

GENERAL LAWS
OF THE
STATE OF IDAHO



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

Convened January 10, 1994
Adjourned April 1, 1994

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

PUBLISHED BY AUTHORITY OF THE
SECRETARY OF STATE

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Secretary of State
Boise, Idaho

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CHAPTER 1
(H.B. No. 496)

AN ACT

RELATING TO THE DEPARTMENT OF ADMINISTRATION; AMENDING SECTION 60-201, IDAHO CODE, TO REMOVE THE DEPARTMENT OF ADMINISTRATION FROM OVERSIGHT OF PRINTING PROCEDURES AND STANDARDS.

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

SECTION 1. That Section 60-201, Idaho Code, be, and the same is hereby amended to read as follows:

60-201. LIMITATIONS ON PUBLICATIONS. ~~The department of administration shall prescribe, by rule and regulation promulgated pursuant to chapter 52, title 67, Idaho Code, standards which shall govern the procedures for printing, and shall establish general guidelines for determining the cost effective physical characteristics, including, but not limited to, binding, size, quality of paper, use of color, and all publications otherwise permitted or required by law shall comply with such standards.~~ The provisions of this chapter shall not apply to constitutional officers, the state colleges and universities, or the legislative and judicial branches of government.

Approved February 2, 1994.

CHAPTER 2
(H.B. No. 568)

AN ACT

RELATING TO THE APPROPRIATION FOR VOCATIONAL EDUCATION; AMENDING CHAPTER 323, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 323, Laws of 1993, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the State Board of Vocational Education the following amount, to be expended by the Division of Vocational Education for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1993, through June 30, 1994:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|--|---------------------------|----------------------------------|---|------------------------------|
| A. ADMINISTRATION AND SUPERVISION: | | | | |
| FROM: | | | | |
| General Fund | \$1,361,600 | \$221,300 | | \$ 1,582,900 |
| Federal Grant Fund | 94,700 | 157,200 | | 251,900 |
| TOTAL | \$1,456,300 | \$378,500 | | \$ 1,834,800 |
| B. GENERAL PROGRAMS: | | | | |
| FROM: | | | | |
| General Fund | \$ 170,700 | \$ 32,600 | \$ 4,932,100 | \$ 5,135,400 |
| Federal Grant Fund | 117,500 | 10,000 | 4,657,000 | 4,784,500 |
| Hazardous Materials Training/Waste Enforcement Fund | | | 128,700 66,800 | 128,700 66,800 |
| Hazardous Waste Training, Emergency and Monitoring Fund | | | 61,900 | 61,900 |
| TOTAL | \$ 288,200 | \$ 42,600 | \$ 9,717,800 | \$10,048,600 |
| C. POST-SECONDARY PROGRAMS: | | | | |
| FROM: | | | | |
| General Fund Unrestricted Fund | | | \$18,905,600 | \$18,905,600 |
| TOTAL | | | 175,000 | 175,000 |
| | | | \$19,080,600 | \$19,080,600 |
| D. DISPLACED HOMEMAKER PROGRAM: | | | | |
| FROM: | | | | |
| General Fund | | | \$ 29,700 | \$ 29,700 |
| Displaced Homemaker Fund | | \$ 5,000 | 135,000 | 140,000 |
| Federal Grant Fund | | | 341,300 | 341,300 |
| TOTAL | | \$ 5,000 | \$ 506,000 | \$ 511,000 |
| E. IDAHO STATE COUNCIL ON VOCATIONAL EDUCATION: | | | | |
| FROM: | | | | |
| Federal Grant Fund | \$ 97,300 | \$ 57,400 | | \$ 154,700 |
| GRAND TOTAL | \$1,841,800 | \$483,500 | \$29,304,400 | \$31,629,700 |

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

Approved February 2, 1994.

CHAPTER 3
(S.B. No. 1300)

AN ACT
APPROPRIATING MONEYS TO THE LOTTERY COMMISSION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 132, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 132, Laws of 1993, there is hereby appropriated to the Lottery Commission in the Department of Self-Governing Agencies the following amounts, to be expended according to the designated expense classes from the listed fund for the period July 1, 1993, through June 30, 1994:

| | FOR OPERATING EXPENSE | FOR CAPITAL OUTLAY | TOTAL |
|--------------------|-----------------------------|--------------------------|-------------|
| FROM: | | | |
| State Lottery Fund | \$1,266,300 | \$143,600 | \$1,409,900 |

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

Approved February 8, 1994.

CHAPTER 4
(H.B. No. 541)

AN ACT
RELATING TO THE COUNTY JUSTICE FUND; AMENDING SECTION 63-904, IDAHO CODE, TO PROVIDE A COUNTY JUSTICE FUND GENERAL RESERVE APPROPRIATION.

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

SECTION 1. That Section 63-904, Idaho Code, be, and the same is hereby amended to read as follows:

63-904. COUNTY JUSTICE FUND -- ANNUAL TAX LEVY. The board of county commissioners of each county in this state may levy upon all

taxable property of said county, a tax for the purposes set forth in the statutes authorizing a county justice fund, to be collected and paid into the county treasury and apportioned to the county justice fund, if one (1) has been established. Said levy shall not exceed twenty hundredths percent (.20%) of market value for assessment purposes of such property, or a levy sufficient to raise two hundred fifty thousand dollars (\$250,000), whichever is greater. The board shall have the right to make a "general reserve appropriation," said appropriation not to exceed five percent (5%) of the county justice fund budget as finally adopted. The total levy, however, for the county justice fund, including the "general reserve appropriation," shall be within the limitations imposed by chapter 9, title 63, Idaho Code, or by any statutes of the state of Idaho in force and effect.

Approved February 8, 1994.

CHAPTER 5
(S.B. No. 1295)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 67-6602, IDAHO CODE, TO FURTHER DEFINE THE TERM NONBUSINESS ENTITY AND TO MAKE A TECHNICAL CORRECTION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 67-6602, Idaho Code, be, and the same is hereby amended to read as follows:

67-6602. DEFINITIONS. As used in this act, the following terms have the following meanings:

(a) "Candidate" means an individual who has taken affirmative action to seek nomination or election to public office. An individual shall be deemed to have taken affirmative action to seek such nomination or election to public office when he first:

- (1) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or
- (2) Announces publicly or files for office.

(b) "Compensation" includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to do any of the foregoing, for services rendered or to be rendered, but does not include reimbursement of expenses if such reimbursement does not exceed the amount actually expended for such expenses and is substantiated by an itemization of such expenses.

(c) "Contribution" includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, subscription or transfer of money or anything of value, and any con-

tract, agreement, promise or other obligation, whether or not legally enforceable, to make a contribution, in support of or in opposition to any candidate, political committee or measure. Such term also includes personal funds or other property of a candidate or members of his household expended or transferred to cover expenditures incurred in support of such candidate but does not include personal funds used to pay the candidate filing fee. Such term also includes the rendering of personal and professional services for less than full consideration, but does not include ordinary home hospitality or the rendering of "part-time" personal services of the sort commonly performed by volunteer campaign workers or advisors or incidental expenses not in excess of twenty-five dollars (\$25.00) personally paid for by any volunteer campaign worker. "Part-time" services for the purposes of this definition, means services in addition to regular full-time employment, or, in the case of an unemployed person or persons engaged in part-time employment, services rendered without compensation or reimbursement of expenses from any source other than the candidate or political committee for whom such services are rendered. For the purposes of this act, contributions, other than money or its equivalents shall be deemed to have a money value equivalent to the fair market value of the contribution.

(d) "Election" means any general, special or primary election.

(e) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a measure.

(f) "Expenditure" includes any payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment or a transfer of anything of value in exchange for goods, services, property, facilities or anything of value for the purpose of assisting, benefiting or honoring any public official or candidate, or assisting in furthering or opposing any election campaign.

(g) "Lobby" and "lobbying" each mean attempting through contacts with, or causing others to make contact with, members of the legislature or legislative committees, to influence the approval, modification or rejection of any legislation by the legislature of the state of Idaho or any committee thereof.

(h) "Lobbyist" includes any person who lobbies.

(i) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed, directly or indirectly, and all persons by whom he is compensated for acting as a lobbyist.

(j) "Measure" means any proposal, to be voted statewide, submitted to the people for their approval or rejection at an election, including any initiative, referendum or revision of or amendment to the state constitution. An initiative or referendum proposal shall be deemed a measure when the attorney general reviews it and gives it a ballot title.

(k) "Nonbusiness entity" means any group (of two (2) or more individuals), corporation, association, firm, partnership, committee, club or other organization which:

(1) Does not have as its principal purpose the conduct of busi-

ness activities for profit; and

(2) Received during the preceding calendar year contributions, gifts or membership fees, which in the aggregate exceeded ten per cent (10%) of its total receipts for such year.

(1) "Person" means an individual, corporation, association, firm, partnership, committee, political party, club or other organization or group of persons.

(m) "Political committee" means:

(1) Any person specifically designated to support or oppose any candidate or measure; or

(2) Any person who receives contributions and makes expenditures in an amount exceeding five hundred dollars (\$500) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures; or

(3) Any nonbusiness entity which makes expenditures in an amount exceeding one thousand dollars (\$1,000) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures provided that any nonbusiness entity registered with the federal election commission shall not be considered a political committee for purposes of this chapter.

(n) "Political treasurer" means an individual appointed by a candidate or political committee as provided in section 67-6603, Idaho Code.

(o) "Public office" means any state office or position, including state senator, state representative, and judge of the district court that is filled by election.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1994.

Approved February 9, 1994.

CHAPTER 6
(S.B. No. 1305)

AN ACT

RELATING TO THE DEPARTMENT OF CORRECTION; AMENDING SECTION 2, CHAPTER 325, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 325, Laws of 1993, be, and the same is hereby amended to read as follows:

SECTION 2. There is hereby appropriated to the Department of Correction the following amounts, to be expended for designated programs according to designated expense classes from the listed funds for the period July 1, 1993, through June 30, 1994:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|--|--|
| A. ADMINISTRATION: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 1,949,700 | \$ 1,159,700 | \$ 7,900 | \$ 1,617,700 <u>1,897,700</u> | \$ 4,735,000 <u>5,015,000</u> |
| Parolee Supervision | | | | | |
| Fund | 35,900 | 13,000 | | | 48,900 |
| Miscellaneous Revenue | | | | | |
| Fund | | 5,500 | | | 5,500 |
| TOTAL | <u>\$ 1,985,600</u> | <u>\$ 1,178,200</u> | <u>\$ 7,900</u> | <u>\$ 1,617,700 1,897,700</u> | <u>\$ 4,789,400 5,069,400</u> |
| B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 6,886,500 | \$ 985,300 | | | \$ 7,871,800 |
| Penitentiary Endowment | | | | | |
| Fund | | 1,029,900 | | | 1,029,900 |
| Miscellaneous Revenue | | | | | |
| Fund | 48,100 | | | | 48,100 |
| TOTAL | <u>\$ 6,934,600</u> | <u>\$ 2,015,200</u> | | | <u>\$ 8,949,800</u> |
| C. IDAHO CORRECTIONAL INSTITUTION - OROFINO: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 2,607,900 | \$ 796,500 | | \$ 48,700 | \$ 3,453,100 |
| Miscellaneous Revenue | | | | | |
| Fund | | 800 | | | 800 |
| TOTAL | <u>\$ 2,607,900</u> | <u>\$ 797,300</u> | | <u>\$ 48,700</u> | <u>\$ 3,453,900</u> |
| D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 1,540,300 | \$ 629,200 | \$ 11,000 | | \$ 2,180,500 |
| Work Crews - Inmate Labor | | | | | |
| Fund | 52,800 | 89,100 | 40,000 | | 181,900 |
| TOTAL | <u>\$ 1,593,100</u> | <u>\$ 718,300</u> | <u>\$ 51,000</u> | | <u>\$ 2,362,400</u> |
| E. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 2,497,700 | \$ 858,100 | \$ 200,000 | | \$ 3,555,800 |
| Work Crews - Inmate Labor | | | | | |
| Fund | 273,500 | 259,000 | 54,500 | | 587,000 |
| TOTAL | <u>\$ 2,771,200</u> | <u>\$ 1,117,100</u> | <u>\$ 254,500</u> | | <u>\$ 4,142,800</u> |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|---|---|----------------------------------|--------------------------|---|---|
| F. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 4,382,700 4,578,000 | \$ 1,125,100 | | | \$ 5,507,800 <u>5,703,100</u> |
| G. ST. ANTHONY WORK CAMP: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 988,900 | \$ 253,000 | | | \$ 1,241,900 |
| Federal Grant | | | | | |
| Fund | | 22,400 | | | 22,400 |
| Work Crews - Inmate Labor | | | | | |
| Fund | <u>181,300</u> | <u>291,200</u> | \$ 31,100 | | <u>503,600</u> |
| TOTAL | \$ 1,170,200 | \$ 566,600 | \$ 31,100 | | \$ 1,767,900 |
| H. POCATELLO WOMENS CORRECTIONAL CENTER: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 1,970,700 1,690,700 | \$ 647,500 | \$ 750,000 | | \$ 3,360,200 <u>3,088,200</u> |
| I. FIELD AND COMMUNITY SERVICES: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 5,565,000 | \$ 983,800 | \$ 79,900 | | \$ 6,628,700 |
| Parolee Supervision | | | | | |
| Fund | 877,800 | 100,500 | 74,700 | | 1,053,000 |
| Federal Grant | | | | | |
| Fund | 301,500 | 27,700 | | | 329,200 |
| Miscellaneous Revenue | | | | | |
| Fund | 12,000 | 16,000 | 2,000 | | 30,000 |
| Community Work Centers - Inmate Labor | | | | | |
| Fund | | <u>187,200</u> | | | <u>187,200</u> |
| TOTAL | \$ 6,756,300 | \$ 1,315,200 | \$ 156,600 | | \$ 8,228,100 |
| J. PAROLE COMMISSION: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 224,400 | \$ 82,800 | | | \$ 307,200 |
| K. INSTITUTIONAL SUPPORT: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 3,059,900 <u>3,229,900</u> | \$ 2,286,600 | | | \$ 5,346,500 <u>5,516,500</u> |
| Federal Grant | | | | | |
| Fund | 278,500 | 20,100 | | | 298,600 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|------------------------------|--------------------------------------|----------------------------------|--------------------------|---|--------------------------------------|
| Work Crews - Inmate Labor | | | | | |
| Fund | 204,000 | 96,600 | \$ 62,000 | | 362,600 |
| TOTAL | \$ 3,542,400 3,712,400 | \$ 2,403,300 | \$ 62,000 | | \$ 6,007,700 6,177,700 |
| GRAND TOTAL | \$33,939,100 34,024,400 | \$11,966,600 | \$1,313,100 | \$1,666,400 1,946,400 | \$40,005,200 49,250,500 |

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

Approved February 9, 1994.

CHAPTER 7
(S.B. No. 1288)

AN ACT

RELATING TO SOLEMNIZATION OF MARRIAGE; AMENDING SECTION 32-303, IDAHO CODE, TO PROVIDE THAT MARRIAGE MAY BE SOLEMNIZED BY ANY FEDERAL JUDGE.

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

SECTION 1. That Section 32-303, Idaho Code, be, and the same is hereby amended to read as follows:

32-303. BY WHOM SOLEMNIZED. Marriage may be solemnized by either a justice of the Supreme Court, court of appeals judge, a district judge, any federal judge, the governor, a magistrate of the district court, mayor, priest or minister of the gospel of any denomination.

Approved February 10, 1994.

CHAPTER 8
(S.B. No. 1320)

AN ACT

RELATING TO THE APPROPRIATION OF THE DEPARTMENT OF PARKS AND RECREATION; AMENDING SECTION 1, CHAPTER 354, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 354, Laws of 1993, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Department of Parks and Recreation the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1993, through June 30, 1994:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|-----------------------------|--------------------------------------|---|--------------------------|---|---|
| I. ADMINISTRATION: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 710,100 | \$ 386,100 <u>391,100</u> | | | \$ 1,096,200 <u>1,101,200</u> |
| Parks and Recreation | | | | | |
| Fund | 258,800 <u>298,800</u> | 275,400 <u>285,400</u> | | | 534,200 <u>584,200</u> |
| Recreational | | | | | |
| Fuels | | | | | |
| Fund | | 16,100 | \$ 25,000 | | 41,100 |
| Parks and Recreation | | | | | |
| Registration | | | | | |
| Fund | 88,900 <u>48,900</u> | 41,400 <u>31,400</u> | | | 130,300 <u>80,300</u> |
| Federal Grant | | | | | |
| Fund | 2,000 | 100 | | | 2,100 |
| <u>Miscellaneous</u> | | | | | |
| <u>Revenue</u> | | | | | |
| Fund | | <u>27,000</u> | | | <u>27,000</u> |
| Indirect | | | | | |
| Cost Recovery | | | | | |
| Fund | <u>40,600</u> | <u>21,900</u> | | | <u>62,500</u> |
| TOTAL | \$1,100,400 | \$ 741,000 <u>773,000</u> | \$ 25,000 | | \$ 1,866,400 <u>1,898,400</u> |
| II. PARK OPERATIONS: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$2,915,300 | \$ 505,300 | | | \$ 3,420,600 |
| Miscellaneous Revenue | | | | | |
| Fund | | 52,200 | | | 52,200 |
| Public Recreation | | | | | |
| Enterprise | | | | | |
| Fund | 105,400 <u>113,500</u> | 119,000 <u>264,100</u> | \$ <u>64,400</u> | | 224,400 <u>442,000</u> |
| Recreational Fuels | | | | | |
| Fund | | 12,000 | \$ 429,000 | | 441,000 |
| Parks and Recreation | | | | | |
| Fund | 771,400 | 460,500 | 13,000 | | 1,244,900 |
| Parks and Recreation | | | | | |
| Expendable Trust | | | | | |
| Fund | 74,600 | 341,100 | | | 415,700 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|---------------|---------------------------|----------------------------------|--------------------------|---|---------------------|
| Federal Grant | | | | | |
| Fund | <u>55,400</u> | <u>57,800</u> | | | <u>113,200</u> |
| TOTAL | <u>\$3,922,100</u> | <u>\$1,547,900</u> | <u>\$ 442,000</u> | | <u>\$ 5,912,000</u> |
| | <u>3,930,200</u> | <u>1,693,000</u> | <u>506,400</u> | | <u>6,129,600</u> |

III. PARK DEVELOPMENT:

FROM:

General

| | | | | | |
|------|------------|--|--|-----------|------------|
| Fund | \$ 197,500 | | | \$ 25,700 | \$ 223,200 |
|------|------------|--|--|-----------|------------|

Parks and Recreation
Expendable Trust

| | | | | | |
|------|--|--|------------|--|---------|
| Fund | | | \$ 388,000 | | 388,000 |
|------|--|--|------------|--|---------|

