall include a legal description of the property mentioned in said petition, shall set forth the prayer of said petitioners, and shall notify all persons interested to appear at the designated court at the time stated in said notice, showing cause in writing, if any they have, why said petition should not be granted. At any time before the expiration of the time of publication, any person may file his objections to said petition. At the time and place designated in the notice, or at the time or times at which the hearing of said petition may be adjourned, the court shall proceed to hear the petition and all objections thereto presented in writing by any person showing cause as aforesaid.

The court shall grant such petition upon finding that said proposals for the creation of indebtedness were twice rejected by the electors of the whole district, and upon the finding that said real property so designated by the petition for exclusion and removal forms a contiguous area and either has no need for water and sewage disposal services or reasonably constitutes a separate area for purposes of water and sewage disposal services.

The granting of such petition by the court and the exclusion of such property from the district shall not relieve such property from paying any bond indebtedness of the district existing at the time of said exclusion order against any such property so excluded, nor shall the granting of said
petition and exclusion of such property relieve such property of any levy for the support of said district for the year in which it is removed.

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

Approved March 29, 1967.

CHAPTER 243
(S. B. No. 224)

AN ACT

AMENDING SECTION 33-1009, IDAHO CODE, TO PROVIDE THAT APPORTIONMENTS OF PUBLIC SCHOOL INCOME FUND BE PAID DIRECTLY TO SCHOOL DISTRICTS, AND PROVIDING METHOD OF APPORTIONING SAID FUND; AMENDING SECTION 33-1012, IDAHO CODE, TO DELETE REQUIREMENT THAT APPORTIONMENTS OF SAID FUNDS BE CREDITED AND PAID INTO COUNTY SCHOOL FUND, AND DELETING COUNTY AUDITORS' AND COUNTY TREASURERS' DUTIES RELATING TO STATE APPORTIONMENTS; AMENDING SECTION 33-1013, IDAHO CODE, TO DELETE REQUIREMENT THAT COUNTY TREASURER CREDIT APPORTIONMENTS OF PUBLIC SCHOOL INCOME FUND TO COUNTY SCHOOL FUND; AMENDING SECTION 33-904, IDAHO CODE, DEFINING COUNTY SCHOOL FUND; AND PROVIDING FOR EFFECTIVE DATE OF THIS ACT.

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

SECTION 1. That Section 33-1009, Idaho Code, be, and the same is hereby amended to read as follows:

33-1009. APPORTIONMENTS FROM THE PUBLIC SCHOOL INCOME FUND.—1. Not later than the fifteenth day of July in each year the state board of education shall compute the ratio which moneys in the public school income fund bear to the total apportionments made from said fund for the preceding year; and it shall apportion to each county school district that same ratio, but not to exceed forty percent (40%), of the apportionments made to such county received by any school district for the preceding school year.
2. Not later than the second Monday in September in each year, the state board of education shall compute for each county the total of:

a. The estimated proceeds of the minimum county school levy as prescribed in section 33-1015(a);

b. Other receipts required by law to be made a part of the county school fund;

c. Any balance remaining in the county school fund, unapportionable for the preceding year;

d. Any minus balance in the county school fund by reason of overdraft or insufficient funds for the full, lawful apportionment to school districts for the preceding school year;

e. The estimated proceeds of the minimum school district levies as prescribed in section 33-1015(b).

In computing the proceeds of (a) and (e) hereinabove the state board of education shall proceed as though any joint school district were wholly situate in that county which is its home county;

3. To the total thus obtained for each county, the state board of education shall add an amount from the public school income fund which, together with such total, will provide for each school district in said county, and as though any joint district were wholly situate in that county which is its home county, its foundation program computed according to the provisions of this chapter; said amount from the public school income fund for each district to be computed, as follows:

a. Calculate the percentage of the weighted average daily attendance of each school district for which the county is its home county to the total weighted average daily attendance of all such school districts.

b. Multiply the total county participation of each county by the percentage thus determined for each school district for which such county is the home county.

c. From the total state and county funds due each district for the foundation educational and transportation program, subtract the county's share, as calculated in b, of this subsection.
4. The state board of education shall apportion and direct the payment to the several counties school districts the moneys in the public school income fund as of the fifteenth day of January, April, July and October in each year, taking into account the advance made under subsection (1) of this section, in such amounts as will provide in full for each district its foundation program, and not more than therefor required; but no apportionments to all school districts in any county shall be made for any year in the total aggregate amount of less than ten thousand dollars ($10,000), and no school district shall receive less than fifty dollars ($50.00);

5. Any balance remaining in the public school income fund after all apportionments required by this section have been made for any school year, shall remain in the said fund and be available as a part of the apportionment required during the next school year;

6. If the amount in the public school income fund be insufficient to fulfill for any school year the requirements of this section, the apportionments to the several counties school districts shall be that percentage of the funds available as each would have received of the whole, had the moneys in the fund been sufficient to meet all requirements of this section;

7. When the full amount of apportionments required by this section cannot be made for any school year because of failure of the legislature to appropriate to the public school income fund the amount certified by the state board of education as required, or if the full amount so appropriated by the legislature is not transferred to the public school income fund, or as may be required by amendment to this chapter by any session of the legislature, such deficiency in apportionments resulting therefrom shall be considered in computing county school levies;

8. Any apportionments in any year, made to any county school district, which may within the succeeding three (3) year period be found to have been in error either of computation or transmittal, may be corrected during such three (3) year period by reduction of apportionments to any county school district to which over-apportionments may have been made or received, and corresponding addition to apportionments to any county school district to which under-apportionments may have been made or received. Notice of such correction shall be given to the auditor of any county for which such correction may have been made.
SECTION 2. That Section 33-1012, Idaho Code, be, and the same is hereby amended to read as follows:

33-1012. APPORTIONMENT OF COUNTY SCHOOL FUND. — Not later than the first day of October in each year, the state board of education shall certify to the county auditor of each county the amount to be apportioned from the county school fund to each district situate within the county or for which the county is the home county. The amount so certified as due to any school district shall be not less than fifty dollars ($50.00).

Whenever the county treasurer has received the warrant of the state auditor transmitting moneys from the public school income fund to the county school fund, immediate notice thereof shall be given the county auditor together with a statement of the amount then standing to the credit of the county school fund and unapportioned.

The county auditor shall within ten (10) days thereafter apportion said moneys in the county school fund, both county and state, to the several school districts, but to no school district for any year in an amount in excess of that certified by the state board of education as being due such district. The county auditor shall thereupon notify the county treasurer of the amount apportioned to each district, and the said treasurer shall credit such amount to the accounts of the districts entitled thereto.

If for any school year the moneys in the county school fund are insufficient to make in full the apportionments certified by the state board of education, the apportionment to each district shall be that percentage of the amount available for apportionment as each would have been entitled to the whole had there been sufficient moneys in the fund; and any deficiency in apportionment thereby arising shall be carried forward as a balance due the several districts during the school year next following.

If for any school year the moneys in the county school fund are in excess of the requirements for full apportionments in this section required, such balance shall remain in the county school fund and be carried forward and be available for apportionment during the school year next following.

Balances, deficits, and apportionments from the county school fund for any school year shall be reported to the state board of education.
Any apportionments made to school districts from the county school fund which may be found within the ensuing three (3) year period to have been in error may be corrected after the manner provided in section 33-1009.

SECTION 3. That Section 33-1013, Idaho Code, be, and the same is hereby amended to read as follows:

33-1013. COUNTY TREASURER — COUNTY AUDITOR—DUTIES.—In addition to other duties required by this chapter, the county treasurer shall keep a separate account with each school district situate in whole or in part in his county, placing to the credit of each all moneys received through apportionment, the proceeds of school district tax levies, and any other moneys due the respective districts under the provisions of law. He shall on the first day of each month give notice to the clerk of the board of any elementary district, of the debits and credits made to the account of such district during the preceding quarter and the balance on hand both at the beginning and at the end of the preceding quarter.

He shall keep an account of the county school fund, and of any other school funds arising from a county-wide tax levy for school purposes.

He shall pay over the moneys in any fund herein required to be kept, only upon the warrant of the county auditor.

In addition to other duties required of the county auditor by the provisions of this chapter, he shall, from time to time as required by law, draw his warrant upon any fund required to be disbursed to the treasurer of any school district.

SECTION 4. That Section 33-904, Idaho Code, be, and the same is hereby amended to read as follows:

33-904. COUNTY SCHOOL FUND.—The county school fund is that fund in the treasury of each county in the state to which are credited apportionments from the public school income fund; the proceeds of the county school levy specified in section 33-1009(2a); moneys collected from fines, forfeitures or breaches of the penal laws of the state when other disposition is not provided by law; and such other proceeds and avails as may be required by law to be credited thereto.

SECTION 5. EFFECTIVE DATE.—This Act shall be and become effective on and after the first day of July, 1967; but any apportionments made from the public school income fund, or from any county school fund, from moneys accum-
ulated in said funds, including tax receipts which may not have been transferred prior to July 1, 1967, shall be apportioned under the law in effect prior to said date.

Approved March 29, 1967.

CHAPTER 244
(S. B. No. 226)

AN ACT
AMENDING SECTION 63-907, IDAHO CODE, BY PROVIDING THAT THE SCHOOL EMERGENCY FUND SHALL BE LEVIED UPON THE TAXABLE PROPERTY WITHIN THE SCHOOL DISTRICT REQUESTING THE EMERGENCY LEVY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-907, Idaho Code, be, and the same is hereby amended to read as follows:

63-907. ANNUAL COUNTY TAX LEVY — COUNTY SCHOOL EMERGENCY FUND.—Annually, or before the second Monday in September, the board of trustees of any school district within the county having determined the number, if any, of pupils in average daily attendance above the number included in the last annual report, thereof, and the amount of money required to provide the minimum foundation educational and minimum foundation transportation programs for such additional pupils in average daily attendance, as defined in sections 33-1001—33-1005, the board of county commissioners shall determine the total of such new requirements within the county and upon the taxable property designated in section 63-906 and for the same year situate within the district requesting the same fund, the board shall levy a tax sufficient to provide such amount, provided in no case shall the levy be more than three (3) mills, to be collected and paid into the county school emergency fund which is hereby created requesting district.

SECTION 2. EFFECTIVE DATE.—This Act shall be and become effective on and after the first day of July, 1967.

Approved March 29, 1967.
CHAPTER 245  
(S. B. No. 233)

AN ACT

REPEALING SECTIONS 5, 6, 7 AND 8 OF CHAPTER 232 OF THE 1965 SESSION LAWS; RELATING TO THE TRANSFER OF $1,000,000 FROM THE PUBLIC SCHOOL INCOME FUND; RELATING TO THE MANNER OF DISTRIBUTING THESE FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. That Sections 5, 6, 7 and 8 of Chapter 232 of the 1965 Session Laws be, and the same are hereby repealed.

SECTION 2. This Act shall be in full force and effect from and after July 1, 1967.

Approved March 29, 1967.

CHAPTER 246  
(S. B. No. 234)

AN ACT

AMENDING SECTION 1-2003, IDAHO CODE, RELATING TO ADDITIONAL FEES TO BE CHARGED AND COLLECTED BY THE CLERKS OF THE DISTRICT COURTS AND THE CLERK OF THE SUPREME COURT AND TO TRANSFER SUCH FEES TO THE JUDGES' RETIREMENT FUND.

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

SECTION 1. That Section 1-2003, Idaho Code, be, and the same is hereby amended to read as follows:

1-2003. ADDITIONAL FEES IN CIVIL ACTIONS AND APPEALS.—In addition to the fees and charges to be collected by the clerks of the several district courts of the state as now or hereafter provided by law, such clerks are hereby authorized and directed to charge and collect from a plaintiff in a civil action and petitioners in the probate of estates of decedents, as a part of the cost of filing the complaint or petition in such action, the additional sum of five dollars and fifty cents ($5.50) to $10.50 from any party, except the plaintiff, in such action, upon making an appear-
ance therein, the additional sum of seven dollars ($7.00); upon the filing of a counterclaim, the additional sum of six dollars ($6.00); from an intervenor in an action, the additional sum of seven dollars and fifty cents ($4.50) ($7.50); from a party who files a third party claim, the additional sum of seven dollars ($7.00); from a party who files a cross-claim in an action, the additional sum of seven dollars ($7.00); and for an appeal to the district court from any court, commission, board, or body, the additional sum of ten dollars ($10.00). The clerk of the Supreme Court is hereby authorized and directed to charge and collect, in addition to the fees now prescribed by law and as a part of the cost of filing the transcript on an appeal in any civil case or proceeding, other than criminal, appealed to the Supreme Court, the additional sum of eight dollars ($8.00) ($8.00); for filing a petition for rehearing, the additional sum of ten dollars ($5.00) ($10.00); and for filing an application for any writ for which a fee is now prescribed, the additional sum of ten dollars ($5.00) ($10.00); and for filing appeals from the Industrial Accident Board, the additional sum of five dollars ($5.00).

The clerks of the district courts and the clerk of the Supreme Court are hereby required to remit all such additional charges and fees hereby authorized, on the first Monday of each month after receipt thereof, to the state treasurer; and the state treasurer is hereby required to place all such sums in the judges’ retirement fund.

Approved March 29, 1967.

CHAPTER 247
(S. B. No. 235)

AN ACT

THE STANDARD APPROPRIATIONS ACT OF 1945; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sum of money, or so much thereof as may be necessary, for certain contingency expenses in the conduct of the World Boy Scout Jamboree Encampment at Farragut State Park in the summer of 1967, for the period commencing June 1, 1967 and ending December 31, 1967.

To Whom Appropriated: Office of the Governor, World Boy Scout Jamboree Encampment:

For: Lump Sum $59,000.00

From: General Fund $59,000.00

SECTION 2. This act is expressly exempt from the provisions of the Standard Appropriations Act of 1945.

SECTION 3. This Act shall be in full force and effect on and after the first day of June, 1967.

Approved March 29, 1967.

CHAPTER 248
(S. B. No. 237)

AN ACT


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

SECTION 1. There is hereby appropriated out of the gen-
eral fund of the state of Idaho, receipts to appropriations and federal funds, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR AGRICULTURAL RESEARCH:
For: Salaries and Wages .................... $3,002,451.00
Travel Expense .......................... 100,340.00
Other Current Expense ............... 849,890.00
Capital Outlay .......................... 519,123.00

Total ....................................... $4,471,804.00

From: General Fund .................... $2,957,356.00
Receipts to Appropriations .......... 292,060.00
Federal Funds .......................... 1,222,388.00

Total ....................................... $4,471,804.00

Approved March 29, 1967.

CHAPTER 249
(S. B. No. 238)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL FUND OF THE STATE OF IDAHO, TO THE DEPARTMENT OF SECRETARY OF STATE FOR THE PURPOSE OF SUPPLEMENTING FUNDS NOW APPROPRIATED AND AVAILABLE FOR THIS BIENNIAL (1965-1967); IN ORDER THAT THE SECRETARY OF STATE MAY MAKE SUCH EXPENDITURES AS NECESSARY TO IMPLEMENT THE OPERATING EFFICIENCY OF SAID DEPARTMENT; EXEMPT FROM THE PROVISIONS OF THE STANDARD APPROPRIATIONS ACT OF 1945; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated out of the gen-
eral fund of the state of Idaho to the Department of Secretary of State, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, other current expense, and capital outlay of the agency herein named, for the period beginning January 1, 1967 and ending June 30, 1967, exempt from the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:  
DEPARTMENT OF SECRETARY OF STATE:  
For:  
Salaries and Wages $ 1,200.00  
Other Current Expense 20,674.28  
Total $21,874.28  

From: General Fund $21,874.28  

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this Act shall be effective from and after its approval.

Approved March 29, 1967.

CHAPTER 250  
(S. B. No. 240)  
AN ACT  

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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages and other current expense of the

To Whom Appropriated: Appropriations:
DEPARTMENT OF FINANCE:
For: Salaries and Wages $9,309.00
     Other Current Expense 2,700.00
     Total $12,009.00

From: General Fund $12,009.00

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

Approved March 29, 1967.

CHAPTER 251
(S. B. No. 251)

AN ACT

AMENDING SECTION 71-411, IDAHO CODE, WHICH PROVIDES FOR STANDARD WEIGHT TICKETS AND THEIR CONTENTS
SO AS TO ALLOW I.B.M. CARDS TO BE USED AS WEIGHT TICKETS IN WEIGHING SUGAR BEETS WHERE SAID CARDS CONTAIN CERTAIN SPECIFIC INFORMATION.

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

SECTION 1. That Section 71-411, Idaho Code, be, and the same is hereby amended to read as follows:

71-411. STANDARD WEIGHT AND TARE TICKET.—All commodities weighed on public platform scales, having a capacity of five tons or over, shall be recorded on standard weight and tare ticket prepared in triplicate, stating:

   (a) Name and address of licensed weighing agency,
   (b) Serial number,
   (c) Date,
   (d) Owner of commodity weighed,
   (e) Kind of commodity being weighed,
   (f) Gross weight of load,
(g) Tare,
(h) Net weight,
(i) Full signature of weigher.

However, in weighing sugar beets, I.B.M. cards may be used in lieu of the standard weight ticket if such cards identify the following:

(a) Name and address of licensed weighing agency,
(b) Serial number,
(c) Date,
(d) Some identification of the owner of the commodity weighed, such as name or a number.
(e) Gross weight of load,
(f) Light weight of truck.

Approved March 29, 1967.

CHAPTER 252
(S. B. No. 300)

AN ACT


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

SECTION 1. There is hereby appropriated out of the Real Estate Brokers Fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and refunds of erroneous receipts of the agency herein named, for the period commencing July 1, 1967 and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.
CHAPTER 253
(S. B. No. 301)

AN ACT


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

SECTION 1. There is hereby appropriated out of the Lava Hot Springs Foundation Fund, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:

LAVA HOT SPRINGS FOUNDATION:

For: Salaries and Wages $141,560.00
     Travel Expense 4,000.00
     Other Current Expense 66,496.00
     Capital Outlay 33,200.00

Total $245,356.00

Approved March 29, 1967.
CHAPTER 254
(S. B. No. 302)

AN ACT


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

SECTION 1. There is hereby appropriated out of the highway fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense and other current expense of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: 

MOTOR VEHICLE RECIPROCITY:
For: 
Salaries and Wages $7,600.00
Travel Expense 2,500.00
Other Current Expense 750.00
Total $10,850.00

From: Highway Fund $10,850.00

Approved March 29, 1967.
CHAPTER 255
(S. B. No. 303)

AN ACT


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

SECTION 1. There is hereby appropriated out of the pharmacy fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and refunds of erroneous receipts of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:

PHARMACY BOARD:

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<th>Amount</th>
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<tbody>
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<td>Travel Expense</td>
<td>24,510.00</td>
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<td>Other Current Expense</td>
<td>27,850.00</td>
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<td>Capital Outlay</td>
<td>1,161.00</td>
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<tr>
<td>Refunds of Erroneous Receipts</td>
<td>300.00</td>
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<td>Total</td>
<td>$134,221.00</td>
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</table>

From: Pharmacy Fund $134,221.00

Approved March 29, 1967.

CHAPTER 256
(S. B. No. 304)

AN ACT

APPROPRIATING MONEYS FROM THE PUBLIC EMPLOYEE RETIREMENT FUND OF THE STATE OF IDAHO TO THE RE-
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. There is hereby appropriated out of the Public Employee Retirement Fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for implementation of the integration of public school, junior college and Boise College personnel into the Public Employee Retirement System of Idaho, to the agency herein named for the period commencing on the date of the passage of this act, and ending when the integration of the above named personnel into the Public Employee Retirement System of Idaho has been implemented.

To Whom Appropriated: Appropriations:
RETIREMENT BOARD:
For: Implementing the integration of public school, junior college and Boise College personnel into the Public Employee Retirement System of Idaho $185,326.00
From: Public Employee Retirement Fund $185,326.00

SECTION 2. The appropriation herein made is expressly exempt from the Standard Appropriations Act of 1945 and Section 67-3516, Idaho Code.

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

Approved March 29, 1967.

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

SECTION 1. There is hereby appropriated out of the Fresh Fruit and Vegetable Inspection Fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay, refunds of erroneous receipts and payment as agent of the agency herein named, for the period commencing June 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
FRESH FRUIT AND VEGETABLE INSPECTION:
For: Salaries and Wages $1,779,397.00
Travel Expense 282,240.00
Other Current Expense 285,944.00
Capital Outlay 65,000.00
Refunds of Erroneous Receipts 750.00
Payment as Agent 165,000.00
Total $2,578,331.00

From: Fresh Fruit and Vegetable Inspection Fund $2,578,331.00

Approved March 29, 1967.

CHAPTER 258
(S. B. No. 306)

AN ACT

APPROPRIATING MONEYS FROM THE PRUNE ADVERTISING AND DEVELOPMENT FUND OF THE STATE OF IDAHO, TO THE PRUNE ADVERTISING COMMISSION FOR THE

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

SECTION 1. There is hereby appropriated out of the Prune Advertising and Development Fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and refunds of erroneous receipts of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
PRUNE ADVERTISING COMMISSION:
For: Salaries and Wages $3,500.00
Travel Expense 3,000.00
Other Current Expense 63,000.00
Refunds of Erroneous Receipts 500.00
Total $70,000.00

From: Prune Advertising and Development Fund $70,000.00

Approved March 29, 1967.

CHAPTER 259
(S. B. No. 309)

AN ACT

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

SECTION 1. There is hereby appropriated out of the Horse Racing Act Fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations:
HORSE RACING COMMITTEE:
For: Salaries and Wages $27,900.00
     Travel Expense 22,124.00
     Other Current Expense 13,287.00
     Capital Outlay 2,701.00

Total $66,012.00

From: Horse Racing Act Fund $66,012.00

Approved March 29, 1967.

CHAPTER 260
(S. B. No. 191)

AN ACT
AMENDING SECTION 36-5602, IDAHO CODE, RELATING TO THE PACIFIC MARINE FISHERIES COMPACT, BY PROVIDING A NEW METHOD OF MEMBERSHIP CONTRIBUTION.

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

SECTION 1. That Section 36-5602, Idaho Code, be, and the same is hereby amended to read as follows:

36-5602. FORM AND CONTENTS.—The form and contents of such compact shall be substantially as provided in this section, and the effect of its provisions shall be interpreted and administered in conformity with the provisions of this section:

The Pacific Marine Fisheries Compact
The contracting states do hereby agree as follows:
Article I

The purposes of this compact are and shall be to promote the better utilization of fisheries, marine, shell, and anadromous, which are of mutual concern, and to develop a joint program of protection and prevention of physical waste of such fisheries in all of those areas of the Pacific Ocean over which the states of California, Oregon and Washington jointly or separately now have or may hereafter acquire jurisdiction.

Nothing herein contained shall be construed so as to authorize the aforesaid states or any of them to limit the production of fish or fish products for the purpose of establishing or fixing the prices thereof or creating and perpetuating a monopoly.

Article II

This agreement shall become operative immediately as to those states executing it whenever two (2) or more of the states of California, Oregon and Washington have executed it in the form that is in accordance with the laws of the executing state and the Congress has given its consent.

Article III

Each state joining herein shall appoint, as determined by state statutes, one or more representatives to a commission hereby constituted and designated as the Pacific Marine Fisheries Commission, of whom one shall be the administrative or other officer of the agency of such state charged with the conservation of the fisheries resources to which this compact pertains. This commission shall be invested with the powers and duties set forth herein.

The term of each commissioner of the Pacific Marine Fisheries Commission shall be four (4) years. A commissioner shall hold office until his successor shall be appointed and qualified, but such successor's term shall expire four (4) years from legal date of expiration of the term of his predecessor. Vacancies occurring in the office of such commissioner from any reason or cause shall be filled for the unexpired term, or a commissioner may be removed from office, as provided by the statutes of the state concerned. Each commissioner may delegate in writing from time to time to a deputy the power to be present and participate, including voting as his representative or substitute, at any meeting of or hearing by or other proceeding of the commission.

Voting powers under this compact shall be limited to one
vote for each state regardless of the number of representatives.

Article IV

The duty of the said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell, and anadromous, in all of those areas of the Pacific Ocean over which the states of California, Oregon and Washington jointly or separately now have or may hereafter acquire jurisdiction. The commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions and said conservation zones to promote the preservation of those fisheries and their protection against over-fishing, waste, depletion, or any abuse whatsoever and to assure a continuing yield from the fisheries resources of the signatory parties hereto.

To that end the commission shall draft and, after consultation with the advisory committee hereinafter authorized, recommend to the governors and legislative branches of the various signatory states hereto legislation dealing with the conservation of the marine, shell and anadromous fisheries in all of those areas of the Pacific Ocean over which the states of California, Oregon and Washington jointly or separately now have or may hereafter acquire jurisdiction. The commission shall, more than one-(1) month prior to any regular meeting of the legislative branch in any state signatory hereto, present to the governor of such state its recommendations relating to enactments by the legislative branch of that state in furthering the intents and purposes of this compact.

The commission shall consult with and advise the pertinent administrative agencies in the signatory states with regard to problems connected with the fisheries and recommend the adoption of such regulations as it deems advisable and which lie within the jurisdiction of such agencies.

The commission shall have power to recommend to the states signatory hereto the stocking of the waters of such states with marine, shell, or anadromous fish and fish eggs or joint stocking by some or all of such states, and, when two (2) or more of the said states shall jointly stock waters, the commission shall act as the coordinating agency for such stocking.
Article V

The commission shall elect from its number a chairman and a vice chairman and shall appoint and at its pleasure remove or discharge such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications, and compensation. Said commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business, and may meet at any time or place within the territorial limits of the signatory states, but must meet at least once a year.

Article VI

No action shall be taken by the commission except by the affirmative vote of a majority of the whole number of compacting states represented at any meeting. No recommendation shall be made by the commission in regard to any species of fish except by the vote of a majority of the compacting states which have an interest in such species.

Article VII

The fisheries research agencies of the signatory states shall act in collaboration as the official research agency of the Pacific Marine Fisheries Commission.

An advisory committee to be representative of the commercial fishermen, commercial fishing industry, and such other interests of each state as the commission deems advisable shall be established by the commission as soon as practicable for the purpose of advising the commission upon such recommendations as it may desire to make.

Article VIII

Nothing in this compact shall be construed to limit the powers of any state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any state imposing additional conditions and restrictions to conserve its fisheries.

Article IX

Continued absence of representation or of any representative on the commission from any state party hereto shall be brought to the attention of the governor thereof.
Article X

The four member states of California, Washington, Oregon and Idaho agree to make available annual funds for the support of the commission in proportion to the primary market value of the products of their fisheries as recorded in the latest published reports (five year average). Provided, no state shall contribute less than $2,000.00 per annum and the annual contribution of each state above the minimum shall be figured to the nearest $100.00.

The compacting states agree to make available initially the annual amounts scheduled below, which amounts are calculated in the manner set forth herein, on the basis of the latest five year catch records. Subsequent budgets shall be recommended by a majority of the commission and the total amount thereof allocated equitably among the states in accordance with the above formula.

<table>
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<tr>
<th>State</th>
<th>Initial Contribution</th>
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</thead>
<tbody>
<tr>
<td>California</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>Oregon</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Washington</td>
<td>$2,000.00</td>
</tr>
</tbody>
</table>

$15,000.00

according to the following schedule of fixed proportions of the commission’s annual budget:

- California: fifty-five hundredths (55/100)
- Washington: twenty-seven hundredths (27/100)
- Oregon: thirteen hundredths (13/100)
- Idaho: five hundredths (5/100)

In the event Alaska wishes to become a member of the compact, the five member states of Alaska, California, Washington, Oregon, and Idaho agree to make available annual funds for the support of the commission according to the following schedule of fixed proportions of the commission’s annual budget:

- Alaska: thirty hundredths (30/100)
- California: thirty hundredths (30/100)
- Washington: twenty-three hundredths (23/100)
- Oregon: twelve hundredths (12/100)
- Idaho: five hundredths (5/100)

Article XI

This compact shall continue in force and remain binding upon each state until renounced by it. Renunciation of this
compact must be preceded by sending six (6) months' notice in writing of intention to withdraw from the compact to the other parties hereto.

Article XII

The states of Alaska or Hawaii or any state having rivers or streams tributary to the Pacific Ocean may become a contracting state by enactment of the Pacific Marine Fisheries Compact. Upon admission of any new state to the compact, the purposes of the compact and the duties of the commission shall extend to the development of joint programs for the conservation, protection, and prevention of physical waste of fisheries in which the contracting states are mutually concerned and to all waters of the newly admitted state necessary to develop such programs.

This article shall become effective upon its enactment by the states of California, Oregon and Washington, and upon ratification by Congress by virtue of the authority vested in it under Article I, Section 10, of the Constitution of the United States.

Approved March 29, 1967.

CHAPTER 261
(H. B. No. 225)

AN ACT

AMENDING SECTION 35-102, IDAHO CODE, AS AMENDED, RELATING TO REQUIREMENTS FOR LAWFUL FENCES BY AMENDING SUBSECTION 4 THEREOF TO PROVIDE THAT THE MINIMUM HEIGHT FOR FENCES MAY BE REDUCED TO 42 INCHES ALONG HIGHWAY RIGHTS-OF-WAY AT MAJOR BIG GAME MIGRATION CROSSINGS WHEN MUTUALLY AGREED AS NECESSARY BY THE STATE HIGHWAY ENGINEER AND DIRECTOR OF THE IDAHO FISH AND GAME DEPARTMENT.

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

SECTION 1. That Section 35-102, Idaho Code, as amended, be, and the same is hereby amended to read as follows:

35-102. Lawful fences are described as follows:
1. If made of stone, four feet high, two feet base, and one foot thick on top.

2. If it be a worm fence, the rails must be well laid and at least four feet high.

3. If made of posts, with boards, rails or poles, the posts must be well set in the ground and not more than eight feet apart, with not less than three six-inch boards, or rails, or poles not less than two and one-half inches in diameter at the small end; if four poles are used, they must not be less than two inches in diameter at the small end. The top board, rail or pole must not be less than four feet from the ground, the spaces well divided, and the boards, rails or poles securely fastened to the posts; if poles not less than three inches in diameter at the small end are used, the posts may be set twelve feet apart.

4. If wire be used in the construction of fences, the posts must not be more than twenty-four feet apart, set substantially in the ground, and three substantial stays must be placed at equal distances between the posts, and all wires must be securely fastened to each post and stay with not less than three barbed wires, or four coiled spring wires of not less than number nine gauge. The bottom wire shall be not more than twenty-one inches from the ground, and the other wires a proper distance apart. The wires must be well stretched and the fence not less than forty-seven inches high. If all woven wire fencing is used, the top and bottom wire must be not less than number nine gauge, or two number thirteen gauge wires twisted together, with intermediate bars not less than twelve inches apart and of not less than number fourteen gauge wire, and the stay wires not more than twelve inches apart, and the top wire not less than forty-seven inches from the ground. If woven wire less in height is used, it must be brought to the height of forty-seven inches by additional barbed wires, or coiled spring wire of not less than number nine gauge, and not more than twelve inches between the wires: provided, that if barbed wire only is used, and the posts are not more than sixteen feet apart, no stays need be used. Provided further that the minimum forty-seven inch fence height specified above may be reduced to forty-two inches for right-of-way fences on the state highway system when mutually agreed by the Idaho State Highway Engineer and the Director of the Idaho fish and game department as necessary to accommodate big game animals at major migration crossings.

5. If made in whole or in part of brush, ditch, pickets,
hedge, or any other materials, the fence, to be lawful, must be equal in strength and capacity to turn stock, to the fence above described.

6. All fences in good repair, of suitable material and of every description, and all creeks, brooks, rivers, sloughs, ponds, bluffs, hills or mountains, that present a suitable obstruction to stock are deemed lawful fences.

Approved April 3, 1967.

CHAPTER 262
(H. B. No. 246)

AN ACT
ADOPTING THE REVISED UNIFORM FEDERAL TAX LIEN REGISTRATION ACT; DESIGNATING PLACES FOR FILING NOTICES OF FEDERAL TAX LIENS; PROVIDING FOR EXECUTION OF NOTICES AND CERTIFICATES; PRESCRIBING THE DUTIES OF FILING OFFICERS; PRESCRIBING FEES FOR FILING AND INDEXING NOTICES AND CERTIFICATES; PROVIDING FOR TAX LIENS AND NOTICES OF TAX LIENS FILED BEFORE EXECUTION DATE OF THIS ACT; PROVIDING FOR UNIFORMITY OF INTERPRETATION; PROVIDING A SHORT TITLE; REPEALING CHAPTER 2 OF TITLE 45, IDAHO CODE, AND PROVIDING FOR AN EXECUTION DATE.

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

SECTION 1. FEDERAL TAX LIEN—PLACE OF FILING.—(a) Notices of liens upon real property for taxes payable to the United States, and certificates and notices affecting the liens shall be filed in the office of the county recorder of the county in which the real property subject to a federal tax lien is situated.

(b) Notices of liens upon personal property, whether tangible or intangible, for taxes payable to the United States and certificates and notices affecting the liens shall be filed as follows:

(1) if the person against whose interest the tax lien applies is a corporation or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws
of the United States, in the office of the Secretary of State;

(2) in all other cases in the office of the county recorder of the county where the taxpayer resides at the time of filing of the notice of lien.

SECTION 2. EXECUTION OF NOTICES AND CERTIFICATES.—Certification by the Secretary of the Treasury of the United States or his delegate of notices of liens, certificates, or other notices affecting tax liens entitles them to be filed and no other attestation, certification, or acknowledgment is necessary.

SECTION 3. DUTIES OF FILING OFFICER.—(a) If a notice of federal tax lien, a refiled notice of tax lien, or a notice of revocation of any certificate described in subsection (b) is presented to the filing officer and

(1) he is the Secretary of State, he shall cause the notice to be marked, held and indexed in accordance with the provisions of subsection (4) of section 9-403, Senate Bill No. 2, 39th Session of the Idaho Legislature, (Uniform Commercial Code) as if the notice were a financing statement within the meaning of that Code; or

(2) he is any other officer described in section 1 of this Act, he shall endorse thereon his identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the serial number of the District Director and the total unpaid balance of the assessment appearing on the notice of lien.

(b) If a certificate of release, non-attachment, discharge or subordination of any tax lien is presented to the Secretary of State for filing he shall

(1) cause a certificate of release or non-attachment to be marked, held and indexed as if the certificate were a termination statement within the meaning of Senate Bill No. 2, 39th Session of the Idaho Legislature, (Uniform Commercial Code), except that the notice of lien to which the certificate relates shall not be removed from the files, and
(2) cause a certificate of discharge or subordination to be held, marked and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code.

(c) If a refiled notice of federal tax lien referred to in subsection (a) or any of the certificates or notices referred to in subsection (b) is presented for filing with any other filing officer specified in section 1, he shall permanently attach the refiled notice or the certificate to the original notice of lien and shall enter the refiled notice or the certificate with the date of filing in any alphabetical federal tax lien index on the line where the original notice of lien is entered.

(d) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file, on the date and hour stated therein, any notice of federal tax lien or certificate or notice affecting the lien, filed on or after July 1, 1967, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate is $1.00. Upon request the filing officer shall furnish a copy of any notice of federal tax lien or notice or certificate affecting a federal tax lien for a fee of $0.30 per 100 words.

SECTION 4. FEES.—The fee for filing and indexing each notice of lien or certificate or notice affecting the tax lien is:

(1) for a tax lien on real estate, $1.00;
(2) for a tax lien on tangible and intangible personal property, $1.00;
(3) for a certificate of discharge or subordination, $0.75;
(4) for all other notices, including a certificate of release or non-attachment, $0.75.

The officer shall bill the district directors of internal revenue on a monthly basis for fees for documents filed by them.

SECTION 5. TAX LIENS AND NOTICES FILED BEFORE EFFECTIVE DATE OF THIS ACT.—Filing officers with whom notices of federal tax liens, certificates and notices affecting such liens have been filed on or before June 30, 1967 shall, after that date, continue to maintain a file labeled "federal tax lien notices filed prior to July 1, 1967" containing notices and certificates filed in numerical order of receipt. If a notice of lien was filed on or before June 30,
1967 any certificate or notice affecting the lien shall be filed in the same office.

SECTION 6. UNIFORMITY OF INTERPRETATION. —This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 7. SHORT TITLE. —This Act may be cited as the Uniform Federal Tax Lien Registration Act.

SECTION 8. REPEAL. —Chapter 2, Title 45, Idaho Code, be, and the same is hereby repealed.

SECTION 9. TIME OF TAKING EFFECT. —This Act shall take effect July 1, 1967.

Approved April 3, 1967.

CHAPTER 263
(H. B. No. 314)

AN ACT

APPROPRIATING MONIES FROM THE GENERAL FUND OF THE STATE OF IDAHO TO THE VILLAGE OF DUBOIS FOR THE PURPOSE OF ERECTING A SERVICE MEN'S MEMORIAL PURSUANT TO THE PROVISIONS OF CHAPTER 1, TITLE 65, IDAHO CODE; SUBJECT TO THE STANDARD APPROPRIATIONS ACT OF 1945; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sum of money, for the purpose of erecting a service men's memorial pursuant to the provisions of Chapter 1, Title 65, Idaho Code; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriation:
VILLAGE OF DUBOIS: Erecting Service Men's Memorial $1,000

Total $1,000
From: General Fund $1,000
SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect from and after its passage and approval.

Approved April 3, 1967.

CHAPTER 264
(H. B. No. 318)

AN ACT
AMENDING SECTION 67-2304, IDAHO CODE, RELATING TO THE CONSTRUCTION, ALTERATION AND REPAIR OF PUBLIC BUILDINGS AND WORKS, BY PROVIDING THAT THE COMMISSIONER OF PUBLIC WORKS IS AUTHORIZED TO PROVIDE FOR THE EQUIPPING AND FURNISHING OF BUILDINGS AND PUBLIC WORKS.

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

SECTION 1. That Section 67-2304, Idaho Code, be, and the same is hereby amended to read as follows:

67-2304. CONSTRUCTION, ALTERATION, EQUIPPING, FURNISHING AND REPAIR OF PUBLIC BUILDINGS AND WORKS — SUPERVISION BY COMMISSIONER OF PUBLIC WORKS—APPROVAL OF PERMANENT BUILDING FUND COUNCIL.—The commissioner of public works of the state of Idaho, is authorized and empowered, subject to the approval of the permanent building fund council, to provide or secure all plans and specifications for, to let all contracts for, and to have charge of and supervision of the construction, alteration, equipping and furnishing and repair of any and all buildings, improvements of public works of the state of Idaho, the cost of which construction, alteration, equipping and furnishing or repair exceeds the sum of $500.00 provided, that the commissioner of public works and permanent building fund council shall, in the letting of contracts under this section, comply with the procedure for the calling of bids provided in section 67-1608, 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, and provided further that this section shall have no application to the preparation and submis-
sion of plans and specifications pursuant to section 57-1105, Idaho Code; provided further, that the permanent building fund council may adopt rules and regulations consistent with existing law to carry out the provisions of this act.

Approved April 3, 1967.

CHAPTER 265
(H. B. No. 327)
AN ACT

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

SECTION 1. There is hereby appropriated out of the general fund, and federal funds the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay, of the agency herein-after named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
DISASTER RELIEF AND CIVIL DEFENSE
For: Salaries and Wages $117,332
Travel Expense 9,680
Other Current Expense 25,207
Capital Outlay 2,500
Total 154,719

From: General Fund $71,000
Federal Funds 83,719
Total $154,719

Approved April 3, 1967.
CHAPTER 266  
(H. B. No. 338)  

AN ACT  

APPROPRIATING MONIES FROM THE GENERAL FUND, TO  
BOISE CHILDREN'S HOME FOR THE PURPOSE OF PAY-  
ing RELIEF AND PENSIONS FOR THE PERIOD COMMENC-  
ing JULY 1, 1967, AND ENDING JUNE 30, 1969; SUBJECT  
to the Standard Appropriations Act of 1945.  

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

SECTION 1. There is hereby appropriated out of the  
general fund, the following sums of money, or so much  
thereof as may be necessary, for the purpose of paying re-  
lief and pensions of the agency hereinafter named, for the  
period commencing July 1, 1967, and ending June 30, 1969;  
subject to the Standard Appropriations Act of 1945:  

To Whom Appropriated:  
BOISE CHILDREN'S HOME  
For: Relief and Pensions $125,000  

Total $125,000  
From: General Fund $125,000  

Approved April 3, 1967.  

CHAPTER 267  
(H. B. No. 345)  

AN ACT  

APPROPRIATING MONIES FROM THE GENERAL FUND OF  
THE STATE OF IDAHO, RECEIPTS TO APPROPRIATIONS  
AND ENDOWMENT INCOME, TO THE YOUTH TRAINING  
CENTER FOR THE PURPOSE OF PAYING SALARIES AND  
WAGES, TRAVEL EXPENSE, OTHER CURRENT EXPENSE  
AND CAPITAL OUTLAY, FOR THE PERIOD COMMENCING  
JULY 1, 1967, AND ENDING JUNE 30, 1969, SUBJECT TO  
THE STANDARD APPROPRIATIONS ACT OF 1945.  

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

SECTION 1. There is hereby appropriated out of the  
general fund of the state of Idaho, receipts to appropria-
tions, and endowment income the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay, of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
YOUTH TRAINING CENTER
For: Salaries and Wages $1,059,721
Travel Expense 8,000
Other Current Expense 420,000
Capital Outlay 55,325

Total $1,543,046
From the General Fund 1,443,746
Receipts to Appropriations 12,000
Endowment Income 87,300

Total $1,543,046

Approved April 3, 1967.

CHAPTER 268
(H. B. No. 346)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho and various federal funds the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay, and
payment as agent, of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the provisions of the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:

DEPARTMENT OF EDUCATION:

For:
- Salaries and Wages $1,341,900
- Travel Expense $206,000
- Other Current Expense $527,950
- Capital Outlay $61,600
- Payment as Agent $20,817,500

Total $22,954,950

From:
- General Fund $776,000
- Federal Funds:
  - Indian Education $525,980
  - School Lunch $3,460,000
  - National Defense Education $1,936,460
  - Civil Defense Adult Education $194,880
  - Special Education $172,130
  - Higher Education Facilities $50,300
  - Elementary and Secondary Education $15,590,820
  - Eight State Project $66,520
  - Adult Basic Education $181,860

Total $22,954,950

Approved April 3, 1967.

CHAPTER 269
(H. B. No. 355)

AN ACT


Be It Enacted by the Legislature of the State of Idaho:
SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, receipts to appropriations, and endowment income the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, and capital outlay, of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the Standard Appropriations Act of 1945:

To Whom Appropriated: Deaf and Blind School
For: Salaries and Wages $ 870,000
     Travel Expense 4,000
     Other Current Expense 280,000
     Capital Outlay 40,000
     Total $1,194,000

From the General Fund $1,170,173
From Receipts to Appropriations 14,500
Endowment Income 9,327
     Total $1,194,000

Approved April 3, 1967.

CHAPTER 270
(H. B. No. 368)

AN ACT
AMENDING TITLE 63, CHAPTERS 1 AND 2, IDAHO CODE, TO DIRECT THAT EARNING POWER BE CONSIDERED IN VALUING PROPERTY BY AMENDING SECTION 63-111, IDAHO CODE, TO DELETE THE REFERENCE TO SIMILAR USES OF PROPERTY; AMENDING SECTION 63-202, IDAHO CODE, TO ADD THERETO A REFERENCE TO REASONABLE RETURN, AND USE OF COMPARABLE SALES; DECLARING AN EMERGENCY AND MAKING THIS AMENDATORY ACT RETROACTIVE TO JANUARY 1, 1967.

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

SECTION 1. DECLARATION OF INTENTION.—It is the intention of the legislature by this amendatory act to insure that, in valuing property applied to the production
of income in a businesslike manner, the capacity of such property to produce income will be considered in assessing property where such consideration is appropriate.

SECTION 2. That Section 63-111, Idaho Code, be, and the same is hereby amended to read as follows:

63-111. VALUE DEFINED. — By the term "value," "cash value," "full cash value," "true value" or "true cash value" is meant the value at which the property would be taken in payment of a just debt due from a solvent debtor, or the amount the property would sell for at a voluntary sale made in the ordinary course of business, taking into consideration its earning power and the same uses to which property similarly situated is applied.

SECTION 3. That Section 63-202, Idaho Code, be, and the same is hereby amended to read as follows:

63-202. RULES AND REGULATIONS PERTAINING TO FULL CASH VALUE—DUTY OF ASSESSORS.—It shall be the duty of the state tax commission to prepare and distribute to each county assessor and each board of county commissioners within the state of Idaho, rules and regulations prescribing and directing the manner in which full cash value is to be determined. Such rules and regulations shall include the following criteria for determining value to the extent that the same are applicable to the property being evaluated: (1) earning capacity using a reasonable rate of capitalization; (2) relative location; (3) desirability and functional use; (4) reproduction cost less depreciation; (5) comparison with other like properties of known or recognized value; and (6) market value in the ordinary course of trade; providing that when comparable sales are used, the burden of showing that such sales are normal and comparable shall be on the party asserting proof of such sales. The state tax commission shall also prepare and distribute from time to time such amendments and changes to said rules and regulations as shall be necessary in order to carry out the intent and purposes of this act. Said rules and regulations shall be in such form as the commission shall direct, and shall be made available upon request to other public officers and the general public in reasonable quantities without charge. In ascertaining the full cash value of any item of property subject to taxation, the assessor of each county shall be, and hereby is required to abide by, adhere to and conform with the rules and regulations hereinabove required to be promulgated by the state tax commission.
SECTION 4. EMERGENCY. — An emergency existing therefor, which emergency is hereby declared to exist, this amendatory act shall be in full force and effect upon its passage retroactively to January 1, 1967.

Approved April 3, 1967.

CHAPTER 271
(H. B. No. 370)

AN ACT

AMENDING SECTION 27-1905, IDAHO CODE, BY INCREASING THE MINIMUM SERVICE CHARGE TO A MAXIMUM OF SEVEN DOLLARS AND FIFTY CENTS ($7.50) ON LOANS WHERE THE INTEREST CHARGED, FOR THE DURATION OF THE LOAN, IS LESS THAN SEVEN DOLLARS AND FIFTY CENTS ($7.50); AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 27-1905, Idaho Code, be, and the same is hereby amended to read as follows:

27-1905. MAXIMUM RATE OF INTEREST.—Parties may agree in writing for the payment of any rate of interest, on money due or to become due on any contract, not to exceed the sum of eight per cent (8%) per annum; provided, however, that on all loans where the interest charged for the duration of the loan is less than two dollars and fifty cents ($2.50) seven dollars and fifty cents ($7.50) a minimum service charge in lieu of interest, may be made in an amount not to exceed the sum of two dollars and fifty cents ($2.50) seven dollars and fifty cents ($7.50); any judgment rendered on such contract shall bear interest at the rate of six per cent (6%) per annum until satisfied. Provided further, that notwithstanding the foregoing, and any other provisions of the law to the contrary, any domestic or foreign corporation organized for profit, except a corporation engaged principally in agricultural pursuits, herein defined as cultivating the soil, raising or harvesting acres of commodities, including the raising, shearing, feeding, caring for and management of livestock, poultry and fur-bearing animals and wildlife, may agree in writing which clearly spells out the amount or the rate of interest charged, to pay any rate of interest in excess of the maximum rate
provided in this section, but not exceeding 12% per annum on money due, or to become due, on any contract, or any extension, renewal or rewrite thereof, where the original indebtedness to be repaid shall not be less than $10,000.00, or on any series of advances of money pursuant to contract, if the aggregate of the sums shall not be less than $10,000.00, and, on any such obligations, the claims or defense of usury by such corporation, its successors, guarantors, assigns, or anyone on its behalf is prohibited.

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

Approved April 3, 1967.

CHAPTER 272
(S. B. No. 8)

AN ACT

AMENDING CERTAIN SECTIONS AND CHAPTERS OF THE IDAHO CODE TO REFLECT ADOPTION OF THE UNIFORM COMMERCIAL CODE, AS FOLLOWS: AMENDING SECTION 6-101, IDAHO CODE, TO REMOVE REFERENCE TO FORECLOSURE OF MORTGAGES ON PERSONAL PROPERTY; AMENDING CHAPTER 18 OF TITLE 27, IDAHO CODE, TO ADD A NEW SECTION TO BE KNOWN AND DESIGNATED AS SECTION 27-1803, PROVIDING THAT THE UNIFORM COMMERCIAL CODE SHALL CONTROL IN THE EVENT OF CONFLICT; AMENDING SECTION 30-125, IDAHO CODE, TO INCORPORATE REFERENCE TO THE UNIFORM COMMERCIAL CODE; AMENDING SECTION 30-128, IDAHO CODE, TO EXPRESS THE LIMITING EFFECT OF THE UNIFORM COMMERCIAL CODE; AMENDING SECTION 31-2404, IDAHO CODE, TO REMOVE REQUIREMENTS THAT COUNTY RECORDERS MAINTAIN INDEXES NO LONGER REQUIRED UNDER THE UNIFORM COMMERCIAL CODE, TO LIMIT COVERAGE OF ASSIGNMENT INDEXING TO REAL PROPERTY INSTRUMENTS, AND TO REQUIRE COUNTY RECORDERS TO MAINTAIN AN INDEX FOR FINANCING STATEMENTS; AMENDING SECTION 31-3205, IDAHO CODE, TO PROVIDE FOR FEES TO BE COLLECTED BY COUNTY RECORDERS UNDER THE UNIFORM COMMERCIAL CODE; AMENDING SECTION 33-3805, IDAHO CODE, AS AMENDED, TO INCORPORATE REFERENCE TO THE UNIFORM COM-
MERCIAL CODE; AMENDING SECTION 38-911, IDAHO CODE, TO REFLECT ADDITIONAL REQUIREMENTS AND TERMINOLOGY OF THE UNIFORM COMMERCIAL CODE; AMENDING SECTION 45-106, IDAHO CODE, TO LIMIT COVERAGE TO REAL PROPERTY MORTGAGES; AMENDING SECTION 45-108, IDAHO CODE, AS AMENDED, TO LIMIT COVERAGE TO REAL PROPERTY MORTGAGES; AMENDING SECTION 45-301, IDAHO CODE, TO INCORPORATE UNIFORM COMMERCIAL CODE TERMINOLOGY, MAKING THE FARM LABORERS' LIEN PRIOR TO SECURITY INTERESTS IN CROPS; AMENDING SECTION 45-806, IDAHO CODE, TO INCORPORATE UNIFORM COMMERCIAL CODE TERMINOLOGY; AMENDING SECTION 45-904, IDAHO CODE, AS AMENDED, TO REMOVE REFERENCES TO PERSONAL PROPERTY MORTGAGES AND PLEDGES; AMENDING SECTION 45-909, IDAHO CODE, TO REMOVE REFERENCES TO FILING OF PERSONAL PROPERTY MORTGAGES; AMENDING SECTION 45-912, IDAHO CODE, TO REMOVE REFERENCE TO DISCHARGING CHATTEL MORTGAGES; AMENDING SECTION 45-913, IDAHO CODE, TO REMOVE REFERENCE TO DISCHARGING CHATTEL MORTGAGES; AMENDING SECTION 45-914, IDAHO CODE, AS AMENDED, TO REMOVE REFERENCE TO RECORDING DISCHARGES OF CHATTEL MORTGAGES; AMENDING SECTION 45-915, IDAHO CODE, TO REMOVE REFERENCES TO SATISFACTION OF CHATTEL MORTGAGES AND CONDITIONAL SALE CONTRACTS; AMENDING CHAPTER 9 OF TITLE 45, IDAHO CODE, AS AMENDED, TO ADD A NEW SECTION TO BE KNOWN AND DESIGNATED AS SECTION 45-916, LIMITING COVERAGE TO REAL PROPERTY MORTGAGES; AMENDING SECTION 45-1102, IDAHO CODE, TO INCORPORATE UNIFORM COMMERCIAL CODE TERMINOLOGY; AMENDING SECTION 45-1302, IDAHO CODE, TO INCORPORATE UNIFORM COMMERCIAL CODE TERMINOLOGY; AMENDING SECTIONS 49-401, 49-412, 49-414, 49-415, AND 49-416, IDAHO CODE, TO INCORPORATE UNIFORM COMMERCIAL CODE TERMINOLOGY, TO PROVIDE FOR HANDLING OF MOTOR VEHICLE CERTIFICATES OF TITLE IN CONFORMITY WITH THE UNIFORM COMMERCIAL CODE, AND TO MAKE EXPLICIT THAT COMPLIANCE WITH THE MOTOR VEHICLE TITLE ACT IS THE EXCLUSIVE METHOD OF PERFECTING CERTAIN SECURITY INTERESTS; AMENDING SECTION 55-907, IDAHO CODE, TO ELIMINATE THE CONCLUSIVE PRESUMPTION THAT CERTAIN TRANSFERS UNACCOMPANIED BY A CHANGE OF POSSESSION ARE FRAUDULENT, AND TO INCORPORATE UNIFORM COMMERCIAL CODE TERMINOLOGY; AMENDING SECTION 55-908, IDAHO CODE, TO REFLECT THE
AMENDMENT OF SECTION 55-907; AMENDING SECTION 69-223, IDAHO CODE, TO CHANGE A REFERENCE TO THE UNIFORM WAREHOUSE RECEIPTS LAW TO THE UNIFORM COMMERCIAL CODE; AMENDING SECTION 69-325, IDAHO CODE, TO CHANGE A REFERENCE TO THE UNIFORM WAREHOUSE RECEIPTS LAW TO THE UNIFORM COMMERCIAL CODE; AMENDING SECTION 73-114, IDAHO CODE, AS AMENDED, TO QUALIFY APPLICATION OF DEFINITIONS OF TERMS WHEN OTHERWISE DEFINED FOR PURPOSES OF A SPECIFIC STATUTE AND TO BROADEN THE DEFINITION OF PERSONAL PROPERTY; FIXING AN EFFECTIVE DATE; AND RESTRICTING APPLICATION TO TRANSACTIONS ENTERED INTO AFTER THE EFFECTIVE DATE.

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

SECTION 1. That Section 6-101, Idaho Code, be, and the same is hereby amended to read as follows:

6-101. PROCEEDINGS IN FORECLOSURE — EFFECT OF FORECLOSURE ON HOLDER OF UNRECORDED LIEN.—There can be but one action for the recovery of any debt, or the enforcement of any right secured by mortgage upon real estate or personal property, which action must be in accordance with the provisions of this chapter. In such action the court may, by its judgment, direct a sale of the incumbered property (or so much thereof as may be necessary) and the application of the proceeds of the sale to the payment of the costs of the court and the expenses of the sale, and the amount due to the plaintiff; and sales of real estate under judgments of foreclosure of mortgages and liens are subject to redemption as in the case of sales under execution; (and if it appear from the sheriff's return that the proceeds are insufficient, and a balance still remains due, judgment can then be docketed for such balance against the defendant or defendants personally liable for the debt), and it becomes a lien on the real estate of such judgment debtor, as in other cases on which execution may be issued.

No person holding a conveyance from or under the mortgagor of the property mortgaged, or having a lien thereon, which conveyance or lien does not appear of record in the proper office at the commencement of the action, need be made a party to such action; and the judgment therein rendered, and the proceedings therein had, are as conclusive against the party holding such unrecorded conveyance or lien as if he had been made a party to the action.
SECTION 2. That Chapter 18 of Title 27, Idaho Code, be, and the same is hereby amended by adding a new section thereto, to be known and designated as Section 27-1803, and to read as follows:

27-1803. PROVISIONS IN CONFLICT.—To the extent that the provisions of this Chapter may conflict with provisions of the Uniform Commercial Code, the provisions of the Uniform Commercial Code shall control in transactions where applicable.

SECTION 3. That Section 30-125, Idaho Code, be, and the same is hereby amended to read as follows:

30-125. TRANSFER OF CERTIFICATES OF STOCK AND SHARES REPRESENTED THEREBY.—The transfer of certificates of stock and the shares represented thereby may be regulated by the by-laws provided such by-laws are not inconsistent with the provisions of the Uniform Stock Transfer Law—Uniform Commercial Code—Investment Securities.

SECTION 4. That Section 30-128, Idaho Code, be, and the same is hereby amended to read as follows:

30-128. CORPORATION’S LIEN ON SHARES.—Except as this section is modified by Section 30-124, subdivision 1, and by Section 8-103 of the Uniform Commercial Code, if a shareholder be indebted to the corporation on account of unpaid subscriptions for shares it shall have a lien upon such shares for such indebtedness. If such indebtedness is not paid after demand made upon, at least twenty days written notice by mail addressed to such shareholder at his last known address, the corporation may sell the shares at public auction after giving at least fifteen days notice of the time, place and terms of sale by registered mail addressed to such shareholder at his last known address and by publication once a week for three successive weeks immediately preceding the date of sale in some newspaper published in the county where the corporation has its registered office, or if there be no newspaper published in such county, then in a newspaper of general circulation therein.

By this procedure the corporation shall acquire jurisdiction to sell and convey a perfect title to all of the shares of the shareholder described in the notice and may itself buy the stock at such sale and after it does so it shall hold the same subject to the control of its shareholders who may make such disposition thereof as they deem fit. While held
by it said stock shall not be entitled to dividends but all assessments and dividends must be apportioned upon the shares held by the other shareholders. This right of sale shall be cumulative to any other remedy the corporation may have for the recovery of the indebtedness. At the sale only so much stock shall be sold as shall pay the indebtedness and costs of sale and the balance of the stock shall be issued to the shareholder. The sale shall not be made, provided before the time set therefor the subscriber shall pay the indebtedness due together with accrued costs of sale.

If the indebtedness mentioned in the demand hereinbefore provided for be for a portion or instalment of a subscription for shares, and the same be not paid within the time stated in the demand, then the whole unpaid amount of such subscription shall become, without further notice or demand, immediately due and payable and the sale of such stock shall be for said whole unpaid amount plus costs of sale.

SECTION 5. That Section 31-2404, Idaho Code, be, and the same is hereby amended to read as follows:

31-2404. INDEXES TO BE KEPT.—Every recorder must keep:

1. An index of deeds, grants and transfers, labeled "Grantors," each page divided into four (4) columns, headed respectively, "Names of grantors," "Names of grantees," "Date of deeds, grants or transfers" and "Where recorded."

2. An index of deeds labeled "Grantees," each page divided into four (4) columns, headed respectively, "Names of grantees," "Names of grantors," "Date of deeds, grants or transfers" and "Where recorded."

3. Two (2) indexes of mortgages, An index of mortgages, labeled respectively, "Mortgagors of real property," "Mortgagors of personal property," with the pages thereof divided into five (5) columns, headed respectively, "Names of mortgagors," "Names of mortgagees," "Date of mortgages," "Where recorded," "When discharged."

4. Two (2) indexes of "Mortgages," An index of mortgages, labeled respectively, "Mortgagees of real property," "Mortgagees of personal property," with the pages thereof divided into five (5) columns, headed respectively, "Names of mortgagees," "Names of mortgagors," "Date of mortgages," "Where recorded," "When discharged."

5. Two (2) indexes. An index of release of mortgages,
Two indexes. An index of releases of mortgages, labeled respectively, "Releases of mortgages of real property-mortgagors," "Releases of mortgages of personal property-mortgagors," with the pages thereof divided into six (6) columns, headed respectively, "Parties releasing," "To whom releases are given," "Date of releases," "Where releases are recorded," "Date of mortgages released," "Where mortgages released are recorded."

6. Two indexes. An index of releases of mortgages, labeled respectively, "Releases of mortgages of real property-mortgagees," "Releases of mortgages of personal property-mortgagees," with the pages thereof divided into six (6) columns, headed respectively, "Parties whose mortgages are released," "Parties releasing," "Date of releases," "Where recorded," "Date of mortgages released," "Where mortgages released are recorded."

7. An index of powers of attorney, labeled "Powers of attorney," each page divided into five (5) columns, headed respectively, "Names of parties executing powers," "To whom powers are executed," "Date of powers," "Date of recording," "Where powers are recorded."

8. An index of leases, labeled "Lessors," each page divided into four (4) columns, headed respectively, "Names of lessors," "Names of lessees," "Date of leases," "When and where recorded."

9. An index of leases, labeled "Lessees," each page divided into four (4) columns, headed respectively, "Names of lessees," "Names of lessors," "Date of leases," "When and where recorded."