Recreational

Fuels

| | | | | | |
|------|--------|--|----------------|--|----------------|
| Fund | 69,800 | | <u>532,000</u> | | <u>601,800</u> |
| | | | <u>413,900</u> | | <u>483,700</u> |

Parks and Recreation

| | | | | | |
|------|---------------|-----------|--|--|---------------|
| Fund | <u>41,400</u> | \$ 35,600 | | | <u>77,000</u> |
|------|---------------|-----------|--|--|---------------|

| | | | | | |
|-------|-------------------|------------------|-------------------|------------------|---------------------|
| TOTAL | <u>\$ 308,700</u> | <u>\$ 35,600</u> | <u>\$ 920,000</u> | <u>\$ 25,700</u> | <u>\$ 1,290,000</u> |
| | | | <u>801,900</u> | | <u>1,171,900</u> |

IV. RECREATIONAL RESOURCES:

FROM:

General

| | | | | | |
|------|------------|-----------|--|--|------------|
| Fund | \$ 135,700 | \$ 16,500 | | | \$ 152,200 |
|------|------------|-----------|--|--|------------|

Parks and Recreation
Registration

| | | | | | |
|------|---------------|--------|-----------|--------------------|------------------|
| Fund | <u>90,900</u> | 97,400 | \$ 22,800 | <u>\$2,433,100</u> | <u>2,644,200</u> |
| | <u>95,900</u> | | | <u>2,498,100</u> | <u>2,714,200</u> |

Recreational

Fuels

| | | | | | |
|------|---------|--------|---------|------------------|------------------|
| Fund | 322,300 | 77,300 | 414,200 | <u>1,032,900</u> | <u>1,846,700</u> |
| | | | | <u>1,452,900</u> | <u>2,266,700</u> |

Parks and Recreation

| | | | | | |
|------|--|--------|--|--------|--------|
| Fund | | 32,600 | | 12,000 | 44,600 |
|------|--|--------|--|--------|--------|

Federal Grant

| | | | | | |
|------|---------------|---------------|-------|----------------|---------|
| Fund | <u>11,600</u> | <u>80,300</u> | 2,000 | <u>709,000</u> | 802,900 |
| | <u>18,900</u> | <u>81,300</u> | | <u>700,700</u> | |

Indirect

Cost Recovery

| | | | | | |
|-------|-------------------|-------------------|-------------------|--------------------|---------------------|
| Fund | <u>94,900</u> | <u>3,400</u> | | | <u>98,300</u> |
| TOTAL | <u>\$ 655,400</u> | <u>\$ 307,500</u> | <u>\$ 439,000</u> | <u>\$4,187,000</u> | <u>\$ 5,588,900</u> |
| | <u>667,700</u> | <u>308,500</u> | | <u>4,663,700</u> | <u>6,078,900</u> |

V. LAVA HOT SPRINGS FOUNDATION:

FROM:

Public Recreation

| | | | | | |
|------|------------|------------|-----------|--|------------|
| Fund | \$ 426,200 | \$ 223,400 | \$ 50,000 | | \$ 699,600 |
|------|------------|------------|-----------|--|------------|

General

| | | | | | |
|-------|-------------------|-------------------|------------------|--|-------------------|
| Fund | | <u>130,000</u> | | | <u>130,000</u> |
| TOTAL | <u>\$ 426,200</u> | <u>\$ 353,400</u> | <u>\$ 50,000</u> | | <u>\$ 829,600</u> |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|----------------|---------------------------------|----------------------------------|---------------------------------|---|-----------------------------------|
| GRAND TOTAL | \$6,412,800 <u>6,433,200</u> | \$2,855,400 <u>3,163,500</u> | \$1,876,000 <u>1,822,300</u> | \$4,212,700 <u>4,689,400</u> | \$15,356,900 <u>16,108,400</u> |

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

Approved February 10, 1994.

CHAPTER 9
(S.B. No. 1321)

AN ACT
RELATING TO THE APPROPRIATION TO THE OFFICE OF THE GOVERNOR; AMENDING
CHAPTER 328, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 328, Laws of 1993, be, and the same is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Office of the Governor the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds, for the period July 1, 1993, through June 30, 1994:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|-------------|
| I. GOVERNOR'S OFFICE ADMINISTRATION: | | | | | |
| FROM: | | | | | |
| General Fund | \$ 813,800 | \$266,100 | | | \$1,079,900 |
| II. GOVERNOR'S RESIDENCE: | | | | | |
| FROM: | | | | | |
| General Fund | | \$ 10,000 | | | \$ 10,000 |
| III. GOVERNOR'S EXPENSE ALLOWANCE: | | | | | |
| To be expended pursuant to Section 67-808d, Idaho Code: | | | | | |
| FROM: | | | | | |
| General Fund | | \$ 8,000 | | | \$ 8,000 |
| IV. SOCIAL SERVICES: | | | | | |
| FROM: | | | | | |
| Federal Grant Fund | \$ 5,900 | \$ 5,000 | | \$ 95,000 | \$ 105,900 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|--|---|-------------------------------------|--------------------------|---|---|
| V. JUVENILE JUSTICE AND DELINQUENCY PREVENTION: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 56,100 | \$ 8,200 | | | \$ 64,300 |
| Federal Grant | | | | | |
| Fund | <u>28,700</u> | <u>91,400</u> | | <u>\$214,200</u> | <u>334,300</u> |
| TOTAL | \$ <u>84,800</u> | \$ <u>99,600</u> | | <u>\$214,200</u> | \$ <u>398,600</u> |
| VI. EARLY CHILDHOOD: | | | | | |
| FROM: | | | | | |
| Federal Grant | | | | | |
| Fund | \$ 79,000 | \$ 52,200 | | \$4,705,000 | \$4,836,200 |
| VII. ENERGY: | | | | | |
| FROM: | | | | | |
| Federal Grant | | | | | |
| Fund | \$ 12,800 | \$ 17,600 | | | \$ 30,400 |
| Resource Conservation | | | | | |
| Fund | | | | <u>\$ 39,400</u> | <u>39,400</u> |
| TOTAL | \$ <u>12,800</u> | \$ <u>17,600</u> | | <u>\$ 39,400</u> | \$ <u>69,800</u> |
| VIII. STATE EMERGENCY RESPONSE COMMISSION: | | | | | |
| FROM: | | | | | |
| General Fund | | | | \$ 55,800 | \$ 55,800 |
| Hazardous Materials/ Waste Enforcement | | | | | |
| Fund | | \$ 61,800 | | | \$ 61,800 |
| Hazardous Waste Training, Emergency and Monitoring | | | | | |
| Fund | \$ 113,500 | 111,700 | \$180,000 | | 405,200 |
| Federal Grant | | | | | |
| Fund | | <u>37,200</u> | | | <u>37,200</u> |
| TOTAL | \$ <u>113,500</u> | <u>\$210,700</u> | <u>\$180,000</u> | <u>\$ 55,800</u> | \$ <u>504,200</u> <u>560,000</u> |
| IX. ACTING GOVERNOR PAY: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 6,700 | \$--6,700 | | | \$ 6,700 |
| GRAND | | | | | |
| TOTAL | \$ <u>1,109,800</u> <u>1,116,500</u> | \$ <u>675,900</u> <u>669,200</u> | \$180,000 | \$ <u>5,704,200</u> <u>5,109,400</u> | \$ <u>6,979,900</u> <u>7,075,100</u> |

SECTION 2. It is legislative intent that all unexpended and unencumbered balances of moneys appropriated in Section 2, Chapter 258, Laws of 1991, to the Office of the Governor from the Public Utilities Commission Fund for the Columbia Basin/Endangered Species Issues be transferred to the Public Utilities Commission Fund.

SECTION 3. The State Auditor shall transfer \$55,746.52 of the General Funds appropriated in Section 1, for the State Emergency

Response Commission, to the Hazardous Substance Emergency Response Fund.

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

Approved February 10, 1994.

CHAPTER 10
(H.B. No. 596)

AN ACT

RELATING TO THE DEPARTMENT OF LAW ENFORCEMENT; AMENDING SECTION 2, CHAPTER 241, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 241, Laws of 1993, be, and the same is hereby amended to read as follows:

SECTION 2. There is hereby appropriated to the Department of Law Enforcement the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1993, through June 30, 1994:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|--------------|
| I. CENTRAL ADMINISTRATION: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 1,247,800 | \$ 447,300 | \$ 164,000 | | \$ 1,859,100 |
| Idaho Law Enforcement | | | | | |
| Fund | | 34,200 | 55,800 | | 90,000 |
| Peace Officers | | | | | |
| Fund | | 31,600 | 79,300 | | 110,900 |
| State Brand Board | | | | | |
| Fund | | 1,400 | 1,300 | | 2,700 |
| Hazardous Materials/ Waste Enforcement | | | | | |
| Fund | | 800 | | | 800 |
| Idaho State Racing Commission | | | | | |
| Fund | | 1,500 | 1,400 | | 2,900 |
| Idaho Law Enforcement Telecommunications | | | | | |
| Fund | | 8,700 | | | 8,700 |
| Federal Grant | | | | | |
| Fund | | 16,800 | 4,700 | | 21,500 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|------------------|
| Indirect Cost Recovery | | | | | |
| Fund | <u>46,100</u> | <u>6,000</u> | | | <u>52,100</u> |
| TOTAL | \$ 1,293,900 | \$ 548,300 | \$ 306,500 | | \$ 2,148,700 |
| II. POLICE SERVICES: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 4,389,200 | \$2,158,400 | \$ 8,500 | | \$ 6,556,100 |
| | <u>4,534,500</u> | <u>2,013,100</u> | | | |
| Idaho Law Enforcement | | | | | |
| Telecommunications | | | | | |
| Fund | 125,700 | 260,100 | | | 385,800 |
| | <u>128,900</u> | <u>256,900</u> | | | |
| Drug Donation | | | | | |
| Fund | | 215,200 | | | 215,200 |
| Federal Grant | | | | | |
| Fund | 741,100 | 518,900 | | \$1,720,000 | 2,980,000 |
| Miscellaneous Revenue | | | | | |
| Fund | <u>66,400</u> | <u>312,800</u> | | | <u>379,200</u> |
| TOTAL | \$ 5,322,400 | \$3,465,400 | \$ 8,500 | \$1,720,000 | \$10,516,300 |
| | <u>5,470,900</u> | <u>3,316,900</u> | | | |
| III. IDAHO STATE POLICE: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 1,548,600 | \$ 28,500 | | | \$ 1,577,100 |
| Idaho Law Enforcement | | | | | |
| Fund | 8,053,400 | 2,265,300 | \$1,406,000 | | 11,724,700 |
| Hazardous Materials/ Waste Enforcement | | | | | |
| Fund | 147,400 | 60,100 | | \$ 60,000 | 267,500 |
| Federal Grant | | | | | |
| Fund | <u>1,228,700</u> | <u>485,200</u> | | | <u>1,713,900</u> |
| TOTAL | \$10,978,100 | \$2,839,100 | \$1,406,000 | \$ 60,000 | \$15,283,200 |
| IV. BRAND INSPECTION: | | | | | |
| FROM: | | | | | |
| State Brand Board | | | | | |
| Fund | \$ 1,588,800 | \$ 253,300 | \$ 89,000 | | \$ 1,931,100 |
| V. RACING COMMISSION: | | | | | |
| FROM: | | | | | |
| Idaho State Racing | | | | | |
| Commission | | | | | |
| Fund | \$ 288,900 | \$ 300,900 | \$ 20,000 | | \$ 609,800 |
| Parimutuel | | | | | |
| Distributions | | | | | |
| Fund | | | | \$ 375,000 | <u>375,000</u> |
| TOTAL | \$ 288,900 | \$ 300,900 | \$ 20,000 | \$ 375,000 | \$ 984,800 |
| VI. ALCOHOL BEVERAGE CONTROL: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 618,500 | \$ 138,500 | | | \$ 757,000 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|-----------------------|--|--|--------------------------|---|---------------|
| Miscellaneous Revenue | | | | | |
| Fund | | <u>1,000</u> | | | <u>1,000</u> |
| TOTAL | \$ 618,500 | \$ 139,500 | | | \$ 758,000 |
| VII. POST ACADEMY: | | | | | |
| FROM: | | | | | |
| Peace Officers | | | | | |
| Fund | \$ 377,100 | \$ 409,200 | \$ 34,500 | \$ 66,900 | \$ 887,700 |
| Miscellaneous Revenue | | | | | |
| Fund | | <u>4,900</u> | <u>7,800</u> | | <u>12,700</u> |
| TOTAL | \$ 377,100 | \$ 414,100 | \$ 42,300 | \$ 66,900 | \$ 900,400 |
| GRAND | | | | | |
| TOTAL | \$20,467,700 <u>20,616,200</u> | \$7,960,600 <u>7,812,100</u> | \$1,872,300 | \$2,221,900 | \$32,522,500 |

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

Approved February 10, 1994.

CHAPTER 11
(H.B. No. 597)

AN ACT
APPROPRIATING MONEYS TO THE ENDOWMENT FUND INVESTMENT BOARD IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 149, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 149, Laws of 1993, there is hereby appropriated to the Office of the Governor for the Endowment Fund Investment Board, the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1993, through June 30, 1994:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | TOTAL |
|-----------------------|---------------------------|----------------------------------|--------------|
| FROM: | | | |
| General Fund | \$11,300 | \$1,700 | \$13,000 |
| Professional Services | | | |
| Fund | <u>3,700</u> | <u>700</u> | <u>4,400</u> |
| TOTAL | \$15,000 | \$2,400 | \$17,400 |

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

Approved February 10, 1994.

CHAPTER 12
(S.B. No. 1319)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1994; PROVIDING TRANSFERS TO THE PEST CONTROL DEFICIENCY FUND; PROVIDING TRANSFERS TO THE FIRE SUPPRESSION DEFICIENCY FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 359, Laws of 1993, there is hereby appropriated to the Department of Lands the following amounts to be expended for the designated programs according to the designated expense class from the listed funds for the period July 1, 1993 through June 30, 1994:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENSES | FOR LUMP SUM | TOTAL |
|--------------------------------------|---------------------------|------------------------------|--------------------|-----------|
| A. SUPPORT SERVICES: | | | | |
| FROM: | | | | |
| General Fund | | \$150,000 | | \$150,000 |
| B. FOREST RESOURCES MANAGEMENT: | | | | |
| FROM: | | | | |
| General Fund | \$50,000 | | | \$ 50,000 |
| C. FOREST AND RANGE FIRE PROTECTION: | | | | |
| FROM: | | | | |
| General Fund | | | \$550,000 | \$550,000 |
| GRAND TOTAL | \$50,000 | \$150,000 | \$550,000 | \$750,000 |

SECTION 2. The State Auditor shall make cash transfers from the General Fund to the Pest Control Deficiency Fund, as requested by the Director of the Department of Lands and approved by the Board of Examiners, not to exceed \$50,000 as appropriated in Section 1 of this act.

SECTION 3. The State Auditor shall make cash transfers from the General Fund to the Fire Suppression Deficiency Fund, as requested by the Director of the Department of Lands and approved by the Board of Examiners, not to exceed \$550,000 as appropriated in Section 1 of this act.

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

Approved February 11, 1994.

CHAPTER 13
(H.B. No. 480)

AN ACT
RELATING TO THE ALCOHOL BEVERAGE CODE; AMENDING SECTION 23-1014, IDAHO
CODE, TO INCREASE THE FEE FOR KEG BEER.

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

SECTION 1. That Section 23-1014, Idaho Code, be, and the same is hereby amended to read as follows:

23-1014. LICENSE FEES. Every person licensed under the provisions of this chapter shall pay to the state of Idaho an annual license fee according to the following schedule:

- | | |
|--------------------------------------|----------|
| (1) Brewer annually producing | Fee |
| (a) Under 10,000 gallons | \$ 50.00 |
| (b) 10,000 to 100,000 gallons | \$100.00 |
| (c) 100,000 to 930,000 gallons | \$200.00 |
| (d) 930,000 gallons or more | \$500.00 |

A like amount shall be paid for each separate brewery operated by the licensee.

- (2) Wholesaler
 - (a) For each separate warehouse used for the purpose of wholesaling or dispensing beer\$300.00
- (3) Dealer\$100.00
- (4) Retailer
 - (a) For each store from which beer is retailed\$ 50.00
 - (b) For each store from which a licensed retailer sells keg beer for consumption off premises\$520.00

Nothing in this chapter shall be so construed to prohibit municipalities or counties from licensing and regulating places of business where beer is sold to the consumer.

Approved February 11, 1994.

CHAPTER 14
(H.B. No. 481)

AN ACT
RELATING TO CONTROL OF ALCOHOLIC BEVERAGES; AMENDING SECTION 23-1030, IDAHO CODE, TO DELETE REFERENCE TO CONTAINER SIZE; AMENDING SECTION 23-1336, IDAHO CODE, TO PROVIDE FOR SOLD OR DONATED WINE FOR BENEVOLENT, CHARITABLE OR PUBLIC PURPOSES; AMENDING SECTION 23-905, IDAHO CODE, TO DELETE LANGUAGE REQUIRING AN APPLICANT FOR A LICENSE PROVIDE THE DIRECTOR WITH A COPY OF THE LEASE PERMITTING HIM TO SELL LIQUOR ON THE PREMISES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-1001, IDAHO CODE, TO FURTHER DEFINE THE TERM CERTIFICATE OF APPROVAL; AMENDING SECTION 23-910, IDAHO CODE, TO REVISE CRITERIA FOR PERSONS NOT TO BE LICENSED AND TO MAKE

TECHNICAL CORRECTIONS; AMENDING SECTION 23-1010, IDAHO CODE, TO REVISE ELIGIBILITY CRITERIA FOR APPLICANTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-1307, IDAHO CODE, TO REVISE QUALIFICATIONS FOR A RETAIL WINE LICENSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-1005, IDAHO CODE, TO REVISE QUALIFICATIONS FOR LICENSEES; AND AMENDING SECTION 23-1035, IDAHO CODE, TO REVISE CRITERIA GOVERNING RETAILER'S SIGNS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 23-1030, Idaho Code, be, and the same is hereby amended to read as follows:

23-1030. SIZE OF CONTAINERS. No dealer or wholesaler shall purchase, receive or resell any beer except in the original container as prepared for the market by the brewer at the place of manufacture. ~~No brewer, dealer or wholesaler shall, without permission of the director, adopt or use any container for beer, differing in size from the following:~~

- ~~11-oz.-of-beer-----whole-barrels~~
- ~~12-oz.-of-beer-----half-barrels~~
- ~~22-oz.-of-beer-----quarter-barrels~~
- ~~24-oz.-of-beer-----eighth-barrels~~
- ~~32-oz.-of-beer~~
- ~~64-oz.-of-beer~~

SECTION 2. That Section 23-1336, Idaho Code, be, and the same is hereby amended to read as follows:

23-1336. WINE SOLD OR DONATED TO PERSONS OR ASSOCIATIONS FOR BENEVOLENT, CHARITABLE OR PUBLIC PURPOSES. In the event that wine has been provided sold or donated to a person or association which desires to dispense or sell such wine and to donate the proceeds from the sale or dispensing thereof for benevolent, charitable or public purposes, the director may issue a permit authorizing such sale or dispensing of wine by such person or association if the director is satisfied that said proceeds, after deducting reasonable expenses incurred in conjunction with the sale or dispensing thereof, will be donated for such benevolent, charitable or public purpose. The director shall prescribe the form of the application for such permit, which application may require disclosure of names of sponsors; donors, quantities and types of wine products donated; the retailer, if any, designated by such person or association to receive, store or dispense donated wine; the dates and hours during which the permit is to be effective, not to exceed three (3) consecutive days; and such other information as the director may require. The director shall collect a twenty dollar (\$20.00) fee for the event for which the permit is to be effective. The director may require that the applicant submit a report to the director after the benevolent, charitable or public purpose event showing the disposition of funds from the event. Should the director determine that the applicant or its representatives is violating, or has in the past violated, any law pertaining to the dispensing or sale

of wine by a licensed retailer relating to hours of sale, or relating to dispensing wine to underaged persons, or has failed in the past to submit such information as may have been requested by the director, such permit may be summarily suspended by the director, prior to hearing, or may be denied pending a hearing. A licensed retailer may, on behalf of the permittee, receive or store wine to be used at the event, and may dispense such wine to attendees of the benevolent, charitable or public purpose event for which the permit has been issued.