10. An index of marriage certificates, labeled "Marriage certificates-Men," each page divided into six (6) columns, headed respectively, "Men married," "To whom married," "When married," "By whom married," "Where married," "Where certificates are recorded."

11. An index of marriage certificates, labeled "Marriage certificates-Women," each page divided into six (6) columns, headed respectively, "Women married" (and under this head placing the family names of the women), "To whom married," "When married," "By whom married," "Where married," "Where certificates are recorded."

12. An index of assignments of real property mortgages and leases, labeled "Assignments of mortgages and leases—assignors," each page divided into five (5) columns, headed respectively, "Assignors," "Assignees," "Instru-
ments assigned,” “Date of assignment,” “When and where recorded.”

13. An index of assignments of real property mortgages and leases, labeled “Assignments of mortgages and leases—assignees,” each page divided into five (5) columns, headed respectively, “Assignees,” “Assignors,” “Instruments assigned,” “Date of assignments,” “When and where recorded.”

14. An index of wills, labeled, “Wills,” each page divided into four (4) columns, headed respectively, “Names of testators,” “Date of wills,” “Date of probate,” “When and where recorded.”

15. An index of official bonds, labeled “Official bonds,” each page divided into five (5) columns, headed respectively, “Names of officers,” “Names of offices,” “Date of bonds,” “Amount of bonds,” “When and where recorded.”

16. An index of notices of mechanics’ liens, labeled “Mechanics’ liens,” each page divided into three (3) columns, headed respectively, “Parties claiming liens,” “Against whom claimed,” “Notices, when and where recorded.”


18. An index of attachments, labeled “Attachments,” each page divided into six (6) columns, headed respectively, “Parties against whom attachments are issued,” “Parties issuing attachments,” “Notices of attachments,” “When recorded,” “Where recorded,” “When attachments discharged.”

19. An index of notices of the pendency of actions, labeled “Notices of actions,” each page divided into three (3) columns, headed respectively, “Parties to the actions,” “Notices, when recorded,” “Where recorded.”

20. An index of the separate property of married women, labeled “Separate property of married women,” each page divided into five (5) columns, headed respectively, “Names of married women,” “Names of their husbands,” “Nature of instruments recorded,” “When recorded,” “Where recorded.”
21. An index of possessory claims, labeled "Possessory claims," each page divided into five (5) columns, headed respectively, "Claimants," "Notices," "When received," "Date of notices," "When and where recorded."

22. An index of homesteads, labeled, "Homesteads," each page divided into five (5) columns, headed respectively, "Claimants," "Date of declaration," "When and where recorded," "Abandonment," "When and where recorded."

23. An index of agreements and bonds affecting the title of real property, labeled, "Real property agreements," each page divided into four (4) columns, headed respectively, "Vendors," "Vendees," "Date of agreement," "When and where recorded."

24. An index of mining claims, labeled "Mining claims," each page divided into five (5) columns, headed "Locators," "Name of claim," "Date of location," "When filed for record," "Where recorded."

25. An index of water rights, labeled "Water rights," each page divided into four (4) columns, labeled, "Locators," "Date of notice," "When filed for record," "Where recorded."

26. A general index of all papers to be entered as they are filed.


SECTION 6. That Section 31-3205, Idaho Code, be, and the same is hereby amended to read as follows:

31-3205. RECORDER'S FEE.—The county recorder is allowed, and may receive for his services, the following fees, to be paid him by the party procuring his services:

For filing, indorsing and indexing every instrument, paper or notice, when the instrument, paper or notice is not for record, but to be kept on file...$1.00
For recording every instrument, paper or notice, for each folio ..........................................................................................$ .30
For copies of any record or paper, for each folio ..........................................................$ .30
For each certificate under seal, when required .........................................................$ .50
For abstract of title and searching the records therefor, and for each conveyance or incumbrance certified ..........................................................................................$1.00
For entry or discharge of mortgage or other
instrument of the margin of the record, witnessing and indexing the same $ .75
For release or assignment of mortgage where more than one (1) mortgage is released or assigned in the same instrument, for each additional release or assignment $ .50
For recording every town plat or map, for first one hundred (100) lots or less $5.00
And for each additional lot $ .01
For taking acknowledgments, including seal $ .50
For administering to locator the oath and certifying the same on the location notice of a mining claim and for filing, recording and indexing each notice $2.00
For issuing marriage license, filing, recording and indexing the certificate of marriage and taking and filing affidavits required in issuance of the license $3.00
For administering an oath, including jurat $ .50
And certifying the same when required an additional sum of $ .50
For comparing and certifying a prepared copy of a file or record in his office, for each folio $ .15
For making and certifying a report of search for lien upon personal property, for each name searched $1.50
For administering oath $ .50 and recording affidavit of labor on mining claim $ .75 or a total of $1.25
For filing chattel mortgage $1.00
For filing certificate of release of chattel mortgage $ .75
For filing annual statement of corporation $1.00
For filing certificate of assumed business name $1.00
For filing contract of sale upon condition $1.00
For filing satisfaction or release of contract of sale upon condition $ .75
For filing United States tax lien $1.00
For filing certificate of discharge of United States tax lien $ .75
For filing writ and notice of attachment of mortgaged personal property subject to a security interest $1.00

For all other services as recorder, not enumerated herein, the fee fixed in the statute requiring the service or the same fee as allowed the clerk of the district court for like service.

SECTION 7. That Section 33-3805, Idaho Code, as amended, be, and the same is hereby amended to read as follows:

33-3805. AUTHORIZATION, ISSUANCE, MATURITY, INTEREST AND SALE OF BONDS. — The bonds
shall be authorized by resolution of the board. The bonds may be issued in one or more series, may bear such date or dates, may be in such denomination or denominations, may mature at such time or times, not exceeding forty (40) years from the respective dates thereof, may mature in such amount or amounts, may bear interest, at such rate or rates, not exceeding six per centum (6%) per annum, payable semi-annually, may be in such form, either coupon or registered, may carry such registration and such conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption, with or without premium, as such resolution or other resolutions may provide. The bonds if sold to a federal agency, may be sold at a private sale at not less than par and accrued interest, without advertising the same at competitive bidding. If not sold to a federal agency, the bonds shall be sold publicly in a manner to be provided by the board. The bonds shall be fully negotiable within the meaning and for all purposes of Title 27. the Uniform Commercial Code.

SECTION 8. That Section 38-911, Idaho Code, be, and the same is hereby amended to read as follows:

38-911. SALES AND MORTGAGES—SECURITY AGREEMENTS OF LOGS TO BE RECORDED. — All mortgages, security agreements, liens, bills of sale or other written instruments in any way affecting the ownership of any marked logs in any lumber districts, shall specify the marks placed upon said logs and when they were cut, and shall be recorded in the office of the lumber inspector in which said marks were recorded; and no such conveyance, lien, mortgage, security agreement or transfer shall be valid, except as to the parties thereto, until the same is so recorded, or until the same shall be filed with some deputy lumber inspector, who shall immediately forward such instrument to the inspector of the proper district. Such filing and recording of all such instruments and papers shall have the same effect as the recording of deeds and mortgages in the office of the county recorder be in addition to any filing required under the Uniform Commercial Code—Secured Transactions.

SECTION 9. That Section 45-106, Idaho Code, be, and the same is hereby amended to read as follows:

45-106. CONTRACTS SUBJECT TO THIS CHAPTER.—Contracts of mortgage of real property and pledge are subject to all the provisions of this chapter.
SECTION 10. That Section 45-108, Idaho Code, as amended, be, and the same is hereby amended to read as follows:

45-108. LIEN FOR PERFORMANCE OF FUTURE OBLIGATIONS—VALIDITY—PRIORITY. — A lien may be created by contract, to take immediate effect, as security for the performance of obligations not then in existence, which lien, if not invalid on other grounds, shall be valid as against all persons.

The validity of such contracts and liens as security for any obligation is not affected as against any person by the fact that the contract does not specify, describe or limit the obligations to be secured as to purpose, nature, time, or amount of the obligations to be secured.

All such liens, if otherwise valid, are valid against and prior and superior to all rights, liens and claims acquired by other persons in the property subject thereto after the contract creating such liens was made, except in cases where the person in whose favor the obligation secured by such lien was created, had actual notice of the existence of such subsequent right, lien or claim at the time such obligation was created, and are prior and superior to such subsequent rights, liens or claims irrespective of such or any notice in the following cases:

1. Where the person, in whose favor the obligation secured thereby was created, was legally bound to make the advance or give the consideration resulting in such obligation.

2. Where the consideration for such obligation was necessarily and actually applied to the maintenance and/or preservation of the property subject to the lien.

Making the advance or giving the consideration to result in an obligation not in existence at the time such a contract creating a lien to secure the same is made, is optional with the person making the advance or giving the consideration unless he is bound by an express contract to the contrary which shall not be implied from the fact that the contract to secure such obligation was made.

Obligations otherwise within the limits and description of those specified in any contract creating a lien to secure the performance of obligations not then in existence, but created in favor of any person to whom the original party to be secured by the lien created by such contract has trans-
ferred such contract, shall also be secured thereby in like manner as similar obligations between the original parties thereto.

Contracts of mortgage of real property and pledge are subject to all the provisions of this section as amended.

SECTION 11. That Section 45-301, Idaho Code, be, and the same is hereby amended to read as follows:

45-301. RIGHT TO LIEN.—Any person who does any labor on a farm or land in tilling the same, or in cultivating, harvesting, threshing, or housing any crop or crops raised thereon, has a lien on such crop or crops for such labor. Such lien shall be preferred and prior lien thereon to any crop or chattel mortgage placed thereon, and any mortgagee taking a chattel or crop mortgage on security interest therein, and any party taking a security interest in any crop or crops, upon which any person shall perform labor in cultivating, harvesting, threshing or housing said crop, shall take such mortgage security interest subject to, and such mortgage security interest shall be a subsequent lien to, the lien of the person or persons performing such labor as to a reasonable compensation for such labor: provided, that the interest in any crop of any lessor or lessors of land where the premises are leased in consideration of a share in the crop raised thereon is not subject to such lien.

SECTION 12. That Section 45-806, Idaho Code, be, and the same is hereby amended to read as follows:

45-806. LIEN FOR MAKING, ALTERING, OR REPAIRING PERSONAL PROPERTY.—Any person, firm or corporation, who makes, alters or repairs any article of personal property, at the request of the owner or person in legal possession thereof, has a lien, which said lien shall be superior and prior to any mortgage of title retaining note or conditional sales contract on security interest in the same for his reasonable charges for work done and materials furnished, and may retain possession of the same until the charges are paid. If not paid within two months after the work is done, the person, firm or corporation may proceed to sell the property at public auction, by giving ten days' public notice of the sale by advertising in some newspaper published in the county in which the work was done; or, if there be no newspaper published in the county, then by posting up notices of the sale in three public places in the town where the work was done, for ten days previous to the sale. The proceeds of the sale must be applied to the discharge of the lien and the cost of keeping
and selling the property; the remainder, if any, must be paid over to the owner thereof. Provided that the said person, firm or corporation who is about to make, alter or repair the said property, in order to derive the benefits of this section, must, before commencing said making, altering or repairing, give notice of the intention to so make, alter or repair said property, by registered mail, to any holder of a mortgage lien which mortgage is of record in the county where said property is situated, and, if a motor vehicle, to any holder of a conditional sales contract or title retaining note which may appear on the certificate of title of said vehicle, at least three days before commencing said making, altering or repairing and if notice in writing within said three days be not given by such holder of mortgage or holder of conditional contract or title retaining note notifying said firm or corporation not to perform said services then the said making, altering or repairing may proceed and the prior lien provided for herein attaches to said property.

SECTION 13. That Section 45-904, Idaho Code, as amended, be, and the same is hereby amended to read as follows:

45-904. TRANSFERS DEEMED MORTGAGES. — Every transfer of an interest in property other than in trust to secure the performance of any obligation of the trustor or other person named in the trust instrument, made only as a security for the performance of another act, is to be deemed a mortgage, except when in the case of personal property it is accompanied by an actual change of possession, in which case it is to be deemed a pledge.

SECTION 14. That Section 45-909, Idaho Code, be, and the same is hereby amended to read as follows:

45-909. RECORDING OR FILING ASSIGNMENT OF MORTGAGE. — An assignment of a mortgage may be recorded or filed in like manner as a mortgage and such record or filing operates as notice to all persons subsequently deriving title to the mortgage from the assignor.

SECTION 15. That Section 45-912, Idaho Code, be, and the same is hereby amended to read as follows:

45-912. MARGINAL DISCHARGE OF MORTGAGE. — A recorded mortgage or chattel mortgage filed as provided by law, may be discharged by an entry in the margin.
of the record thereof, signed by the mortgagee, or his personal representative or assignee, acknowledging the satisfaction of the mortgage in the presence of the recorder, who must certify the acknowledgement in form substantially as follows:

"Signed and acknowledged before me this ______ day of _____________ in the year of ___________

"A.B., Recorder."

SECTION 16. That Section 45-913, Idaho Code, be, and the same is hereby amended to read as follows:

45-913. DISCHARGE OF MORTGAGE ON CERTIFICATE.—A recorded mortgage or chattel mortgage filed as provided by law, if not discharged as provided in the preceding section, must be discharged upon the record by the officer having custody thereof, on the presentation to him of a certificate signed by the mortgagee, his personal representative or assigns, acknowledged or proved and certified as prescribed by the chapter on recording transfers, stating that the mortgage has been paid, satisfied or discharged: provided, that whenever a bank or the person appointed to liquidate the affairs of a bank as provided in section 26-908, has failed or neglected to issue a certificate showing the release, discharge or satisfaction of a real or chattel mortgage, the commissioner of finance, or his successor in office, may, upon the request of the owner, or any subsequent owner, or party in interest, issue to such party his certificate showing such mortgage to have been paid, discharged or satisfied even though the affairs of said bank have been completely liquidated.

SECTION 17. That Section 45-914, Idaho Code, as amended, be, and the same is hereby amended to read as follows:

45-914. RECORD OF DISCHARGE—FEE. — A certificate of the discharge of a real estate mortgage must be recorded, and a reference made in the record book to the book and page where the mortgage is recorded and in the minute of the discharge made upon the record of the mortgage to the book and page where the discharge is recorded. A certificate of release of a chattel mortgage shall be filed, and a reference to such release shall be made in the proper place on the book and on the page of the index book provided for in section 45-1106. The fee for filing and indexing such release shall be seventy-five cents.
SECTION 18. That Section 45-915, Idaho Code, be, and the same is hereby amended to read as follows:

45-915. MORTGAGE OR CONDITIONAL SALES CONTRACT — SATISFACTION — FAILURE TO RELEASE OF RECORD — PENALTY. — When any mortgage or conditional sales contract, affecting the title to real or personal property, has been satisfied, the holder thereof or his assignee must immediately, on the demand of the mortgagor, purchaser, or the successor in interest of either, execute, acknowledge, and deliver to him a certificate of the discharge thereof so as to entitle it to be recorded, or he must enter satisfaction or cause satisfaction of such mortgage or conditional sales contract affecting the title to real or personal property, to be entered of record; and any holder, or assignee of such holder, who refuses to execute, acknowledge, and deliver to the mortgagor, purchaser, or the successor in interest of either, the certificate of discharge, or to enter satisfaction, or cause satisfaction of the mortgage or conditional sales contract to be entered, as provided in this chapter, is liable to the mortgagor, purchaser, or his grantee or heirs, for all damages which he or they may sustain by reason of such refusal, and shall also forfeit to him or them the sum of $100.00.

SECTION 19. That Chapter 9 of Title 45, Idaho Code, as amended, be, and the same is hereby amended by adding a new section thereto, to be known and designated as Section 45-916, and to read as follows:

45-916. APPLICATION TO REAL PROPERTY ONLY. — The provisions of this Chapter shall apply to mortgages of real property only.

SECTION 20. That Section 45-1102, Idaho Code, be, and the same is hereby amended to read as follows:

45-1102. MORTGAGE SECURITY INTEREST ON EXEMPT PROPERTY.—No personal property of either husband or wife, that is exempt by law from execution, shall be mortgaged or made subject to a security interest in another by either husband or wife without the joint concurrence of both.

SECTION 21. That Section 45-1302, Idaho Code, be, and the same is hereby amended to read as follows:

45-1302. DETERMINATION OF ALL RIGHTS UPON FORECLOSURE PROCEEDINGS.—In any suit brought
to foreclose a mortgage or lien upon real or personal property or a lien on or security interest in personal property, the plaintiff, cross-complainant or plaintiff in intervention may make as party defendant in the same cause of action, any person, including parties mentioned in section 5-325, having, claiming or appearing to have or to claim any title, estate, or interest in or to any part of the real or personal property involved therein, and the court shall, in addition to granting relief in the foreclosure action, determine the title, estate or interest of all parties thereto in the same manner and to the same extent and effect as in the action to quiet title.

SECTION 22. That Section 49-401, Idaho Code, be, and the same is hereby amended to read as follows:

49-401. DEFINITIONS. — The following words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning:

a. “Vehicle.” Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

b. “Motor Vehicle.” Every vehicle, as herein defined which is self-propelled and every vehicle designated to be drawn upon a public highway behind and in conjunction with a self-propelled motor vehicle, provided there shall be excluded herefrom every such vehicle so drawn, excepting house trailers, whose unladen weight is less than two thousand pounds.

c. “Used Vehicle.” Every motor vehicle, which has been sold, bargained, exchanged, given away or title transferred from the person who first acquired it from the manufacturer or importer, dealer or agent of the manufacturer or importer, and so used as to have become what is commonly known as “second-hand” within the ordinary meaning thereof.

d. “Person.” Every natural person, firm, copartnership, association or corporation.

e. “Owner.” A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions
stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter.


g. "New motor vehicle dealer." Every person engaged in the business of buying, selling or exchanging motor vehicles who has a franchise from a manufacturer of motor vehicles to sell new motor vehicles and who is engaged in the business of selling or exchanging three or more new or new and used motor vehicles in any one calendar year.

h. "State." A state, territory, organized or unorganized, or district of the United States of America.

i. "Department." The department of law enforcement of this state charged by law with the duty of registering motor vehicles.

j. "Commissioner." The officer of this state in charge of the department.

k. "Assessor." The county assessor of any county of the state, who shall act as an agent of the department in carrying out the provisions of this chapter.

l. "Lien or encumbrance." Every conditional sales contract, title note, lease or other agreement by which legal title of a vehicle remains vested in the seller, and every chattel mortgage or conveyance intended to operate as a mortgage or security interest in any vehicle other than security interests in vehicles held in inventory for sale.

m. "Used motor vehicle dealer." Every person engaged in the business of buying, selling, or exchanging used motor vehicles, or who buys and sells, or exchanges three or more used motor vehicles in any one calendar year.

Provided, however, that no insurance company, bank, finance company, public utilities company, or other person, coming into possession of any motor vehicle, as an incident to its regular business, who shall sell such vehicle under any contractual rights it may have with respect thereto shall be considered a new motor vehicle dealer or used motor vehicle dealer.
SECTION 23. That Section 49-412, Idaho Code, be, and the same is hereby amended to read as follows:

49-412. CHATTEL MORTGAGES AND CONDITIONAL SALES LIENS AND ENCUMBRANCES—FILING—FEES—NOTATION ON CERTIFICATE—CONSTRUCTIVE NOTICE.—No chattel mortgage, or conveyance intended to operate as a mortgage lien or encumbrance on any vehicle registered under the laws of this state executed subsequent to the effective date of this act, irrespective of whether such registration was effected prior or subsequent to the execution of such mortgage or lien, is valid creation of such lien or encumbrance, shall be perfected as against creditors or subsequent purchasers or encumbrancers without notice until the mortgagee or holder of such conveyance intended to operate as a mortgage lien or encumbrance, or his successor or assignee, has filed with the department at its office in Boise, Idaho, the original or duplicate original of said mortgage or conveyance intended to operate as a mortgage agreement creating such lien or encumbrance, or a copy of said mortgage, or conveyance intended to operate as a mortgage agreement, with an attached certificate of a notary public stating that the same is a true and correct copy of the original, accompanied by a properly endorsed certificate of title to the vehicle described in said mortgage, or other instrument agreement, and if a certificate of title has not previously been issued for such motor vehicle in this state, said mortgage, or conveyance intended to operate as a mortgage agreement shall be accompanied by a properly executed application for a certificate of title, as provided by this chapter.

When the chattel mortgagee or the holder of such other conveyance intended to operate as a mortgage holder of a lien or encumbrance, his successor or assignee, has filed with the department the original or a duplicate original of said mortgage or conveyance intended to operate as a mortgage agreement, or a copy of the chattel mortgage, or conveyance intended to operate as a mortgage as herein provided, together with a fee of fifty cents to pay for the filing thereof, it shall be the duty of the department to forthwith file the same, endorsing thereon the date and hour received at its office in Boise, Idaho.

All conditional sales contracts covering motor vehicles described in section 49-402, shall be in writing and duly executed by the vendee, and such contracts, or a duplicate thereof executed by the vendee, or a copy thereof verified
by the affidavit of the vendor to the effect that the said copy is a true copy of the original, shall be filed with the department at its office in Boise, Idaho, and shall be accompanied by a properly executed application for a certificate of title as provided by this chapter, or if a certificate of title has previously been issued for such motor vehicle in this state, such conditional sales contract shall be accompanied by such certificate of title properly endorsed, and it shall be the duty of the department, upon payment of the fee of fifty cents to pay for the filing thereof, to file such conditional sales contracts in the manner herein provided for the filing of chattel mortgages for the purpose of this chapter.

When the department is satisfied as to the genuineness and regularity of the documents submitted as in this chapter provided, it shall issue a new certificate of title as in this chapter provided, which shall contain the name of the owner of the vehicle, the name and address of each holder of a lien or encumbrance, and a statement of all liens or encumbrances which have been filed with the department, together with the date of each lien or encumbrance and the date and hour received by the department, and such filing of a lien or encumbrance and the notation thereof upon the certificate of title shall be a condition of perfection and shall constitute constructive notice of such lien or encumbrance and its contents to creditors and subsequent purchasers and encumbrancers, and all mortgages, liens or encumbrances so filed with the department and so noted upon the certificate of title shall be perfected and take priority according to the order of time in which the same are noted upon the certificate of title by the department of law enforcement.

Section 24. That Section 49-414, Idaho Code, be, and the same is hereby amended to read as follows:

49-414. Chattel Mortgages and Conveyances—Security Interests—Method of Giving Constructive Notice Exclusive.—The method provided in this act for giving constructive notice of a chattel mortgage, or other conveyance intended to operate as a mortgage or perfection of a security interest on a motor vehicle, is exclusive, and any such chattel mortgage, or other conveyance intended to operate as a mortgage is excepted from the provisions of sections 45-1102 and sections 45-1104 and 45-1105, and those provisions of sections 45-1106 which relate to the filing of mortgages on personal property, except as to security interests in motor vehicles.
held in inventory for sale, which shall be governed by the Uniform Commercial Code—Secured Transactions.

SECTION 25. That Section 49-415, Idaho Code, be, and the same is hereby amended to read as follows:

49-415. SALE OF E NCUMBERED VEHICLE—CONSENT OF LIENHOLDER—EFFECT.—Sale of any motor vehicle by the owner thereof with the knowledge and consent of the holder of any lien, mortgage or encumbrance properly noted upon the certificate of title thereof, shall not render the sale void or ineffective as against such lien, mortgage or encumbrance.

SECTION 26. That Section 49-416, Idaho Code, be, and the same is hereby amended to read as follows:

49-416.—TRANSFER OF OWNERSHIP BY OPERATION OF LAW—LIENS—VEHICLES REGISTERED IN FOREIGN STATE—CERTIFICATES OF TITLE.—In the event of the transfer of ownership of a motor vehicle by operation of law, as upon inheritance, devise, bequest, order in bankruptcy, insolvency, replevin, or execution sale, or whenever the engine of a motor vehicle is replaced by another engine, or whenever a motor vehicle is sold to satisfy storage or repair charges, or repossession is had upon default in performance of the terms of a conditional sales contract or of a chattel mortgage, or other conveyance intended to operate as a mortgage, if the interest of the owner is terminated or the vehicle is sold under a security agreement, the department of law enforcement 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 such motor vehicle and presentation of an application for a certificate of title, issued to the applicant a certificate of title thereto. Only an affidavit by the person or agent of the person to whom possession of the motor vehicle so passed, setting forth facts entitling him to such possession and ownership, together with a copy of the journal entry, court order or instrument upon which such claim of possession and ownership is founded, shall be considered satisfactory proof of ownership and right of possession. If the applicant cannot produce such proof of ownership he may apply directly to the department of law enforcement and submit such evidence as he may have, and the department of law enforcement may thereupon, if it finds the evidence sufficient, issued a certificate of title to the applicant.
If from the records in the office of the department of law enforcement there appears to be any prior lien or liens on said motor vehicle, such certificate of title shall contain a statement of said liens as in this chapter provided, unless such application is accompanied by proper evidence of their satisfaction or discharge.

Provided, however, that in the case of a motor vehicle registered in a foreign state the applicant for a certificate of title under the provisions of this section must present to the commissioner of law enforcement of this state a certificate of title properly issued to the applicant under the laws of such foreign state before he shall be entitled to a certificate of title issued by the department of law enforcement of this state.

Provided that upon the death of the owner of one or more vehicles registered hereunder and not exceeding a total value of one thousand dollars, the following heirs of said owner, to wit: the surviving spouse, the children, lawful issue of the deceased children, the parents, the brothers or sisters, or the guardian of the estate of any minor or insane or incompetent person having such relationship to the owner, if such person has a right to succeed to the property of the owner, may secure a transfer of the certificate or certificates of title of said owner to said vehicle or vehicles, upon presenting to the commissioner of the department of law enforcement of this state, the appropriate certificate or certificates of title, if available, and an affidavit of such person or persons, setting forth the fact of such survivorship or heirship, the names and addresses of any other heirs, that the decedent died intestate, that the decedent has no creditors, that the decedent did not leave other property necessitating probate, and, if required by the commissioner, a certificate of the death of the deceased. The commissioner, when satisfied of the genuineness and regularity of such transfer, shall transfer the registrations and titles accordingly.

SECTION 27. That Section 55-907, Idaho Code, be, and the same is hereby amended to read as follows:

55-907. TRANSFERS IN FRAUD OF CREDITORS—DELIVERY AND CHANGE OF POSSESSION. — Every transfer of personal property other than a thing in action, and every lien thereon, other than a mortgage, when allowed by law, any transfer in connection with security interest created under the Uniform Commercial Code, is conclusively presumed, if made by a person having at the time the
possession or control of the property, and not accompanied by an immediate delivery and followed by an actual and continued change of possession of the things transferred, to be fraudulent, and therefore void, against those who are his creditors while he remains in possession, and the successors in interests of such creditor, and against any persons on whom his estate devolves in trust for the benefit of others than himself, and against purchasers or encumbrancers in good faith subsequent to the transfer.

SECTION 28. That Section 55-908, Idaho Code, be, and the same is hereby amended to read as follows:

55-908. FRAUD IS A QUESTION OF FACT.—In all cases arising under the provisions of chapters 5 to 9 inclusive, of this title, except as otherwise provided in the last section, the question of fraudulent intent is one of fact, and not of law; nor can any transfer or charge be adjudged fraudulent solely on the ground that it was not made for a valuable consideration.

SECTION 29. That Section 69-223, Idaho Code, be, and the same is hereby amended to read as follows:

69-223. RECEIPTS FOR PRODUCTS STORED — CONTENTS.—Every receipt issued for agricultural products stored in a warehouse licensed under this chapter shall embody within its written or printed terms:

1. All the requirements of a receipt under the uniform warehouse receipts law. Uniform Commercial Code—Documents of Title.

2. A description of the agricultural products received, showing the quantity thereof, or, in case of agricultural products customarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages.

3. The grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made: provided, that such grade or other class shall be stated according to the official standards of the state applicable to such agricultural products as the same may be fixed and promulgated under authority of law: provided further that until such official standards of the state for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any
recognized standard; provided, that unless otherwise re-
quired by law, when requested by the depositor of other
than fungible agricultural products, a receipt omitting
compliance with this subdivision may be issued if it has
plainly and conspicuously embodied in its written or print-
ed terms a provision that such receipt is not graded.

4. A statement that the receipt is issued subject to the
State Bonded Warehouse Act and the rules and regulations
prescribed thereunder.

5. Such other terms and conditions with (within) the
limitations of this chapter as may be required by the de-
partment of agriculture.

6. All warehouse receipts issued under the provisions
of this chapter, shall be upon forms prepared and supplied
by the department of agriculture and issued upon requisi-
tion of the warehouseman at a reasonable cost.

SECTION 30. That Section 69-325, Idaho Code, be, and
the same is hereby amended to read as follows:

69-325. PUBLIC BONDED WAREHOUSE—WARE-
HOUSE RECEIPTS—EFFECT OF CHAPTER ON EX-
ISTING LAWS.—Any warehouse or elevator constructed
by any district under the terms hereof shall immediately
take such steps as to become a public bonded warehouse
under the laws of Idaho, and shall issue for any products
received by it only negotiable warehouse receipts as pre-
scribed by chapters 1 and chapter 2 of this title and the
Uniform Commercial Code—Documents of Title, and the
provisions thereof are intended to apply to and to govern
and control the conduct and business of warehouses con-
ducted hereunder except as specifically otherwise provided
herein. Nothing contained herein shall be construed to mod-
ify or repeal the existing law on the subject of uniform
warehouse receipts and bonded warehouses or to modify
the Uniform Commercial Code—Documents of Title, ex-
cept as provided herein and as applied to the warehouses
erected under the terms of this chapter.

SECTION 31. That Section 73-114, Idaho Code, as
amended, be, and the same hereby is amended to read as
follows:

73-114. STATUTORY TERMS DEFINED. — Unless
otherwise defined for purposes of a specific statute, words
used in these compiled laws in the present tense, include
the future as well as the present; words used in
the masculine gender, include the feminine and neuter; the singular number includes the plural and the plural the singular; the word "person" includes a corporation as well as a natural person; writing includes printing; oath includes affirmation or declaration, and every mode of oral statement, under oath or affirmation, is embraced by the term "testify," and every written one in the term "depose"; signature or subscription includes mark, when the person can not write, his name being written near it, and witnessed by a person who writes his own name as a witness.

The following words have, in the compiled laws, the significance attached to them in this section, unless otherwise apparent from the context:

1. The word "property" includes both real and personal property.

2. The words "real property" are coextensive with lands, tenements and hereditaments, possessory rights and claims.

3. The words "personal property" include money, goods, chattels, things in action, and evidences of debt and general intangibles as defined in the Uniform Commercial Code—Secured Transactions.

4. The word "month" means a calendar month, unless otherwise expressed.

5. The word "will" includes codicils.

6. The word "writ" signifies an order or precept in writing, issued in the name of the people, or of a court or judicial officer, and the word "process," a writ or summons issued in the course of judicial proceedings.

7. The word "state," when applied to the different parts of the United States, includes the District of Columbia and the territories; and the words "United States" may include the District and territories.

8. The words "registered mail" include certified mail.

SECTION 32. This Act shall become effective at midnight December 31, 1967, simultaneously with the Uniform Commercial Code. It applies to transactions entered into and events occurring after that date.

SECTION 33. Transactions validly entered into before the effective date specified in Section 32 and the rights, duties and interest flowing from them remain valid thereafter and may be terminated, completed, consummated or
enforced as required or permitted by any statute amended by this Act as though such amendment had not occurred.

Approved April 3, 1967.

CHAPTER 273
(S. B. No. 67, As Amended)

AN ACT

AMENDING CHAPTER 1 OF TITLE 33, IDAHO CODE, BY ADDING A NEW SECTION THERETO, FOLLOWING SECTION 33-102A, TO BE KNOWN AND DESIGNATED AS SECTION 33-102B, PROVIDING FOR APPOINTMENT OF SUPERINTENDENT OF PUBLIC INSTRUCTION BY STATE BOARD OF EDUCATION, AND DESIGNATING HIS DUTIES; AND PROVIDING FOR EFFECTIVE DATE OF THIS ACT.

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

SECTION 1. That Chapter 1 of Title 33, Idaho Code, be, and the same is hereby amended by adding a new section thereto, following Section 33-102A, to be known and designated as Section 33-102B, Idaho Code, to read as follows:

33-102B. SUPERINTENDENT OF PUBLIC INSTRUCTION — APPOINTMENT — COMPENSATION — DUTIES AND POWERS.—The state board of education is authorized and directed to appoint a superintendent of public instruction who shall serve at the pleasure of, and who shall receive such salary as shall be fixed by the board. The superintendent of public instruction shall, under the direction of the board, supervise the administration of the public schools up to and including grade twelve, and shall also be an ex officio member of the state board of education. The superintendent of public instruction shall have such other powers and duties as shall be prescribed by the state board of education.

SECTION 2. EFFECTIVE DATE.—This Act shall be and become effective on and after the first Monday in January, 1971, provided the electors of the state of Idaho shall, at the general election held in 1968, approve an amendment to the Idaho Constitution so as to remove the superintendent of public instruction as an elected officer.

Approved April 3, 1967.
CHAPTER 274
(S. B. No. 74, As Amended)

AN ACT

AMENDING SECTION 40-802, IDAHO CODE, RELATING TO BRIDGE CONSTRUCTION OR REPAIR, TO PROVIDE THAT IF ANY BRIDGE CONSTRUCTION OR REPAIR EXCEEDS $2,500, THE BOARD OF COMMISSIONERS MUST FOLLOW THE PROCEDURE SET FORTH IN CHAPTER 40 OF TITLE 31, IDAHO CODE, AND DELETING PROVISION OF PREVIOUS LAW FOR COSTS IN EXCESS OF $500; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 40-802, Idaho Code, be, and the same is hereby amended to read as follows:

40-802. BRIDGES COSTING OVER TWENTY FIVE HUNDRED DOLLARS—CONTRACTS FOR CONSTRUCTION AND REPAIR.—Any bridge, the cost of the construction or repair of which will exceed the sum of $500.00-$2,500.00, must be constructed or repaired except on order of the board of commissioners under the provisions set forth in Chapter 40 of Title 31, Idaho Code. When ordered to be constructed or repaired, the contract therefor must be let to the lowest bidder, after reasonable notice given by the board of commissioners, through the road overseer, by publication at least two weeks in a county newspaper; and if none, then by three posted notices, one at the courthouse, one at the point to be bridged, and one at some other neighboring public place, the bids to be sealed, opened, and the contract awarded at the time specified in the notice. The contract and bond to perform it must be entered into with the approval of the board of commissioners.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this Act shall take effect upon its passage and approval.

Approved April 3, 1967.
CHAPTER 275
(S. B. No. 108, As Amended)

AN ACT

TO DESCRIBE, DEFINE AND OFFICIALLY ADOPT A SYSTEM OF COORDINATES FOR DESIGNATING AND STATING THE POSITIONS OF POINTS ON THE SURFACE OF THE EARTH WITHIN THE STATE OF IDAHO; AND PROVIDING SEVERABILITY.

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

SECTION 1. ESTABLISHING COORDINATE SYSTEM—DESIGNATING ZONES.—The system of plane coordinates which has been established by the United States Coast and Geodetic Survey for defining and stating the positions or locations of points on the surface of the earth within the state of Idaho is hereafter to be known and designated as the “Idaho Coordinate System”.

For the purpose of the use of this system the state is divided into an “East Zone”, a “Central Zone”, and a “West Zone”.

The area now included in the following counties shall constitute the East Zone: Bannock, Bear Lake, Bingham, Bonneville, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power and Teton.

The area now included in the following counties shall constitute the Central Zone: Blaine, Butte, Camas, Cassia, Custer, Gooding, Jerome, Lemhi, Lincoln, Minidoka and Twin Falls.

The area now included in the following counties shall constitute the West Zone: Ada, Adams, Benewah, Boise, Bonner, Boundary, Canyon, Clearwater, Elmore, Gem, Idaho, Kootenai, Latah, Lewis, Nez Perce, Owyhee, Payette, Shoshone, Valley and Washington.

SECTION 2. ZONE REFERENCES. — As established for use in the East Zone, the Idaho Coordinate System shall be named, and in any land description in which it is used it shall be designated the “Idaho Coordinate System, East Zone”.

As established for use in the Central Zone, the Idaho Coordinate System shall be named, and in any land description in which it is used it shall be designated, the “Idaho Coordinate System, Central Zone”.
As established for use in the West Zone, the Idaho Coordinate System shall be named, and in any land description in which it is used it shall be designated, the “Idaho Coordinate System, West Zone”.

SECTION 3. PLANE COORDINATES.—The plane coordinates of a point on the earth’s surface, to be used in expressing the position or location of such point in the appropriate zone of this system, shall consist of two distances, expressed in feet and decimals of a foot. One of these distances, to be known as the “x-coordinate”, shall give the position in an east-and-west direction; the other, to be known as the “y-coordinate”, shall give the position in a north-and-south direction. These coordinates shall be made to depend upon and conform to the coordinates, on the Idaho Coordinate System, of the triangulation and traverse stations of the United States Coast and Geodetic Survey within the state of Idaho, as these coordinates have been determined by said survey.

SECTION 4. TRACTS EXTENDING INTO TWO ZONES.—When any tract of land to be defined by a single description extends from one into another of the above coordinate zones, the positions of all points on its boundaries may be referred to either of such zones, the zone which is used being specifically named in the description.

SECTION 5. ADOPTION OF UNITED STATES COAST AND GEODETIC SURVEY DEFINITION.—1. For purposes of more precisely defining the Idaho Coordinate System, the following definition by the United States Coast and Geodetic Survey is adopted:

The Idaho Coordinate System, East Zone, is a transverse mercator projection of the Clarke spheroid of 1866, having a central meridian 112°10’ west of Greenwich, which meridian has a reduced scale of one part in 19,000. The origin of coordinates is at the intersection of the meridian 112°10’ west of Greenwich and the parallel 41°40’ north latitude. This origin is given the coordinates: x=500,000 feet and y=0 feet.

The Idaho Coordinate System, Central Zone, is a transverse mercator projection of the Clarke spheroid of 1866, having a central meridian 114°00’ west of Greenwich which meridian has a reduced scale of one part in 19,000. The origin of coordinates is at the intersection of the meridian 114°00’ west of Greenwich and the parallel 41°40’ north latitude. This origin is given the coordinates: x=500,000 feet and y=0 feet.
The Idaho Coordinate System, West Zone, is a transverse mercator projection of the Clarke spheroid of 1866, having a central meridian 115°45' west of Greenwich, which meridian has a reduced scale of one part in 15,000. The origin of coordinates is at the intersection of the meridian 115°45' west of Greenwich and the parallel 41°40' north latitude. This origin is given the coordinates: x=500,000 feet and y=0 feet.

2. The position of the Idaho Coordinate System shall be as marked on the ground by triangulation or traverse stations established in conformity with the standards adopted by the United States Coast and Geodetic Survey for first-order and second-order work, whose geodetic positions have been rigidly adjusted on the North American datum of 1927, and whose coordinates have been computed on the system herein defined. Any such station may be used for establishing a survey connection with the Idaho Coordinate System.

SECTION 6. ONE MILE TRIANGULATION LIMITATION.—No coordinates based on the Idaho Coordinate System, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public land records or deed records unless such point is within one mile of a triangulation or traverse station established in conformity with the standards prescribed in Section 5 of this act; provided, that said one mile limitation may be modified by a duly authorized state agency to meet local conditions.

SECTION 7. USE OF TERM.—The use of the term “Idaho Coordinate System” on any map, report or survey, or other document, shall be limited to coordinates based on the Idaho Coordinate System as defined in this act.

SECTION 8. COORDINATE DESCRIPTIONS SUPPLEMENTAL.—Whenever coordinates based on the Idaho Coordinate System are used to describe any tract of land which in the same document is also described by reference to any subdivision, line or corner of the United States public land surveys, the description by coordinates shall be construed as supplemental to the basic description of such subdivision, line or corner contained in the official plats and field notes filed of record, and in the event of any conflict the description by reference to the subdivision, line or corner of the United States public land surveys shall prevail over the description by coordinates. Every recorded map, survey or conveyance or other instrument affecting title to real property which delineates, describes or refers to such property
or any part thereof by reference to coordinates based upon the Idaho Coordinate System shall also describe the property by reference and tie to either section corner or quarter corner monuments of the United States Public Land Surveys.

SECTION 9. DESCRIPTION BY COORDINATE NOT MANDATORY.—Nothing contained in this act shall require any purchaser or mortgagee to rely on a description, any part of which depends exclusively upon the Idaho Coordinate System.

SECTION 10. SEVERABILITY.—If any provision of this Act shall be declared invalid, such invalidity shall not affect any other portion of this Act which can be given effect without the invalid portion, and to this end the provisions of this Act are declared to be severable.

Approved April 3, 1967.

CHAPTER 276
(S. B. No. 139, As Amended in the House)

AN ACT

AMENDING SECTION 63-105D, IDAHO CODE, RELATING TO EXEMPTIONS FROM TAXATION OF PROPERTY, BY AMENDING SUBSECTION (d) AS TO HONORABLY DISCHARGED VETERANS WHO HAVE SERVED IN THE ARMED FORCES OF THE UNITED STATES IN CERTAIN WARS, BY PROVIDING THAT VETERANS OF WORLD WAR I MAY BE SO EXEMPT; AND BY AMENDING SUBSECTION (e) AS TO DISABLED VETERANS BY ELIMINATING THE WORD "OTHER" SO AS NOT TO REMOVE DISABLED VETERANS OF WORLD WAR I AND TO NOW INCLUDE DISABLED VETERANS OF ALL WARS, AND OTHERWISE CLARIFYING THE LANGUAGE; INCREASING THE LIMIT ON EXEMPTIONS FROM TAXATION OF AFFECTED PERSONS FROM $1,000 OF FULL CASH VALUE TO $1,250 OF ASSESSED VALUE; INCREASING PROPERTY OWNERSHIP LIMITS TO QUALIFY FOR 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 63-105D, Idaho Code, be, and the same is hereby amended to read as follows:

63-105D. PROPERTY EXEMPT FROM TAXATION—BLIND PERSONS, FATHERLESS CHILDREN, WIDOWS, HONORABLY DISCHARGED SOLDIERS AND SAILORS, VETERANS OF CERTAIN WARS AND DISABLED AMERICAN VETERANS.—The following property is exempt from taxation, provided that the total amount of all exemptions allowed to any one family under this section shall not exceed $1,000 of full cash value, $1,250.00 of assessed value, and further provided that:

None of the property exempted from taxation by this subsection shall be exempt if the person owning the same and claiming exemption thereon owns property the full cash value of which exceeds $8,000.00; nor shall the exemption herein provided inure to the benefit of any person whose net income, as defined in section 63-3022, exceeds the sum of $3,600.00 per annum;

The exemptions provided in this section shall apply only to property owned by the person claiming the exemption and occupied by that person as a home; provided, however, that where the person claiming the exemption shall have rented the home during illness, or resides in a charitable institution and is unable to provide the necessities of life without receiving rental income from the rental of such home, provided such rental income does not exceed $50.00 per month, the exemption herein provided shall apply;

No exemption herein provided shall apply to any property sold, transferred, conveyed, or otherwise disposed of, on or before the first day of June of any year;

No exemption herein provided shall be granted any person who is not a resident of the state of Idaho, for the entire year, nor shall the exemption herein provided be granted more than once to one person during any one year;

The exemptions herein provided must be claimed in accordance with the provisions of section 63-107; and further provided that any public official who shall wilfully grant an exemption in violation of the provisions of this section shall be guilty of a misdemeanor:

(a) Property which belongs to a blind person; provided, however, that in the case of community property, only one-half of the exemption shall be allowed in any case where one of the spouses is not blind.
(b) Property belonging to fatherless children who have not attained eighteen years of age.

(c) Property belonging to widows;

(d) Property belonging to honorably discharged soldiers and sailors veterans who served in the armed forces of the United States during the War between the States, the Spanish-American War, the Philippine Insurrection, and the Indian Wars, Spanish-American War and World War I, as defined by the laws and regulations of the United States Veterans Administration.

(e) Property belonging to disabled American veterans of any other war engaged in by the United States whose disability is recognized as a service-connected disability of a degree of ten (10) per cent or more, or who are in receipt of pension or compensation for non-service-connected disabilities, in accordance with laws and regulations administered by the United States veterans administration; provided, however, that in all cases under this subparagraph the veteran claiming exemption shall furnish a statement as to his status signed by a responsible officer of the United States veterans administration.

SECTION 2. EMERGENCY. — An emergency existing therefor, which emergency is hereby declared to exist, this amendatory act shall be in full force and effect immediately upon its passage retroactively to January 1, 1967.

Approved March 31, 1967.

CHAPTER 277
(S. B. No. 166, As Amended)

AN ACT

PROVIDING A DECLARATION OF PURPOSE; DIVIDING THE STATE INTO FIVE AIR REGIONS; PROVIDING FOR APPOINTMENT OF INTERIM BOARDS OF TRUSTEES; PROVIDING FOR EXPENSES OF MEMBERS OF SUCH INTERIM BOARDS; PROVIDING FOR THE SELECTION OF CHAIRMEN OF SUCH INTERIM BOARDS; DIRECTING THE INTERIM BOARDS, WITH THE ADVICE AND ASSISTANCE OF THE DEPARTMENT OF AERONAUTICS, TO ESTABLISH A FORMULA FOR THE DEGREE OF FINANCIAL PARTICIPATION IN A REGIONAL AIRPORT AUTHORITY BY EACH SUCH
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COUNTY IN THE REGION, BASED UPON THE BENEFITS EACH COUNTY WOULD RECEIVE THEREFROM, AND REQUIRING SUCH FORMULA TO BE BASED UPON CERTAIN FACTORS; PROVIDING THAT BEFORE ANY ELECTION MAY BE HELD TO ESTABLISH A REGIONAL AIRPORT AUTHORITY, SUCH INTERIM BOARDS SHALL HAVE ESTABLISHED, ON A PERCENTAGE BASIS, THE DEGREE OF FINANCIAL PARTICIPATION EXPECTED OF EACH COUNTY IN THE REGION; PROVIDING FOR THE DETERMINATION OF THE LOCATION OF PROPOSED REGIONAL AIRPORTS BY THE INTERIM BOARDS; ESTABLISHING PROCEDURE FOR AN ELECTION TO ESTABLISH A REGIONAL AIRPORT AUTHORITY; REQUIRING AN AFFIRMATIVE VOTE OF A MAJORITY OF ALL VOTES CAST IN SUCH ELECTION TO CREATE SUCH AN AUTHORITY; PROVIDING FOR THE ELECTION OF A PERMANENT BOARD OF TRUSTEES, FOLLOWING ESTABLISHMENT OF THE AUTHORITY, WITH ONE SUCH MEMBER TO BE ELECTED FROM EACH LEGISLATIVE DISTRICT, WITH THE EXCEPTION OF THE NORTHERN AND NORTHCENTRAL REGIONS; PROVIDING FOR TERMS OF OFFICE OF MEMBERS, FOR FILLING OF VACANCIES, AND FOR EXPENSES OF MEMBERS OF SUCH PERMANENT BOARDS; PRESCRIBING THE POWERS AND DUTIES OF SUCH AUTHORITIES; PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SUBJECT TO THE APPROVAL OF THE ELECTORS IN SUCH REGION, AND LIMITING SUCH BONDS TO TWO PER CENT OF THE AGGREGATE ASSESSED VALUATION OF ALL PROPERTY WITHIN THE REGION; PROVIDING FOR RECORDS OF SUCH AUTHORITIES AND OFFICERS' BONDS; EXEMPTING PROPERTY OF SUCH AUTHORITIES FROM TAXATION; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. The purpose of this act is to provide for the development of regional airports in the state of Idaho, with the financial participation of the individual counties to be based on benefits received therefrom. In determining benefits received, it is the express intention of the legislature that the following factors be considered: distance from regional airport, population of county, and tax base of county.

SECTION 2. For the purpose of this act, the state of Idaho is divided into five air regions, consisting of the following counties, to-wit: the northern region shall consist of Benewah, Bonner, Boundary, Kootenai and Shoshone.
counties; the north central region shall consist of Clearwater, Idaho, Latah, Lewis and Nez Perce counties; the southwestern region shall consist of Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington counties; the south central region shall consist of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls counties; and the eastern region shall consist of Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power and Teton counties.

SECTION 3. The state department of aeronautics shall, upon the effective date of this act, appoint for each of the five air regions described in Section 2 of this act, an interim board of trustees to consist of one appointee from each legislative district in the region. Members of such boards shall serve without pay until such time as the regional airport authority is established and tax levying authority granted, after which such boards shall be reimbursed for actual and necessary expenses incurred in the performance of official duties. At the first meeting of each such board, a chairman shall be selected from the membership of the respective board. Such interim boards shall serve in such capacity until their successors are elected and qualified as provided in Section 6 of this act, and such boards shall exercise all powers and duties granted to the permanent board of trustees under Section 7 of this act.

SECTION 4. Each interim board of trustees shall, with the advice and assistance of the department of aeronautics, establish a formula for the degree of financial participation in a regional airport authority by each such county in the region, based upon the benefits each county would receive therefrom. In establishing the formula, the interim board of trustees shall consider the distance of each county seat from the proposed regional airport, the tax base of each county and the population of each county. Before any election may be held to establish a regional airport authority, the interim board of trustees shall have established, on a percentage basis, the degree of financial participation expected of each county in the region. The board shall, in addition, determine the location of the proposed regional airport.

SECTION 5. A regional airport authority may be established by the vote of the electors of such region, voting at an election called and held as herein provided:

(a) A petition signed by not less than five percent of the
electors from each voting precinct in the region, describing the degree of percentage of financial participation of each such county in the district and the proposed location of the regional airport, and praying for the organization of the region as a regional airport authority, together with a true copy thereof, shall be filed with the state department of aeronautics. Prior to filing such petition each board of county commissioners of the counties in the region shall verify the validity of the signatures within the county.

(b) Upon approval of the petition, the state department of aeronautics shall advise the boards of county commissioners of the counties in the region of the date of the election, but no later than 60 days after approval of the petition, and each such board shall enter an order that a special election be held on such date for the purpose of voting on the question of the creation of such regional airport authority. Notice of election must be posted, notice shall be published, the election shall be conducted and the returns thereof canvassed as required in elections on the question of creating junior college districts. Provided, however, as a condition of voting in such election, an elector shall meet the qualifications prescribed in Section 34-401, Idaho Code, and in addition shall be a resident of the proposed regional airport authority. The ballot shall contain the words "regional Airport Authority—Yes" and "Regional Airport Authority—No", each followed by a box in which the voter may express his choice by marking a cross "X". The board of county commissioners of each county shall conduct such election and canvass the returns thereof as though it were the only county in which such election were being held. The returns of the election so canvassed shall be certified promptly to the state department of aeronautics, and if a majority of all of the votes cast be in the affirmative, the state department of aeronautics shall enter an order declaring such regional airport authority established, and shall certify such fact to the board of county commissioners of each county in the region. The cost of providing such election shall be paid by the respective boards of county commissioners, from any funds available to such county.

Section 6. At the next succeeding primary election
following the creation of any such regional airport authority, the electors of each of the legislative districts within such region shall elect, on a non-partisan basis, a member of the authority's permanent board of trustees, hereinafter referred to as the board, except that in the northern and northcentral regions, one additional board member shall be elected from each such region at large. At the first such election, members elected from even-numbered legislative districts, together with the member elected at large from the northern region and the member elected at large from the northcentral region, shall be elected for four-year terms of office, and members elected from odd-numbered legislative districts shall be elected for two-year terms of office. Thereafter all such members shall be elected for four-year terms of office, and shall serve until their successors are elected and qualified. The term of office of members so elected shall commence on December 1 of the year in which they were elected.

Notice of the election and the conduct thereof shall be as prescribed for the election of junior college district trustees. As a condition of voting, an elector shall meet the qualifications prescribed in Section 34-401, Idaho Code, and in addition shall be a resident of the regional airport authority.

The person receiving the largest number of votes shall be declared elected. If it be necessary to resolve a tie between two or more persons, the interim board or the permanent board, as the case may be, shall determine by lot which thereof shall be declared elected. The clerk of the board shall promptly notify any person by mail of his election, enclosing a form of oath to be subscribed by him as herein provided.

When elections held pursuant to this section coincide with other elections held by the state of Idaho or any subdivision thereof, or any municipality or school district, the board of trustees may make agreement with the body holding such election for joint boards of election and the payment of fees and expenses of such boards of election on such proportionate basis as may be agreed upon.

Elections of board members shall, after the first such election, be held every other year in even-numbered years, and shall be held on such uniform day of such uniform month as the board shall determine. Vacancies on the board shall be filled by appointment of remaining members, for the expiration of such term of office. The board members shall take and subscribe the oath of office required in the
case of state officers and said oath shall be filed with the
secretary of state. Members shall be reimbursed for actual
and necessary expenses incurred in the performance of
their official duties.

SECTION 7. The board of any authority established
under the provisions of this act shall have power:

(1) To sue and be sued;

(2) To acquire, hold, and dispose of personal property;

(3) To acquire, in the name of the authority by pur-
chase or condemnation, real property or rights or ease-
ments therein necessary or convenient for its purposes,
and, except as may otherwise be provided herein, to use
the same in acquiring property, any such authority may ex-
ercise the right of eminent domain as provided in Chapter
7, Title 7, Idaho Code.

(4) To establish rules and regulations for the manage-
ment and regulation of its affairs, and to make rules and
regulations for the use of projects, and the establishment
and collection of rentals, fees, and all other charges for
services or commodities sold, furnished, or supplied by such
authority.

(5) To appoint a chairman from the membership of the
board, and to appoint officers, agents, and employees and
fix their compensation;

(6) To make contracts, leases, and all other instruments
necessary or convenient to the purposes of the authority;

(7) To design, construct, maintain, operate, improve,
and reconstruct such projects as shall be necessary and con-
venient to the maintenance and development of aviation
services to and for the region in which such authority is
established, including landing fields, heliports, hangars,
shops, passenger and freight terminals, control towers, and
all facilities necessary or convenient in connection with
any such project and also to contract for the construction,
operation, or maintenance of any parts thereof, or for ser-
vice to be performed thereon, and to rent parts thereof
and grant concessions thereon; all on such terms and con-
ditions as the authority may determine;

(8) To include in such project, subject to zoning restric-
tions, space and facilities for any or all of the following:
public recreation, business, trade or other exhibitions,
sporting or athletic events, public meetings, conventions,
and all other kinds of assemblages, and in order to obtain additional revenues, space, and facilities for business and commercial purposes. Whenever the board deems it to be in the public interest, the board may lease any such project or any part or parts thereof, or contract for the management and operation thereof or any part or parts thereof. Any such lease or contract may be for such period of years as the board shall determine;

(9) To charge fees, rentals, and other charges for the use of projects under the jurisdiction of such board. All fees, rentals, charges, and other revenues derived from any project shall be applied to the payment of operating, administration, and other necessary expenses of the authority properly chargeable to such project and to the payment of the interest on and principal of bonds or for making sinking fund payments therefor. The board may treat one or more projects as a single enterprise in respect of revenues, expenses, the issuance of bonds, maintenance, operation, or other purposes;

(10) Subject to and consistent with the percentages of financial participation determined by the board and approved by the electors of the region, as provided in Sections 4 and 5 hereof, to certify annually to the boards of county commissioners of the counties in the region the amount of tax to be levied for airport purposes, not to exceed one mill on the dollar upon the assessed valuation of all the taxable property in such county, and the boards of county commissioners shall levy and collect the taxes so certified at the same time and in the same manner as other county taxes are levied and collected, and the proceeds of such taxes when due and as collected shall be set aside and deposited in the special account or accounts in which other revenues of the authority are deposited;

(11) To construct and maintain under, along, over, or across a project, telephone, telegraph, or electric wires and cables, fuel lines, gas mains, water mains, and other mechanical equipment not inconsistent with the appropriate use of such project, to contract for such construction and to lease the right to construct and use the same, or to use the same on such terms for such periods of time and for such consideration as the board shall determine;

(12) To accept grants, loans, or contributions from the United States, the state of Idaho, or any agency or instrumentality of either of them, or from any private group or
individual, and to expend the proceeds thereof consistent with the laws of the United States and of the state of Idaho.

(13) To enter on any lands, waters, and premises for the purposes of making surveys, soundings, and examinations; and to do all things necessary or convenient to carry out the powers expressly conferred on such authorities by this act.

SECTION 8. Subject to and consistent with the percentage of financial participation determined by the board and approved by the electors of the region, as provided in Sections 4 and 5 hereof, an authority may secure the necessary funds to finance part or all of the cost of acquiring, establishing, constructing, developing, expanding, extending or further improving the regional airport within its limits through the issuance of general obligation bonds as hereinafter provided, the principal amount of which at any one time outstanding, together with other outstanding indebtedness of the authority, shall not exceed two percent (2%) of the aggregate assessed valuation of all property within the region. Provided further, all such bonds shall be payable within thirty years from the date of issuance.

SECTION 9. No general obligation bonds shall be issued until the question whether the bonds shall be issued is submitted to the qualified electors of the region and approved by a two-thirds majority of those voting upon the question. As used in this section, qualified elector means a person entitled to vote in a school bond election. The question may be submitted at any general election or at a special election called for such purpose by the board of the authority. Notice of the submission of such proposition at any such election shall be published at least once in a daily or weekly newspaper or newspapers of general circulation within the region, not less than fifteen days prior to said election. In all other respects, procedures for such elections shall be in the same manner as for junior college bond elections. The ballot to be voted at said election shall read substantially as follows:

| Shall the Airport authority be authorized to issue general obligation bonds in the amount of (fill in the amount) for the purpose of (state purpose)? | YES | NO |

If two-thirds of the electors of the region voting upon
such proposition vote in favor thereof, such bonds may be issued.

SECTION 10. The board shall provide for the proper and safe keeping of its permanent records and for the recording of the action of the authority. It shall keep a true and accurate account of its receipts and an annual audit shall be made of its books, records and accounts. All officers and employees authorized to receive or retain the custody of money or to sign vouchers, checks, warrants or evidence of indebtedness binding upon the authority shall furnish surety bond for the faithful performance of their duties and the faithful accounting for all moneys that may come into their hands in an amount to be fixed and in a form to be approved by the board.

SECTION 11. It is hereby found, determined, and declared that the creation of a regional airport authority is in all respects for the benefit of the people of the state of Idaho, for the improvement of their welfare and prosperity, and for the promotion of their transportation, and is a public purpose and a matter of state-wide concern, and that projects operated by authorities are essential parts of the public transportation system, and that such authorities will be performing essential governmental functions in the exercise of the powers conferred upon them by this act. The state of Idaho declared that authorities shall be required to pay no taxes or assessments upon any of the property acquired by them or under their respective jurisdictions, control, possession, or supervision, or upon the activities of authorities in the operation and maintenance of projects, or upon any charges, fees, revenues, or other income received by authorities except motor vehicle fuel and aviation fuel taxes, and that the bonds and notes of authorities and the income therefrom shall at all times be exempt from taxation.

SECTION 12. 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 13. This Act shall be in full force and effect from and after July 1, 1967.

Approved April 3, 1967.
CHAPTER 278
(S. B. No. 314)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL FUND OF
THE STATE OF IDAHO AND VARIOUS FEDERAL FUNDS,
TO THE STATE BOARD FOR VOCATIONAL EDUCATION
FOR THE PURPOSE OF PAYING SALARIES AND WAGES,
TRAVEL EXPENSE, OTHER CURRENT EXPENSE, CAPITAL
OUTLAY AND RELIEF AND PENSIONS, IN ACCORDANCE
WITH THE CURRENT IDAHO STATE PLAN AND POLICIES
FOR VOCATIONAL-TECHNICAL EDUCATION, FOR THE PERI-
OD COMMENCING JULY 1, 1967, AND ENDING JUNE 30,
1969; SUBJECT TO THE PROVISIONS OF THE STANDARD
APPROPRIATIONS ACT OF 1945.