SECTION 3. That Section 23-905, Idaho Code, be, and the same is hereby amended to read as follows:

23-905. APPLICATION FOR LICENSES -- PENALTY FOR FALSE STATEMENTS. Prior to the issuance of a license as herein provided, the applicant shall file with the director an application, in writing, signed by the applicant and containing such information and statements relative to the applicant and the premises where the liquor is to be sold as may be required by the director. The application shall be verified by the affidavit of the person making the same before a person authorized to administer oaths and shall be accompanied with the license fee herein required.

In addition to setting forth the qualifications required by other provisions of this act, the application must show:

(a1) A detailed description of the premises for which a license is sought and its location.

(b2) A detailed statement of the assets and liabilities of the applicant.

(c3) The names and addresses of all persons who will have any financial interest in any business to be carried on in and upon the licensed premises, whether such interest results from open loans, mortgages, conditional sales contracts, silent partnerships, trusts or any other basis than open trade accounts incurred in the ordinary course of business, and the amounts of such interests.

~~(d) If the premises to be licensed are not owned by the applicant, then a certified copy of the lease by which he will occupy the premises showing that the owner consents to the sale of liquor by the drink on such premises.~~

(e4) The name and address of the applicant, which shall include all members of a partnership or association and the officers, members of the governing board and ten (10) principal stockholders of a corporation.

(f5) A copy of the articles of incorporation and bylaws of any corporation, the articles of association and the bylaws of any association, or the articles of partnership of any partnership.

(g6) If during the period of any license issued hereunder any change shall take place in any of the requirements of subparagraphs (c3), (d4), or (e5), ~~or (f)~~ of this section, the licensee shall forthwith make a written report of such change to the director.

(h7) If during the period of any license issued hereunder the licensee seeks to move his business from one premise to another in the same city, he may do so subject to the director's approval that the new premise is suitable for the carrying on of the business.

If any false statement is made in any part of said application, or any subsequent report, the applicant, or applicants, shall be deemed guilty of a felony and upon conviction thereof shall be imprisoned in the state prison for not less than one (1) year nor more than five (5) years and fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or both such fine and imprisonment.

SECTION 4. That Section 23-1001, Idaho Code, be, and the same is hereby amended to read as follows:

23-1001. DEFINITIONS. As used in this chapter:

(a) The word "beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and/or other ingredients in drinkable water.

(b) The word "person" includes any individual, firm, copartnership, association, corporation or any group or combination acting as a unit, and the plural as well as the singular number unless the intent to give a more limited meaning is disclosed by the context.

(c) The term "dealer" shall include any person who imports beer into this state for sale or produces or manufactures beer in the state for sale.

(d) The word "retailer" means any person engaged in the sale or distribution of beer to the consumer.

(e) The word "director" means the director of the department of law enforcement.

(f) The word "brewer" means any person having a factory or an establishment adapted for the making of beer.

(g) The word "wholesaler" means any person having a store or establishment for the wholesale and distribution of beer in wholesale or jobbing quantities to retailers.

(h) The word "package" means any container of bottled beer of not less than two (2) gallons capacity or keg of not less than four (4) gallons capacity.

(i) The word "carrier" means any person as herein defined who by any means transports beer in or into the state of Idaho.

(j) The word "premises" means the building and contiguous property owned, or leased or used under government permit by a licensee as part of the business establishment in the business of sale of beer at retail, which property is improved to include decks, docks, boardwalks, lawns, gardens, golf courses, ski resorts, courtyards, patios, poolside areas or similar improved appurtenances in which the sale of beer at retail is authorized under the provisions of law.

(k) "Certificate of approval" means a license issued to a ~~brewer whose factory or establishment adapted for the making of beer is situated~~ person whose business is located outside of the state of Idaho, or a license issued to a foreign wholesaler of beer who sells beer to wholesalers or brewers located within the state of Idaho.

SECTION 5. That Section 23-910, Idaho Code, be, and the same is hereby amended to read as follows:

23-910. PERSONS NOT QUALIFIED TO BE LICENSED. No license shall be

issued to:

~~a--An individual who has not been a bona fide resident of the state of Idaho for at least one (1) month next preceding the granting of such license; or to a partnership unless all members thereof have been residents of the state of Idaho for at least one (1) month; or to a corporation or association unless the same is organized under the laws of the state of Idaho or qualified under the laws of the state of Idaho to do business in this state and unless the principal officers and the members of the governing board are residents of the state of Idaho for at least one (1) month; except the officers and members of the governing board of a railroad or airline or a nonprofit corporation managed by members pursuant to the Idaho nonprofit corporation act, chapter 3, title 30, Idaho Code, need not be residents of the state of Idaho.~~

~~b--(1)~~ Any person, or any one (1) of its members, officers, or governing board, who has, within three (3) years prior to the date of making application, been convicted of any violation of the laws of the United States, the state of Idaho, or any other state of the United States, or of the resolutions or ordinances of any county or city of this state, relating to the importation, transportation, manufacture or sale of alcoholic liquor or beer; or who has been convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment or completed any sentence of confinement for any felony within five (5) years prior to the date of making application for any license.

~~c--(2)~~ A person who is engaged in the operation, or interested therein, of any house or place for the purpose of prostitution or who has been convicted of any crime or misdemeanor opposed to decency and morality.

~~d--(3)~~ A person whose license issued under this act has been revoked; an individual who was a member of a partnership or association which was a licensee under this act and whose license has been revoked; an individual who was an officer, member of the governing board or one (1) of the ten (10) principal stockholders of a corporation which was a licensee under this act and whose license has been revoked; a partnership or association one (1) of whose members was a licensee under this act and whose license was revoked; a corporation one (1) of whose officers, member of the governing board or ten (10) principal stockholders was a licensee under the provisions of this act and whose license has been revoked; an association or partnership, one (1) of whose members was a member of a partnership or association licensed under the provisions of this act and whose license has been revoked; a partnership or association, one (1) of whose members was an officer, a member of the governing board, or one (1) of the ten (10) principal stockholders of a corporation licensed under the provisions of this act and whose license has been revoked; a corporation, one (1) of whose officers, member of the governing board, or ten (10) principal stockholders was a member of a partnership or association licensed under the provisions of this act and whose license was revoked; a corporation, one (1) of whose officers, member of the governing board, or ten (10) principal stockholders was an officer, member of the governing board, or one (1) of the ten (10) principal stockholders of a corporation licensed under the provisions of this act and whose license

was revoked.

e-(4) Any officer, agent, or employee of any distillery, winery, brewery, or any wholesaler, or jobber, of liquor or malt beverages.

f-(5) A person who does not hold a retail beer license issued under the laws of the state of Idaho.

~~g--A person licensed under this act as a bartender and whose permit as bartender has been revoked--~~

h-(6) Any license, held by any licensee disqualified under the provisions of this section from being issued a license, shall forthwith be revoked by the director.

SECTION 6. That Section 23-1010, Idaho Code, be, and the same is hereby amended to read as follows:

23-1010. LICENSE TO SELL BEER AT RETAIL -- APPLICATION PROCEDURE AND FORM -- SHOWING OF ELIGIBILITY FOR LICENSE AND DISQUALIFICATIONS.

(1) Every person who shall apply for a state license to sell beer at retail shall tender the license fee to, and file written application for license with, the director. The application shall be on a form prescribed by the director which shall require such information concerning the applicant, the premises for which license is sought and the business to be conducted thereon by the applicant as the director may deem necessary or advisable, and which shall enable the director to determine that the applicant is eligible and has none of the disqualifications for license, as provided for in this section. Such information shall include the following:

(a) The name and place of residence of the applicant and length of his residence within the state of Idaho, and if the applicant is a partnership, the names, places of residence and lengths of residence within the state of Idaho of each partner, and, if the applicant is a corporation or association, the date and place of incorporation or organization, the location of its principal place of business in Idaho and the names and places of residence of its officers, directors or members of its governing board, and of the person who manages or will manage the business of selling beer at retail;

(b) The particular place for which the license is desired, designating the same by a street and number, if practicable, or by such other apt description as definitely locates such place, and the name of the owner of the premises for which license is sought;

(2) The application shall affirmatively show:

(a) That the applicant is the bona fide owner of the business which will be engaged in the sale of beer at retail and with respect to which license is sought;

(b) That the condition of the place or building wherein it is proposed to sell beer at retail conforms to all laws and regulations of the state of Idaho and to the ordinances of the county and municipality applicable thereto relating to public health and safety and to the zoning ordinances of the municipality applicable thereto;

(c) That there is no stamp or permit outstanding and in force which has been issued to any person by the United States government for the premises for which license to sell beer at retail is

sought which stamp or permit denotes payment of any special tax imposed by the United States government on a retail dealer in liquor or wines, unless said premises are premises for which a retail license for sale of liquor by-the-drink, issued under the provisions of chapter 9, title 23, Idaho Code, is in force and effect;

(d) That the individual applicant, or each partner of a partnership applicant, or, ~~with respect to~~ a corporation applicant or an association, ~~that it~~ applicant is qualified to do business within the state of Idaho and ~~that the person who is or will be the manager of the corporation's or association's business of selling beer at retail; further, that such individual applicant, at least one (1) of the partners of the partnership applicant, and said manager of the corporation or association applicant, shall have been a bona fide resident of the state of Idaho for at least thirty (30) days prior to the date of application;~~

(e) That the applicant, if an individual, is not less than nineteen (19) years of age;

(f) That within three (3) years immediately preceding the date of filing the application the applicant has not been convicted of the violation of any law of the state of Idaho, any other state, or of the United States, regulating, governing or prohibiting the sale, manufacture, transportation or possession of alcoholic beverages or intoxicating liquors, or, within said time, suffered the forfeiture of a bond for failure to appear in answer to charges of any such violation;

(g) That within five (5) years immediately preceding the date of filing the application the applicant has not been convicted of any felony or paid any fine or completed any sentence of confinement therefor within said time;

(h) That within three (3) years next preceding the date of filing said application the applicant has not had any license provided for herein, or any license or permit issued to the applicant pursuant to the law of this state, or any other state, or of the United States, to sell, manufacture, transport or possess alcoholic beverages or intoxicating liquors, revoked.

(3) The affirmative showing required with respect to an applicant under (e), (f), (g), and (h) of subsection (2) of this section shall also be required to be made with respect to each partner of a partnership applicant and to each incumbent officer, director or member of the governing board of a corporation or association applicant, ~~and to each person then employed by an applicant whose duties include the serving or dispensing of beer.~~

(4) The application must be subscribed and sworn to by the individual applicant, or by a partner of a partnership applicant, or by an officer or manager of a corporation or association applicant, before a notary public or other person authorized by law to administer oaths.

(5) If an applicant shall be unable to make any affirmative showing required in this section or if an application shall contain a false material statement, knowingly made, the same shall constitute a disqualification for license and license shall be refused. If license is received on any application containing a false material statement, knowingly made, such license shall be revoked. If at any time during

the period for which license is issued a licensee becomes unable to make the affirmative showings required by this section license shall be revoked, or, if disqualification can be removed, the license shall be suspended until the same shall be removed. The procedure to be followed upon refusal, revocation or suspension of license as herein provided for shall be in accordance with the procedure set forth in this act.

(6) All licenses issued hereunder shall expire at 1:00 o'clock A.M. on January 1 of the following year and shall be subject to renewal upon proper application.

SECTION 7. That Section 23-1307, Idaho Code, be, and the same is hereby amended to read as follows:

23-1307. QUALIFICATIONS FOR RETAIL WINE LICENSE, WINE BY THE DRINK LICENSE, AND DISTRIBUTOR'S LICENSE. No retail wine license, wine by the drink license, or wine distributor's license shall be issued to an applicant who at the time of making the application:

~~(a) If an individual, has not resided within the state of Idaho for a period of thirty (30) days immediately prior to making the application;~~

~~(b) If a partnership, does not include at least one (1) member thereof who has resided within the state of Idaho for a period of at least thirty (30) days;~~

(c₁) If a corporation, has not qualified as required by law to do business in the state of Idaho;

(d₂) Has had a wine distributor's license, retail wine license, wine by the drink license, or wine importer's license, revoked by the director within three (3) years from the date of making such application;

(e₃) Has been convicted of a violation of the laws of this state or of the United States governing the sale of alcoholic beverages, wine, or beer, within three (3) years from the date of making such application;

(f₄) Has been convicted of a felony or been granted a withheld judgment following an adjudication of guilt of a felony within five (5) years from the date of making such application;

(g₅) If an individual or partnership, either the individual or at least one (1) of the partners of a partnership is not nineteen (19) years of age or older;

(h₆) If the application is for a retail wine license or wine by the drink license, the director finds that the applicant does not possess a retail beer license issued by the director, except that licensed wineries which do not sell wine by the drink shall not be required to possess a retail beer license as a prerequisite to a retail wine license.

SECTION 8. That Section 23-1005, Idaho Code, be, and the same is hereby amended to read as follows:

23-1005. QUALIFICATIONS OF LICENSEES. No license shall issue to an applicant for a dealer's or wholesaler's license unless the applicant, ~~if an individual, or at least one (1) of the partners, if a~~

~~partnership, shall have been a resident of the state of Idaho for at least one (1) year prior to application; nor if the applicant be a corporation, unless such corporation is authorized to do business within the state of Idaho; nor shall such license be issued to an applicant whose license, or the license of any partner, has been revoked within two (2) years; nor to an applicant who, or if a partnership any partner of whom, has been convicted of any violation of any law of Idaho or of the United States regulating, governing, or prohibiting the sale of alcoholic beverages or intoxicating liquor. Any such license issued shall be revoked if the licensee ceases to have the qualifications, or acquires the disqualifications, in this section provided.~~

SECTION 9. That Section 23-1035, Idaho Code, be, and the same is hereby amended to read as follows:

~~23-1035. RETAILER'S SIGNS. (1) No licensed retailer shall display more than two (2) illuminated signs authorized under the provisions of section 23-1033(1)(c), Idaho Code, in the windows of such licensed retailer's premises:~~

~~(2) Except as provided in section 23-1033(1)(c)(iii), Idaho Code, it shall be unlawful for any licensed retailer to display or permit the display within his premises of more than one (1) illuminated sign authorized under the provisions of said section 23-1033(1)(c), Idaho Code, referring to the same brand of beer or brewer. It shall be unlawful for any licensed retailer to display or permit the display within his premises of more than two (2) illuminated signs permitted under the provisions of section 23-1033(1)(c)(ii) and (iii), Idaho Code, which refer to brands of beer manufactured by the same brewer.~~

(3) Signs indicating that beer is sold or dispensed on any particular premises shall be displayed only on the exterior portion of the building where the licensed retailer shall carry on his business of selling beer at retail or on property on which any such building is situated and which is owned or possessed by such retailer as a part of his business premises. No more than two (2) single-faced signs or one (1) double-faced sign indicating that beer is sold or dispensed on the premises shall be displayed on such building or property. No dimension of any such sign shall exceed sixty (60) inches and the area of each face of a double-faced and of each single-faced sign shall not exceed fifteen hundred (1,500) square inches measured in such manner as the director may by regulation prescribe. No such sign shall display or make reference to the name of any brewer or the trade name, trademark or label of any brand of beer.

Approved February 11, 1994.

CHAPTER 15
(H.B. No. 498)

AN ACT
RELATING TO THE DEPARTMENT OF SELF-GOVERNING AGENCIES; AMENDING SEC-

TION 67-2601, IDAHO CODE, TO UPDATE THE LIST OF PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS WITHIN THE DEPARTMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-2602, IDAHO CODE, TO UPDATE THE LIST OF AGENCIES FOR WHICH THE BUREAU OF OCCUPATIONAL LICENSES PROVIDES SERVICES; AND AMENDING SECTION 67-2614, IDAHO CODE, TO ELIMINATE THE GRACE PERIOD FOR RENEWAL OF LICENSES.

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

SECTION 1. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601. DEPARTMENT CREATED -- ORGANIZATION -- DIRECTOR -- BUREAU OF OCCUPATIONAL LICENSES CREATED. (1) There is hereby created the department of self-governing agencies. The department shall, for the purposes of section 20, article IV of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall consist of the following:

(a) agricultural commodity commissions: Idaho apple commission, as provided by chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho Code; Idaho cherry commission, as provided by chapter 37, title 22, Idaho Code; Idaho dairy products commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea and lentil commission, as provided by chapter 35, title 22, Idaho Code; Idaho potato commission, as provided by chapter 12, title 22, Idaho Code; Idaho prune commission, as provided by chapter 30, title 22, Idaho Code; and the Idaho wheat commission, as provided by chapter 33, title 22, Idaho Code; and,

(b) professional and occupational licensing boards: Idaho state board of certified public accountancy, as provided by chapter 2, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; office of the state athletic director, as provided by chapter 4, title 54, Idaho Code; board of barber examiners, as provided by chapter 5, title 54, Idaho Code; board of commissioners of the Idaho state bar, as provided by chapter 4, title 3, Idaho Code; board of chiropractic examiners physicians, as provided by chapter 7, title 54, Idaho Code; Idaho board of cosmetology, as provided by chapter 8, title 54, Idaho Code; Idaho counselor licensing board, as provided by chapter 34, title 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code; state board of dentistry, as provided by chapter 33, title 54, Idaho Code; state board of engineering examiners, as provided by chapter 12, title 54, Idaho Code; board of environmental health specialists examiners, as provided by chapter 24, title 54, Idaho Code; state board for registration of professional geologists, as provided by chapter 28, title 54, Idaho Code; board of hearing aid dealers and fitters, as provided by chapter 29, title 54, Idaho Code; Idaho state board of landscape architects, as provided by chapter 30, title 54, Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code, and its associated physical

therapist advisory board, as provided by chapter 22, title 54, Idaho Code; state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of nurses, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing home administrators, as provided by chapter 16, title 54, Idaho Code; state board of optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23, title 54, Idaho Code; public works contractors licensing board, as provided by chapter 19, title 54, Idaho Code; Idaho real estate commission, as provided by chapter 20, title 54, Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho Code; board of social work examiners, as provided by chapter 32, title 54, Idaho Code; ~~and;~~ the board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; and; the board of examiners of residential care facility administrators, as provided by chapter 42, title 54, Idaho Code.