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

SECTION 1. There is hereby appropriated out of the
general fund of the state of Idaho and various federal funds,
the following sums of money, or so much thereof as may be
necessary, for the purpose of paying salaries and wages,
travel expense, other current expense, capital outlay and
relief and pensions of the agency herein named, in accord-
ance with the current Idaho State Plan and Policies for
Vocational-Technical Education, for the period commen-
cing July 1, 1967, and ending June 30, 1969, subject to the

To Whom Appropriated: Appropriations:
STATE BOARD FOR VOCATIONAL EDUCATION:
For: Salaries and Wages ................ $ 310,000.00
      Travel Expense ................... 35,000.00
      Other Current Expense ............ 110,000.00
      Capital Outlay ........................ 5,000.00
      Relief and Pensions ................. 4,855,580.00

Total .................................. $5,315,580.00

From: General Fund .................. $2,717,000.00
     Federal Funds .................... 2,598,580.00

Total .................................. $5,315,580.00

Approved April 3, 1967.
CHAPTER 279  
(S. B. No. 310)  

AN ACT


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

SECTION 1. There is hereby appropriated out of the Public Employee Retirement Fund the following sums of money, or so much as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the Standard Appropriations Act of 1945.

To Whom Appropriated:  
RETIREMENT BOARD:  
For:  
Salaries and Wages $161,416.00  
Travel Expense 10,200.00  
Other Current Expense 105,290.00  
Capital Outlay 8,211.00
Total $285,117.00

From: Public Employee Retirement Fund $285,117.00

Approved April 3, 1967.

CHAPTER 280  
(S. B. No. 184, As Amended)  

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL FUND OF THE STATE OF IDAHO, TO THE INSPECTOR OF MINES FOR THE PURPOSE OF SUPPLEMENTING FUNDS NOW APPROPRIATED AND AVAILABLE FOR THIS BIENNIAL
C. 281 '67  IDAHO SESSION LAWS  787

(1965-1967); IN ORDER THAT THE INSPECTOR OF MINES MAY MAKE SUCH EXPENDITURES AS NECESSARY TO IMPLEMENT THE OPERATING EFFICIENCY OF SAID OFFICE; EXEMPT FROM THE PROVISIONS OF THE STANDARD APPROPRIATIONS ACT OF 1945; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho to the Inspector of Mines, the following sums of money, or so much thereof as may be necessary for the purpose of paying travel and other current expense for the period beginning January 1, 1967 and ending June 30, 1967, exempt from the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: 

INSPECTOR OF MINES:

Appropriations:

For:  
    Travel  $ 300.00  
    Other Current Expense  1,700.00  
    Total  $2,000.00

From: General Fund  $2,000.00

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this Act shall be effective from and after its approval.

Approved April 3, 1967.

CHAPTER 281  
(S. B. No. 278)  

AN ACT  

DEFINING THE TERMS "SCRAP" AND "SCRAP DEALERS"; PROVIDING THAT ALL SCRAP DEALERS SHALL KEEP LEGIBLE RECORDS OF PURCHASES FROM INDIVIDUALS WHICH SHALL BE OPEN TO INSPECTION BY LAW ENFORCEMENT OFFICERS; PROVIDING FOR VIOLATIONS AND PENALTIES OF THIS ACT IN REGARD TO SCRAP DEALERS; PROVIDING A PENALTY AGAINST SELLERS FOR FALSE STATEMENTS; AND PROVIDING THAT SUCH RECORDS BE KEPT FOR THREE YEARS.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. All persons, firms or corporations engaged in the business of purchasing scrap metals of any kind, which are commonly known and are hereinafter designated and referred to as "scrap", such as used or old iron, copper, brass, lead, zinc, tin, steel, aluminum, metallic cables and ropes, wires and other like materials, shall be and hereby are defined, and held to be "scrap dealers" within the meaning of this act.

SECTION 2. Every scrap dealer shall keep a legible record describing scrap purchased by him from individuals together with the date and place of such purchase. In addition, he shall obtain from such individual from whom such purchase is made his name and address and shall make a legible record of the same. The records shall include the number of the driver's license of the individual from whom such scrap is purchased together with the license plate number of the vehicle in which he is transporting his scrap. Such record and entries therein shall at all times be open to inspection by state police, by the sheriff of the county or any of his deputies, by any member of the police force in a city or town and any constable in the county in which the scrap dealer does business.

SECTION 3. Any scrap dealer who shall be found guilty of an intentional violation of any of the provisions of this act shall be guilty of a misdemeanor, and shall be fined or imprisoned, or both, in the discretion of the court; provided, however, that for the first offense, the fine shall be not less than fifty dollars ($50.00) nor more than two hundred ($200.00); and further provided, that for the second and for each subsequent conviction of any of the provisions of this act, the fines shall be not less than one hundred dollars ($100.00) nor more than three hundred dollars ($300.00) and such individual may be imprisoned not less than thirty (30) days nor more than ninety (90) days; provided, that this act shall not be construed to in anywise impair the power of counties, cities or incorporated municipalities in this state to license, tax and regulate any scrap dealer.

SECTION 4. Records required to be kept by the scrap dealers in accordance with this act shall be kept for a period of three years.

SECTION 5. Any seller who in furnishing information as contemplated by this act in selling, offering or trying to
sell scrap makes a false statement or gives untrue information shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars ($10.00) and costs, nor more than one hundred dollars ($100.00) and costs, or by imprisonment in the county jail for not less than ten (10) days nor more than ninety (90) days, or by both such fine and imprisonment in the discretion of the court.

Approved April 3, 1967.

CHAPTER 282
(S. B. No. 315)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sum of money, or so much thereof as may be necessary, for the purpose of paying presidential electors' expense for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriations: SECRETARY OF STATE FOR PRESIDENTIAL ELECTORS' EXPENSE:
For: Travel Expense $250.00

Total $250.00

From: General Fund $250.00

Approved April 3, 1967.
CHAPTER 283
(S. B. No. 316)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund and park fund of the state of Idaho and federal funds, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:  
STATE PARK BOARD AND PARKS DEPARTMENT:

For:  
Salaries and Wages $808,920.00
Travel Expense $40,000.00
Other Current Expense $300,000.00
Capital Outlay $1,200,000.00

Total $2,348,920.00

From:  
General Fund $1,186,545.00
Park Fund $72,249.00
Federal Funds $1,090,126.00

Total $2,348,920.00

Approved April 3, 1967.
CHAPTER 284
(S. B. No. 318)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund and receipts to appropriations of the state of Idaho, the following sum of money, or so much thereof as may be necessary, for the purpose of paying a lump sum appropriation of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: Appropriation:
RECLAMATION COOPERATIVE PROGRAMS:
For: Lump Sum Appropriation $488,000.00
From: General Fund $450,000.00
Receipts to Appropriations 38,000.00
Total $488,000.00

Approved April 3, 1967.

CHAPTER 285
(S. B. No. 355)

AN ACT


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

SECTION 1. In addition to all official duties now prescribed by the Constitution and statutes of the state of Idaho, it shall be the duty of the Lieutenant Governor, as President of the Senate, the President Pro Tempore of the Senate and the Speaker of the House of Representatives, to complete preparation of the journals and to index the same, to complete the enrolling of bills, index all laws, resolutions and memorials enacted or adopted by the Thirty-ninth Session of the Idaho State Legislature and to complete any and all clerical work of any character remaining to be done at the close of the Thirty-ninth Legislative Session, and to take inventories of legislative furniture.

The Lieutenant Governor, as President of the Senate, the President Pro Tempore of the Senate and the Speaker of the House of Representatives, while performing such duties on a day to day basis shall receive their actual and neces-
necessary expenses, as such are defined in the Idaho Constitution. Their actual and necessary expenses on a day to day basis are hereby expressly defined as being the total daily amount paid to the Lieutenant Governor while acting as President of the Senate, to the President Pro Tempore while acting in the capacity for the Senate, and to the Speaker of the House of Representatives while acting in that capacity for the House of Representatives, together with their actual travel and lodging expense.

That the said Lieutenant Governor, as President of the Senate, the President Pro Tempore of the Senate and the Speaker of the House of Representatives, be, and they are hereby authorized and empowered to retain, appoint and employ so many of the attaches and employees of either House of the Legislature as may be necessary to complete said work. That the rate of pay for such above named attaches and employees shall be the same as that which they received during the session of the Legislature.

SECTION 2. That in addition to the other sums which have heretofore been appropriated by the Thirty-ninth Session of the Legislature of the State of Idaho by House Bill No. 1, any balance of the appropriation carried in such bill being hereby reappropriated, there is hereby further appropriated out of any moneys in the general fund not otherwise appropriated, the sum of $325,000, or so much thereof as may be necessary, for the purpose of paying actual and necessary expenses, and for the payment of any and all unpaid expenses of the Thirty-ninth Legislative Session, and for the payment of actual and necessary expenses of any special session or sessions held before the Fortieth Legislative Session; all to be paid in the same way as other claims for legislative expenses are paid; any unexpended balance remaining in said fund shall revert to the general fund July 1, 1969.


SECTION 4. All acts or parts of acts in conflict herewith are hereby suspended.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this Act shall take effect and be in full force and effect from and after its passage and approval.

Approved March 30, 1967.
CHAPTER 286
(H. B. No. 125, As Amended in the Senate)

AN ACT

PROVIDING FOR A SUMMARY ADMINISTRATION OF INTESTATE ESTATES OF A VALUE NOT EXCEEDING FIFTEEN THOUSAND DOLLARS; PROVIDING FOR ANY INTERESTED PERSON TO PETITION FOR SUCH PROCEEDINGS; PROVIDING SAID PROCEEDINGS MAY BE HAD EITHER IN THE COUNTY OF DECEDENT'S RESIDENCE OR THE COUNTY WHERE THE PROPERTY IS SITUATED; PROVIDING FOR THE PUBLICATION OF NOTICE OF FILING PETITION AND NOTICE TO CREDITORS; PROVIDING FOR DECREE TO BE ENTERED AT TERMINATION OF 60 DAY PERIOD IF THERE ARE NO OBJECTIONS OR CREDITORS CLAIMS UNDISPOSED OF; PROVIDING THAT IN CASE OF MATTERS STILL PENDING AT THE TERMINATION OF 60 DAY PERIOD THE COURT MAY, UPON MOTION OF PETITIONER, POSTPONE THE ENTERING OF THE DECREE UNTIL ALL MATTERS ARE DISPOSED OF, OR THE COURT MAY, UPON MOTION OF ANY INTERESTED PERSON, APPOINT AN ADMINISTRATOR AND PROCEED UNDER THE GENERAL LAWS OF THE STATE OF IDAHO; PROVIDING FILING FEES PURSUANT TO SECTION 31-3204, IDAHO CODE; PROVIDING FOR APPOINTMENT OF APPRAISERS AND FILING OF INVENTORY AND APPRAISMENT; PROVIDING FOR FILING OF AFFIDAVIT, SUPPORTED BY RECEIPTS, SHOWING ALL EXPENSES AND ALL PERSONAL PROPERTY TAXES HAVE BEEN PAID AND SHOWING INFORMATION ON INCOME AND ASSETS NOT LISTED IN INVENTORY; PROVIDING FOR DETERMINATION OF INHERITANCE AND TRANSFER TAX PURSUANT TO CHAPTER 4, TITLE 14, IDAHO CODE; PROVIDING ATTORNEY FEES PURSUANT TO SECTION 15-1139, IDAHO CODE, WITH CERTAIN EXCEPTIONS; PROVIDING FOR ADMINISTRATOR'S FEES; PROVIDING FOR COURT APPEARANCES AND FILING OF PAPERS; PROVIDING DECREE, WHEN ENTERED, UNLESS APPEALED FROM AS PROVIDED BY LAW, SHALL BE BINDING AND CONCLUSIVE UPON ALL PERSONS.

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

SECTION 1. This act is known and may be cited as Summary Administration of Small Estates act.

SECTION 2. Where any person dies intestate leaving an estate consisting of community property in its entirety, or
separate property, or a combination thereof, of a maximum value of not to exceed $15,000.00, the petitioner may elect to administer said estate in the manner as provided in this act.

SECTION 3. Any person having an interest in said property shall file a verified petition in the probate court of the county where the property is situated, or the county where decedent resides, setting forth petitioner's interest in and to said property and setting forth the heirs at law of such deceased person, and the probate judge shall, upon the filing of such petition, give notice termed NOTICE OF FILING PETITION AND NOTICE TO CREDITORS, which said notice shall set forth the nature of such petition and notice to creditors to present their claims to the probate court within 60 days from the date of the first publication of such notice. One copy of said notice shall be posted at or near the court house main door in the county where such court is held and one copy shall be published in a newspaper in such county, and, if in a weekly newspaper, in at least two consecutive issues, and if in a daily newspaper then in two issues thereof, there being at least six days between the first and the last publication, provided, that, when no newspaper is published in the county where such proceedings are held, then the copy posted as above set out shall be sufficient notice and creditors shall have 60 days from the posting of such notice within which to file their claims with the probate court, and the petitioner shall mail a copy of said notice to each of the heirs listed in said petition and file affidavit of mailing with the probate court prior to a decree being entered.

SECTION 4. If there are no creditors' claims remaining unpaid and there are no written objections undisposed of at the expiration of the 60 day period, a final decree shall be entered setting forth who the heirs are, the degree of kinship and the right of descent of the real and/or personal property, and both, of which the deceased died seized and said decree shall distribute the property to the parties entitled thereto and said decree shall also recite that due notice to creditors has been given. Provided, however, if, at the expiration of the 60 day period, there are matters undisposed of and which are incapable of being disposed of within the said 60 day period, the court may, upon motion of petitioner, postpone the entering of the decree until all matters are disposed of, or the court may, upon any interested person filing a petition praying for the appointment of an administrator, after due notice and hearing
thereof, appoint an administrator of the estate of said deceased person and proceed with the settlement of the state as provided by the general laws of the state of Idaho relating to the settlement of estates of intestate decedents. Provided further, said petition for the appointment of an administrator shall be filed without any further filing fees, filing fees under this act to be pursuant to Section 31-3204, Idaho Code.

SECTION 5. The petitioner shall file a petition for appointment of three appraisers simultaneously with the petition for administration and notice to creditors and the court shall immediately, without notice, appoint said appraisers and the petitioner shall then cause an inventory and appraisal of said property belonging to said estate to be made and the original and one copy of such inventory and appraisal shall be filed with the court and, if such inventory and appraisal does not exceed the sum of $15,000.00, then all proceedings may be had under this act in said estate.

SECTION 6. Prior to the filing of the final decree, the petitioner shall file with the court an affidavit, supported by proper receipts and vouchers, showing that the expenses of last illness, funeral expenses, expenses of administration and all personal property taxes have been paid, and showing any income and assets not listed in the inventory and the disposition of such income and assets.

SECTION 7. Proceedings for determination of the transfer and inheritance tax under this act shall be in conformance with the provisions of Chapter 4, Title 14, Idaho Code.

SECTION 8. The fees for administering an estate under this section shall be in accordance with Section 15-1139, Idaho Code, provided, however, if said estate is capable of being closed at the termination of the 60 day period from the first publication of notice termed NOTICE OF FILING PETITION AND NOTICE TO CREDITORS, that is if there are no matters undisposed of at that time, said fees shall not exceed the sum of $300.00. Provided, however, if there are matters undisposed of at that time which are incapable of being disposed of within the 60 day period then the limitation of $300.00 on the attorney fees shall not apply and said fees shall be pursuant to the provisions of Section 15-1139, Idaho Code. In the event an administrator is appointed pursuant to Section 4 of this act, the fee paid to said administrator shall not exceed the sum of $200.00.
SECTION 9. All the above papers may be prepared and filed at the same time, except the final decree, and it shall not be necessary for the attorney or the petitioner to appear personally in court, either at the time of filing the petition or at the time of presenting the decree, except in cases where there is a contest. All papers may be mailed to the court for filing.

SECTION 10. Such decree, unless appealed from as provided by law, shall be binding and conclusive upon all persons, including creditors and heirs, and all claims or demands against the estate of such deceased person, whether due or to become due, whether absolute or contingent, shall be forever barred. Provided, however, this act shall not be construed to effect or limit the term within which any lien against the real estate or personal property of said deceased person may be enforced.

Approved April 5, 1967.

CHAPTER 287
(H. B. No. 158)

AN ACT
AMENDING SECTION 31-3203, IDAHO CODE, RELATING TO FEES TO BE ALLOWED A SHERIFF, BY INCREASING THE REMUNERATION ALLOWED FOR CONFINING A PRISONER IN THE COUNTY JAIL FROM $1.00 PER DAY TO $2.00 PER DAY.

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

SECTION 1. That Section 31-3203, Idaho Code, be, and the same is hereby amended to read as follows:

31-3203. SHERIFF'S FEES.—The sheriff is allowed and may demand and receive the fees hereinafter specified:

For serving summons and complaint, or any other process by which an action or proceeding is commenced, on each defendant ___________________________ $2.00

For serving an attachment on property, or levying an execution, or executing an order of arrest, or order for the delivery of personal property ___________________________ $2.00

For his trouble and expense in taking and keeping possession of and preserving property under attachment or execution, or other process, such sum as the
court may order: provided, that no more than three dollars ($3.00) per diem be allowed to a keeper.

For taking a bond or undertaking in any case in which he is authorized to take the same $ .50

For copy of and making return on any writ, process or other paper, when demanded or required by law, for each folio $ .20

For serving every notice, rule or order $ .50

For making and posting notices, and advertising property for sale on attachment or execution, or under any judgment or order of sale, exclusive of the costs of publication, each notice, per folio $ .20

For serving a subpoena, for each witness summoned $ .25

For commissions for receiving and paying over money on execution or other process, when land or personal property has been levied on and sold, on the first $1000, two per cent (2%); on all sums above that amount, one per cent (1%); but in no case of sale of real estate shall his commission exceed the sum of $100.00

When the amount of such sale is credited on the debt and no money is transferred, then one-half (1/2) of such commission.

For commissions for receiving and paying over money on execution without levy, or where lands or goods levied on are not sold, on the first $1000, one and one-half per cent (1 1/2%); and one-half (1/2) of one per cent (1%) on all over that sum, but not to exceed in any case $50.00

The fees herein allowed for the levy of an execution, costs for advertising and percentage for making or collecting the money on execution, must be collected from the judgment debtor by virtue of such execution, in the same manner as the sum therein directed to be made.

For drawing and executing a sheriff’s deed, including the acknowledgment, to be paid by the grantee before delivery $3.00

For executing a certificate of sale, exclusive of the filing and recording of same $1.00

For making every arrest in a criminal proceeding $2.00

For summoning each juror $ .25
For serving a subpoena in a criminal action or proceeding, for each witness summoned $0.25

For traveling to serve any summons and complaint, or any other process by which an action or proceeding is commenced, notice, rule, order, subpoena, venire, attachment on property, to levy an execution, to post notice of sale, to sell property under execution or other order of sale, or execute an order of arrest, or order for the delivery of personal property, writ of possession or restitution, to hold inquest or trial of right of property, for each mile actually and necessarily traveled, in going only $0.25

For traveling to execute any warrant of arrest, subpoena, venire or other process in criminal cases, or for taking a prisoner from prison, before a court or magistrate, or for taking a prisoner from the place of arrest to prison, or before a court or magistrate, for each mile actually and necessarily traveled, in going only $0.20

For each additional prisoner taken at the same time, per mile $0.15

But if any two (2) or more papers be required to be served in the same action or proceeding, civil or criminal, or be in the possession of the sheriff for service at the same time, and in the same direction, one (1) mileage only shall be charged; and in serving a subpoena, venire, process or paper, when two (2) or more jurors, witnesses, parties or persons to be served reside or are found in the same direction, traveling fees must be charged only for the most distant; and only one (1) mileage per day must be charged for taking a prisoner from prison before a court or magistrate; and constructive mileage must in no case be charged or allowed.

For all services arising in justices' courts, the same fees as are allowed to constables for like services.

Remuneration in full for the board, clothing and lights of each prisoner confined in the county jail, per day, the sum of not more than $10.00

For all services under the election laws, the same mileage and fees as in this chapter provided for similar services.

For receiving application for motor vehicle operator's license $0.50

For receiving application for motor vehicle chauffeur's license $2.00

Approved April 6, 1967.
CHAPTER 288
(H. B. No. 189, As Amended in the Senate)

AN ACT
AMENDING SECTION 50-2702, IDAHO CODE, TO ALLOW MEMBERS OF PLANNING COMMISSIONS TO RECEIVE PER DIEM AND MILEAGE EXPENSE MONEY.

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

SECTION 1. That Section 50-2702, Idaho Code, be, and hereby is amended to read as follows:

50-2702. CREATION OF PLANNING COMMISSIONS. —If any city, village or county desires to avail itself of the power conferred by this act, its council, village board or county board may create, in the case of a city or village by ordinance and in case of a county by resolution, a planning commission consisting of from six to twelve members to be appointed by the mayor or the chairman of the village board or the chairman of the county board and confirmed by the council, village board or county board, as the case may call for. The ordinance or resolution creating the commission shall set forth the number of members to be appointed, not more than one-third of which number may be ex officio members by virtue of public office or position held in the city, village or county for which the commission is created. Appointive members of a commission shall be resident taxpayers of the city, village or county for which the commission is created, provided one member may be a non-resident taxpayer. The term of office for the ex officio members shall correspond to their respective tenure of office. The term of office for the first appointive members appointed to such commission shall be two, four and six years to be determined by lot and thereafter the terms of office for each appointive office shall be six years. Vacancies occurring otherwise than through the expiration of terms shall be filled by the mayor or the chairman of the village board or the chairman of the county board, confirmed by the council or the village board or the county board, as the case may be. Members may be removed after public hearing, by a majority vote of the body confirming the original appointment. Members shall be selected without respect to political affiliations and may serve without compensation receive such mileage and per diem compensation not to exceed ten cents (10¢) per mile and ten ($10.00) per day as may from time to time be determined by the governing
body of the city, village or county for which the commission is created.

Approved April 6, 1967.

CHAPTER 289
(H. B. No. 236)

AN ACT

AMENDING SECTIONS 74, 216, 217, 218, 219, 220, 221, 222, 223 AND 235 OF THE CHARTER OF THE CITY OF LEWISTON, IDAHO, RELATING TO SIDEWALKS, BY PROVIDING THAT THE PROVISIONS OF SAID SECTIONS SHALL ALSO APPLY TO CURBS AND CURB AND GUTTERS; BY DELETING FROM SAID SECTION 74 THE REQUIREMENT THAT TEMPORARY SIDEWALKS BE CONSTRUCTED OF PLANK; BY DELETING FROM SAID SECTION 218 THE REQUIREMENT THAT TEMPORARY SIDEWALKS BE WOODEN; BY PROVIDING IN SAID SECTION 216 THAT THE DUTY TO CONSTRUCT, REPAIR AND MAINTAIN SIDEWALKS, CURBS OR CURB AND GUTTERS, SHALL BE ON THE ABUTTING LANDOWNER UNLESS IT IS BY ORDINANCE IMPOSED UPON ANOTHER; BY PROVIDING IN SAID SECTION 221 THAT REPAIRS NOT EXCEEDING IN COST THE SUM OF ONE HUNDRED DOLLARS MAY BE MADE BY THE STREET SUPERINTENDENT WITHOUT NOTICE.

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

SECTION 1. That Section 74 of the Charter of the City of Lewiston, Idaho, be, and the same is hereby amended to read as follows:

Section 74. To cause sidewalks, curbs or curb and gutters to be constructed, repaired, cleaned and kept in condition and to provide by ordinance therefor, and to provide for the laying of temporary plank sidewalks, curbs or curb and gutters upon the natural surface of the ground, without regard to grade, upon the streets not permanently improved and to make the cost thereof a lien upon the abutting property.

SECTION 2. That Section 216 of the Charter of the City of Lewiston, Idaho, be, and the same is hereby amended to read as follows:
Section 216. It shall be the duty of the owners of property abutting upon any street, highway, or avenue in the City of Lewiston to construct, repair and maintain the sidewalks, curbs or curb and gutters adjacent to such property, unless such duty be, by ordinance, imposed upon another.

SECTION 3. That Section 217 of the Charter of the City of Lewiston, Idaho, be, and the same is hereby amended to read as follows:

Section 217. The mayor and council may, from time to time, by ordinance, provide for the construction of sidewalks, curbs or curb and gutters in the several localities in said city as the same may be needed and may require the same to be constructed by the property owners.

SECTION 4. That Section 218 of the Charter of the City of Lewiston, Idaho, be, and the same is hereby amended to read as follows:

Section 218. The mayor and council may require temporary wooden sidewalks, curbs or curb and gutters to be constructed upon streets where permanent street improvements have not been made, prior to the adoption of a permanent grade, when such a course seems expedient and may provide specifications for the various kinds of sidewalks, curbs and curb and gutters to be constructed within the city, may establish districts within which cement, stone, brick, asphalt or other permanent walks, curbs or curb and gutters shall be constructed and may require all walks, curbs or curb and gutters within such districts to be constructed of the kind of materials and according to the specifications which the council may adopt.

SECTION 5. That Section 219 of the Charter of the City of Lewiston, Idaho, be, and the same is hereby amended to read as follows:

Section 219. When the mayor and council have, by ordinance, required the construction or reconstruction of sidewalks, curbs or curb and gutters, if the construction of the same is not begun within such reasonable time as may be prescribed by ordinance, after the ordinance requiring such construction goes into effect or, if having been begun, the same are not completed within a reasonable time, then such sidewalks, curbs or curb and gutters shall be constructed or reconstructed or completed by the city, under the direction and supervision of the street commissioner, and the cost thereof shall be and remain a lien upon such abutting property, and the council may by general ordinance
provide the form of lien to be prepared and filed and may
direct the same to be filed in the office of the county record-
er of Nez Perce County, Idaho, and such liens may be en-
forced and foreclosed in the same manner as are other liens
under the general laws of the State of Idaho, and, in suits
for such enforcement and foreclosure, the city shall collect
in addition to costs such reasonable attorney's fees as may
be allowed by the court. Without the filing of any lien, the
city may in any case bring suit in any court having juris-
diction of the amount for the recovery of such costs and
expenses for the construction or reconstruction or comple-
tion of such sidewalks, curbs or curb and gutters and may
recover personal judgment therefor.

SECTION 6. That Section 220 of the Charter of the City
of Lewiston, Idaho, be, and the same is hereby amended to
read as follows:

Section 220. The council may, by ordinance, prescribe
reasonable rules and regulations for the maintenance and
repair of sidewalks, curbs or curb and gutters and may, by
ordinance, make the cost of such maintenance and repairs
a lien upon the property where, after notice and upon fail-
ure of the owners of the adjacent property to make repairs,
the same are made by the city.

SECTION 7. That Section 221 of the Charter of the City
of Lewiston, Idaho, be, and the same is hereby amended to
read as follows:

Section 221. In any case where the condition of any side-
walk, curb or curb and gutter is, such as to make the same
dangerous to person or property in the opinion of the street
superintendent and where in the opinion of the street super-
intendent immediate repairs are necessary to prevent dam-
age or injury to persons using such sidewalk; by reason of
such condition, such temporary repairs, not exceeding in
cost the sum of twenty-five (25) One hundred (100) dollars,
as may be necessary to prevent danger from accidents, in-
jury or damage from any source, may be made by the street
superintendent without notice. When such repairs have
been so made without notice, the superintendent shall, as
soon as may be after the completion of the same, present
to the owner of the abutting property or his agent an item-
ized statement of the cost of such repairs or, if the owner
of such property be a non-resident, such statement may be,
by the street superintendent, mailed to his last known ad-
dress, and the depositing of such notice in the mail shall
be deemed service upon such non-resident owner. If the
cost of such repairs be not paid within ten days after the
service of the statement of costs, the city may begin suit in any court having jurisdiction of the amount for the recovery of the same. In any such suit, the owner of such property may defend upon the ground that such repairs were unnecessary or that the cost of construction was unreasonable. If the court shall determine that such cost of construction is unreasonable, it shall find, determine and render judgment for the reasonable cost.

SECTION 8. That Section 222 of the Charter of the City of Lewiston, Idaho, be, and the same is hereby amended to read as follows:

Section 222. The city shall have full power and authority to regulate all use of sidewalks, curbs or curb and gutter, to provide for the removal of obstructions therefrom, to prevent encroachments upon the same, to make the same safe for the public and to provide all necessary penalties to prevent the obstruction or improper use of the sidewalk, curb or curb and gutter.

SECTION 9. That Section 223 of the Charter of the City of Lewiston, Idaho, be, and the same is hereby amended to read as follows:

Section 223. After the service of any notice to repair or put in safe condition any sidewalk, curb or curb and gutter, the city shall not be liable for any injury or damage to person or property caused by or occurring through a defect, want of repairs or unsafe condition of such sidewalks, curbs or curb and gutters, but the liability therefor shall rest upon the owner of the abutting property.

SECTION 10. That Section 235 of the Charter of the City of Lewiston, Idaho, be, and the same is hereby amended to read as follows:

Section 235. That any person owning property within the city of Lewiston who shall permit or allow his property or any sidewalk, curb or curb and gutter abutting upon or adjoining his property to be or remain in a dangerous condition shall be liable to any person damaged or injured by reason of the neglect of such person owning said property to repair or remedy the dangerous condition of such property or sidewalks, curbs or curb and gutters and shall reimburse the city for any loss or damage which it may sustain by reason of such neglect. And in case such property is leased, both the landlord and the tenant shall be so liable to the city.

Approved April 6, 1967.
CHAPTER 290
(H. B. No. 286 As Amended)

AN ACT

AMENDING THE IDAHO SALES TAX ACT BY AMENDING SECTION 63-3609, IDAHO CODE, TO REDEFINE THE DEFINITION OF SALE OR RESALE; AMENDING SECTION 63-3610, IDAHO CODE, TO INCLUDE WITHIN THE DEFINITION OF "RETAILER" A PERSON WHO SELLS A SELF-PROPELLED MOTOR VEHICLE; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY ADDING A NEW SECTION THERETO, TO BE KNOWN AND DESIGNATED AS SECTION 63-3612A, DEFINING "OCCASIONAL SALE" TO INCLUDE SALES OF NON-BUSINESS PROPERTY BY PERSONS HOLDING SELLERS PERMITS, MERGER, REORGANIZATION AND OTHER CHANGES IN THE FORM OF DOING BUSINESS, THE SALE OF A GOING BUSINESS, AND SALES BY PERSONS NOT DEFINED AS "RETAILERS"; AMENDING SECTION 63-3613, IDAHO CODE, TO PERMIT BAD DEBT DEDUCTIONS FOR SALES MADE AFTER JANUARY 1, 1967; AMENDING SECTION 63-3615, IDAHO CODE, TO REDEFINE "USE" TO INCLUDE HOLDING PROPERTY TO FULFILL CONTRACT OBLIGATIONS WHETHER OR NOT TITLE TO SUCH PROPERTY IS IN THE USER AND WHETHER OR NOT THE TITLE HOLDER IS SUBJECT TO THE SALES OR USE TAX AND EXEMPTING CERTAIN USES OF PROPERTY; AMENDING SECTION 63-3621, IDAHO CODE, TO EXCLUDE THE REQUIREMENT OF RECIPROCITY IN THE APPLICATION OF CREDIT FOR PAYMENT OF SALES TAX TO OTHER STATES; AMENDING SECTION 63-3622, IDAHO CODE, TO EXCLUDE SALES OF SELF-PROPELLED MOTOR VEHICLES FROM THE EXEMPTION OF OCCASIONAL SALES; RAISING INDIVIDUAL TRANSACTION EXEMPTIONS TO FOURTEEN CENTS FROM THIRTEEN CENTS, EXEMPTING SALES OF DRUGS BY PHARMACISTS, EXEMPTING SALES TO AND BY THE BOY SCOUTS OF AMERICA IN CONNECTION WITH NATIONAL AND INTERNATIONAL ENCAMPMENTS, EXEMPTING SALES TO NONPROFIT HOSPITALS, EDUCATIONAL INSTITUTIONS AND CANAL COMPANIES; AMENDING SECTION 63-3624, IDAHO CODE, TO PROHIBIT THE CHARGING OF EXPENSES OF OUT OF STATE AUDITS; AMENDING SECTION 63-3627, IDAHO CODE, TO IMPOSE PERSONAL LIABILITY FOR TAX PAYMENTS UPON OFFICERS OR EMPLOYEES OF CORPORATIONS OR PARTNERSHIPS CHARGED WITH THE DUTY OF PAYING SUCH TAXES AND IMPOSING PENALTIES FOR WILFUL FAILURE TO PAY; AMENDING SECTION 63-3630, IDAHO CODE, TO ALTER
THE DEFINITION OF JEOPARDY ASSESSMENTS AND PERMITTING INSTITUTION OF COLLECTION PROCEDURES IMMEDIATELY; AMENDING SECTION 63-3632, IDAHO CODE, TO REDEFINE NOTICE; AMENDING SECTION 63-3633, IDAHO CODE, TO EXTEND THE STATUTE OF LIMITATIONS TO A PERIOD OF THREE YEARS FROM THE DUE DATE OR FILING DATE.

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

SECTION 1. That Section 63-3609, Idaho Code, be, and the same is hereby amended to read as follows:

63-3609. RETAIL SALE—SALE AT RETAIL. — The terms "retail sale" or "sale at retail" means a sale of tangible personal property for any purpose other than resale of that property in the regular course of business or the rental of tangible personal property in the regular course of business or lease or rental of that property in the regular course of business where such rental or lease is taxable under section 63-3612(h) of this act.

(a) All persons engaged in constructing, altering, repairing or improving real estate are consumers of the material used by them; all sales of tangible personal property to such persons are taxable whether or not such persons intend resale of the improved property.

(b) The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this state, is a retail sale in this state by the person making the delivery. He shall include the retail selling price of the property in his total sales subject to tax under this act.

SECTION 2. That Section 63-3610, Idaho Code, be, and the same is hereby amended to read as follows:

63-3610. RETAILER.—The term "retailer" includes:

(a) Every seller who makes any retail sale or sales of tangible personal property and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal prop-
erty owned by the person or others for storage, use, or other consumption.

(c) Every person making more than two retail sales of tangible personal property during any twelve-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy, or every person making fewer sales who holds himself out as engaging in the business of selling such tangible personal property at retail or who sells a self-propelled motor vehicle.

(d) When the tax collector determines that it is necessary for the efficient administration of this act to regard any salesmen, representatives, peddlers, or canvassers as agents of the dealers, distributors, supervisors, or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, or employers, the tax collector may so regard them and may regard the dealers, distributors, supervisors, or employers as retailers for the purpose of this act.

(e) Persons conducting both contracting and retailing activities. Such persons must keep separate accounts for the retail portion of their business and pay tax in the usual fashion on this portion.

SECTION 3. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by adding a new section thereto, to be known and designated as Section 63-3612A, Idaho Code, and to read as follows:

63-3612A. OCCASIONAL SALE.—The term "occasional sales" means:

(a) A sale of property not held or used by a person in the course of an activity for which he is required to hold a seller’s permit, provided such sale is not one of a series of sales sufficient in number or of such a nature as to constitute the seller a "retailer" under section 63-3610(c) of this act.

(b) Any transfer of all or substantially all of the property held or used by a person in a business requiring a seller’s permit, when, after such transfer, the real or ultimate ownership of such property is substantially similar to that which existed before such transfer. For the purpose of this section, stockholders, bondholders, partners, or other
persons holding an interest in a corporation or other entity are regarded as having a "real or ultimate ownership" of the property of such corporation or other entity.

(c) The sale of substantially all of the operating assets of a business or of a separate division, branch, or identifiable segment to a buyer who continues operation of the business. For the purpose of this subsection, a "separate division, branch, or identifiable segment" shall be deemed to exist if, prior to its sale, the income and expense attributable to such "separate division, branch, or identifiable segment" could be separately ascertained from the books of account and records.

(d) Sales by persons who are not defined as "retailers" in section 63-3610.

SECTION 4. That Section 63-3613, Idaho Code, be, and the same is hereby amended to read as follows:

63-3613. SALES PRICE.—(a) The term "sales price" means the total amount for which tangible personal property, including services agreed to be rendered as a part of the sale, is sold, rented or leased, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

1. The cost of the property sold. However, in accordance with such rules and regulations as the tax collector may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale or rental, has reimbursed his vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold or rented the property prior to making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

2. The cost of materials used, labor or service cost, losses, or any other expense.

3. The cost of transportation of the property prior to its sale.

(b) The term "sales price" does not include any of the following:

1. Cash discounts allowed and taken on sales.
2. Any sums allowed on merchandise accepted in part payment of other merchandise.

3. The amount charged for property returned by customer when the amount charged therefor is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

4. The amount charged for labor or services rendered in installing or applying the property sold, provided that said amount is stated separately and such separate statement is not used as a means of avoiding imposition of this tax upon the actual sales price of the tangible personal property.

5. The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

6. The amount charged for finance charges, carrying charges, service charges, time-price differential, or interest on deferred payment sales, provided such charges are not used as a means of avoiding imposition of this tax upon the actual sales price of the tangible personal property.

7. Charges for transportation of tangible personal property after sale.

(c) The sales price of a "new mobile home" as defined in this act shall be limited to and include only forty per centum (40%) of the sales price as otherwise defined herein.

(d) For sales made on and after January 1, 1967, taxes previously paid on amounts represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax herein provided or, if no such tax is due, refunded; provided, however, that such credit or refund may be claimed only upon that sales tax returned for the month following the filing date of the taxpayer's state income tax return in which a deduction is claimed for such worthless accounts. If such accounts are thereafter collected, a tax shall be paid upon the amount so collected.

SECTION 5. 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 pur-
pose 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, subcontractor, or any other person, or whether the titleholder of such property would be subject to the sales or use tax, except that the term “use” does not include the sale of that property in the regular course of business or the use of that property primarily or directly used or consumed in connection with the following items when exclusively financed by the United States:

(a) research, development, experimental and testing activities and/or

(b) the reprocessing of special nuclear material and the use of such properties shall be an exempt use.

(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 6. 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 three per centum (3%) 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 maintain-
ing 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 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 tax collector.

(c) None of this section, section 63-3621, shall apply when the retailer pays sales tax on the transaction and collects reimbursement for such sales tax from the customer.

(d) The tax required to be collected by the retailer constitutes a debt owed by the retailer to this state.

(e) Every retailer engaged in business in this state or maintaining a place of business in this state shall register with the tax collector 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 tax collector may require.

(f) For the purpose of the proper administration of this act and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is purchased for resale or rental.

The certificate relieves the person selling the property from the burden of proof only if taken in good faith from a person who is engaged in the business of selling or renting tangible personal property and who holds the permit provided for by section 63-3620 and who, at the time of purchasing the tangible personal property, intends to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.
The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to the purchaser, and shall indicate the amount and general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the tax collector may prescribe.

(g) 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 sales price of the property to him.

(h) 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.

(i) 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 ($100.00), and each violation shall constitute a separate offense.

(j) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser after July 1, 1965, was purchased from a retailer on or after July 1, 1965, for storage, use or other consumption in this state.

(k) On and after July 1, 1965, 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 tax collector that the property was not purchased for storage, use, or other consumption in this state.

(l) 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 such other state grants a similar privilege to Idaho purchases. 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.

(m) 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 7. That Section 63-3622, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622. EXEMPTIONS.—There are exempted from the taxes imposed by this act the following:

(a) The sale at retail, storage, use, or other consumption of tangible personal property which this state is prohibited from taxing under the Constitution of the United States.

(b) The sale of tangible personal property to resident contractors for subsequent incorporation into real property outside this state in the performance of a contract to improve the out-of-state realty unless this provision would result in subjection of said property to a use or similar excise tax in another state.

(c) Purchases which are subject to the motor fuels tax imposed by Title 49, chapter 12, Idaho Code, as amended, and motor fuels subject to tax under Table “B” of section 49-127 (d) (6) (2), Idaho Code.

(d) Receipts from the sale, storage, use or other consumption in this state of tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed,
mined, produced or fabricated for ultimate sale at retail within or without this state, and tangible personal property primarily and directly used or consumed in or during such manufacturing, processing, mining, farming, or fabricating operation by a business or segment of a business which is primarily devoted to such operation or operations, provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation. Chemicals, catalysts, and other materials which are used for the purpose of producing or inducing a chemical or physical change or for removing impurities or otherwise placing a product in a more marketable condition are included within this exemption, as are other articles of tangible personal property used in the actual manufacturing, processing, mining, farming or fabricating operations. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the manufacturing, processing, mining, farming or fabricating operation such as maintenance and janitorial equipment and supplies, and hand tools with a unit purchase price not in excess of $100.00; nor does it include tangible personal property used in any activities other than the actual manufacturing, processing, mining, farming or fabricating operation such as office equipment and supplies, equipment and supplies used in selling or distributing activities, in research, or in transportation activities; nor shall this exemption include motor vehicles required to be licensed by the laws of this state, without regard to the use to which such motor vehicles are put; nor shall this exemption include tangible personal property used or consumed in processing, producing or fabricating tangible personal property exempted from this act by subsections (f), (g), (j), and (n) of this section.

(e) The sale or purchase of containers in the following categories:

1. Nonreturnable containers when sold without the contents to persons who place the contents in the containers and sell the contents together with the container.

2. Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by this act.

3. Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for filling.
(f) The sale or purchase of gas, electricity, and water when delivered to consumers.

(g) The sale or purchase of any matter used to produce heat by burning, including wood, coal, petroleum and gas.

(h) The sale or purchase of tangible personal property used for the performance of a contract on public works executed prior to the passage and approval of this act.

(i) The sale or purchase of tangible personal property used for the performance of a written contract entered into prior to the passage and approval of this act, but such exemption shall extend only until July 1, 1967.

(j) The sale or purchase, or the storage, use or other consumption of religious literature, pamphlets, periodicals, tracts and books published and sold by a bona fide church or religious denomination, no part of the net earnings of which inures to the benefit of any private individual or shareholder.

(k) The sale of meals by public or private schools under the Federal School Lunch Program and the sale of meals by a church to its members at a church function.

(l) Occasional sales by persons who are excluded from the definition of "retailer" by the provisions of section 63-3610 (e) of this act of tangible personal property; providing, however, that this exemption shall not apply to the sale, purchase, or use of self-propelled motor vehicles unless they are transferred in a transaction falling within the scope of section 63-3612A (b), a change in the form of doing business, or Section 63-3612A (c), the sale of a going business.

(m) The sale of articles through a coin-operated vending machine for a total consideration of ten cents ($0.10) or less and individual transactions involving a total sales price of less than thirteen-fourteen cents ($0.13). ($0.14).

(n) Sales of liquor by the state liquor dispensary.

(o) Sales of drugs, sold by a registered pharmacist upon the prescription of a practitioner licensed to prescribe drugs to human beings in the course of his professional practice.

(p) Sales to the Boy Scouts of America of supplies and materials for national and international encampments within the state of Idaho and sales by the Boy Scouts of America to participants in national and international encampments
within the state of Idaho if such sales are made within the confines of Farragut State Park.

(q) Sales to and purchases by hospitals, educational institutions, and canal companies which are nonprofit organizations. As used in this subsection, these words shall have the following meanings:

1. Educational institution shall mean resident nonprofit colleges, universities, primary and secondary schools the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.

2. Hospital as used herein shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions or organizations.

3. Canal companies as used herein shall include nonprofit corporations which are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.

(r) The sale or purchase of tangible personal property shipped by the seller via the purchasing carrier under a bill of lading whether the freight is paid in advance, or the shipment is made freight charges collect, to a point outside this state if the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier.

(s) The sale or purchase of tangible personal property which is shipped to a point outside this state for use outside this state pursuant to a contract of sale by delivery by the vendor to such point by means of (1) facilities operated by the vendor, (2) delivery by the vendor to a carrier for shipment to a consignee at such point, or (3) delivery by the vendor to a customs broker or forwarding agent for shipment outside this state.

(t) Sales of motor vehicles and trailers for use outside of this state, even though delivery be made within this
state, but only when (1) the vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state and (2) said motor vehicles and trailers will be registered and licensed immediately under the laws of another state, will not be used in this state more than three (3) months, and will not be required to be registered and licensed under the laws of this state.

(u) 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 shall have the burden of establishing the facts giving rise to such exemption by clear and convincing evidence unless the purchaser delivers to the retailer an exemption certificate in such form as the tax collector may prescribe, signed by the purchaser and setting forth the reason for the claimed exemption.

(v) 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 $1,000 or imprisonment for not more than one (1) year or by both such fine and imprisonment.

SECTION 8. That Section 63-3624, Idaho Code, be, and the same is hereby amended to read as follows:

63-3624. ADMINISTRATION. — (a) The tax collector 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 tax collector may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

(b) The tax collector shall employ qualified auditors for examination of taxpayers' records and books. The tax collector 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 his 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 shall keep such records, receipts, invoices and other pertinent papers as the tax collector 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 years from the making
of such records unless the tax collector in writing sooner authorizes their destruction.

(d) The tax collector, or any person authorized in writing by him, 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) Retailers whose pertinent records are kept outside of the state must bring the records to Idaho for examination by the tax collector upon request of the latter, or, by agreement with the tax collector, pay the travel expenses of permit an auditor designated by the tax collector to visit the place where the records are kept, and there audit such records.

(f) In the administration of the use tax, the tax collector may require the filing of reports 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 tax collector 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 tax collector may require.

SECTION 9. That Section 63-3627, Idaho Code, be, and the same is hereby amended to read as follows:

63-3627. RESPONSIBILITY FOR TAXES—CORPORATIONS. — Any corporate officer or employee with the duty or, in the case of a corporate officer, who should have the duty to pay taxes due under this act shall be personally liable for the payment of taxes or penalties imposed by this act in the event of wilful failure on his part to make such payment. (a) Every person with the duty to account for and pay over any tax imposed by this act on behalf of a corporation as an officer or employee of the corporation or on behalf of a partnership as a member or employee of a partnership shall be personally liable for payment of such tax, plus penalties and interest, if he fails to carry out his duty.

(b) Any such individual required to collect, truthfully account for, and pay over any tax imposed by this title who wilfully fails to collect such tax, or truthfully account for
and pay over such tax, or wilfully attempts in any manner
to evade or defeat any such tax or the payment thereof,
shall, in addition to other penalties provided by law, be
liable to a penalty equal to the total amount of the tax
evaded, or not collected, or not accounted for and paid over.
No penalty shall be imposed under section 63-3046 (b) for
any offense to which this subsection (b) is applicable.

SECTION 10. That Section 63-3630, Idaho Code, be, and
the same is hereby amended to read as follows:

63-3630. JEOPARDY DETERMINATIONS. — If the
tax collector believes that the collection of any tax or any
amount of tax required to be collected and paid to the state
or of any determination will be jeopardized by delay, he
finds that a taxpayer is about to depart from the state of
Idaho or to remove his property therefrom, or to conceal
himself or his property therein, or to do any other act tend­
ing to prejudice or to render wholly or partially ineffectual
proceedings to collect the tax for the taxable period or any
taxes unless such proceedings be brought without delay, the
tax collector shall thereupon make a determination of the
tax or amount of tax, together with interest or penalty, re­
quired to be collected, noting that fact upon the determina­
tion. Upon giving notice and demand, the The amount de­
termined shall be immediately due and payable. In any pro­
cceeding in court brought to enforce payment of taxes made
due and payable by virtue of the provisions of this section,
the finding of the tax collector, made as herein provided,
whether made after notice to the taxpayer or not, shall be
for all purposes prima facie evidence of the taxpayers de­
sign.

If the amount specified in the determination is not paid.
within ten (10) days after service of notice thereof upon.
the person against whom the determination is made, the.
amount becomes final at the expiration of the ten (10) days,
unless a petition for redetermination is filed within the ten.
(10) days. The person must, in the event of a jeopardy de­
termination, file and deposit together with his petition for.
redetermination such security as the tax collector may deem.
necessary to insure compliance with this act. This security.
may, if necessary, be sold by the tax collector in the manner.
provided by section 63-3625.

Collection procedures may be instituted immediately.
Any taxpayer deeming himself aggrieved may, within
thirty (30) days of receipt of notice, petition to the tax col­
gether with interest and penalty demanded by the assessment to the tax collector.

SECTION 11. That Section 63-3632, Idaho Code, be, and the same is hereby amended to read as follows:

63-3632. APPEALS — INTEREST ON DEFICIENCIES.—(a) When a determination becomes final or a redetermination is made, the tax collector shall give notice to the taxpayer against whom the determination or redetermination is made. Within sixty (60) days of the date upon which the notice of redetermination is mailed or served, the taxpayer may, at his option, file a protest with the state tax commission or may file a complaint with the district court in accordance with the provisions of section 63-3049, Idaho Code, for a review of the tax collector's determination or redetermination. No assessment of a deficiency in respect to the tax imposed by this act, no application of any security pursuant to the provisions of section 63-3625, and no distraint or proceedings in court for its collection shall be made, begun or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such sixty (60) day period after notice of redetermination, nor, if a protest has been filed, until the decision of the state tax commission becomes final.

(b) If the taxpayer does not file a protest with the state tax commission or an action in the district court within the time prescribed in the first subsection of this section, the deficiency shall be assessed and shall become due and payable upon notice and demand from the tax collector.

(c) Interest upon any deficiency shall be assessed at the same time as the deficiency and shall be due and payable upon notice and demand from the tax collector and shall be collected as a part of the tax at the rate of six per centum (6%) per annum from the date prescribed for the payment of the tax.

SECTION 12. That Section 63-3633, Idaho Code, be, and the same is hereby amended to read as follows:

63-3633. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.—(a) The amount of taxes imposed by this act shall be assessed within three (3) years of the time the return upon which the taxes asserted to be due was or should have been filed, whichever is the later, and no proceeding in court for the collection of such taxes shall be begun after the expiration of such period; provided, however, if an assessment has been made within the pre-
scribed time, such tax may be collected by levy or by a proceeding in court within a period of six (6) years after assessment of the tax and provided, further, that this shall not be in derogation of any of the remedies elsewhere provided.

(b) In the case of taxes due during the lifetime of a decedent, the tax shall be assessed, and any proceeding for the collection of such tax shall be begun, within six (6) months after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent.

Approved April 6, 1967.

CHAPTER 291
(H. B. No. 334, As Amended in the Senate)

AN ACT


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

SECTION 1. There is hereby appropriated out of the public livestock market fund the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense and other current expense of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the Standard Appropriations Act of 1945:

To Whom Appropriated:  Appropriations:
PUBLIC LIVESTOCK MARKET BOARD
For:  Salaries and wages $ 5,000
       Travel Expense 2,500
       Other Current Expense 2,500

Total $10,000

From: Public Livestock Market Fund $10,000

Approved April 6, 1967.
CHAPTER 292
(H. B. No. 349)

AN ACT

AMENDING SECTION 49-752a, IDAHO CODE, BY PROVIDING THAT THE STOP ARM ON SCHOOL BUSES SHALL BE EXTENDED AT ANY TIME THAT A SCHOOL BUS HAS STOPPED ON A ONE, TWO, OR THREE LANE HIGHWAY OR SHOULDER THEREOF FOR THE PURPOSE OF LOADING OR UNLOADING SCHOOL CHILDREN; AMENDING SECTION 49-754, IDAHO CODE, AS AMENDED BY HOUSE BILL NO. 19, SECOND EXTRAORDINARY SESSION, THIRTY-EIGHTH LEGISLATURE OF THE STATE OF IDAHO, BY DELETING THE FOLLOWING LANGUAGE: "ANYTHING IN SECTION 49-752a, IDAHO CODE, TO THE CONTRARY NOTWITHSTANDING."

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

SECTION 1. That Section 49-752a, Idaho Code, be, and the same is hereby amended to read as follows:

49-752a. IDENTIFICATION OF SCHOOL BUS — SCHOOL BUS REPAIRED, WHEN — DUTIES OF SCHOOL BUS DRIVER — REGULATION OF TRAFFIC WHEN SCHOOL BUS LOADING OR UNLOADING. — Every bus used for the transportation of pupils to or from school or to or from approved school activities shall bear upon the front and rear thereof a plainly visible sign, in letters not less than eight (8) inches in height, the words "school bus."

Whenever a school bus is used upon the highway for purposes other than those incident to the transportation of pupils, all markings thereon indicating "school bus" shall be covered and concealed; and when any school bus is sold and is no longer to be used for the transportation of pupils, before it may again be used on the highways of this state it shall be painted another color than school bus chrome and all "school bus" markings shall be erased.

All traffic overtaking or passing a school bus from either direction shall stop when the stop arm is extended and shall remain stopped until the stop arm is retracted or until signaled by the bus driver to proceed.

The stop arm shall be extended only when students must cross a two (2) lane highway. The stop arm shall be extended at any time that a school bus has stopped on a high-
way or shoulder for the purpose of loading or unloading school children. Students who must cross the highway after the bus has stopped shall cross in front of the bus, but only upon signal from the driver that it is safe to do so. When students must cross the highway to enter the bus, the same procedure shall be followed.

The school bus may stop for the purpose of permitting students to board or alight on highways consisting of more than two (2) lanes only at intersections where traffic signals are operating or if students do not have to cross the highway.

Flashing warning signal lights shall be used to indicate that a school bus is stopped or is preparing to stop on a highway for the purpose of permitting school children to board or alight from said school bus, or is stopped in case of an emergency.

Failure to comply with this section shall constitute a misdemeanor.

SECTION 2. That Section 49-754, Idaho Code, as amended by House Bill No. 19, Second Extraordinary Session, Thirty-Eighth Legislature of the State of Idaho, be, and the same is hereby amended to read as follows:

49-754. SPECIAL LIGHTING EQUIPMENT ON SCHOOL BUSES.—(a) The commissioner is directed to adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses consistent with the provisions of this act, but supplemental thereto, except such standards and specifications shall designate and require the use of flashing red warning signal lights and stop signal arms on school buses for the purpose of indicating when children are boarding or alighting from any said bus, or when such bus is stopped or preparing to stop for the purpose of loading or unloading pupils or for an emergency. Such standards and specifications shall correlate with and, so far as possible, conform to the specifications then current as approved by the society of automotive engineers.

(b) It shall be unlawful to operate any flashing red warning signal light on any school bus except when said school bus is stopped, or preparing to stop, for the purpose of permitting school children to board or alight from said school bus, or for an emergency.

(c) The school bus driver shall stop to load or unload
pupils only at designated places and no such stop shall be made on any highway having more than three (3) lanes, if pupils are to cross such highway except at intersections where traffic signals or traffic controllers are operating. The driver shall drive the bus as far to the right of the highway as is practicable prior to stopping. The driver shall activate the school bus flashing red warning lights for a distance of 300 feet prior to bringing the bus to a stop. The driver shall display the stop signal arm only after the bus has come to a complete stop unless he knows that the flashing red warning lights are inoperative, in which case he may use the signal arm as a substitute for the flashing lights. The flashing red warning lights shall continue to be operated and the signal arm shall be displayed until all pupils either have boarded or unloaded the bus and all who must cross the roadway have done so safely. The driver shall ascertain that the way is clear and shall signal pupils across the road in front of the bus. After pupils are safely out of danger, the driver shall turn off the flashing red warning lights, retract the stop signal arm, and proceed with the bus when it is safe to do so.

It shall be the duty of every school bus driver to report the license number of any vehicle which violates any law endangering school children to his immediate supervisor.

In addition to the provisions of this section, it shall be the responsibility of the driver to comply with related department of education regulations, supplemental to the enforcement of this section.

(d) Anything in Section 49-752a, Idaho Code, to the contrary notwithstanding, except: Except when meeting a school bus on a highway having more than three (3) lanes, any person operating a motor vehicle, upon meeting or overtaking a school bus which has stopped on the highway or the shoulder thereof for the purpose of loading or unloading school children, shall completely stop the vehicle before reaching the point in the highway described in the second paragraph of this subsection; shall not proceed with the vehicle while any school children are leaving or boarding the school bus or crossing the highway; and shall not proceed until the flashing red warning lights on the bus have been discontinued and the stop signal arm has been retracted.

The driver shall come to a complete stop: when meeting a school bus on a public highway, having not more than three (3) lanes, at least ten (10) feet in front of the bus;
and, when overtaking a school bus, at least ten (10) feet from the rear of the bus.

Approved April 6, 1967.

CHAPTER 293
(H. B. No. 351)

AN ACT

AMENDING SECTION 11-402 AND SECTION 11-403, IDAHO CODE, TO AMEND THE PERIOD OF TIME THAT A JUDGMENT DEBTOR OR REDEMPTIONER, OR SUBSEQUENT REDEMPTIONERS, HAVE TO REDEEM PROPERTY FROM A PURCHASER BY LIMITING SUCH REDEMPTION PERIOD TO SIX MONTHS FROM THE SALE OF REAL PROPERTY CONSISTING OF A TRACT OF LAND OF TWENTY ACRES OR LESS, AND PROVIDING THAT THE AMENDMENTS CONTAINED HEREIN SHALL NOT AFFECT THE EXISTING RIGHTS OF REDEMPTION GRANTED BY SECTION 11-402 AND SECTION 11-403 ON ANY MORTGAGE EXECUTED AND RECORDED ON OR BEFORE THE EFFECTIVE DATE OF THIS ACT.

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

SECTION 1. That Section 11-402, Idaho Code, be, and the same is hereby amended to read as follows:

11-402. REDEMPTION — HOW MADE. — The judgment debtor or redemptioner may redeem the property from the purchaser within one year after the sale, if the real property sold consisted of a tract of land of more than twenty acres, and within six months after the sale if the real property sold consisted of a tract of land of twenty acres or less on paying the purchaser the amount of his purchase with interest thereon at the rate of six per cent per annum, from the date of sale to the date of redemption, together with the amount of any assessment or taxes which the purchaser may have paid thereon after the commencement of the action and which are not included in the judgment, and interest at the rate of six per cent per annum on such amount; and, if the purchaser be also a creditor having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such lien with interest at the rate of six per cent per an-
num; provided, in mortgage foreclosure proceedings, the amount necessary to redeem the property sold under execution shall not include any sum for attorney's fees greater than the fee actually paid by the judgment creditor or which the judgment creditor has by written instrument become unconditionally obligated to pay to his attorney for prosecuting his claim to judgment; and, provided, further, the amount of such fee shall be proven by affidavits of the attorney who has received and the person who has paid the fee or by other competent evidence to be presented to the sheriff for his guidance in carrying out the provisions of law relating to redemption; and, provided further, that such redemptioner shall not be required to pay any attorney's fees unless such fees shall have been paid within six months after the sheriff's certificate of sale shall have issued, or within such time the judgment creditor has become unconditionally obligated by written instrument to pay such fees.

SECTION 2. That Section 11-403, Idaho Code, be, and the same is hereby amended to read as follows:

11-403. SUBSEQUENT REDEMPTIONS. — If property be so redeemed by a redemptioner another redemptioner may, within sixty days after the last redemption and within one year after the sale, if the real property sold consisted of a tract of land of more than twenty acres, and within six months after the sale if the real property sold consisted of a tract of land of twenty acres or less, again redeem it from the last redemptioner on paying the sum paid on such last redemption with interest thereon at the rate of six per cent per annum in addition from the date of the last redemption, and the amount of any assessment or taxes which the last redemptioner may have paid thereon, after the redemption by him with interest thereon at the rate of six per cent per annum on such amount, and in addition the amount of any liens held by said last redemptioner prior to his own, with interest thereon at the rate of six per cent per annum; but the judgment under which the property was sold need not be so paid as a lien.

The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner, within sixty days after the last redemption and within one year after the sale, if the real property sold consisted of a tract of land of more than twenty acres, and within six months after the sale if the real property sold consisted of a tract of land of twenty acres or less, on paying the sum paid on the last previous redemption with interest thereon
at the rate of six per cent per annum in addition, and the amount of any assessments or taxes which the last previous redemptioner paid after the redemption by him, with interest thereon at the rate of six per cent per annum and the amount of any liens, other than the judgment under which the property was sold, held by the last redemptioner previous to his own, with interest thereon at the rate of six per cent per annum.

Written notice of redemption must be given to the sheriff and a duplicate filed for record with the recorder of the county; and, if any taxes or assessments are paid by the redemptioner, or if he has or acquires any lien other than that upon which the redemption was made, notice thereof must in like manner be given to the sheriff and filed with the recorder, and if such notice be not filed, the property may be redeemed without paying such tax, assessment or lien.