(3) The bureau of occupational licenses is hereby created within the department of self-governing agencies.

SECTION 2. That Section 67-2602, Idaho Code, be, and the same is hereby amended to read as follows:

67-2602. BUREAU OF OCCUPATIONAL LICENSES. The bureau of occupational licenses created in the department of self-governing agencies by section 67-2601, Idaho Code, shall be empowered, by written agreement between the bureau and each agency for which it provides administrative or other services as provided by law, to provide such services for the board of architectural examiners, board of barber examiners, board of chiropractic ~~examiners~~ physicians, board of cosmetology, counselor licensing board, board of environmental health specialist examiners, state board of dentistry, board of hearing aid dealers and fitters, board of landscape architects, board of morticians, board of examiners of nursing home administrators, board of optometry, board of podiatrists, board of psychologist examiners, real estate appraiser board, board of examiners of residential care facility administrators, board of social work examiners and such other professional and occupational licensing boards or commodity commissions as may request such services. The bureau may charge a reasonable fee for such services provided any agency not otherwise provided for by law and shall maintain proper accounting methods for all funds under its jurisdiction.

SECTION 3. That Section 67-2614, Idaho Code, be, and the same is hereby amended to read as follows:

67-2614. RENEWAL OR REINSTATEMENT OF LICENSE. All persons required to procure licenses from the bureau of occupational licenses as a prerequisite for engaging in a trade, occupation, or profession must annually renew the same on by July first of each year. In case of failure so to renew a license, the bureau shall immediately cancel

the same, ~~October first~~, following the date of delinquency: provided, however, that the bureau may reinstate any license canceled for failure to renew the same on payment of twenty-five dollars (\$25.00), together with all fees delinquent at the time of cancellation and the renewal fee for each year thereafter up to the time of reinstatement.

Provided further, that where a license has been canceled for a period of more than five (5) years, the person so affected shall be required to make application to the bureau, using the same forms and furnishing the same information as required of a person originally applying for a license, and pay the same fee that is required of a person taking the examination in the particular profession in which said person holds a canceled Idaho license. Said applicant shall appear in person before the bureau at any regular or special meeting for an examination, the nature of which shall be determined by the bureau. If after an examination, the bureau is of the opinion that the person examined is the bona fide holder of the canceled license, is of good moral character and, if found capable of again practicing in this state the profession for which the original or canceled license was granted, the license shall be reinstated and the holder thereof entitled to practice subject to the laws of this state.

Approved February 11, 1994.

CHAPTER 16
(H.B. No. 499)

AN ACT

RELATING TO PSYCHOLOGISTS; AMENDING SECTION 54-2307, IDAHO CODE, TO PROVIDE THAT THE FEE FOR EXAMINATION AND REEXAMINATION SHALL BE EQUAL TO THAT CHARGED BY THE NATIONAL EXAMINING ENTITY, TO AUTHORIZE THE BOARD OF PSYCHOLOGIST EXAMINERS TO CHARGE A PROCESSING FEE OF TWENTY-FIVE DOLLARS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-2307, Idaho Code, be, and the same is hereby amended to read as follows:

54-2307. QUALIFICATIONS FOR LICENSE -- APPLICANTS FOR WHOM AN EXAMINATION MAY BE REQUIRED. An applicant shall be qualified for a license to practice psychology provided he submits proof satisfactory to the board that:

- (a) He is of acceptable moral character; and
- (b) He is either (1) a graduate of an accredited college or university holding a degree of doctor of philosophy in psychology plus two (2) years of post graduate experience acceptable to the board, such two (2) years not to include terms of internship, or (2) a graduate of a recognized college or university holding a doctoral degree in a field related to psychology, provided his experience and training are acceptable to the board; and
- (c) He has passed an examination if such examination is required

by the rules and regulations duly adopted by the board; and

(d) His application has been accompanied by an application fee as established by board rules and regulations not to exceed two hundred dollars (\$200), and when an examination is required an examination fee ~~as established by board rules and regulations not to exceed two hundred dollars (\$200)~~ equal to that charged by the national examining entity plus a processing fee of twenty-five dollars (\$25.00) payable to the chief. The fee for re-examination shall be ~~a fee as established by board rules and regulations not to exceed two hundred dollars (\$200)~~ equal to that charged by the national examining entity plus a processing fee of twenty-five dollars (\$25.00). The application fee, examination fee and the re-examination fee are not returnable refundable.

Approved February 11, 1994.

CHAPTER 17
(H.B. No. 501)

AN ACT

RELATING TO ARCHITECTS; AMENDING SECTION 54-304, IDAHO CODE, TO PROVIDE THAT THE FEE FOR EXAMINATION AND REEXAMINATION SHALL BE EQUAL TO THAT CHARGED BY THE NATIONAL EXAMINING ENTITY, TO AUTHORIZE THE BOARD OF ARCHITECTURAL EXAMINERS TO CHARGE A PROCESSING FEE OF TWENTY-FIVE DOLLARS AND TO CORRECT A SPELLING ERROR.

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

SECTION 1. That Section 54-304, Idaho Code, be, and the same is hereby amended to read as follows:

54-304. FEES -- ISSUANCE OF LICENSES. Every person applying for examination for a license under this chapter shall pay a fee ~~of not to exceed five hundred dollars (\$500)~~ equal to that charged by the national examining entity plus a processing fee of twenty-five dollars (\$25.00) to the bureau of occupational licenses. In case the applicant fails to ~~quality~~ qualify, said fee shall be retained by the bureau to cover the necessary expenses of said examination. If the result of the examination of any applicant shall be satisfactory to the board, under its rules, it shall issue to such applicant a certificate setting forth the fact that he is a licensed architect and authorized to practice his profession in this state. The fee for reexamination shall ~~not exceed five hundred dollars (\$500)~~ be equal to that charged by the national examining entity plus a processing fee of twenty-five dollars (\$25.00). The fee for obtaining a license under the provisions of subsection 1 of section 54-302A, Idaho Code, shall be an amount not to exceed two hundred dollars (\$200). The fee for permission under subsection 2 of section 54-302A, Idaho Code, shall be an amount not to exceed two hundred dollars (\$200). The annual fee for renewal of a license shall be an amount not to exceed one hundred dollars (\$100), which shall be paid to the bureau. The fee for reinstatement of any

license shall be as provided in section 67-2614, Idaho Code. The board shall adopt ~~the~~ fees by rule.

Approved February 11, 1994.

CHAPTER 18
(H.B. No. 551)

AN ACT

RELATING TO THE BEE INSPECTION LAW; AMENDING SECTION 22-2518, IDAHO CODE, TO DEFINE "EXOTIC STRAIN OF BEES" AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 22-2520, IDAHO CODE, TO PROVIDE AUTHORITY TO THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE TO PROMULGATE RULES TO PREVENT AND CONTROL THE MOVEMENT OF EXOTIC STRAINS OF BEES.

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

SECTION 1. That Section 22-2518, Idaho Code, be, and the same is hereby amended to read as follows:

22-2518. DEFINITIONS. The following terms shall be construed respectively when used in this act to mean:

(1) "Apiary" any place where one or more colonies of bees are kept, or one or more hives containing honey combs or bee combs are kept.

(2) "Bee diseases" means a condition of a colony of bees wherein sufficient numbers of individual bees are afflicted by or infested with bacterial, fungal, viral, parasitic, or other organisms to the extent that the well-being of the colony is affected. Specific diseases shall be determined by regulation.

(3) "Bees" any stage of common honey bee, *Apis mellifera* L.

(4) "Colony" the hive and bees therein with or without extra supers.

(5) "Comb" includes all materials which are normally deposited into hives by bees. It does not include extracted honey or royal jelly, trapped pollen and processed beeswax.

(6) "Commercial beekeeper" a person engaged in the management of honey bees for their products and for pollination services.

(7) "Director" the director of the Idaho department of agriculture or his designated agent.

(8) "Equipment" hives, supers, frames, veils, gloves or any apparatus, tools, machines or other devices used in the handling and manipulation of bees, wax and hives, and shall also include any containers for honey and wax which may be used in any apiary or in transporting bees and their products and apiary supplies.

(9) "Exotic strain of bees" means African or Africanized bees (*Apis mellifera scutellata*) or any other developed strain of bees known to be harmful, but not known to be present ordinarily in this state.

(10) "Hive" frame, hive, box, barrel, log gum, skep, or any other

receptacle or container, natural or artificial, or any part thereof, which may be used as a domicile for bees.

(101) "Hobbyist beekeeper" a person engaged in the management of honey bees for pleasure and whose stock does not exceed fifty (50) colonies.

(112) "Persons" individuals, associations, partnerships and corporations.

(123) "Qualified bistate beekeeper" a person who is a bona fide registered beekeeper and resident of and taxpayer of the state of Idaho, owning a bee yard or bee yards in both Idaho and another state, whose headquarters are in the state of Idaho.

(134) "Queen apiary" any apiary or premises in which queen bees are reared or kept for sale or gift.

SECTION 2. That Section 22-2520, Idaho Code, be, and the same is hereby amended to read as follows:

22-2520. DUTIES OF THE DIRECTOR IN CONTROLLING THE SPREAD OF DISEASE AND EXOTIC STRAIN OF BEES. When the director shall be notified of the existence in any apiary of ~~the disease known as foulbrood or any other~~ a transmissible bee disease or pest of exotic strain of bees or items prohibited in section 22-2521, Idaho Code, he shall conduct appropriate investigations to the extent that the resources provided by this act support. If the investigation establishes the presence of such transmissible disease or pest exotic strain of bees, the director shall may order abatement by methods which he shall prescribe. These methods may include destruction of the infested bees or exotic strain of bees and contaminated equipment. Infested colonies or other equipment may not be removed from the premises on which they are found without written permission of the director. The director may, by regulation rule, establish tolerances of regulated bee diseases allowable in apiaries and establish a certification program for beekeepers in order to prevent and control the movement of exotic strains of bees into the state.

Approved February 11, 1994.

CHAPTER 19
(H.B. No. 598)

AN ACT

APPROPRIATING MONEYS TO THE STATE AUDITOR IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 368, LAWS OF 1993; REPEALING SECTION 3, CHAPTER 115, LAWS OF 1993; EXPRESSING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 1, Chapter 368, Laws of 1993, there is hereby appropriated to the State Auditor, the following amounts, to be expended for the designated pro-

grams according to the designated expense classes from the listed funds for the period July 1, 1993, through June 30, 1994:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|----------------|
| A. STATEWIDE ACCOUNTING AND PAYROLL: | | | | |
| FROM: | | | | |
| Professional Services Fund | \$19,400 | \$159,900 | \$11,500 | \$190,800 |
| General Fund | | <u>105,100</u> | | <u>105,100</u> |
| TOTAL | \$19,400 | \$265,000 | \$11,500 | \$295,900 |
| B. ADMINISTRATIVE RULES: | | | | |
| FROM: | | | | |
| General Fund | | \$175,000 | | \$175,000 |
| GRAND TOTAL | | | | |
| | \$19,400 | \$440,000 | \$11,500 | \$470,900 |

SECTION 2. That Section 3, Chapter 115, Laws of 1993, be, and the same is hereby repealed. The legislative intent of this repeal is that the sum of \$150,000, transferred from the General Fund to the Administrative Code Fund, need not be repaid to the General Fund.

SECTION 3. It is legislative intent that, in the future, the State Auditor contract and pay an independent accountant for auditing the operations of the Office of the State Auditor whenever the State Auditor deems it necessary.

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

Approved February 11, 1994.

CHAPTER 20
(H.B. No. 604)

AN ACT

APPROPRIATING GENERAL FUND MONEYS TO THE WATER RESOURCE REVOLVING DEVELOPMENT FUND FOR FISCAL YEAR 1994; APPROPRIATING ADDITIONAL GENERAL FUNDS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1994; 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 for deposit in the Water Resource Revolving Development Fund the sum of \$500,000.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 355, Laws of 1993, there is hereby appropriated to the Depart-

ment of Water Resources the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 1993, through June 30, 1994:

MANAGEMENT AND SUPPORT SERVICES:

FROM:

General Fund \$6,000

FOR:

Capital Outlay \$6,000

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

Approved February 11, 1994.

CHAPTER 21
(H.B. No. 528)

AN ACT

RELATING TO ELECTIONS AND ELECTIONEERING AT POLLS; AMENDING SECTION 34-1006, IDAHO CODE, TO PROVIDE THAT ELECTIONEERING SHALL NOT BE PERMITTED AT A LOCATION WHERE ABSENTEE VOTING IS TAKING PLACE.

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

SECTION 1. That Section 34-1006, Idaho Code, be, and the same is hereby amended to read as follows:

34-1006. COUNTY CLERKS SHALL PROVIDE AN "ABSENT ELECTORS' VOTING PLACE." Each county clerk shall provide an "absent electors' polling place." It shall be provided with voting booths and other necessary supplies as provided by law. Electioneering is prohibited at an "absent electors' polling place" as provided in section 18-2318, Idaho Code.

Approved February 15, 1994.

CHAPTER 22
(H.B. No. 613)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC HEALTH TRUST FUND FOR THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 1994; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 324, Laws of 1993, there is hereby appropriated \$586,300 from

the General Fund to be deposited in the Public Health Trust Fund for the period July 1, 1993, through June 30, 1994.

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

Approved February 15, 1994.

CHAPTER 23
(S.B. No. 1357)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF REVENUE AND TAXATION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 366, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 366, Laws of 1993, there is hereby appropriated to the Department of Revenue and Taxation the following amounts, to be expended for the designated programs according to designated expense classes from the listed funds for the period July 1, 1993, through June 30, 1994:

| | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|---|----------------------------------|--------------------------|--------------|
| A. MANAGEMENT SERVICES: | | | |
| FROM: | | | |
| General Fund | | \$24,200 | \$24,200 |
| Administration and Accounting - Services to Transportation Fund | | <u>2,200</u> | <u>2,200</u> |
| TOTAL | | \$26,400 | \$26,400 |
| B. AUDIT AND COLLECTIONS: | | | |
| FROM: | | | |
| Administration and Accounting Fund | \$40,600 | | \$40,600 |
| C. COUNTY SUPPORT: | | | |
| FROM: | | | |
| Seminars and Publications Fund | \$ 5,800 | | \$ 5,800 |
| GRAND TOTAL | \$46,400 | \$26,400 | \$72,800 |

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

Approved February 17, 1994.

CHAPTER 24
(S.B. No. 1360)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 383, LAWS OF 1993; PROVIDING FOR TRANSFER OF GENERAL FUNDS TO THE PEST CONTROL DEFICIENCY FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 383, Laws of 1993, there is hereby appropriated to the Department of Agriculture the following amounts to be expended for the designated programs according to the designated expense classes from the listed fund for the period July 1, 1993, through June 30, 1994:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | TOTAL |
|-------------------------------|---------------------------|----------------------------------|-----------|
| A. PLANT INDUSTRIES: FROM: | | | |
| General Fund | \$27,700 | \$67,000 | \$ 94,700 |
| B. SHEEP COMMISSION: FROM: | | | |
| General Fund | \$ 8,000 | | \$ 8,000 |
| GRAND TOTAL | \$35,700 | \$67,000 | \$102,700 |

SECTION 2. The general funds appropriated for Plant Industries in Section 1 of this act shall be transferred by the State Auditor to the Pest Control Deficiency Fund upon request of the Director of the Department of Agriculture.

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

Approved February 17, 1994.

CHAPTER 25
(S.B. No. 1291)

AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1612, IDAHO CODE, TO DEFINE A THOROUGH SYSTEM OF PUBLIC SCHOOLS; AND AMENDING SECTION 33-512, IDAHO CODE, TO CLARIFY AUTHORITY OF THE BOARD OF TRUSTEES OF EACH SCHOOL DISTRICT FOR GOVERNANCE OF THE SCHOOL DISTRICT.

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

SECTION 1. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1612, Idaho Code, and to read as follows:

33-1612. THOROUGH SYSTEM OF PUBLIC SCHOOLS. The constitution of the state of Idaho, section 1, article IX, charges the legislature with the duty to establish and maintain a general, uniform and thorough system of public, free common schools. In fulfillment of this duty, the people of the state of Idaho have long enjoyed the benefits of a public school system, supported by the legislature, which has recognized the value of education to the children of this state.

In continuing recognition of the fundamental duty established by the constitution, the legislature finds it in the public interest to define thoroughness and thereby establish the basic assumptions which govern provision of a thorough system of public schools.

A thorough system of public schools in Idaho is one in which:

1. A safe environment conducive to learning is provided;
2. Educators are empowered to maintain classroom discipline;
3. The basic values of honesty, self-discipline, unselfishness, respect for authority and the central importance of work are emphasized;
4. The skills necessary to communicate effectively are taught;
5. A basic curriculum necessary to enable students to enter academic or vocational post secondary educational programs is provided;
6. The skills necessary for students to enter the work force are taught;
7. The students are introduced to current technology; and
8. The importance of students acquiring the skills to enable them to be responsible citizens of their homes, schools and communities is emphasized.

The state board shall adopt rules, pursuant to the provisions of chapter 52, title 67, Idaho Code, and section 33-105(3), Idaho Code, to establish a thorough system of public schools with uniformity as required by the constitution, but shall not otherwise impinge upon the authority of the board of trustees of the school districts. Authority to govern the school district, vested in the board of trustees of the school district, not delegated to the state board, is reserved to the board of trustees. Fulfillment of the expectations of a thorough system of public schools will continue to depend upon the vigilance of district patrons, the dedication of school trustees and educators, the responsiveness of state rules, and meaningful oversight by the legislature.

SECTION 2. That Section 33-512, Idaho Code, be, and the same is hereby amended to read as follows:

33-512. GOVERNANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties:

1. To fix the days of the year and the hours of the day when schools shall be in session. However:

(a) Each school district shall annually adopt and implement a

school calendar which provides its students at each grade level with the following minimum number of instructional hours:

| Grades | Hours |
|--------|-------|
| 9-12 | 990 |
| 4-8 | 900 |
| 1-3 | 810 |
| K | 450 |

(b) School assemblies, testing and other instructionally related activities involving students directly may be included in the required instructional hours.

(c) When approved by a local school board, annual instructional hour requirements stated in paragraph (a) may be reduced as follows:

(i) Up to a total of twenty-two (22) hours to accommodate staff development activities.