If no redemption be made within one year after the sale, if the real property sold consisted of a tract of land of more than twenty acres, and within six months after the sale if the real property sold consisted of a tract of land of twenty acres or less, the purchaser or his assignee is entitled to a conveyance, or, if so redeemed, whenever sixty days have elapsed and no other redemption has been made, and notice thereon given, the time for redemption by a redemptioner has expired, and the last redemptioner or his assignee is entitled to a sheriff's deed at the expiration of one year after the sale; if the real property sold consisted of a tract of land of more than twenty acres, and within six months after the sale if the real property sold consisted of a tract of land of twenty acres or less; but in all cases the judgment debtor shall have the entire period of one year from the date of the sale to redeem the property.

If the judgment debtor redeem he must make the same payments as are required to effect a redemption by a redemptioner.

If a debtor redeem, the effect of the sale is terminated and he is restored to his estate.

Upon a redemption by the debtor, the person to whom the payment is made must execute and deliver to him a certificate of redemption, acknowledged and proved before an officer authorized to take acknowledgements of conveyances of real property.

Such certificate must be filed and recorded in the office
of the recorder of the county in which the property is situated, and the recorder must note the record thereof in the margin of the record of the certificate of sale.

SECTION 3. Nothing provided for in this Act shall affect the redemption period of any mortgage executed and recorded on or before the effective date of this Act.

Approved April 6, 1967.

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CHAPTER 294
(H. B. No. 352)

AN ACT

AMENDING TITLE 63, CHAPTER 30, IDAHO CODE, BY AMENDING SECTION 63-3004, IDAHO CODE, TO CHANGE THE REFERENCE TO 1966; AMENDING SECTION 63-3022, IDAHO CODE, TO INCLUDE IN TAXABLE INCOME THE SALARY OF NONRESIDENT CORPORATE OFFICERS AND DIRECTORS OR TO DISALLOW THE SAME AS DEDUCTIONS; AMENDING SECTION 63-3022A TO CLARIFY THE CIVIL SERVICE EMPLOYEE EXEMPTION AND REDUCE THE EXEMPTION TO THE EXTENT THAT CERTAIN DEDUCTIONS ARE ALLOCATED TO SUCH INCOME; AMENDING SECTION 63-3024, IDAHO CODE, TO LIMIT TAX CREDITS TO THE YEAR IN WHICH THE TAX RETURN TO WHICH THEY PERTAIN IS FILED; AMENDING SECTION 63-3030, IDAHO CODE, TO REQUIRE SUBCHAPTER S CORPORATIONS TO REPORT IN THE SAME MANNER TO THE STATE AS TO THE FEDERAL GOVERNMENT; AMENDING SECTION 63-3035, IDAHO CODE, TO PERMIT REPORTING OF WITHHOLDING IN OTHER THAN PRESCRIBED METHODS UPON OBTAINING PERMISSION FROM THE TAX COLLECTOR; AMENDING SECTION 63-3036, IDAHO CODE, TO CHANGE THE DATE FOR REPORTING AGRICULTURAL WITHHOLDING FROM APRIL 15 TO JANUARY 31; AMENDING SECTION 63-3042, IDAHO CODE, TO DELETE THE PROVISION PERMITTING ASSESSMENT OF THE COST OF OUT OF STATE AUDITS; AMENDING SECTION 63-3049, IDAHO CODE, TO CLARIFY THE PROVISIONS RELATING TO JUDICIAL REVIEW; AMENDING SECTION 63-3065, IDAHO CODE, TO PERMIT PETITIONS FOR DETERMINATIONS TO TAX COLLECTOR AFTER JEOPARDY DETERMINATIONS; AMENDING SECTION 63-3078, IDAHO CODE, TO IMPOSE LIABILITY FOR PAYMENT OF TAXES ON BEHALF OF
CORPORATIONS AND PARTNERSHIPS UPON OFFICERS AND EMPLOYEES CHARGED WITH THE DUTY OF PAYING SUCH TAXES; PROVIDING THAT THE STATE TAX COMMISSION MEMBER ASSIGNED TO THE RESPECTIVE DIVISION SHALL MAKE THE DECISIONS REQUIRED TO BE MADE BY THE TAX COLLECTOR IN BOTH THE INCOME AND SALES TAX ACT IF THE OFFICE OF THE TAX COLLECTOR AND THE STATE TAX COMMISSION ARE MERGED; 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, be, and the same is hereby amended to read as follows:


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 exempt from federal income tax under the Internal Revenue Code, less applicable amortization.

(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) In the case of persons other than corporations, subtract the amount of federal income tax actually paid or accrued, after reduction for investment, retirement, dividend or similar applicable credits, adjusted by any federal income tax refunds received or accrued during the taxable year.

(d) Add the net operating loss deduction used in arriving at taxable income as defined in section 63 of the Internal Revenue Code.

(e) Subtract any net operating loss incurred in the five
(5) next preceding taxable years; provided, however, such net operating loss shall be subtracted first in the first succeeding taxable year, and any excess not so subtracted may then be subtracted in the second succeeding taxable year, and any excess shall be subtracted in each succeeding taxable year in order until the net operating loss is exhausted, but the total subtracted in such succeeding taxable years shall not exceed the total of such net operating loss; provided, further, that net operating losses arising in taxable years commencing on or after January 1, 1964, must first be carried back to the three (3) taxable years preceding the year of such net operating loss in the manner provided in Internal Revenue Code section 172 except that no such net operating loss shall be carried back to any taxable year commencing before January 1, 1963; and provided, further, that net operating losses accumulated in any taxable years commencing before January 1, 1964 shall be carried forward as provided in the beginning part of this subsection before any carry-back from a succeeding taxable year shall be taken into consideration.

(f) 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.

(g) In the case of a corporation, subtract an amount equal to 85 per centum of the amount received during the taxable year as dividends from a qualifying corporation, subject to the rules provided in section 246(b) (1) of the Internal Revenue Code. For the purpose of this section, a "qualifying corporation" means a corporation which has shown to the satisfaction of the tax collector that more than 50 per centum 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, or under a previous tax levied by the state of Idaho measured by income.

(h) In the case of persons other than corporations, in calculating the limitation imposed by section 613(a) of the Internal Revenue Code relating to depletion allowances, the following adjustments shall apply:

(1) No deduction shall be included for any state taxes measured by income; and

(2) Federal income tax paid or accrued shall be included as a deduction in measuring the taxable income from the
property for which the depletion allowance is being computed.

(i) 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.

(j) In the case of a corporation subtract an amount equal to fifty per cent (50%) of the excess of the net long-term capital gain over the net short-term capital loss; provided, however, that this subtraction shall not be taken into account in the determination of a net operating loss.

(k) Subtract an amount equal to the reduction in basis of Internal Revenue Code section 38 property provided by Internal Revenue Code section 48(g) and related sections; provided, however, that:

(1) necessary additions to and subtractions from taxable income shall also be made to reflect other adjustments to basis of Internal Revenue Code section 38 property required by such events as early disposition and conversion.

(2) the deduction provided by Internal Revenue Code section 181 for unused investment credit shall not be allowed.

(3) No subtraction shall be allowable for any reduction in basis in section 38 property placed in service after December 31, 1963.

(4) Effective for taxable years beginning after December 31, 1963, the prior deduction from basis of section 38 property shall be restored and all amounts previously deducted from income under section 63-3022(k) shall be included in taxable income for the taxpayer's first taxable year beginning after December 31, 1963.

(l) 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.

SECTION 3. That Section 63-3022A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022A. CERTAIN EXEMPTIONS FROM STATE INCOME TAX.—The first three thousand dollars ($3,000) of an annuity paid by the United States of America during a tax year to a retired civil service employee or to his widow prior to her remarriage on and after January 1, 1965, is hereby exempted from income taxation, and no such portion of such annuity paid shall be included in computing taxable income under section 63-3022, Idaho Code, except that the optional standard deduction, exemptions, and the federal income tax deduction shall be disallowed in the proportion that the income exempted by this section bears to adjusted gross income from all sources.

SECTION 4. That Section 63-3024, Idaho Code, be, and the same is hereby amended to read as follows:

63-3024. INDIVIDUALS’ TAX AND TAX ON ESTATES AND TRUSTS.—A tax is hereby imposed for each taxable year commencing on and after January 1, 1965, upon every resident individual, trust or estate which shall be measured by his or its taxable income, and upon that part of the taxable income of any nonresident individual, trust or estate derived from sources within the state of Idaho as set forth in section 63-3027, as amended, and such tax shall be computed at the following rates:

(a) On the first $1,000 of such taxable income or any part thereof, at the rate of 2.5 per centum;

(b) On the second $1,000 of such taxable income or any part thereof, at the rate of 5.0 per centum;

(c) On the third $1,000 of such taxable income or any part thereof, at the rate of 6.0 per centum;

(d) On the fourth $1,000 of such taxable income or any part thereof, at the rate of 7.0 per centum;

(e) On the fifth $1,000 of such taxable income, or any part thereof, at the rate of 8.0 per centum;

(f) On any taxable income in excess of $5,000, at the rate of 9.0 per centum;

(g) In case a joint return is filed by husband and wife pursuant to the provisions of section 63-3031, the tax im-
posed by this section shall be twice the tax which would be imposed on one-half (1/2) of the aggregate taxable income.

A credit shall be allowed to persons other than corporations against taxes due under the Idaho Income Tax Act for taxable years beginning on and after January 1, 1965. This credit shall be in the amount of ten dollars ($10.00) for each personal exemption for which a deduction is permitted by subsections (b) and (c) of section 151 of the Internal Revenue Code, as that section appeared on December 31, 1964, if such deduction is claimed on the taxpayer's Idaho income tax return. If the credit is not claimed for the year for which the individual tax return is filed, the right thereafter to claim such credit shall be forfeited. No credit may be claimed for an exemption which represents a person who has himself filed an Idaho income tax return claiming a deduction for his own personal exemption, and in no event shall more than one taxpayer be allowed a credit for the same exemption.

SECTION 5. That Section 63-3030, Idaho Code, be, and the same is hereby amended to read as follows:

63-3030. PERSONS REQUIRED TO MAKE RETURNS OF INCOME.—

(a) Returns with respect to taxes measured by income in this act shall be made by the following:

(1) Every resident individual having for the current taxable year a gross income, as defined by section 61 (a) of the Internal Revenue Code, of $600 or more (except an individual who has attained the age of 65 before the close of the current taxable year shall be required to make a return only if he has gross income of $1200 or more);

(2) Any non-resident, nonresident or part-year resident individual having for the current taxable year a gross income (as defined in section 61 (a) of the Internal Revenue Code) of $600 or more which is subject to Idaho income tax (except that any individual who has attained the age of 65 before the close of the current taxable year shall be required to make a return only if he has a gross income of $1200 or more derived from any source within the state of Idaho);

(3) Every corporation subject to taxation by this act; any corporation reporting as a subchapter S corporation pursuant to Internal Revenue Code sections 1371 through 1377 to the federal government and having business situs in this state or with one or more of its share holders resid-
ing in this state must report to the state of Idaho as a sub-
chapter S corporation for and during the same period or
periods in which its election to report as such a corporation
is effective for federal tax purposes and must identify itself
as a subchapter S corporation on its income tax return
filed with this state;

(4) Every estate, the resident of which estate is in Idaho,
having a gross income (as defined in section 61(a) of the
Internal Revenue Code) of $600 or more for the current
taxable year;

(5) Every estate, the residence of which is in a state
other than Idaho, having a gross income (as defined in sec-
tion 61(a) of the Internal Revenue Code) of $600 or more
for the current taxable year subject to Idaho income tax;

(6) Every trust, the residence of which is in Idaho,
having gross income (as defined in section 61(a) of the In-
ternal Revenue Code) of $100 or more for the current tax-
able year;

(7) Every trust, the residence of which is in a state
other than Idaho, having a gross income (as defined in sec-
tion 61(a) of the Internal Revenue Code) of $100 or more
for the current taxable year subject to Idaho income tax;

(8) Every partnership having a resident partner and
every partnership having a business situs in the state of
Idaho. Such return shall be a supplemental information re-
turn and shall include the names and addresses of the in-
dividuals who would be entitled to share in the net income
of the partnership if distributed and the amount of the
distributive share of each individual. Such return shall be
signed by one of the partners.

(b) Returns of fiduciaries and receivers:

(1) Fiduciaries and receivers shall file returns with the
tax collector in accordance with the provisions of section
6012(b) of the Internal Revenue Code.

SECTION 6. That Section 63-3035, Idaho Code, be, and
the same is hereby amended to read as follows:

63-3035. STATE WITHHOLDING TAX ON PER-
CENTAGE BASIS — WITHHOLDING, COLLECTION
AND PAYMENT OF TAX.—(a) Every employer who is
required under the provisions of the Internal Revenue Code
to withhold, collect and pay income tax on wages or sal-
aries paid by such employer to any employee shall, at the
time of such payment of wages, salary, bonus or other emolument to such employee, deduct and retain therefrom an amount equal to eighteen per centum (18%) of the amount so withheld under the terms of the Internal Revenue Code in effect December 31, 1964. The tax collector shall prepare tables showing amounts to be withheld, and shall supply same to each employer subject to this section. In the event that an employer can demonstrate administrative inconvenience in complying with the exact requirements set forth in these tables, he may, with the consent of the tax collector and upon application to him, use a different method which will produce substantially the same amount of taxes withheld. Every employer making payments of wages or salaries earned in Idaho, regardless of the place where such payment is made:

(1) shall be liable to the state of Idaho for the payment of the tax required to be deducted and withheld under this section and shall not be liable to any individual for the amount deducted from his wages and paid over in compliance or intended compliance with this section; and

(2) must make return of and pay to the tax collector quarterly on the same dates as such payments are made under the Internal Revenue Code, or at such other times as the tax collector may allow, an amount of tax which, under the provisions of this act, he is required to deduct and withhold.

(b) Every employer shall, at the time of each payment made by him to the tax collector, deliver to the tax collector a return upon such form as shall be prescribed by said tax collector showing the total amount of wages, salary, bonus or other emoluments paid to his employees, the amount deducted therefrom in accordance with the provisions of the Internal Revenue Code, the amount deducted therefrom in accordance with the provisions of this section, and such pertinent and necessary information as the tax collector may require.

Every employer making a declaration of withholding as provided herein shall furnish to the employees annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of tax withheld from such employee on forms to be prescribed, prepared and furnished by the tax collector.

(c) All moneys deducted and withheld by every employer shall immediately upon such deduction be state money
and every employer who deducts and retains any amount of money under the provisions of this act shall hold the same in trust for the state of Idaho and for the payment thereof to the tax collector in the same manner and at the times in this act provided. Any employer who does not possess real property situated within the state of Idaho, which, in the opinion of the tax collector, is of sufficient value to cover his probable tax liability, may be required to post a surety bond in such sum as the tax collector shall deem adequate to protect the state.

(d) The provisions of this act relating to additions to tax in case of delinquency, and penalties, shall apply to employers subject to the provisions of this section and for these purposes any amount deducted, or required to be deducted and remitted to the tax collector under this section, shall be considered to be the tax of the employer and with respect to such amount he shall be considered the taxpayer.

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year which begins within such calendar year and the return made by the employer under this subsection (e) shall be accepted by the tax collector as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his taxable income as computed under the provisions of this act, as the same has been or may hereafter be amended, or where his income is not taxable under this act, the tax collector shall, after examining the annual return filed by the employee in accordance with this act, but not later than one hundred and twenty (120) days after the filing of each return, refund the amount of the excess deducted. No refund shall be made to an employee who fails to file his return, as required under this act, within two (2) years from the due date of the return in respect of which the tax withheld might have been credited. In the event that the excess tax deducted is less than one (1) dollar, no refund shall be made unless specifically requested by the taxpayer at the time such return is filed.

(f) This section shall in no way relieve any taxpayer from his obligation of filing a return at the time required under this act, and, should the amount withheld under the provisions of this section be insufficient to pay the total tax of such taxpayer, such unpaid tax shall be paid at the time prescribed by section 63-3034.
SECTION 7. That Section 63-3036, Idaho Code, be, and the same is hereby amended to read as follows:

63-3036. STATE WITHHOLDING TAX ON PERCENTAGE BASIS FOR FARMERS AND OTHERS EXEMPT FROM FEDERAL WITHHOLDING.—Every farmer who is an employer and all other employers exempt from withholding by the Internal Revenue Code shall at the time of the payment of wages, salaries, bonus or 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 tax collector. The farmer-employer and other employers shall deliver to the tax collector a return upon such form as shall be prescribed by said tax collector 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 tax collector 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 tax collector. The provisions of the preceding sections (d), (e) and (f) 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 tax collector on or before April 15, 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 $150.00 for the tax year.

SECTION 8. That Section 63-3042, Idaho Code, be, and the same is hereby amended to read as follows:

63-3042. EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any tax payable under this act or the liability at law or in equity of any person in respect to any tax provided in this act or collecting
any such liability, the tax collector or his duly authorized deputy is authorized—

(a) To examine any books, papers, records, or other data which may be relevant or material to such inquiry;

(b) To summon the person liable for tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody or care of books of account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person the collector or his deputy may deem proper, to appear before the collector or his delegate at a time and place named in the summons and to produce such books, papers, records or other data and/or give such testimony, under oath, as may be relevant or material to such inquiry; and taxpayers whose pertinent records are kept outside of the state must bring such records to Idaho for examination by the tax collector upon request by him or a deputy collector, or, by agreement with the tax collector, pay the travel expenses of an auditor designated by the tax collector to visit the place where the records are kept and there audit such records; and

(c) To take such testimony of the person concerned or summoned, under oath, as may be relevant or material to such inquiry.

A summons issued under the provisions of this section may be served by the tax collector or his deputy or by any other person authorized to serve process under the laws of this state by an attested copy delivered in and to a person to whom it is directed; and the certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

The time and place of examination pursuant to the provisions of this section shall be such time and place as may be fixed by the tax collector or his deputy and as are reasonable under the circumstances, provided that in the case of a summons the date fixed for appearance before the tax collector or his deputy shall not be less than twenty (20) days from the time of service of the summons.
No taxpayer shall be subjected to unreasonable or unnecessary examinations or investigations.

SECTION 9. That Section 63-3049, Idaho Code, be, and the same is hereby amended to read as follows:

63-3049. JUDICIAL REVIEW.—(a) Redetermination by the tax collector or the state tax commission may be reviewed in the district court for Ada county or the county in which the taxpayer resides or has his principal office or place of business by a notice of appeal complaint filed by the taxpayer against the tax collector within sixty (60) days after the receipt of notice of the decision of the tax collector or state tax commission denying, in whole or in part, any protest of the taxpayer. If a protest of a taxpayer is filed with the state tax commission and the decision of the state tax commission is adverse to the tax collector, the tax collector may, within sixty (60) days after receipt of notice of the decision, file a complaint for review of the decision of the state tax commission in the district court for the county in which the taxpayer resides or has his principal office or place of business. After serving notice of appeal, Upon the serving of summons upon the taxpayer or tax collector, the case shall proceed as other civil cases but may be heard by the judge in chambers. If the court finds that any tax is due, it shall enter judgment for such tax, including any interest or penalties that may also be due and owing, against the taxpayer. Any taxes, penalties or interest paid, found by the court to be in excess of that which can be legally assessed, shall be ordered refunded to the taxpayer with interest from the time of payment.

(b) Before any such appeal may be filed by the taxpayer, the taxpayer shall pay the tax or deficiency as assessed, together with interest and penalties thereon, or in lieu thereof with the clerk of the court sufficient and adequate bond in double the amount of the tax penalty and interest claimed due from the taxpayer, executed by a surety company licensed and authorized to do business in the state of Idaho, conditioned upon the payment of any tax, penalty and interest that may be found due by the court. No act, order or proceeding shall be valid until after the time allowed for taking such court action has expired or such court action is finally determined.

(c) Any party to the proceedings may appeal to the Supreme Court from the judgment of the district court under the rules and regulations prescribed for appeals. If
the appeal be taken by the tax collector, he shall not be re-
quired to give any undertaking or to make any deposits to
secure the cost of such appeal.

SECTION 10. That Section 63-3065, Idaho Code, be, and
the same is hereby amended to read as follows:

63-3065. JEOPARDY ASSESSMENTS.—

(a) If the tax collector finds that a taxpayer is about to
depart from the state of Idaho or to remove his property
therefrom, or to conceal himself or his property therein,
or to do any other act tending to prejudice or to render
wholly or partially ineffectual proceedings to collect the
tax for the taxable year then last past or the taxable year
then current unless such proceedings be brought without
delay, the tax collector shall declare the taxable period for
such taxpayer immediately terminated and shall cause no-
tice of such findings and declaration to be given the tax-
payer, together with a demand for immediate payment of
the tax for the taxable period so declared terminated and
of the tax for the preceding taxable year or so much of said
taxes as is unpaid, whether or not the time otherwise al-
lowed by law for filing returns and paying the tax has ex-
pired; and such taxes shall thereupon become immediately
due and payable. In any proceedings in court brought to
enforce payment of taxes made due and payable by virtue
of the provisions of this section the finding of the tax col-
clector, made as herein provided, whether made after notice
to the taxpayer or not, shall be for all purposes prima facie
evidence of the taxpayer's design.

(b) Collection procedures may be instituted immediate-
ly; however, any taxpayer deeming himself aggrieved by
any act of the tax collector pursuant to the provisions of
this section may, within sixty (60) days of receipt of said
notice, petition the tax collector for a redetermination or
commence action for refund or redetermination upon pay-
ment of the tax together with interest and penalty or upon
filing a bond in double the amount of the assessment.

(he) A taxpayer who is not in default in making any re-
turn or paying any taxes assessed under this chapter may
furnish to the state of Idaho under regulations to be pre-
scribed by the tax collector, security approved by the tax
collector that he will duly make the return next thereafter
required to be filed and pay the tax next thereafter required
to be paid. The tax collector may approve and accept in like
manner security for return and payment of taxes made due
and payable by virtue of the provisions of this section.
If security is approved and accepted pursuant to the provisions of this section and such further or other security with respect to the tax or taxes covered thereby is given as the tax collector shall from time to time find necessary and require, payment of such taxes shall not be enforced by any proceedings under the provisions of this section prior to the expiration of the time otherwise allowed for paying such respective taxes.

In the case of a bona fide resident of the state of Idaho about to depart from the state of Idaho the tax collector may, at his discretion, waive any or all of the requirements placed upon the taxpayer by this section.

If a taxpayer violates or attempts to violate this section there shall, in addition to all other penalties, be added as part of the tax twenty-five percentum (25%) of the total amount of the tax or deficiency in the tax.

If the taxpayer owing tax is not within this state or has departed from the state and ignores all demands for payment, the tax collector is authorized to employ the services of any qualified collection agency or attorney and to pay fees for such services out of monies recovered.

SECTION 11. That Section 63-3078, Idaho Code, be, and the same is hereby amended to read as follows:

63-3078. RESPONSIBILITY FOR PAYMENT OF CORPORATE TAXES AND PENALTIES.—Any corporate officer or employee with the duty to pay taxes or to perform some other act imposed by this act upon a corporation shall be personally liable for the payment of taxes or penalties imposed by this act in the event of willful failure on his part to perform such act. (a) Every person with the duty to account for and pay over any tax imposed by this act on behalf of a corporation as an officer or employee of a corporation or on behalf of a partnership as a member or employee of a partnership shall be personally liable for payment of such tax, plus penalties and interest, if he fails to carry out his duty.

(b) Any such individual required to collect, truthfully account for and pay over any tax imposed by this title who wilfully fails to collect such tax, or truthfully account for and pay over such tax, or wilfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for or paid over.
SECTION 12. In the event the office of the tax collector is merged with the state tax commission, determinations, jeopardy determinations, redeterminations, compromises, closing agreements and similar responsibilities required to be performed by the tax collector under the Idaho Income Tax Act and the Idaho Sales Tax Act shall be performed by the member of the state tax commission assigned the duty of supervisor of the division of taxation involved.

SECTION 13. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect from and after January 1, 1967. Section 1 of this act defining "Internal Revenue Code" shall be retroactive to October 10, 1966, insofar as such definition includes reference to changes made in sections 48 and 167 of the Internal Revenue Code on that date and the changes there made are in this act adopted retroactively to such date.

Approved April 6, 1967.

CHAPTER 295
(H. B. No. 353)

AN ACT

AMENDING SECTION 31-3106, IDAHO CODE, RELATING TO SALARIES OF COUNTY OFFICERS, BY STRIKING PROVISIONS FOR MINIMUM AND MAXIMUM SALARIES OF SUCH OFFICERS.

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

SECTION 1. That Section 31-3106, Idaho Code, be, and the same is hereby amended to read as follows:

31-3106. SALARIES OF COUNTY OFFICERS. — It shall be the duty of the board of county commissioners of each county at its first meeting after the passage and approval of this act, to fix the annual salaries of the several county officers, except county commissioners and prosecuting attorneys, as of and from the second Monday of January, 1967, for the ensuing two (2) years, and thereupon at its regular session in April next preceding any general election, to fix the annual salaries of the several county officers, except county commissioners and prosecuting attorneys, for a period of two (2) years commencing on the second Monday of January next after said meeting, and in.
The annual salaries of county officers, except county commissioners and prosecuting attorneys, of the counties of the state of Idaho, shall be as set forth in the following paragraphs:

1. The sheriff shall receive a salary of not less than $1,500.00 per annum and not to exceed $8,000.00 per annum. He shall be allowed in addition to such salary as fixed by said board, the actual and necessary expenses for care of each prisoner confined in the county jail.

2. The clerk of the district court and ex-officio auditor and recorder shall receive a salary of not less than $1,500.00 per annum and not to exceed $10,000.00 per annum.

3. The assessor shall receive a salary of not less than $1,500.00 per annum and not to exceed $8,000.00 per annum.

4. The county treasurer and ex-officio tax collector shall receive a salary of not less than $1,500.00 per annum and not to exceed $8,000.00 per annum.

5. The probate judge shall receive a salary of not less than $1,500.00 per annum and not to exceed $12,000.00 per annum.

6. The coroner shall receive a salary of not less than $50.00 per annum and not to exceed $2,400.00 per annum.

Approved April 6, 1967.

CHAPTER 296
(H. B. No. 360)

AN ACT

REPEALING AND REENACTING SECTION 31-3104, IDAHO CODE, RELATING TO SALARIES OF COUNTY COMMISSIONERS, BY FIXING THE SALARIES FOR THE COUNTY COMMISSIONERS IN THE VARIOUS COUNTIES AND PROVIDING FOR THE PAYMENT OF THEIR NECESSARY EXPENSES; PROVIDING FOR CHANGING THE BUDGET TO COMPLY WITH THE PROVISIONS OF THIS ACT; PROVID-
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 31-3104, Idaho Code, be, and the same is hereby repealed and reenacted to read as follows:

31-3104. SALARIES OF THE COUNTY COMMISSIONERS—SCHEDULE.—The salaries of the county commissioners in the various counties shall be as set forth in the following paragraphs:

1. An annual salary of $9,500.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Ada County.

2. An annual salary of $7,500.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Canyon County.

3. An annual salary of $7,200.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Shoshone County.

4. An annual salary of $6,500.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Bonner County, Bonneville County, Kootenai County, and Nez Perce County.

5. An annual salary of $6,499.85, together with actual and necessary expenses, shall be paid to each of the county commissioners of Bannock County.

6. An annual salary of $4,800.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Twin Falls County.

7. An annual salary of $4,500.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Bingham County.

8. An annual salary of $3,840.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Latah County.

9. An annual salary of $3,100.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Boundary County.
10. An annual salary of $3,000.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Clearwater County, Elmore County, and Franklin County.

11. An annual salary of $2,600.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Idaho County.

12. An annual salary of $2,500.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Fremont County.

13. An annual salary of $2,400.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Jefferson County and Washington County.

14. An annual salary of $2,300.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Madison County.

15. An annual salary of $2,200.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Gem County.

16. An annual salary of $2,000.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Bear Lake County, Caribou County, Jerome County, and Payette County.

17. An annual salary of $1,800.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Benewah County and Cassia County.

18. An annual salary of $1,700.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Lemhi County.

19. An annual salary of $1,650.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Gooding County.

20. An annual salary of $1,600.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Oneida County.

21. An annual salary of $1,500.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Adams County, Blaine County, Minidoka County, Owyhee County, Power County, and Valley County.

22. An annual salary of $1,200.00, together with actual
and necessary expenses, shall be paid to each of the county commissioners of Custer County and Lewis County.

23. An annual salary of $1,050.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Butte County.

24. An annual salary of $1,000.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Boise County.

25. An annual salary of $900.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Clark County and Teton County.

26. An annual salary of $840.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Camas County.

27. An annual salary of $750.00, together with actual and necessary expenses, shall be paid to each of the county commissioners of Lincoln County.

SECTION 2. The board of county commissioners of the several counties of the state of Idaho, at the first meeting after the passage and approval of this act, shall, without notice, adopt a resolution amending the budget of the offices of county commissioners in each of said counties to provide for the payment therein of the salary provided for in this act, and said resolution shall be lawful authorization for the payment of the salaries so fixed and provided by this act.

SECTION 3. The provisions of this act shall be effective retroactively on and after the second Monday of January, 1967.

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

Approved April 6, 1967.
CHAPTER 297
(H. B. No. 369)

AN ACT

AMENDING SECTION 22-1207, IDAHO CODE, RELATING TO POWERS AND DUTIES OF THE POTATO AND ONION COMMISSION, BY PROVIDING THAT NO MORE THAN 12½% OF THE TWO CENT (2¢) TAX SHALL BE EXPENDED FOR EDUCATION AND RESEARCH AND THAT THE REMAINING ONE-FOURTH CENT (¼¢) OF THE TAX SHALL BE USED FOR MARKETING AND PRODUCTION RESEARCH; AMENDING SECTION 22-1211, IDAHO CODE, RELATING TO THE TAX LEVY ON POTATOES AND ONIONS, BY RAISING THE TAX LEVY ON POTATOES TO TWO AND ONE-FOURTH CENTS (2¼¢) PER HUNDREDWEIGHT IN LIEU OF TWO CENTS (2¢) PER HUNDREDWEIGHT, AND PROVIDING FOR THE BURDEN OF SAID TAX.

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

SECTION 1. That Section 22-1207, Idaho Code, be, and the same is hereby amended to read as follows:

22-1207. POWERS AND DUTIES OF COMMISSION. — The powers and duties of the commission shall include the following:

1. To adopt and from time to time alter, rescind, modify and/or amend all proper and necessary rules, regulations and orders for the exercise of its powers and the performance of its duties under this act.

2. To contract and be contracted with.

3. To employ and at its pleasure discharge an advertising manager, agents, advertising agencies and such other help as it deems necessary and to outline their powers and duties and fix their compensation.

4. To make in the name of the commission such advertising contracts and other agreements as may be necessary.

5. To keep books, records and accounts of all its doings, which books, records and accounts shall be open to inspection and audit by the state auditor at all times.

6. To purchase or authorize the purchase of all office equipment and supplies and to incur all other reasonable and necessary expenses and obligations in connection with and required for the proper carrying out of the provisions of this act.
7. To define and describe such grade or grades of potatoes and/or onions that may be advertised in accordance with the provisions of this act.

8. To define and designate the character of the brands, labels, stencils, or other distinctive marks under which said potatoes and/or onions may be marketed in order to secure the greatest returns to producers and meet the requirements of their advertising campaign.

9. To devise and arrange for the application of either a seal, label, brand, package, or any other suitable device that will protect the identity of the original Idaho pack of potatoes and onions as near to the final consumer as possible.

10. Whenever and wherever it deems it to be necessary the commission shall use its offices to prevent any substitution of other potatoes and/or onions for Idaho potatoes and onions and to prevent the misrepresentation or the misbranding of Idaho potatoes and/or onions at any and all times at any and all points where they discover the same is being done.

11. To make, conduct or carry on studies and research in connection with the raising, production and marketing of potatoes and onions, including study and research dealing with the industrial and other uses of potatoes and onions and their by-products, and the extension and stabilization of markets for such commodities; to disseminate information with respect to such study and research as a part of the commission's advertising, publicity and sales promotion activities authorized by this act and to assist, aid and educate growers, dealers and handlers in the raising, production and marketing of potatoes and onions.

For the accomplishment of such ends the commission is hereby empowered to employ the necessary persons or contract for the performance of required services; to cooperate with any organization of growers in this state, whether organized by authority of law or voluntary, engaged in carrying on similar activities and to participate jointly with any such organization, by contract or otherwise, in financing such study and research or paying for the employment of persons or services required or in carrying out projects and programs as herein contemplated; provided, however, expenditures authorized by the commission for the purposes herein mentioned shall not exceed in any year an amount equal to 12½% of the two cents (2¢) tax collected on potatoes levied and imposed pursuant to section 22-1211,
Idaho Code. The additional one-fourth cent (\(\frac{1}{4}c\)) shall be used for marketing and production research.

Provided, further, that none of the powers specified in this subsection 11 shall be exercised, and no expenditure of revenue as provided in this subsection 11 shall be authorized except upon the affirmative vote of six or more of the members of the commission.

SECTION 2. That Section 22-1211, Idaho Code, be, and the same is hereby amended to read as follows:

22-1211. TAX LEVY—VEGETABLE ADVERTISING STAMPS.—There is hereby levied and imposed a tax of two cents per hundredweight on potatoes and onions covered by this act, and an additional one-fourth cent (\(\frac{1}{4}c\)) per hundredweight on potatoes covered by this act, which tax shall be due on or before the time when such potatoes and onions are first handled in the primary channels of trade and shall be paid at such time or times as the commission may by rule or regulation prescribe, but not later than the fifteenth day of the month next succeeding the month in which such potatoes and onions were handled in the primary channels of trade. For the purpose of collection of said tax the commission may require stamps to be known as "Vegetable Advertising Stamps" to be purchased from the commission and affixed or attached to the containers, invoices, shipping documents, inspection certificates, releases, or receiving receipts or tickets, or such other containers or records as may adequately provide notice that such tax has been paid. Any such stamps shall be canceled immediately upon being so attached or fixed and the date of cancellation shall at said time be placed on such stamps.

The person first introducing potatoes or onions into primary channels of trade shall be responsible for purchasing and affixing said stamps. If such person is the dealer or shipper handling potatoes or onions grown by another, he may charge against or recover from the grower of such potatoes or onions three-fourths of the cost thereof, but he shall remain liable and pay for one-fourth the cost thereof. Provided, however, that said additional one-fourth cent (\(\frac{1}{4}c\)) tax shall be borne entirely by the grower.

Approved April 6, 1967.
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 33, Chapter 13, Idaho Code, be, and the same is hereby amended by adding thereto a new section, immediately following Section 33-1315, to be known and designated as Section 33-1315A, to read as follows:

33-1315A. RETIREMENT ALLOWANCES INCREASED FOR ANNUITANTS RETIRED PRIOR TO JANUARY 1, 1958.—1. Every service retirement allowance payable by the Teachers' Retirement System of Idaho, to or on account of an annuitant who was retired prior to January 1, 1958, and who is receiving a monthly sum which is less than the product of the number of years of service credited to such person at retirement multiplied by the sum of $4.00, shall be increased to a monthly amount equal to such product or sum. Every disability retirement allowance under the same circumstances shall be increased to an amount which is equal to 90 per cent of such product or sum.

2. If a member elected at retirement to have his retirement allowance modified under Options 2 or 3, or Option 4
involving life contingency of a beneficiary, and if his beneficiary is living on said effective date, the increase under this section based on his allowance before such modification, shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on said effective date, or if the retired member is not living on said effective date and the beneficiary is receiving the modified retirement allowance, then the increased allowance based on his allowance before such modification, shall be reduced by an amount equal to the reduction made at retirement on account of such election. If a member elected at retirement to have his allowance modified under Option 1 or Option 4, not involving life contingency of a beneficiary, the increased allowance based on his allowance before such modification, shall be reduced by an amount equal to the reduction made at retirement on account of the election.

3. The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the manner which would have applied if this section had been in effect at the time of retirement. Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided from the reserves held by the retirement system on account of active members, the necessary amount being transferred upon said effective date, from said reserves to the reserves held by the retirement system to meet the obligations on account of service annuities that have been granted. The contributions being required of the state shall be increased by a percentage of members' salaries to replace the reserves so transferred.

SECTION 2. This Act shall take effect and be in force on and after July 1, 1967.

Approved April 6, 1967.
CHAPTER 299
(H. B. No. 388)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay, of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969; subject to the Standard Appropriations Act of 1945:

To Whom Appropriated: Appropriations:
LAW LIBRARY
For: Salaries and Wages ...................... $33,780.00
Travel Expense .......................... 750.00
Other Current Expense .................. 20,470.00
Capital Outlay ............................. 30,000.00

Total .................................. $85,000.00

From: General Fund ........................ $85,000.00

Approved April 6, 1967.

CHAPTER 300
(S. B. No. 178, As Amended in the House)

AN ACT

AMENDING SECTION 37-336, IDAHO CODE, RELATING TO THE PROHIBITION AGAINST THE PURCHASE OF OLEOMARGARINE FOR PUBLIC INSTITUTIONS, BY PROVIDING THAT IF NO SURPLUS OF BUTTER OR OTHER DAIRY PRODUCT EXISTS, OR WHEN A SUBSTITUTE IS ORDERED BY ANY PHYSICIAN IN THE COURSE OF TREATMENT, THEN OLEOMARGARINE, OLEOMARGARINE PRODUCTS
Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 37-336, Idaho Code, be, and the same is hereby amended to read as follows:

37-336. OLEOMARGARINE—PURCHASE FOR PUBLIC INSTITUTIONS UNLAWFUL — EXCEPTION. — It shall be unlawful for the state purchasing agent of Idaho, the county commissioners of any county, or any manager, managing officer or agent of any charitable, educational, penal or reformatory institution owned, or operated by or under the direction of, or operated in cooperation with, the state of Idaho, or any county of the state, to purchase, furnish or provide for use in such institution, any oleomargarine, oleomargarine products or any other substance made in imitation or semblance of butter or other dairy products unless no surplus of butter or other dairy product exists, as determined by the Secretary of Agriculture, United States Department of Agriculture, or when ordered by any physician in the course of treatment.

Approved April 7, 1967.

CHAPTER 301
(S. B. No. 282)

AN ACT

AMENDING SECTION 1-2001, IDAHO CODE, TO REQUIRE A JUSTICE OF THE SUPREME COURT OR JUDGE OF THE DISTRICT COURT TO SERVE A MINIMUM OF EIGHT YEARS BEFORE BECOMING ELIGIBLE TO RECEIVE RETIREMENT BENEFITS; CHANGING BASIS OF COMPUTATION OF RETIREMENT BENEFITS FROM TEN YEARS FOR FIFTY PER CENT OF THE SALARY OF THE OFFICE, TO TWENTY YEARS OR MORE, BUT NOT TO EXCEED TWENTY-FIVE YEARS, FOR BENEFITS NOT TO EXCEED TWO AND ONE-HALF PER CENT OF THE CURRENT ANNUAL BASE SALARY OF THE OFFICE TIMES THE YEARS OF SERVICE; TO PROVIDE THAT DISABILITY BENEFITS BE COMPUTED ON THE BASIS OF TWENTY YEARS OF SERVICE RATHER THAN TEN YEARS, AND FOR A MINIMUM OF EIGHT YEARS OF SERVICE FOR ENTITLEMENT TO DISABILITY
COMPENSATION; TO PROVIDE FOR REFUND OF CONTRIBUTIONS FROM THE JUDGES’ RETIREMENT FUND WITHOUT INTEREST TO JUSTICES AND JUDGES WHO SERVE LESS THAN EIGHT YEARS; AMENDING SECTION 1-2001a, IDAHO CODE, TO CLARIFY THE LANGUAGE THEREOF, AND DEDUCTING TEN PER CENT OF ANY INCREASE OF RETIREMENT COMPENSATION BASED UPON THE CURRENT ANNUAL BASE SALARY OF THE OFFICE FROM WHICH THEY RETIRED; AND TO PROVIDE THAT THIS ACT SHALL OPERATE PROSPECTIVELY; AMENDING SECTION 1-2004, IDAHO CODE, TO PROVIDE THAT EACH JUSTICE OR JUDGE SHALL CONTRIBUTE FOUR PER CENT OF THE CURRENT ANNUAL BASE SALARY OF HIS OFFICE TO THE JUDGES’ RETIREMENT FUND, AND DELETING OTHER PROVISIONS; AMENDING SECTION 1-2005, IDAHO CODE, BY STRIKING THE PRESENT LANGUAGE THEREOF AND ESTABLISHING THE BASIS FOR APPOINTMENT OF RETIRED SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES TO SERVE IN THOSE OFFICES AND PROVIDING THAT THEY SHALL NOT RECEIVE RETIREMENT COMPENSATION BENEFITS DURING SUCH SERVICE; AMENDING SECTION 1-2006, IDAHO CODE, TO ELIMINATE APPLICATION OF THE ACT TO THE CLERK OF THE SUPREME COURT AND PROVIDING FOR APPLICATION OF THIS ACT TO JUSTICES AND JUDGES; AND AMENDING SECTION 1-2009, IDAHO CODE, TO ELIMINATE APPLICATION OF THE ACT TO THE CLERK OF THE SUPREME COURT; AND PROVIDING AN EFFECTIVE DATE.

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

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

1-2001. SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES — AGE OF RETIREMENT — COMPENSATION ON RETIREMENT. Each person who is now serving or who shall hereafter serve as a justice of the Supreme Court or a judge of a district court of this state shall, upon attaining the age of seventy (70) years, or who now is seventy-five (75) years of age, and shall have a minimum service of 8 years in either or both of said offices, and upon retirement from office either by expiration of his term or by voluntary retirement, be entitled to receive and to have paid to him the annual retirement compensation hereinafter provided.

Each person who shall hereafter serve as justice of the
Supreme Court or district judge in the state of Idaho for an aggregate period of ten (10) 20 years or more, continuous or otherwise, in either or both of such offices may, upon attaining the age of seventy (70) 65 years retire from office, and every such justice or judge who, after a service of ten (10) 20 years, or more, continuous or otherwise in either or both of said courts, shall resign, although under the age of seventy (70) 65 years, by reason of disability preventing him from further performance of the duties of his office, shall be entitled to receive and to have paid to him from the date of his retirement or resignation until his death, retirement or resignation compensation in an amount equal to one half (1/2) 2 1/2% times the number of years of service, not to exceed 25 years, of the current annual base salary or compensation of the office from which he retired or resigned, payable monthly on the first day of each calendar month. Each justice or judge hereafter appointed or elected who shall retire on account of age or by reason of such disability preventing him from further performance of the duties of his office, after a service in either or both of said courts of less than ten (10) 20 years, shall upon retirement or resignation, be entitled to receive and to have paid to him in such monthly instalments compensation equal to that proportion of one half (1/2) 2 1/2% of the current annual base salary or compensation of the office which his period of service bears to ten (10) years multiplied by the number of years he has served as such justice or judge. All retirement compensation shall be paid monthly out of the Judges' Retirement Fund hereinafter established, provided, however, that a justice or judge who has served less than 8 years shall be entitled to have refunded to him all contributions made by him to the Judges' Retirement Fund, with 41/2% simple interest but shall not be entitled to any other compensation from the fund.

Each person now serving or who shall hereafter serve as such justice or judge for an aggregate period of fifteen (15) years, or less, continuous or otherwise, in either or both such offices, and who shall retire from office either by expiration of his term or by voluntary retirement before attaining the age of seventy (70) years, shall after attaining the age of sixty-five (65) years, and shall have made the contributions to the Judges' Retirement Fund hereinafter provided, also be entitled to all of the rights and privileges of this act and shall be entitled to receive and have paid to him such proportion of the retirement compensation of the office from which he so retired as in this act provided, as the period of his service bears to fifteen (15) years. Pro-
vided, however, that such retired justice or judge shall have paid to him full retirement compensation based upon the current salary of the office from which he retired or resigned, upon attainment of an age and completion of a period of service as set forth in the following schedule:

<table>
<thead>
<tr>
<th>Age in Years</th>
<th>Number of Years of Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>66</td>
<td>15</td>
</tr>
<tr>
<td>66</td>
<td>14</td>
</tr>
<tr>
<td>67</td>
<td>13</td>
</tr>
<tr>
<td>68</td>
<td>12</td>
</tr>
<tr>
<td>69</td>
<td>11</td>
</tr>
<tr>
<td>70</td>
<td>10</td>
</tr>
</tbody>
</table>

Provided, further, should his period of service be less than provided in the above schedule at the age of retirement, he shall receive and have paid to him such proportion of full retirement compensation as his years of service bears to the schedule above provided.

Any such retired justice or judge may defer commencement of payment of such retirement compensation, in which event the proportion of retirement compensation which he shall be entitled to receive and have paid to him upon attainment of a later age, as he shall have elected in writing filed with the state auditor, shall be in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Age</th>
<th>Benefit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commences</td>
<td>Number of Years of Service</td>
</tr>
<tr>
<td>10</td>
<td>11/15</td>
</tr>
<tr>
<td>65</td>
<td>10/15</td>
</tr>
<tr>
<td>66</td>
<td>10/14</td>
</tr>
<tr>
<td>67</td>
<td>10/13</td>
</tr>
<tr>
<td>68</td>
<td>10/12</td>
</tr>
<tr>
<td>69</td>
<td>10/11</td>
</tr>
<tr>
<td>70</td>
<td>10/10</td>
</tr>
</tbody>
</table>

SECTION 2. That Section 1-2001a, Idaho Code, be, and the same is hereby amended to read as follows:

1-2001a. JUDGES ALREADY RETIRED—RETIREMENT COMPENSATION—ACT TO OPERATE PROSPECTIVELY.—Every person eligible for retirement compensation who has served as justice of the Supreme Court or judge of the district court who has retired or resigned before the effective date of this act shall be entitled to receive and to have paid to him from the Judges' Retirement Fund, and after the effective date of this act, retirement
compensation based upon the current annual base salary of the office from which he retired or resigned, less a sum equal to 10% of any increase in retirement compensation to which he may become entitled after the effective date of this act.

This act shall operate prospectively, and shall not give to any retired justice or judge a claim against the Judges' Retirement Fund for any increase in retirement compensation for time elapsed prior to the effective date hereof.

SECTION 3. That Section 1-2004, Idaho Code, be, and the same is hereby amended to read as follows:

1-2004. DEDUCTIONS FROM SALARIES OF JUSTICES AND JUDGES—MINIMUM CONTRIBUTIONS TO FUND. Unless a justice of the Supreme Court or a judge of a district court now in office shall, within the period of thirty (30) days from the effective date of this act, file in the office of the state auditor a written declination to accept the retirement provisions of this act, he shall conclusively be deemed to have accepted the provisions hereof, and the state auditor shall deduct from the monthly salary of each such justice and judge now holding office, and from the monthly salary of each person who shall thereafter assume by election or appointment the office of a justice of the Supreme Court or a judge of a district court, an amount equal to four per cent (4%) of the current annual base salary on a monthly salary basis, and shall issue to such justice or judge a salary warrant in such reduced amount. The auditor shall, each month, transfer from the general fund of the state an amount equal to the total of such deduction so made from the monthly salaries of said justices and judges, to the Judges' Retirement Fund.

No person shall be entitled to receive the retirement compensation herein provided, unless at the time of, or prior to his retirement, he shall have contributed to the Judges' Retirement Fund a sum equal to three per cent (3%) of the current annual base salary or salaries of his office for a period of ten (10) years immediately preceding his retirement, provided, however, that if such sum, or any part thereof, shall be unpaid because of his services as such justice or judge prior to the enactment of this act, the same may be paid in one lump sum, or, if not so paid, the state auditor is authorized and directed to withhold from such justice or judge, out of the first installment or installments of retirement compensation accruing to such justice or judge, a sufficient amount to pay the sum so provided, fur-
the other, that if any justice or judge hereafter appointed or elected shall retire after service of less than ten (10) years, he shall so contribute only from the salary paid to him during his term of office.

SECTION 4. That Section 1-2005, Idaho Code, be, and the same is hereby amended to read as follows:

1-2005. SERVICES REQUIRED OF RETIRED SUPREME COURT JUSTICES AND DISTRICT JUDGES.—Each retired justice and judge, while he remains capable, shall, at the request of the chief justice of the Supreme Court, act as commissioner of the Supreme Court as provided by law, and each retired district judge shall, upon the request of any district judge in the state of Idaho and the agreement of the parties, hear and finally determine any civil action or civil proceeding which may be so submitted and, for the purpose of rendering such services, his authority shall continue without diminution notwithstanding retirement.

All such services by any retired justice or judge shall be without compensation to him and without charge or expense to the state, except that such justice or judge shall be reimbursed for his actual and necessary expenses incurred in the performance of such services, to be paid in the same manner as the traveling expenses of the justices of the Supreme Court and district judges are paid. Any retired justice or judge, while he remains capable, upon compliance with Idaho Code, Title 59, Chapter 4, may hold a district court in any county at the request of the judge of the district court thereof, and upon the request of the governor, or of the chief justice, and when any such request is made or approved by the chief justice, it shall be his duty to do so.

Any retired justice or judge, while he remains capable, upon compliance with Idaho Code, Title 59, Chapter 4, may sit with the Supreme Court and exercise the authority of a member thereof in any cause in which he is requested by that court so to do, and when requested by the chief justice shall perform such other duties pertaining to the judicial department of government as directed.

Compensation for all such services by any retired justice or judge shall be at the current salary of the office from which he retired, which shall be paid from the general fund as provided by the legislature. During such period of service such retired justice or judge shall not be entitled to
receive nor have paid to him retirement compensation from the Judges' Retirement Fund.

When so serving outside of his county of residence, any such retired justice or judge shall receive and have paid to him his necessary traveling and subsistence expenses.

Any period of service so rendered by any retired justice or judge shall not in anywise be computed for additional retirement benefits, and the state auditor shall not receive or deduct any sum from the salary of any such retired justice or judge for such services, for transfer to the Judges' Retirement Fund.

SECTION 5. That Section 1-2006, Idaho Code, be, and the same is hereby amended to read as follows:

1-2006. APPLICATION OF ACT. — This act, as amended, shall apply in all of its provisions to every person hereafter elected or appointed to either the Supreme Court or the district court of this state and to the clerk of the Supreme Court. Title 1, Chapter 20 of the Idaho Code, as by this act amended shall opera te prospectively in its application as to all persons who are receiving retirement benefits thereunder and as to all justices of the Supreme Court and judges of the district courts who, after the effective date of this act, shall be in or commence service in either of such offices.

In no case shall any justice or judge, serving at the time this act becomes effective, receive and have paid to him, at the time of his retirement, retirement compensation in any lesser amount than he would have become entitled to receive and have paid to him under the act as it existed prior to this amendment.

SECTION 6. That Section 1-2009, Idaho Code, be, and the same is hereby amended to read as follows:

1-2009. BENEFIT TO SURVIVING SPOUSE OF JUSTICE OR JUDGE.—The legislature hereby finds and declares that the payment of allowances to the surviving spouses of justices of the Supreme Court and judges of the district court of the state of Idaho, serves the public purpose of promoting the public welfare by encouraging experienced jurists to continue their service and that their continued service and increased efficiency will be secured in the expectation that the legislature will fairly provide for their surviving spouses, and that such continued service and in-
creased efficiency of such jurists, secure in this knowledge, will be of substantial benefit to the state.

The surviving spouse of any such justice or judge who dies on or after July 1, 1965, shall receive an allowance from the Judges' Retirement Fund, payable monthly, and as hereinafter provided.

(a) In the case of a justice or judge receiving retirement compensation at the time of death, allowance to his surviving spouse shall commence immediately and be payable to such spouse from such fund in an amount equal to 20% of the retirement compensation being paid to such justice or judge.

(b) In the case of a justice or judge under the age of 65 years and not receiving retirement compensation at the time of death, commencing immediately, the surviving spouse shall be paid an allowance from such fund in the amount of 20% of the retirement compensation to which the justice or judge would have been entitled if then of the age of 65 years.

(c) In the case of a justice or judge of age 65 years or older and not receiving retirement compensation at the time of death, commencing immediately, his surviving spouse shall receive an allowance payable from the fund in an amount equal to 20% of the retirement compensation to which the justice or judge would have been entitled if then retired.

(d) The allowance to the surviving spouse shall be based upon the current annual base salary of the office held by the deceased justice or judge, as distinguished from the salary of the office at the time of death or retirement. The allowance shall be paid, provided the surviving spouse shall have been the wife or husband of the deceased justice or judge for a period of not less than seven (7) years prior to death, and shall continue to be paid until death or remarriage of the surviving spouse.

(e) The phrase "justice or judge" as used herein shall also include the clerk of the Supreme Court.

Section 7. Effective Date.—This Act shall be in full force and effect from and after July 1, 1967.

Approved. April 7, 1967.
CHAPTER 302
(S. B. No. 298)

AN ACT
AMENDING SECTION 72-502, IDAHO CODE, RELATING TO SALARIES OF MEMBERS OF THE INDUSTRIAL ACCIDENT BOARD, BY FIXING SUCH SALARIES AT $14,500 PER YEAR, AND PROVIDING THAT THE SOURCE SHALL BE AS SET BY THE LEGISLATURE.

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

SECTION 1. That Section 72-502, Idaho Code, be, and the same is hereby amended to read as follows:

72-502. SALARIES.—The salary of each member of the board shall be $14,500 per year, to be paid from whatever source or sources as set by the legislature.

Approved April 7, 1967.

CHAPTER 303
(S. B. No. 308)

AN ACT
NISH SECRETARIAL AND STAFF ASSISTANCE TO THE COMMISSION.

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

SECTION 1. There is hereby established the legislative compensation commission, to consist of three members appointed by the governor and three members appointed by the supreme court. Members of the commission shall be residents of the state of Idaho and shall be appointed from the public and without regard to political affiliation. No one may be appointed to the commission who is an official or employee of the state of Idaho or any department, agency, or political subdivision thereof or who is an official or employee of any county, municipality or other unit of local government or of any agency or institution to which any state funds are appropriated.

Of the members of the commission first to be appointed, one appointee each of the governor and the supreme court shall be appointed for a term of two years, one appointee each of the governor and the supreme court shall be appointed for a term of three years, and one appointee each of the governor and the supreme court shall be appointed for a term of four years, commencing July 1, 1967. Thereafter, all members of the commission shall be appointed for a four year term, commencing July 1st. Vacancies shall be filled in the same manner as the original appointments and for the balance of the unexpired term.

The commission shall elect one of its members chairman, and members of the commission shall be reimbursed for actual and necessary expenses incurred while performing the duties imposed by this act, which expenses shall be paid from the monies appropriated for the operation of the legislature.

SECTION 2. With the exception of the salary and mileage allowance provided in Section 23, Article III of the Constitution of the state of Idaho, which shall be the only salary and mileage allowance paid to members of the legislature during and for traveling to and from legislative sessions, no member of the legislature of the state of Idaho shall receive any compensation for services rendered or expenses incurred as a legislator, except as set by the commission.

The commission shall, on or before April 1, 1968, establish the rate of compensation for services to be rendered by members of the legislature during the interim between
legislative sessions and the rate of payment of expenses incurred by members of the legislature in the performance of their duties during the two year period commencing on December 1, 1968. The compensation and expenses so established shall, on or before such date, be filed with the secretary of state and the state auditor. The rates thus established shall be the rates applicable for the two year period specified unless prior to the twenty-fifth legislative day of the regular 1969 legislative session, by concurrent resolution, the senate and house of representatives shall reject said rates of compensation and expenses and declare the same to be inoperative.

Thereafter the commission shall on or before the first day of April of each even numbered year, establish the rate of compensation for services to be rendered by members of the legislature during the interim between legislative sessions and the rate of payment of expenses incurred by members of the legislature in the performance of their duties during the two year period commencing on the first day of December of such year. The compensation and expenses so established shall, on or before such date, be filed with the secretary of state and the state auditor. The rates thus established shall be the rates applicable for the two year period specified unless prior to the twenty-fifth legislative day of the next regular biennial session, by concurrent resolution, the senate and house of representatives shall reject said rates of compensation and expenses and declare the same to be inoperative.

SECTION 3. The legislative council is directed to furnish such secretarial and other staff assistance as the commission may require in the performance of its duties.

Approved April 7, 1967.

CHAPTER 304
(S. B. No. 317)

AN ACT

APPROPRIATING MONEYS FROM THE FISH AND GAME FUND OF THE STATE OF IDAHO, FEDERAL FUNDS AND OTHER FUNDS, TO THE FISH AND GAME COMMISSION FOR THE PURPOSE OF PAYING SALARIES AND WAGES, TRAVEL EXPENSE, OTHER CURRENT EXPENSE, CAPITAL OUTLAY,

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

SECTION 1. There is hereby appropriated out of the Fish and Game Fund of the state of Idaho, federal funds and other funds, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and refunds of erroneous receipts of the agency hereinafter named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the Standard Appropriations Act of 1945.

To Whom Appropriated:  
FISH AND GAME COMMISSION:  

<table>
<thead>
<tr>
<th>Appropriations:</th>
<th>$8,982,037.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>For: Salaries and Wages</td>
<td>$4,351,606.00</td>
</tr>
<tr>
<td>Travel Expense</td>
<td>238,720.00</td>
</tr>
<tr>
<td>Other Current Expense</td>
<td>2,874,917.00</td>
</tr>
<tr>
<td>Capital Outlay</td>
<td>1,514,794.00</td>
</tr>
<tr>
<td>Refunds of Erroneous Receipts</td>
<td>2,000.00</td>
</tr>
<tr>
<td>Total</td>
<td>$8,982,037.00</td>
</tr>
</tbody>
</table>

| From: Fish and Game Fund | $6,892,831.00 |
| Federal Funds | 1,636,337.00 |
| Other Funds | 452,869.00 |
| Total | $8,982,037.00 |

Approved April 7, 1967.

CHAPTER 305  
(S. B. No. 319)

AN ACT

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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense and other current expense of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:

LIEUTENANT GOVERNOR:

For:  
Salaries and Wages $20,000.00  
Travel Expense 15,000.00  
Other Current Expense 2,000.00  

Total $37,000.00

From: General Fund $37,000.00

Approved April 7, 1967.

CHAPTER 306  
(S. B. No. 323)

AN ACT


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

SECTION 1. There is hereby appropriated out of the Aeronautics Fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.
CHAPTER 307
(S. B. No. 324)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, the following sums of money, or so much thereof as may be necessary, for the purpose of paying salaries and wages, travel expense, other current expense and capital outlay of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: STATE BOARD OF EDUCATION—EXECUTIVE DIRECTOR

Appropriations:

For: Salaries and Wages $52,000.00
Travel Expense 5,000.00
Other Current Expense 15,000.00
Capital Outlay 3,000.00

Total $320,000.00

Approved April 7, 1967.
CHAPTER 808
(S. B. No. 325)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, receipts to appropriations and federal funds, the following sum of money, or so much thereof as may be necessary for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and relief and pensions of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated:  
STATE BOARD OF HEALTH FOR IDAHO STATE SCHOOL AND HOSPITAL:

<table>
<thead>
<tr>
<th>Appropriations:</th>
<th>$4,298,800.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>For: Lump Sum Appropriation</td>
<td>$4,298,800.00</td>
</tr>
<tr>
<td>From: General Fund</td>
<td>$3,700,000.00</td>
</tr>
<tr>
<td>Receipts to Appropriations</td>
<td>362,000.00</td>
</tr>
<tr>
<td>Federal Funds</td>
<td>236,800.00</td>
</tr>
<tr>
<td>Total</td>
<td>$4,298,800.00</td>
</tr>
</tbody>
</table>

Approved April 7, 1967.
CHAPTER 309
(S. B. No. 326)

AN ACT


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

SECTION 1. There is hereby appropriated out of the general fund of the state of Idaho, receipts to appropriations, endowment income and federal funds, the following sum of money, or so much thereof as may be necessary for the purpose of paying salaries and wages, travel expense, other current expense, capital outlay and relief and pensions of the agency herein named, for the period commencing July 1, 1967, and ending June 30, 1969, subject to the provisions of the Standard Appropriations Act of 1945.

To Whom Appropriated: 
STATE BOARD OF HEALTH FOR STATE HOSPITAL SOUTH:
For: Lump Sum Appropriation -------$3,947,397.00

From: General Fund $3,200,000.00
Receipts to Appropriations 300,000.00
Endowment Income 200,000.00
Federal Funds 247,397.00

Total $3,947,397.00

Approved April 7, 1967.