(ii) Up to a total of eleven (11) hours of emergency school closures due to adverse weather conditions and facility failures.

However, transportation to and from school, passing times between classes, noninstructional recess and lunch periods shall not be included.

(d) Student and staff activities related to the opening and closing of the school year, grade reporting, program planning, staff meetings, and other classroom and building management activities shall not be counted as instructional time or in the reductions provided in paragraph (c)(1).

(e) For multiple shift programs, this rule applies to each shift (i.e., each student must have access to the minimum annual required hours of instructions).

(f) The instructional time requirement for grade 12 students may be reduced by action of a local school board for an amount of time not to exceed eleven (11) hours of instructional time.

(g) The state superintendent of public instruction may grant an exemption from the provisions of this section for an individual building within a district, when the closure of that building, for unforeseen circumstances, does not affect the attendance of other buildings within the district.

2. To adopt and carry on, and provide for the financing of, a total educational program for the district. Such programs in other than elementary school districts may include education programs for out-of-school youth and adults; and such districts may provide classes in kindergarten;

3. To provide, or require pupils to be provided with, suitable textbooks and supplies, and for advice on textbook selections may appoint a textbook adoption committee as provided in section 33-512A, Idaho Code;

4. To protect the morals and health of the pupils;

5. To exclude from school, children not of school age;

6. To prescribe rules for the disciplining of unruly or insubordinate pupils, such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year to the teachers and students in the district in a manner consistent with the

student's age, grade and level of academic achievement;

7. To exclude from school, pupils with contagious or infectious diseases who are diagnosed or suspected as having a contagious or infectious disease or those who are not immune and have been exposed to a contagious or infectious disease; and to close school on order of the state board of health or local health authorities;

8. To equip and maintain a suitable library or libraries in the school or schools and to exclude therefrom, and from the schools, all books, tracts, papers, and catechisms of sectarian nature;

9. To determine school holidays. Any listing of school holidays shall include not less than the following: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, and Christmas Day. Other days listed in section 73-108, Idaho Code, if the same shall fall on a school day, shall be observed with appropriate ceremonies; and any days the state board of education may designate, following the proclamation by the governor, shall be school holidays;

10. To erect and maintain on each schoolhouse or school grounds a suitable flagstaff or flagpole, and display thereon the flag of the United States of America on all days, except during inclement weather, when the school is in session; and for each Veterans Day, each school in session shall conduct and observe an appropriate program of at least one (1) class period remembering and honoring American veterans;

11. To prohibit entrance to each schoolhouse or school grounds, to prohibit loitering in schoolhouses or on school grounds and to provide for the removal from each schoolhouse or school grounds of any individual or individuals who disrupt the educational processes or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils. A person who disrupts the educational process or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils or who loiters in schoolhouses or on school grounds, is guilty of a misdemeanor.

12. To supervise and regulate, including by contract with established entities, those extra-curricular activities which are by definition outside of or in addition to the regular academic courses or curriculum of a public school, and which extra-curricular activities shall not be considered to be a property, liberty or contract right of any student, and such extra-curricular activities shall not be deemed a necessary element of a public school education, but shall be considered to be a privilege.

13. To govern the school district in compliance with state law and rules of the state board of education.

Approved February 18, 1994.

CHAPTER 26
(H.B. No. 493)

AN ACT

RELATING TO THE DEFINITION OF RESIDENT AND PROOF OF RESIDENCY FOR HUNTING AND FISHING LICENSES; AMENDING SECTION 36-202, IDAHO CODE, TO CLARIFY THE DEFINITION OF RESIDENT.

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

SECTION 1. That Section 36-202, Idaho Code, be, and the same is hereby amended to read as follows:

36-202. DEFINITIONS. Whenever the following words appear in title 36, Idaho Code, and orders, rules and regulations promulgated by the Idaho fish and game commission or the director of the Idaho department of fish and game, they shall be deemed to have the same meaning and terms of reference as hereinafter set forth. The present tense includes the past and future tenses, and the future, the present.

(a) "Title" shall mean all of the fish and game laws and regulations promulgated pursuant thereto.

(b) "Commission" shall mean the Idaho fish and game commission. "Commissioner" shall mean a member of the Idaho fish and game commission.

(c) "Department" shall mean the Idaho department of fish and game.

(d) "Director" shall mean the director of the Idaho department of fish and game or any person authorized to act in his name.

(e) "Employee" shall mean any employee of the Idaho department of fish and game whose salary is paid entirely or in part by funds administered by the Idaho fish and game commission and whose appointment is made in accordance with the Idaho personnel commission act and related rules and regulations.

(f) "Person" shall mean an individual, partnership, corporation, company, or any other type of association, and any agent or officer of any partnership, corporation, company, or other type of association. The masculine gender includes the feminine and the neuter. The singular, the plural, and the plural, the singular.

(g) "Wildlife" shall mean any form of animal life, native or exotic, generally living in a state of nature.

(h) "Take" shall mean hunt, pursue, catch, capture, shoot, fish, seine, trap, kill, or possess or any attempt to so do.

(i) "Hunting" shall mean chasing, driving, flushing, attracting, pursuing, worrying, following after or on the trail of, shooting at, stalking, or lying in wait for, any wildlife whether or not such wildlife is then or subsequently captured, killed, taken, or wounded. Such term does not include stalking, attracting, searching for, or lying in wait for, any wildlife by an unarmed person solely for the purpose of watching wildlife or taking pictures thereof.

(j) "Fishing" shall mean any effort made to take, kill, injure, capture, or catch any fish or bullfrog.

(k) "Trapping" shall mean taking, killing, and capturing wildlife by the use of any trap, snare, deadfall, or other device commonly used to capture wildlife, and the shooting or killing of wildlife lawfully trapped, and includes all lesser acts such as placing, setting or staking such traps, snares, deadfalls, and other devices, whether or not such acts result in the taking of wildlife, and every attempt to take and every act of assistance to any other person in taking or attempting to take wildlife with traps, snares, deadfalls, or other devices.

(l) "Possession" shall mean both actual and constructive posses-

sion, and any control of the object or objects referred to; provided that wildlife taken accidentally and in a manner not contrary to the provisions of this title shall not be deemed to be in possession while being immediately released live back to the wild.

(m) "Possession limit" shall mean the maximum limit in number or amount of wildlife which may be lawfully in the possession of any person. "Possession limit" shall apply to wildlife being in possession while in the field or being transported to final place of consumption or storage.

(n) "Bag limit" shall mean the maximum number of wildlife which may be legally taken, caught, or killed by any one person for any particular period of time, as provided by order of the commission. The term "bag limit" shall be construed to mean an individual, independent effort and shall not be interpreted in any manner as to allow one (1) individual to take more than his "bag limit" toward filling the "bag limit" of another.

(o) "Buy" shall mean to purchase, barter, exchange, or trade and includes any offer or attempt to purchase, barter, exchange, or trade.

(p) "Sell" shall mean to offer or possess for sale, barter, exchange, or trade, or the act of selling, bartering, exchanging or trading.

(q) "Transport" shall mean to carry or convey or cause to be carried or conveyed from one place to another and includes an offer to transport, or receipt or possession for transportation.

(r) "Resident" shall mean any person who has been domiciled in this state, with a bona fide intent to make this his place of permanent abode, for a period of not less than six (6) months immediately preceding the date of application for any license, tag, or permit required under the provisions of this title or orders of the commission and who, when temporarily absent from this state, continues residency with intent to return, and who does not claim any resident privileges in any other state or country for any purpose. Such privileges include, but are not limited to: state where valid driver's license is issued; state of voter registration; state where resident state income taxes are filed; state where homeowner's tax exemption is granted. Provided that, until any such person has been continuously domiciled outside the state of Idaho for a sufficient period of time to qualify for resident hunting and fishing privileges in his new state of residence, said person shall be deemed not to have lost his residency in Idaho for the purposes of this title. Provided further that:

1. Idaho residents shall not lose their residency in Idaho if they are absent from the state for religious (not to exceed two (2) years) or full time educational (not to exceed five (5) years) purposes, full time to be defined by the educational institution attended, and do not claim residency or use resident privileges in any other state or country for any purpose.

2. Idaho residents who are in the military service of the United States and maintain Idaho as their official home-of--record state of residence as shown on their current leave and earnings statement, together with their spouse and children under eighteen (18) years of age living in the household, shall be eligible for the purchase of resident licenses.

3. A member of the military service of the United States or of a

foreign country, together with his spouse and children under eighteen (18) years of age residing in his household, who have been officially transferred, stationed, domiciled and on active duty in this state for a period of thirty (30) days last preceding application shall be eligible, as long as such assignment continues, to purchase a resident license.

4. Any person enrolled as a corpsman at a job corps center in Idaho shall be eligible, as long as he is so enrolled, to obtain a resident fishing license irrespective of his length of residence in this state.

5. Any foreign exchange student enrolled in an Idaho high school shall be eligible, as long as he is so enrolled, to obtain a resident fishing license irrespective of his length of residence in this state.

6. Any person who owns real property in the state of Idaho and who pays property tax in Idaho shall be subject to the resident definition herein provided.

(s) "Senior resident" shall mean any person who is over sixty-five (65) years of age and who has been a resident of the state of Idaho as hereinbefore provided for not less than five (5) years.

(t) "Nonresident" shall mean any person who does not qualify as a resident.

(u) "Order, rule, regulation" are all used interchangeably and each includes the others.

(v) "Blindness" shall mean sight that does not exceed 20/200 as provided by the administrative guidelines of section 56-213, Idaho Code.

(w) "Public highway" shall mean the traveled portion of, and the shoulders on each side of, any road maintained by any governmental entity for public travel, and shall include all bridges, culverts, overpasses, fills, and other structures within the limits of the right-of-way of any such road.

(x) "Motorized vehicle" shall mean any water, land or air vehicle propelled by means of steam, petroleum products, electricity, or any other mechanical power.

(y) "Commercial fish hatchery" shall mean any hatchery, pond, lake or stream or any other waters where fish are held, raised, or produced for sale but shall not include facilities used for the propagation of fish commonly considered as ornamental or aquarium varieties.

Approved February 22, 1994.

CHAPTER 27
(H.B. No. 533)

AN ACT
RELATING TO ATTACHMENTS AND GARNISHMENTS; AMENDING SECTION 8-507D, IDAHO CODE, TO ALLOW THE SHERIFF TO ACCOMPLISH PERSONAL SERVICE BY MAIL IN THE CASE OF GARNISHMENT.

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

SECTION 1. That Section 8-507D, Idaho Code, be, and the same is hereby amended to read as follows:

8-507D. DOCUMENTS TO BE PROVIDED BY PLAINTIFF -- DUTIES OF SHERIFF -- SERVICE AND MAILING CRITERIA -- TIME COMPUTATION. With respect to any attachment, garnishment or execution, the plaintiff shall provide the sheriff with sufficient copies of the writ and other documents required to be served for service on the defendant and each additional party identified in the plaintiff's written directions and shall provide an envelope addressed to each person required to be served. If the documents are to be mailed, proper postage shall be affixed. The sheriff shall not delay service for lack of sufficient copies or postage and shall make any additional copies and affix any additional postage necessary. The sheriff may charge the plaintiff for the actual costs of any additional copies and postage required, which costs shall be in addition to the fees permitted under section 31-3203, Idaho Code.

Personal service shall be accomplished in the same manner provided for service of summons under the Idaho rules of civil procedure. Provided however, the county sheriff shall have the option of accomplishing personal service by United States mail with a facsimile acknowledgment of such service by the employer, in the case of garnishments. Mailing shall be by first class mail. Unless otherwise provided to the contrary, the date when an item is deposited in the United States mails shall constitute the date of mailing and service where service by mail is permitted. In computing any period of time within which an act is to be accomplished, the day of the act after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it falls on a weekend or legal holiday, in which event the period runs until the close of business of the first business day after the weekend or holiday, except that this provision shall not extend the time within which hearing on a motion to contest a claim of exemption or third party claim must be set as provided in section 8-540, Idaho Code, and section 11-203, Idaho Code.

The sheriff shall not be required to investigate or assure the accuracy and completeness of the addresses of the parties to be served or any other information provided by the plaintiff.

Approved February 22, 1994.

CHAPTER 28
(H.B. No. 534)

AN ACT
RELATING TO COUNTY JAILS; AMENDING SECTION 20-614, IDAHO CODE, TO PROVIDE THAT COUNTIES, WITH COURT APPROVAL, MAY CHARGE AN INMATE FOR THE COST OF CONFINEMENT WHEN CONFINEMENT IS FOR NONEMPLOYMENT DAYS ONLY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 20-614, Idaho Code, be, and the same is hereby amended to read as follows:

20-614. PRISONERS MUST BE ACTUALLY CONFINED EXCEPT ON ORDER OF COURT FOR PRIVATE EMPLOYMENT. 1. A prisoner committed to the county jail by any court for trial or examination, or upon conviction for a public offense, must be confined in the jail until he is legally discharged unless the court specifies otherwise.

2. If the committed person has been regularly employed, the sheriff shall, if ordered by the committing judge, arrange for a continuation of said employment ~~in-so-far~~ insofar as possible without interruption. Any prisoner so employed shall be paid a fair and reasonable wage for such work and shall work at fair and reasonable employment and hours per day and per week.

3. Whenever the prisoner is not employed, and between the hours or periods of his employment, he shall be confined in jail as an ordinary prisoner, unless the court shall direct otherwise.

4. In case of any violation of the conditions laid down for his conduct, custody and employment the prisoner shall be returned to the court, and the court may then require the balance of his sentence be spent in actual confinement and may cancel any earned diminution of his term.

5. The sheriff shall receive such extra compensation and mileage for the administration of this act as the county commissioners determine.

6. The court may also by its order authorize the use of a jail in a contiguous or other county where the prisoner is employed, and while the prisoner is so employed under this act such prisoner shall be in the other county's custody.

7. With the approval of the sentencing court, the defendant may be incarcerated on nonemployment days only. If such confinement is approved, the court may provide that the county jail shall be reimbursed the costs of confinement, in the amount provided in section 20-605, Idaho Code, by the defendant.

Approved February 22, 1994.

CHAPTER 29
(H.B. No. 536)

AN ACT

RELATING TO COUNTY JAILS; AMENDING CHAPTER 6, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-618, IDAHO CODE, TO PROVIDE FOR A JAIL COMMISSARY SELF-PERPETUATING FUND.

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

SECTION 1. That Chapter 6, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 20-618, Idaho Code, and to read as follows:

20-618. JAIL COMMISSARY FUND. County jails which provide commissary items to inmates, and collect the costs or a portion of the costs for such items from an inmate with sufficient funds to pay for items, are authorized to create a self-perpetuating fund to supply inmates with necessary hygiene items and recreational devices and deposit the funds from the sale of items in this fund. This fund shall be subject to a yearly audit authorized by the board of county commissioners.

Approved February 22, 1994.

CHAPTER 30
(H.B. No. 553)

AN ACT

RELATING TO COMMERCIAL FEEDING STUFFS; AMENDING SECTION 25-2720, IDAHO CODE, TO INCREASE THE MINIMUM INSPECTION FILING FEE AND TO PROVIDE FOR ASSESSMENT OF A PENALTY FOR LATE OR NONFILING OF REQUIRED INSPECTION FEES.

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

SECTION 1. That Section 25-2720, Idaho Code, be, and the same is hereby amended to read as follows:

25-2720. INSPECTION FEES. a. There shall be paid to the department of agriculture for all commercial feeds distributed in this state, an inspection fee at the rate of not more than twenty cents (20¢) per ton, by the registrant except that a person other than the registrant may assume liability for the inspection fee. Fees so collected shall be paid into the state treasury and placed in the "Commercial Feed and Fertilizer Fund" and shall be used to pay the costs of inspection, sampling, analysis, and other expenses necessary for the administration of this chapter. Payment of inspection fees is subject to the following:

1. No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.
2. No fee shall be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein.
3. No fee shall be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds which are registered. If the fee has already been paid, credit shall be given for such payment.
4. Sales of commercial feeds to manufacturers or exchanges between them are hereby exempted if the commercial feeds so sold or exchanged are used solely in the manufacture of feeds which are registered.
5. In the case of a commercial feed which is distributed in the

state in packages of ten (10) pounds or less, an annual registration fee of twenty-five dollars (\$25.00) per product shall be paid in lieu of an inspection fee.

6. The minimum inspection fee shall be one five dollars (\$15.00) per quarter.

b. Payment of the inspection fee shall be evidenced by a statement made under oath in due form of law, of commercial feed distributed together with documents showing that fees corresponding to the tonnage were received by the director. Every person required to register in accordance with section 25-2718, Idaho Code, shall:

1. File, not later than the last day of January, April, July, October of each year, a quarterly statement under oath, setting forth the number of net tons of commercial feeds distributed in this state during the preceding three (3) month period; and upon filing such statement shall pay the inspection fee at the rate stated in paragraph a of this section.

2. Keep such records as may be necessary or required by the director to indicate accurately the tonnage of commercial feed distributed in this state and the director shall have the right to examine such records to verify statements of tonnage.

3. Inspection fees which are due and owing and have not been remitted to the department within thirty (30) days following the due date shall have a late collection fee of ten percent (10%), but not less than twenty-five dollars (\$25.00), added to the amount due when payment is finally made. The assessment of this late collection fee shall not prevent the director from taking any other action as provided for in this chapter.

Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

Approved February 22, 1994.

CHAPTER 31
(H.B. No. 644)

AN ACT

APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 277, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 277, Laws of 1993, there is hereby appropriated to the Industrial Commission the following amount, to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 1993, through June 30, 1994:

A. ADJUDICATION

FOR:
 Personnel Costs \$16,600
 FROM:
 Industrial Administration Fund \$16,600

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

Approved February 22, 1994.

CHAPTER 32
 (H.B. No. 643)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 410, LAWS OF 1993; APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR GEM COMMUNITY ACTION GRANTS; APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR THE IDAHO HOUSING AGENCY AS THE PARTICIPATING JURISDICTION OF THE HOME PROGRAM; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 410, Laws of 1993, there is hereby appropriated to the Department of Commerce the following amount, to be expended according to the designated expense class from the listed fund for the period July 1, 1993, through June 30, 1994:

| | FOR OPERATING EXPENDITURES | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|------------------------|----------------------------------|--|-----------|
| FROM: | | | |
| Tourism Promotion Fund | \$400,000 | \$250,000 | \$650,000 |

SECTION 2. There is hereby appropriated to the Department of Commerce for Gem Community Action Grants the following amount, to be expended according to the designated expense class from the listed fund for the period July 1, 1993, through June 30, 1994:

| | | |
|------------------------------|--|-----------|
| FOR: | | |
| Trustee and Benefit Payments | | \$200,000 |
| FROM: | | |
| General Fund | | \$200,000 |

SECTION 3. There is hereby appropriated to the Department of Commerce for a contract with the Idaho Housing Agency as the participating jurisdiction of the HOME Program, which Program is referenced in Chapter 81, Title 67, Idaho Code, Idaho Housing Trust Fund, the following amount, to be expended as matching funds and according to the

designated expense class from the listed fund for the period July 1, 1993, through June 30, 1999:

FOR:

Trustee and Benefit Payments \$1,500,000

FROM:

General Fund \$1,500,000

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

Approved February 22, 1994.

CHAPTER 33
(H.B. No. 506)

AN ACT

RELATING TO CRIMINAL SENTENCING; AMENDING SECTION 19-2601, IDAHO CODE, TO INCREASE THE TIME WITHIN WHICH THE COURT RETAINS JURISDICTION UPON SUSPENSION OF THE EXECUTION OF A JUDGMENT TO ONE HUNDRED EIGHTY DAYS, TO DELETE THE PROVISION ALLOWING THE BOARD OF CORRECTION TO APPLY TO THE COURT FOR A SIXTY DAY EXTENSION OF RETAINED JURISDICTION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 19-2601, Idaho Code, be, and the same is hereby amended to read as follows:

19-2601. COMMUTATION, SUSPENSION, WITHHOLDING OF SENTENCE -- PROBATION. Whenever any person shall have been convicted, or enter a plea of guilty, in any district court of the state of Idaho, of or to any crime against the laws of the state, except those of treason or murder, the court in its discretion, may:

1. Commute the sentence and confine the defendant in the county jail, or, if the defendant is of proper age, in the state youth training center; or

2. Suspend the execution of the judgment at the time of judgment or at any time during the term of a sentence in the county jail and place the defendant on probation under such terms and conditions as it deems necessary and expedient; or

3. Withhold judgment on such terms and for such time as it may prescribe and may place the defendant on probation; or

4. Suspend the execution of the judgment at any time during the first one hundred and twenty eighty (1280) days of a sentence to the custody of the state board of correction, during which time the court shall retain jurisdiction over the defendant which jurisdiction shall be entered on the order of commitment, and place the defendant on probation under such terms and conditions as it deems necessary and expedient, notwithstanding that the term of the court during which such defendant was convicted or sentenced may have expired; ~~upon applica-~~

~~tion--of--the--state--board--of--correction--and--for--good--cause--shown,--the--court--may--extend--the--period--under--which--it--retains--jurisdiction--of--the--defendant--an--additional--sixty--(60)--days.~~

5. If the crime involved is a felony and if judgment is withheld as provided in subsection 3 above of this section or if judgment and a sentence of custody to the state board of correction is suspended at the time of judgment in accordance with subsection 2 above of this section or as provided by subsection 4 above of this section and the court shall place the defendant upon probation, it shall be to the board of correction or any other person or persons the court, in its discretion, deems appropriate.

6. If the crime involved is a misdemeanor, indictable or otherwise, or if the court should suspend any remaining portion of a jail sentence already commuted in accordance with subsection 1 above of this section, the court, if it grants probation, may place the defendant on probation.

7. The period of probation ordered by a court under this section under a conviction or plea of guilty for a misdemeanor, indictable or otherwise, may be for a period of not more than two (2) years; and under a conviction or plea of guilty for a felony the period of probation may be for a period of not more than the maximum period for which the defendant might have been imprisoned.

Approved February 23, 1994.

CHAPTER 34
(H.B. No. 525)

AN ACT

RELATING TO AMBULANCE DISTRICTS; AMENDING SECTION 31-3908, IDAHO CODE, TO PROVIDE THAT THE COMMISSIONERS OF AN AMBULANCE DISTRICT MAY CREATE BY RESOLUTION A CAPITAL IMPROVEMENT ACCOUNT, DEDICATE A PORTION OF THE FEES AND TAXES COLLECTED TO THE ACCOUNT, AND TO CARRY OVER FROM YEAR TO YEAR THE FUNDS IN THE ACCOUNT.

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

SECTION 1. That Section 31-3908, Idaho Code, be, and the same is hereby amended to read as follows:

31-3908. AMBULANCE DISTRICT AUTHORIZED. (1) The county commissioners of any county shall, upon petition signed by not less than fifty (50) qualified electors of said county, or any portion thereof, which may exclude incorporated cities, undertake the following procedure to determine the advisability of resolving to establish and maintain an ambulance service district within the county as may be designated in the petition.

(a) A petition to form an ambulance service district shall be presented to the county clerk and recorder. The petition shall be signed by not less than fifty (50) of the resident real property holders within the proposed district. The petition shall designate

the boundaries of the district.

(b) The petition shall be filed with the county clerk and recorder of the county in which the signers of the petition are located. Upon the filing of the petition the county clerk shall examine the petition and certify whether the required number of petitioners have signed the petition. If the number of petition signers is sufficient, the clerk shall transmit the petition to the board of county commissioners.

(c) Upon receipt of a duly certified petition the board of county commissioners shall cause the text of the petition to be published once a week for at least three (3) consecutive weeks in a newspaper of general circulation within the county. With the publication of the petition there shall be published a notice of the time of the meeting of the board of county commissioners when the petition will be considered stating that all persons interested may appear and be heard. No more than five (5) names attached to the petition shall appear in the publication and notice, but the number of signatures shall be stated.

At the time of filing the petition the sponsors thereof shall cause to be deposited with the county clerk a sufficient sum of money to cover the cost of publication of the petition and all necessary notices. If the petition and notices are not published the deposit shall be returned to whomever deposited the funds, and if there is any surplus remaining after paying for the publication as herein provided it shall be returned to the original depositors, and if a district is created the fees so expended are an obligation of the district and shall be repaid by the district to the depositors.

(d) At the time set for hearing the petition, the board of county commissioners shall hear all persons who desire to be heard relative to the creation of an ambulance service district. The board of county commissioners may, if they so desire and it appears desirable, adjourn the meeting for not to exceed thirty (30) days in time to further hear the petitioners and protestants, if any. After the hearing or hearings, the board of county commissioners shall adopt a resolution either creating the proposed ambulance service district or denying the petition. When the board of county commissioners creates an ambulance service district the board shall adopt a resolution describing the boundaries of the district.

(e) When the board of county commissioners adopts the resolution creating the ambulance service district, the board shall include in the resolution the name of the district, and file a copy of the order creating the district with the county clerk and recorder, for which the clerk shall receive a fee of three dollars (\$3.00).

(f) Procedures for annexation, deannexation, or dissolution of a district created pursuant to this section shall be in substantial compliance with the provisions for public notice and hearing provided herein, and shall be by resolution adopted by the board of county commissioners.

(2) When the board of county commissioners has ordered the creation of an ambulance service district, pursuant to the provisions of this section, such district is hereby recognized as a legal taxing

district, and providing ambulance service is a governmental function.

(3) The board of county commissioners shall be the governing board of an ambulance service district created pursuant to this section, and shall exercise the duties and responsibilities provided in chapter 39, title 31, Idaho Code.

(4) In any county where an ambulance service district is created as provided herein, the board of county commissioners is authorized to levy a special tax, not to exceed four-hundredths percent (.04%) of market value for assessment purposes, except as authorized by subsection (a) below, upon all taxable property within the district for the purposes of the district, but the levy otherwise authorized in section 31-3901, Idaho Code, shall not be made on taxable property within the district.

(a) In any county where an ambulance service district has been created as of January 1, 1976, and the market value for assessment purposes of the district is less than two hundred million dollars (\$200,000,000), the board of county commissioners is authorized to levy a special tax, not to exceed ten-hundredths percent (.10%) of market value for assessment purposes, upon all taxable property within the district for the purposes of the district, but the levy otherwise authorized in section 31-3901, Idaho Code, shall not be made on taxable property within the district.

(5) The board of county commissioners is authorized by resolution to create an ambulance district capital improvement account. The board may dedicate all or a portion of the fees and taxes collected pursuant to this chapter to the capital improvement account for the purpose of purchasing necessary buildings, land or equipment for the operation of the district. The board is further authorized to carry over and add to the funds in the account from year to year in order to make the purchases authorized by this subsection.

Approved February 23, 1994.

CHAPTER 35
(H.B. No. 532)

AN ACT

RELATING TO COUNTY FINANCES; REPEALING SECTIONS 31-1512, 31-1514, 31-2105, 31-2106, 31-2107, 31-2108, 31-2109, 31-2110 AND 31-2111, IDAHO CODE; AMENDING CHAPTER 15, TITLE 31, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 31-1510, 31-1511 AND 31-1512, IDAHO CODE, TO DEFINE TERMS, TO SPECIFY THE SIGNATURES REQUIRED ON WARRANTS AND TO SPECIFY THE METHOD OF PAYMENT AND TO PROVIDE PROCEDURE FOR REDEEMING REGISTERED WARRANTS; AND AMENDING SECTION 31-2125, IDAHO CODE, TO PROVIDE THE PROCEDURE TO BE FOLLOWED IF THE COUNTY TREASURER IS REDEEMING WARRANTS FOR DISTRICTS.

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

SECTION 1. That Sections 31-1512, 31-1514, 31-2105, 31-2106, 31-2107, 31-2108, 31-2109, 31-2110 and 31-2111, Idaho Code, be, and

the same are hereby repealed.

SECTION 2. That Chapter 15, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 31-1510, 31-1511 and 31-1512 Idaho Code, and to read as follows:

31-1510. DEFINITIONS. (1) A "warrant" is an order drawn by the board of county commissioners directing the county treasurer to pay a specified amount to a person named or to the bearer. It may be payable on demand or it may be issued as a short-term obligation payable. Determination of warrant type in each county shall be set by the board of county commissioners after consultation with the county treasurer and county auditor.

(2) A "registered warrant" is a warrant drawn on a fund which has insufficient funds to pay it and has been identified and logged by the county treasurer and county auditor and thereafter paid in the order of its presentation.

31-1511. SIGNATURES REQUIRED ON WARRANTS AND METHOD OF PAYMENT. Warrants payable on demand and drawn by order of the board of county commissioners on the county treasury shall be jointly issued and signed by the county auditor and the county treasurer. If the board of commissioners chooses to issue warrants not payable upon demand, they shall be issued by the county auditor and redeemed by the county treasurer. Warrants must specify the liability for which they are drawn, when accrued, and must be paid in the order of presentation to the county treasurer. If the fund is insufficient to pay any warrant, it must be registered and thereafter paid in the order of its registration.

31-1512. PROCEDURES FOR REDEEMING REGISTERED WARRANTS. If the board of county commissioners declares an emergency pursuant to section 31-1608, Idaho Code, the process of funding registered warrants shall conform with current banking and accounting requirements.

When necessary, the county treasurer shall identify ways of redeeming warrants until a warrant redemption levy is established as provided in section 63-911, Idaho Code. To this end, the county treasurer may contact local financial institutions about currently available interim financing options. After reviewing the alternatives provided by the county treasurer, the board of county commissioners shall, by resolution, select the method of financing and the interest rate to be paid and direct the county auditor to establish the warrant redemption fund. The county treasurer shall complete necessary arrangements to secure sufficient funds to redeem registered warrants.

SECTION 3. That Section 31-2125, Idaho Code, be, and the same is hereby amended to read as follows:

31-2125. INDORSEMENT OF WARRANTS WHEN NOT PAID UPON PRESENTATION. When any warrant of any municipal or quasi-municipal corporation, specially chartered city, school district of any kind or class, specially chartered school district, drainage district, stumpage district, high-

way district, or other quasi-municipal district, now or hereafter created or organized, is presented for payment to the treasurer thereof ~~or to the county treasurer~~, and is not paid for want of funds, the treasurer must indorse thereon "Not paid for want of funds," annexing the date of presentation, specifying the rate of interest that such warrant shall draw, after presentation, which rate shall be the rate fixed in such resolution, sign his name thereto, and thereafter the said warrant shall draw interest at the rate specified in such indorsement. If the county treasurer is redeeming warrants for the districts listed above, the procedures used shall be those identified in section 31-1512, Idaho Code.

Approved February 23, 1994.

CHAPTER 36
(S.B. No. 1315)

AN ACT

RELATING TO ATTORNEY'S FEES; AMENDING SECTION 12-117, IDAHO CODE, TO AUTHORIZE THE AWARD OF ATTORNEY'S FEES, WITNESS FEES AND EXPENSES IN ADMINISTRATIVE OR CIVIL JUDICIAL PROCEEDINGS INVOLVING A PERSON AND A CITY, A COUNTY OR A TAXING DISTRICT.

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

SECTION 1. That Section 12-117, Idaho Code, be, and the same is hereby amended to read as follows:

12-117. ATTORNEY'S FEES, WITNESS FEES AND EXPENSES AWARDED IN CERTAIN INSTANCES. (1) In any administrative or civil judicial proceeding involving as adverse parties a state agency, a city, a county or other taxing district and a person, the court shall award the person reasonable attorney's fees, witness fees and reasonable expenses, if the court finds in favor of the person and also finds that the state agency, the city, the county or the taxing district acted without a reasonable basis in fact or law.

(2) If the person is awarded a partial judgment and the court finds the state agency, the city, the county or the taxing district acted without a reasonable basis in fact or law, the court shall allow the person attorney's fees, witness fees and expenses in an amount which reflects the person's partial recovery.

(3) Expenses awarded under this section shall be paid from funds in the regular operating budget of the state agency, the city, the county or the taxing district. If sufficient funds are not available in the budget of the state agency, the expenses shall be considered a claim governed by the provisions of section 67-2018, Idaho Code. If sufficient funds are not available in the budget of the city, county or taxing district, the expenses shall be considered a claim pursuant to chapter 9, title 6, Idaho Code. Every state agency, city, county or taxing district against which litigation expenses have been awarded under this act shall, at the time of submission of its proposed bud-

get, submit a report to the governmental body which appropriates its funds in which the amount of expenses awarded and paid under this act during the fiscal year is stated.

(4) For the purposes of this section:

(a) "Person" shall mean any individual, partnership, corporation, association or any other private organization;

(b) "State agency" shall mean any agency as defined in section 67-5201, Idaho Code.

(5) If the amount pleaded in an action by a person is twenty-five hundred dollars (\$2,500) or less, the person must satisfy the requirements of section 12-120, Idaho Code, as well as the requirements of this section before he or she may recover attorney's fees, witness fees or expenses pursuant to this section.

Approved February 25, 1994.

CHAPTER 37
(H.B. No. 494)

AN ACT

RELATING TO THE BOARD OF CORRECTION; REPEALING CHAPTER 5, TITLE 20, IDAHO CODE, PERTAINING TO THE CARE OF FEMALE CONVICTS.

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

SECTION 1. That Chapter 5, Title 20, Idaho Code, be, and the same is hereby repealed.

Approved February 25, 1994.

CHAPTER 38
(H.B. No. 569)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO UPDATE REFERENCES TO THE INTERNAL REVENUE CODE; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3004, Idaho Code, be, and the same is hereby amended to read as follows:

63-3004. INTERNAL REVENUE CODE. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States, as amended, and in effect on the first day of January, 1993.

(b) Provisions of the Internal Revenue Code amended, deleted, or added prior to the effective date of the latest amendment to this section shall be applicable for Idaho income tax purposes on the effective date of the amendment.

tive date provided for such amendments, deletions, or additions, including retroactive provisions.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 1994.

Approved February 25, 1994.

CHAPTER 39
(H.B. No. 570)

AN ACT

RELATING TO TECHNICAL AMENDMENTS TO THE IDAHO INCOME TAX ACT; AMENDING SECTION 63-3022, IDAHO CODE, RELATING TO NET OPERATING LOSSES, TO CORRECT GRAMMAR, TO DENY PASSIVE LOSSES INCURRED BEFORE AN INDIVIDUAL BECOMES A RESIDENT OF IDAHO AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3022H, IDAHO CODE, TO CLARIFY LIMITATIONS OF AMOUNT OF CAPITAL GAIN DEDUCTION BY INSURING THAT THE AMOUNT OF GAIN DEDUCTED CANNOT EXCEED THE AMOUNT OF GAIN REPORTED AND TO ALLOW PASS-THROUGH OF GAIN TO BENEFICIARIES OF TRUSTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3030, IDAHO CODE, TO CORRECT FILING REQUIREMENTS FOR PART-YEAR RESIDENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3036, IDAHO CODE, TO CORRECT THE INCOME TAX WITHHOLDING FILING DATE FOR FARMERS AND OTHER EMPLOYEES EXEMPT FROM FEDERAL WITHHOLDING; AMENDING SECTION 63-3046B, IDAHO CODE, TO MODIFY THE PENALTY APPLICABLE TO FAILURE TO FILE PARTNERSHIP RETURNS FOR PARTNERSHIPS WITH IDAHO PARTNERS BUT NO IDAHO ACTIVITIES; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3022, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022. TAXABLE INCOME. The term "taxable income" means "taxable income" as defined in section 63 of the Internal Revenue Code, adjusted as provided in this chapter, including adjustments under and subject to the provisions of subsections (s) and (u) of section 63-3027, Idaho Code, and sections 63-3027B through 63-3027E, Idaho Code:

(a) Add interest and dividends received or accrued during the taxable year from foreign securities and from securities issued by states and other political subdivisions, other than those issued by the state of Idaho, its cities and political subdivisions, exempt from federal income tax under the Internal Revenue Code, less applicable amortization.

(1) In the case of a corporation whose income is taxable under this chapter, no deduction shall be allowed for interest on

indebtedness incurred or continued to purchase after January 1, 1983, or to carry obligations acquired after January 1, 1983, the interest of which is wholly exempt from the taxes imposed under this chapter. The amount of interest on indebtedness thus incurred or continued shall be an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's average adjusted basis of the obligations mentioned in the preceding sentence bears to such average adjusted basis for all assets of the taxpayer, or, at the option of the taxpayer, an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's interest income from the obligations mentioned in the preceding sentence bears to the taxpayer's total income for the taxable year.

(2) In the case of a corporation whose income is computed pursuant to section 63-3027, Idaho Code, the interest expense deductible shall be an amount equal to interest and dividend income subject to apportionment, plus the amount, if any, by which the balance of interest expense exceeds interest and dividend income not subject to apportionment. Interest expense not included in the preceding sentence shall be directly offset against interest and dividend income not subject to apportionment. This provision shall not apply to dividend income excluded pursuant to section 63-3027C(c) and (e), Idaho Code.

(b) Add any state taxes, measured by net income, paid or accrued during the taxable year adjusted for state tax refunds used in arriving at taxable income as defined in section 63 of the Internal Revenue Code.

(c) Add the net operating loss deduction used in arriving at taxable income as defined in section 63 of the Internal Revenue Code.

(d) (1) ~~A net operating loss for any taxable year commencing on or after January 1, 1983, but prior to January 1, 1990, shall be a net operating loss carryover to each of the ten (10) taxable years following the taxable year of such loss; provided, however, such net operating loss shall be subtracted in each succeeding year in order but the total subtracted in the succeeding taxable years shall not exceed the total of such net operating loss; provided, further, that a net operating loss not to exceed one hundred thousand dollars (\$100,000) arising in a taxable year commencing on or after January 1, 1983, but prior to January 1, 1990, may, at the election of the taxpayer, be carried back to the three (3) immediately preceding taxable years, and if such loss is not entirely absorbed by the income of those years, the amount of loss not exhausted may be subtracted from taxable income arising in the next ten (10) years succeeding the taxable year in which the loss arises in order until exhausted. A net operating loss for any taxable year commencing on and after January 1, 1990, shall be a net operating loss carryback not to exceed one hundred thousand dollars (\$100,000) to the three (3) immediately preceding taxable years, and any loss not entirely absorbed by the income of those years may be subtracted from income received in taxable years~~

arising in the next fifteen (15) years succeeding the taxable year in which the loss arises in the order until exhausted. At the election of the taxpayer, the three (3) year carryback may be foregone and the loss subtracted from income received in taxable years arising in the next fifteen (15) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b)(3)(c) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the regulations of the state tax commission and once made is irrevocable for the year in which it is made. ~~In the event that the taxpayer elects to carryback any loss arising in a year commencing on or after January 1, 1983, but prior to January 1, 1990, any loss not exhausted may be subtracted from taxable income arising in the next succeeding ten (10) taxable years in order until exhausted~~ The term "income" as used in this subsection (d) means taxable income as defined in this chapter after making the modifications specified in section 63-3021(b), Idaho Code.

(2) Net operating losses incurred by a corporation during a year in which such corporation had no Idaho business situs may not be subtracted. Net operating losses incurred by a person, other than a corporation, in business activities not taxable by Idaho may not be subtracted.

(e) In the case of a corporation, add the amount deducted under the provisions of sections 243(a) and (c), 244, 245 and 246A of the Internal Revenue Code (relating to dividends received by corporations) as limited by section 246(b)(1) of said code.

(f) In the case of a corporation, subtract an amount determined under section 78 of the Internal Revenue Code to be taxable as dividends.

(g) Subtract the amount of any income received or accrued during the taxable year which is exempt from taxation by this state, under the provisions of any other law of this state or a law of the United States, if not previously subtracted in arriving at taxable income, as defined by section 63 of the Internal Revenue Code.

(h) In the case of a corporation with more than fifty per cent (50%) of its income taxable within this state, the salary, fee or other compensation of its nonresident officers or directors shall be treated as income from sources within the state. Whether or not any personal services have been performed by such nonresident officers or directors in this state, they shall be deemed to have a business situs in this state. If such salary, fee or other compensation is not reported to this state as income, such corporation shall not deduct as part of its expenses for the taxable year any part of such salary, fee or other compensation in computing taxable income. When the salary, fee or other compensation paid to such nonresident officer is reported to this state as income by such nonresident officer, it shall be apportioned by applying to the total of such income the apportionment factor of the corporation paying the salary, fee or other compensation, as such factor is reported on the corporation's income tax return computed pursuant to section 63-3027, Idaho Code, or as subsequently modified. Provided, however, reasonable compensation paid to such nonresident officers or directors for personal services actually

performed outside the state of Idaho shall not be included as income earned from Idaho sources.

(i) For the purpose of determining the taxable income of the beneficiary of a trust or of an estate, distributable net income as defined for federal tax purposes shall be corrected for the other adjustments required by this section. In the event that a nonresident beneficiary of a trust or estate fails to file an Idaho income tax return reporting all or any part of distributable net income taxable in Idaho or fails to pay any tax due thereon, the trust or estate making the payment or distribution shall be taxable upon the amount of such distribution or payment at the rates established by section 63-3024, Idaho Code.

(j) In the case of an individual who is on active duty as a full-time officer, enlistee or draftee, with the armed forces of the United States, which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more, deduct compensation paid for services performed outside this state by the armed forces of the United States, only to the extent such income is included in "taxable income," as defined in section 63 of the Internal Revenue Code, and provided that appropriate adjustments shall be made in his standard deduction amount and exemptions as described in section 63-3027A, Idaho Code.

(k) In the case of a corporation, add any capital loss deducted which loss was incurred during any year in which such corporation had no Idaho business situs. In the case of persons, other than corporations, add any capital loss or passive loss deducted which was incurred in business activities not taxable by Idaho at the time such loss was incurred. In the case of a corporation having income from Idaho sources and having elected to file federal income tax returns thereon pursuant to Subchapter-S of the Internal Revenue Code, or a partnership having income from Idaho sources, salaries, wages, fees, and other compensation paid to nonresident shareholders or partners, and the items of income, loss, deduction, and credit allocated to each nonresident shareholder or partner shall be treated as having sources within the state. Whether or not any personal services have been performed in this state by such nonresident shareholders or partners, they shall be deemed to have a business situs in this state. When the salaries, wages, fees, and other compensations paid to such nonresident shareholders or partners or items of income, loss, deduction, and credit, or allocated to such shareholders or partners is reported to this state as taxable income pursuant to this subsection, such income shall be apportioned by applying to the total of such income the apportionment factor of the corporation or partnership. The apportionment factor of the corporation or partnership shall be computed pursuant to the provisions of section 63-3027, Idaho Code. If such items of income, loss, deduction, or credit, salaries, wages, fees or other compensation are not reported to this state by the nonresident shareholders or partners, such corporation or partnership shall report the same to this state and be taxable thereon at the corporate rate. Provided, however, reasonable compensation paid to such nonresident shareholders or partners for personal services actually performed outside the state of Idaho shall not be included as income earned from Idaho sources. In computing the income taxable to the corporation or

partnership under this subsection, deduction shall not be allowed for a carryover or carryback of a net operating loss provided for in subsection (d) of this section or a capital loss provided for in section 1212 of the Internal Revenue Code.

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

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

b. Itemized expenditures of not to exceed one thousand dollars (\$1,000) per cared for member incurred in providing personal care services to or for an immediate member of the taxpayer's family; such services may be provided either in the taxpayer's home or the family member's home; personal care services shall be as defined in chapter 56, title 39, Idaho Code, but the cared for member need not be medicaid eligible for the purposes of this section only, if he substantially meets all of the other requirements of chapter 56, title 39, Idaho Code; in order for the deduction under this paragraph to be allowed, the expenditures claimed must not have been reimbursed by medicare, medicaid or private insurance, and such expenditures must not have been previously subtracted in arriving at taxable income.

(2) a. Itemized deductions as defined in section 63 of the Internal Revenue Code except state income taxes as specified in section 164 of the Internal Revenue Code, plus

b. Contributions made to the state of Idaho for credit to the medical assistance account, if such contributions were not previously subtracted in arriving at taxable income, plus

c. Itemized expenditures of not to exceed one thousand dollars (\$1,000) per cared for member incurred in providing personal care services to or for an immediate member of the taxpayer's family; such services may be provided either in the taxpayer's home or the family member's home; personal care services shall be as defined in chapter 56, title 39, Idaho Code, but the cared for member need not be medicaid eligible for the purposes of this section only, if he substantially meets all of the other requirements of chapter 56, title 39, Idaho Code; in order for the deduction under this paragraph c. to be allowed, the expenditures claimed must not have been reimbursed by medicare, medicaid or private insurance, and such expenditures must not have been previously subtracted in arriving at taxable income.

(m) Deduct any amounts added to gross income under section 87 of the Internal Revenue Code for tax credits allowable to the taxpayer under section 40 of the Internal Revenue Code.

(n) Add the taxable amount of any lump sum distribution deducted from gross income pursuant to section 402(e)(3) of the Internal Revenue Code. The taxable amount will include the ordinary income portion and the amount eligible for the capital gain election.

(o) Deduct any amounts included in gross income under the provisions of section 86 of the Internal Revenue Code relating to certain social security and railroad benefits.

(p) In the case of a self-employed individual, deduct the actual cost of premiums paid to secure worker's compensation insurance for coverage in Idaho, if such cost has not been deducted in arriving at taxable income.

(q) Add the amount claimed as a credit under section 63-3029G, Idaho Code, if previously deducted in arriving at taxable income.

SECTION 2. That Section 63-3022H, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022H. DEDUCTION OF CAPITAL GAINS. (1) If for any taxable year an individual taxpayer has a net capital gain which has not already been deducted from gross income in determining Idaho adjusted income, sixty percent (60%) of the net capital gain (but not more than the net gain reported on the return) shall be a deduction from Idaho adjusted income.

(2) For the purpose of this section capital gains deductions shall be allowed only for property which had an Idaho situs at the time of the sale, as follows:

(a) Capital gains from sales of real property which has been held for a minimum of five (5) years;

(b) Capital gains from sales of tangible personal property that was used by a revenue-producing enterprise, as defined in section 63-3029E, Idaho Code, in this state;

(c) Capital gains from sales of cattle or horses held for breeding, draft, dairy or sporting purposes by the owner for a period of twenty-four (24) months or more from the date of acquisition and which owner received more than one-half (1/2) of his gross income from farming or ranching operations in this state.

(d) Capital gains from sales of breeding livestock other than cattle or horses held by the owner for a period of twelve (12) months or more from the date of acquisition and which owner received more than one-half (1/2) of his gross income from farming or ranching operations in this state.

(e) Capital gains from sales of timber held by the owner for a period of twenty-four (24) months or more from the date of acquisition.

(3) The deduction allowed by this section shall apply to ~~computing--the~~ income attributable to shareholders of subchapter S corporations and ~~of~~ income attributable to individual members of a partnership and income attributable to the beneficiary of a trust, as long as the individual taxpayer held the partnership interest or the shareholder interest or was the beneficiary of the trust for the entire applicable period required in subsection (2) of this section.

SECTION 3. That Section 63-3030, Idaho Code, be, and the same is hereby amended to read as follows:

63-3030. PERSONS REQUIRED TO MAKE RETURNS OF INCOME. (a) Returns with respect to taxes measured by income in this act shall be made by

the following:

(1) (A) Every resident individual having for the current taxable year a gross income, as defined by section 61(a) of the Internal Revenue Code, of one thousand dollars (\$1,000) or more, except that a return shall not be required of an individual (other than an individual referred to in section 6012(a)(1)(C) of the Internal Revenue Code)--

(i) who is not married (determined by applying section 7703 of the Internal Revenue Code), who is not a surviving spouse (as defined in section 2(a) of the Internal Revenue Code) and for the taxable year has a gross income of less than three thousand three hundred dollars (\$3,300), or

(ii) who is a surviving spouse (as defined in section 2(a) of the Internal Revenue Code) and for the taxable year has a gross income of less than four thousand four hundred dollars (\$4,400), or

(iii) who is entitled to make a joint return under section 6013 of the Internal Revenue Code and whose gross income, when combined with the gross income of his spouse is, for the taxable year, less than five thousand four hundred dollars (\$5,400) but only if such individual and his spouse, at the close of the taxable year, had the the same household as their home.

Clause (iii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(c) of the Internal Revenue Code.

(B) The three thousand three hundred dollars (\$3,300) amount specified in subparagraph (A)(i) shall be increased to four thousand three hundred dollars (\$4,300) in the case of an individual entitled to an additional standard deduction under section 63(f)(1) of the Internal Revenue Code, and the five thousand four hundred dollars (\$5,400) amount specified in subparagraph (A)(iii) shall be increased by one thousand dollars (\$1,000) for each individual entitled to an additional standard deduction under section 63(f)(1) of the Internal Revenue Code.

(2) An individual who is referred to in section 6012(a)(1)(C) of the Internal Revenue Code, who has income other than earned income of one thousand dollars (\$1,000) or more, or who has gross income of three thousand three hundred dollars (\$3,300) or more for a taxable year.

(3) Any nonresident ~~or part-year resident~~ individual having for the current taxable year a gross income (as defined in section 61(a) of the Internal Revenue Code) from Idaho sources in excess of the amounts established in subsection (a)(1)(A) of this section, or any part-year resident individual having for the current taxable year a gross income (as defined in section 61(a) of the Internal Revenue Code) from all sources while a resident of Idaho, and Idaho sources while not a resident of Idaho, which in total are in excess of the amounts established in subsection (a)(1)(A) of this section;

- (4) Every corporation subject to taxation by this act; any corporation reporting as a subchapter S corporation pursuant to Internal Revenue Code sections 1361 through 1379 to the federal government and having business situs in this state or with one (1) or more of its shareholders residing in this state must report to the state of Idaho as a subchapter S corporation for and during the same period or periods in which its election to report as such a corporation is effective for federal tax purposes and must identify itself as a subchapter S corporation on its income tax return filed with this state;
- (5) Every estate, the residence of which estate is in Idaho, having a gross income (as defined in section 61(a) of the Internal Revenue Code) of six hundred dollars (\$600) or more for the current taxable year;
- (6) Every estate, the residence of which is in a state other than Idaho, having a gross income (as defined in section 61(a) of the Internal Revenue Code) from Idaho sources in excess of six hundred dollars (\$600);
- (7) Every trust, the residence of which trust is in Idaho, having gross income (as defined in section 61(a) of the Internal Revenue Code) of one hundred dollars (\$100) or more for the current taxable year;
- (8) Every trust, the residence of which is in a state other than Idaho, having a gross income (as defined in section 61(a) of the Internal Revenue Code) from Idaho sources in excess of one hundred dollars (\$100);
- (9) Every partnership having a resident partner and every partnership having a business situs in the state of Idaho. Such return shall be a supplemental information return and shall include the names and addresses of the individuals who would be entitled to share in the net income of the partnership if distributed and the amount of the distributive share of each individual. Such return shall be signed by one (1) of the partners.
- (b) Returns of fiduciaries and receivers:
- (1) Fiduciaries and receivers shall file returns with the state tax commission in accordance with the provisions of section 6012(b) of the Internal Revenue Code.
- (c) Certain income earned abroad or from sale of residence: For purposes of this section, gross income shall be computed without regard to the exclusion provided for in section 121 of the Internal Revenue Code (relating to one-time exclusion of gain from sale of principal residence by an individual who has attained age fifty-five (55)) and without regard to the exclusion provided for in section 911 of the Internal Revenue Code (relating to income earned abroad).

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

63-3036. STATE WITHHOLDING TAX ON PERCENTAGE BASIS FOR FARMERS AND OTHERS EXEMPT FROM FEDERAL WITHHOLDING. Every farmer who is an employer and employers exempt from withholding by the Internal Revenue Code shall at the time of the payment of wages, salaries, bonus or other emoluments to an employee, deduct and retain therefrom an amount

equal to one per cent (1%) of such wage, salary, bonus or emolument or the value of such emolument, and the amount so withheld and deducted shall be held by said farmer-employer and other employers in trust for the state of Idaho and for the payment thereof to the state tax commission. The farmer-employer and other employers shall deliver to the state tax commission a return upon such form as shall be prescribed by said state tax commission showing the amounts of wages, salary, bonus or other emoluments paid to his employee, the amount deducted therefrom in accordance with this section, and such other pertinent and necessary information as the state tax commission may require on or before ~~January 31~~ the last day of February of the year following the year in which such deduction was made. The farmer-employer or other employers making such a deduction as provided for in this section shall furnish to the employee annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of the tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission and at the same time every employer shall file a copy thereof with the state tax commission. The provisions of subsections (d), (e) and (f) of section 63-3035, Idaho Code, shall be applicable to the tax withheld by the farmer-employer or other employers under this section. The tax so withheld by the farmer-employer or other employers shall be paid annually to the state tax commission on or before the last day of February of the year following the year in which such deduction was made. Provided, that no tax need be withheld from an employee whose wages, salaries, bonuses and other emoluments total less than one thousand dollars (\$1,000) for the tax year.

SECTION 5. That Section 63-3046B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3046B. FAILURE TO FILE PARTNERSHIP RETURN. (a) Penalty. In addition to the penalty imposed by section 63-3075, Idaho Code, if any partnership required to file a return under section 63-3030, Idaho Code, for any taxable year:

(1) Fails to file such return at the time prescribed therefor by section 63-3030, Idaho Code, (determined with regard to any extension of time for filing); or

(2) Files a return which fails to show the information required under section 63-3030, Idaho Code, such partnership shall be liable for a penalty determined under subsection (b) of this section for each month (or fraction thereof) during which such failure continues (but not to exceed five (5) months), unless it is shown that such failure is due to reasonable cause.

(b) Amount per month. For purposes of subsection (a) of this section, the amount determined under this subsection for any month is the product of:

(1) Ten dollars (\$10.00), multiplied by

(2) the number of persons who are partners in the partnership during any part of the taxable year, except that in the case of partnerships with no business activity in Idaho during the taxable year but with partners who are Idaho residents or corporations with a business situs in Idaho, multiply the amount in subsection

(b)(1) of this section by the number of partners who are Idaho residents or persons with a business situs in Idaho.

(c) Assessment of penalty. The penalty imposed in subsection (a) of this section shall be assessed against the partnership.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 1994.

Approved February 25, 1994.

CHAPTER 40
(H.B. No. 571)

AN ACT

RELATING TO INCOME TAX WITHHOLDING BY EMPLOYERS; AMENDING SECTION 63-3035, IDAHO CODE, TO INCREASE THE AMOUNT OF WITHHOLDING WHICH REQUIRES EMPLOYERS TO REPORT WITHHOLDING FOR A MONTHLY PERIOD BEGINNING ON THE SIXTEENTH DAY OF EACH MONTH AND ENDING ON THE FIFTEENTH DAY OF THE FOLLOWING MONTH FROM AN ANNUAL MONTHLY AVERAGE OF THREE THOUSAND DOLLARS TO AN ANNUAL MONTHLY AVERAGE OF FIVE THOUSAND DOLLARS, TO DELETE OBSOLETE TEXT, TO PROVIDE FOR FUTURE INDEXING OF THE ANNUAL MONTHLY AVERAGE AMOUNT BY RULE OF THE STATE TAX COMMISSION TO REFLECT INFLATION AS MEASURED BY THE COST OF LIVING CHANGES PUBLISHED BY THE UNITED STATES SECRETARY OF HEALTH AND HUMAN SERVICES, AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-3035, Idaho Code, be, and the same is hereby amended to read as follows:

63-3035. STATE WITHHOLDING TAX ON PERCENTAGE BASIS -- WITHHOLDING, COLLECTION AND PAYMENT OF TAX. (a) Every employer who is required under the provisions of the Internal Revenue Code to withhold, collect and pay income tax on wages or salaries paid by such employer to any employee (other than employees specified in Internal Revenue Code section 3401(a)(2)) shall, at the time of such payment of wages, salary, bonus or other emolument to such employee, deduct and retain therefrom an amount substantially equivalent to the tax reasonably calculated by the state tax commission to be due from the employee under this act. The state tax commission shall prepare tables showing amounts to be withheld, and shall supply same to each employer subject to this section. In the event that an employer can demonstrate administrative inconvenience in complying with the exact requirements set forth in these tables, he may, with the consent of the state tax commission and upon application to it, use a different method which will produce substantially the same amount of taxes withheld. Every employer making payments of wages or salaries earned in Idaho, regardless of the place where such payment is made:

(1) shall be liable to the state of Idaho for the payment of the tax required to be deducted and withheld under this section and shall not be liable to any individual for the amount deducted from his wages and paid over in compliance or intended compliance with this section;

(2) must make return of and pay to the state tax commission monthly on or before the 20th day of the succeeding month, or at such other times as the state tax commission may allow, an amount of tax which, under the provisions of this act, he is required to deduct and withhold;

(3) shall register with the state tax commission, in the manner prescribed by it, to establish an employer's withholding account number. The account number will be used to report all amounts withheld, for the annual reconciliation required in this section, and for such other purposes relating to withholding as the state tax commission may require; and

(4) must, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, if the amount of withholding of such employer for the preceding twelve (12) month period equals or exceeds ~~thirty-six~~ sixty thousand dollars (\$360,000) per annum or an average of ~~three~~ five thousand dollars (\$35,000) per month per annum, make return of and pay to the state tax commission the ~~monthly on the following basis:~~

~~(A) For the withholding period May 1, 1983, through May 15, 1983, inclusive, payment and return must be made on or before May 20, 1983.~~

~~(B) Withholding periods for employers defined in this subsection 63-3035(a)(3), Idaho Code, shall, on and after May 16, 1983, on the basis of withholding periods which begin on the 16th day of the month and end on the 15th day of the following month, and return and payment shall be made not later than five (5) days after the end of the withholding period.~~

(5) Commencing in 1994, the state tax commission shall determine whether the threshold amounts established by subsection (a)(4) of this section must be adjusted to reflect fluctuations in the cost of living. The commission shall base its determination on the cumulative effect of the annual cost of living percentage modifications determined by the United States secretary of health and human services pursuant to 42 USC 415(i). When the cumulative percentage applied to the monthly threshold amount equals or exceeds one thousand dollars (\$1,000), the commission shall promulgate a rule adjusting the monthly threshold amount by one thousand dollars (\$1,000) and making the necessary proportional adjustment to the annual threshold amount. The rule shall be effective for the next succeeding calendar year and each year thereafter until again adjusted by the commission. The tax commission shall determine subsequent adjustments in the same manner, in each case using the year of the last adjustment as the base year.

(b) (1) Every employer shall, at the time of each payment made by him to the state tax commission, deliver to the state tax commission a return upon such form as shall be prescribed by said state tax commission showing the total amount of wages, salary, bonus or other emoluments paid to his employees, the amount deducted there-

from in accordance with the provisions of the Internal Revenue Code, the amount deducted therefrom in accordance with the provisions of this section, and such pertinent and necessary information as the state tax commission may require.

(2) Every employer making a declaration of withholding as provided herein shall furnish to the employees annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission and on or before the last day of February every employer shall file a copy thereof with the state tax commission. Every employer who is required, under Internal Revenue Code section 6011, to file returns on magnetic media or in other machine readable form may be required by regulations of the state tax commission to file corresponding state returns on similar magnetic media or other machine readable form.

(c) All moneys deducted and withheld by every employer shall immediately upon such deduction be state money and every employer who deducts and retains any amount of money under the provisions of this act shall hold the same in trust for the state of Idaho and for the payment thereof to the state tax commission in the manner and at the times in this act provided. Any employer who does not possess real property situated within the state of Idaho, which, in the opinion of the state tax commission, is of sufficient value to cover his probable tax liability, may be required to post a surety bond in such sum as the state tax commission shall deem adequate to protect the state.

(d) The provisions of this act relating to additions to tax in case of delinquency, and penalties, shall apply to employers subject to the provisions of this section and for these purposes any amount deducted, or required to be deducted and remitted to the state tax commission under this section, shall be considered to be the tax of the employer and with respect to such amount he shall be considered the taxpayer.

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year which begins within such calendar year and the return made by the employer under this subsection (e) shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his taxable income as computed under the provisions of this act, as the same has been or may hereafter be amended, or where his income is not taxable under this act, the state tax commission shall, after examining the annual return filed by the employee in accordance with this act, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted. No credit or refund shall be made to an employee who fails to file his return, as required under this act, within three (3) years from the due date of the return in respect of which the tax withheld might have been credited. In the event that the excess tax deducted is less than one dollar (\$1.00), no refund shall be made unless specifically requested by the taxpayer at the time such return is filed.

(f) This section shall in no way relieve any taxpayer from his obligation of filing a return at the time required under this act, and, should the amount withheld under the provisions of this section be insufficient to pay the total tax of such taxpayer, such unpaid tax shall be paid at the time prescribed by section 63-3034, Idaho Code.

(g) An employee receiving wages shall on any day be entitled to the same number of withholding exemptions to which he is entitled under the Internal Revenue Code for federal income tax withholding purposes.

(h) An employer shall use the exemption certificate filed by the employee with the employer under the withholding exemption provisions of the Internal Revenue Code in determining the amount of tax to be withheld from the employee's wages or salary under this act. The tax commission may redetermine the number of withholding exemptions to which an employee is entitled under subsection (g) of this section, and the state tax commission may require such exemption certificate to be filed on a form prescribed by the commission in any circumstance where the commission finds that the exemption certificate filed for Internal Revenue Code purposes does not properly reflect the number of withholding exemptions to which the employee is entitled under this act. In no event shall any employee give an exemption certificate which claims a higher number of withholding exemptions than the number to which the employee is entitled by subsection (g) of this section.

Approved February 25, 1994.

CHAPTER 41
(H.B. No. 572)

AN ACT

RELATING TO LICENSES OF GASOLINE DISTRIBUTORS FOR FUELS TAXES; AMENDING SECTION 63-2409, IDAHO CODE, TO DELETE THE FIFTY DOLLAR FEE FOR OBTAINING A GASOLINE DISTRIBUTOR'S LICENSE.

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

SECTION 1. That Section 63-2409, Idaho Code, be, and the same is hereby amended to read as follows:

63-2409. LICENSE OF DISTRIBUTORS. It is unlawful for a person to act as a distributor without a license. The license shall be obtained by application to the commission upon a form furnished by it, accompanied by ~~a fee of fifty dollars (\$50.00)~~ and a bond in the amount required by section 63-2428, Idaho Code. The distributor license shall be nonassignable and shall continue in force until surrendered or canceled. The commission shall furnish each licensed distributor with a list of all distributors licensed pursuant to this section together with the amount of gasoline reported by each distributor to have been received during the period to which the list relates. The list shall

be supplemented by the commission from time to time to reflect additions and deletions.

Approved February 25, 1994.

CHAPTER 42
(H.B. No. 574)

AN ACT

RELATING TO TAX LIENS; AMENDING SECTION 63-3051, IDAHO CODE, TO PERMIT THE TAX COMMISSION TO AUTHENTICATE AND VERIFY TAX LIENS BY MEANS OF A PRINTED OR FACSIMILE REPRODUCTION OF THE SIGNATURE OF THE INDIVIDUAL AUTHORIZED BY THE STATE TAX COMMISSION TO EXECUTE THE LIEN ACCOMPANIED BY A PRINTED OR FACSIMILE REPRODUCTION OF THE SEAL OF THE STATE TAX COMMISSION.

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

SECTION 1. That Section 63-3051, Idaho Code, be, and the same is hereby amended to read as follows:

63-3051. PROPERTY SUBJECT TO LIEN. (a) If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount of such tax, including any interest, penalty, additional amount, or addition to such tax, together with any costs that may accrue in addition thereto, shall be a lien in favor of the state of Idaho upon all property and rights to property, whether real or personal, belonging to such person or acquired afterwards and before the lien expires. Such lien shall not be valid as against any mortgagee or other lienholder, pledgee, secured party, purchaser, or judgment lienor until notice thereof has been filed in the office of the recorder of the county in this state within which the property subject to lien is situated.

(b) The notice of lien shall specify the tax period, and the amount of tax, penalty, interest and additional amount due. It shall contain the name and last known address of the taxpayer liable for the amount thereof, an identification number and a statement to the effect that the state tax commission has complied with all the provisions of this act in the determination of the amount required to be paid. Any notarization or acknowledgement of a lien including, but not limited to, a notarization or acknowledgement required in title 55, Idaho Code, may be accomplished by a printed or facsimile reproduction of the signature of the individual authorized by the state tax commission to execute the lien accompanied by a printed or facsimile reproduction of the seal of the state tax commission.

(c) The lien may, within five (5) years from the date of filing for record of notice of lien, be extended by filing for record a new notice of lien in the office of the county recorder of any county, and from the time of such filing the lien shall be extended only to the

real property of the taxpayer in such county for five (5) years, unless fully released or otherwise discharged.

Approved February 25, 1994.

CHAPTER 43
(H.B. No. 577)

AN ACT

RELATING TO TAXES ON CIGARETTES; AMENDING SECTION 63-2510, IDAHO CODE, RELATING TO TAX STAMPS ON CIGARETTES, TO REQUIRE THAT WHOLESALERS OR OTHER PERSONS IN POSSESSION OF UNUSED CIGARETTE TAX STAMPS MUST RETURN SUCH STAMPS UPON CESSATION OF DOING BUSINESS AS A WHOLE-SALER OF CIGARETTES OR BE HELD LIABLE FOR THE TAX ASSOCIATED WITH SUCH STAMPS.

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

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

63-2510. PAYMENT OF TAX -- RETURNS -- ACCOUNTING FOR STAMPS. (1) The cigarette taxes imposed in section 63-2506, Idaho Code, are due from the person required under section 63-2508, Idaho Code, to affix stamps, and are payable to the state tax commission monthly, together with the return required in this section.

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

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

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

- (a) The number of stamps which were held at the beginning of the reporting period and were not affixed to packages;
- (b) The number of stamps acquired during the reporting period;
- (c) The number of stamps affixed to packages during the reporting period;
- (d) The number of unaffixed stamps held at the end of the reporting period; and
- (e) The number, if any, of stamps lost or destroyed. If stamps

are lost or destroyed, a statement describing the circumstances giving rise to the loss or destruction shall accompany the return.

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

(6) In the event that a wholesaler or any other person in possession of unused cigarette stamps shall cease doing business as a wholesaler of cigarettes, such wholesaler or other person shall return all unused stamps to the state tax commission or shall be liable for an amount of tax equal to the tax on the number of cigarettes to which such stamps would have been affixed.

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

Approved February 25, 1994.

CHAPTER 44
(H.B. No. 602)

AN ACT

RELATING TO EXEMPTIONS FROM THE SALES TAX; AMENDING SECTION 63-3622GG, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM SALES TAX FOR AIRCRAFT DELIVERED WITHIN THIS STATE UNDER CONDITIONS SPECIFIED.

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

SECTION 1. That Section 63-3622GG, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622GG. AIRCRAFT. There is exempted from the taxes imposed by this chapter;

(1) The sale, lease, purchase, or use of aircraft primarily used to transport passengers or freight for hire. This exemption does not include parts or other tangible personal property used to repair or maintain such aircraft, whether or not such parts or property become a component part of any aircraft;

(2) The sale, lease or purchase of aircraft for use outside this state by nonresidents, even though delivery be made within this state, but only when:

(a) The aircraft will be taken from the point of delivery to a

point outside this state;

(b) The aircraft will be registered immediately in another state or nation and not required to be registered under the laws of this state; and

(c) The aircraft will not be used in this state more than ninety (90) days in any twelve (12) month period.

Approved February 25, 1994.

CHAPTER 45
(H.B. No. 488)

AN ACT

RELATING TO THE CENTRAL TUMOR REGISTRY ACCOUNT; AMENDING SECTION 57-1701, IDAHO CODE, TO REMOVE THE DOLLAR LIMIT ON THE MONEYS IN THE FUND AND LIMIT THE FUND TO THE AMOUNT OF THE DISTRIBUTION AND TO CORRECT REFERENCES; AMENDING SECTION 63-2520, IDAHO CODE, TO REMOVE THE DOLLAR LIMIT ON MONEYS DISTRIBUTED TO THE ACCOUNT AND LIMIT DISTRIBUTION TO THE AMOUNT OF THE APPROPRIATION.

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

SECTION 1. That Section 57-1701, Idaho Code, be, and the same is hereby amended to read as follows:

57-1701. CREATION OF CENTRAL TUMOR REGISTRY FUND -- PURPOSE. There is hereby created and established in the state treasury a fund to be known as the "central tumor registry fund" to which shall be deposited the revenues derived from the tax imposed in section 63-2520~~(3)~~06, Idaho Code. All moneys now or hereafter in the central tumor registry fund are hereby dedicated for the purpose of contracting for and obtaining the services of a continuous registry of all tumor patients in the state of Idaho and maintaining cooperative exchange of information with other states providing similar tumor registry. The state board of health and welfare, created in section 39-107, Idaho Code, is charged with the administration of this fund for the purposes specified herein. The amount of money credited to the central tumor registry fund from the tax imposed in section 63-2520~~(3)~~06, Idaho Code, shall not exceed ~~fifty-five-thousand-dollars (\$55,000) per fiscal year~~ the distribution provided in section 63-2520(b)(3), Idaho Code, and the current fiscal year's appropriation, and any moneys in excess thereof derived from this tax shall be credited to the general fund. All claims against the fund shall be examined, audited and allowed in the manner now or hereafter provided by law for claims against the state of Idaho.

SECTION 2. That Section 63-2520, Idaho Code, be, and the same is hereby amended to read as follows:

63-2520. DISTRIBUTION OF MONEYS COLLECTED. Revenues received from the taxes imposed by this chapter, and any revenues received from

licenses, permits, penalties, interest, or deficiency additions, shall be distributed by the tax commission as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(b) The balance remaining with the state treasurer after deducting the amount described in paragraph (a) above shall be distributed as follows:

(1) 43.3% of such balance shall be distributed to the permanent building account created by section 57-1108, Idaho Code.

(2) 6.7% of such balance shall be distributed to the water pollution control account.

(3) 1% of such balance shall be distributed to the central tumor registry account. The amount of money so distributed to the central tumor registry account shall not exceed ~~one-hundred-ten-thousand-dollars-(\$110,000)~~ per-fiscal-year the fiscal year's appropriation, and at such time as ~~one-hundred-ten-thousand-dollars-(\$110,000)~~ the appropriation has been distributed to the central tumor registry account during any fiscal year, all such distributions in excess of ~~one-hundred-ten-thousand-dollars-(\$110,000)~~ the appropriation shall be made instead to the general account of the state of Idaho.

(4) 2.5% of such balance shall be distributed to the cancer control account created by section 57-1702, Idaho Code. Revenues received in the cancer control account shall be paid over to the state treasurer by the state tax commission to be distributed as follows:

(i) Such amounts as are appropriated for purposes specified in section 57-1702, Idaho Code, shall be expended as appropriated;

(ii) Any balance remaining in the cancer control account on June 30 of any fiscal year after the amounts withdrawn by appropriation have been deducted, shall be reserved for transfer to the general account on July 1 and the state auditor shall order such transfer.

(5) All remaining moneys shall be distributed to the general account of the state of Idaho.

Approved February 28, 1994.

CHAPTER 46
(H.B. No. 490)

AN ACT

RELATING TO THE VOCATIONAL REHABILITATION OF PERSONS WITH DISABILITIES OTHER THAN THOSE WHO ARE LEGALLY BLIND; AMENDING SECTIONS 33-2301, 33-2302, 33-2303, 33-2304, 33-2305 AND 33-2306, IDAHO CODE, TO PROVIDE PROPER REFERENCES, TO MAKE TECHNICAL CORRECTIONS AND TO INSERT NOMENCLATURE REQUIRED BY THE REHABILITATION ACT OF 1973 AND THE AMENDMENTS OF 1992.

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 ACTS. 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 with disabilities, other than those who are legally blind, and their return to civil employment," approved June 2, 1920, as amended by P.L. 113, 78th Congress; by P.L. 565, 83rd Congress; by P.L. 89-333, 89th Congress; by P.L. 90-99, 90th Congress; and by P.L. 90-391, 90th Congress; and further accepts the acts of Congress, entitled "The Rehabilitation Act of 1973," P.L. 93-112, 93rd Congress, and "The Rehabilitation Act Amendments of 1974," P.L. 93-516, 93rd Congress, and "The Rehabilitation Act Amendments of 1978," P.L. 95-602, 95th Congress, and "The Rehabilitation Act Amendments of 1984," P.L. 98-221, 98th Congress; "The Rehabilitation Act Amendments of 1986," P.L. 99-506, 99th Congress; and "The Rehabilitation Act Amendments of 1992," P.L. 102-569, 102nd Congress, and will observe and comply with all requirements of such acts.

SECTION 2. That Section 33-2302, Idaho Code, be, and the same is hereby amended to read as follows:

33-2302. CUSTODY AND DISBURSEMENT OF FUNDS. The state treasurer is hereby designated and appointed custodian of all moneys received by the state from appropriations made by the congress of the United States for the vocational rehabilitation of persons disabled in industry or otherwise with disabilities, other than those who are legally blind, and is authorized to receive and provide for the proper custody of the same and to make disbursements therefrom upon the order of the state board herein designated.

SECTION 3. That Section 33-2303, Idaho Code, be, and the same is hereby amended to read as follows:

33-2303. POWERS OF BOARD IN CARRYING OUT PROVISIONS. The board heretofore designated as the state board for vocational education to cooperate with the federal board for vocational education in the administration of the provisions of the vocational education act, approved February 23, 1917, is hereby designated as the state board for the purpose of cooperating with the said federal board in carrying out the provisions and purposes of said federal act providing for the vocational rehabilitation of persons disabled in industry or otherwise with disabilities, other than those who are legally blind, and is empowered and directed to cooperate with said federal board in the administration of said act of Congress; to prescribe and provide such courses of vocational training services as may be necessary for the vocational rehabilitation of persons disabled in industry or otherwise with disabilities, other than those who are legally blind, and provide for the supervision of such training services; to appoint such assis-

tants as may be necessary to administer this act and said act of Congress in this state; to fix the compensation of such assistants and to direct the disbursement and administer the use of all funds provided by the federal government and the state of Idaho for the vocational rehabilitation of such persons.

SECTION 4. That Section 33-2304, Idaho Code, be, and the same is hereby amended to read as follows:

33-2304. PLAN OF COOPERATION. It shall be the duty of the state board empowered to cooperate as aforesaid with the appropriate state industrial-commission agencies to formulate a plan of cooperation in accordance with the provisions of this act and said act of Congress; ~~such plan to become effective when approved by the governor of the state.~~

SECTION 5. That Section 33-2305, Idaho Code, be, and the same is hereby amended to read as follows:

33-2305. GIFTS AND DONATIONS -- RECEIPT AND DISPOSITION. The state board designated to cooperate as aforesaid in the administration of the federal act, is hereby authorized and empowered to receive such gifts and donations, either from public or private sources, as may be offered unconditionally or under such conditions related to the vocational rehabilitation of persons disabled-in-industry-or-otherwise with disabilities, other than those who are legally blind, as in the judgment of the state board are proper and consistent with the provisions of sections 33-2301-- through 33-2306, Idaho Code. All the moneys received as gifts or donations shall be deposited in the state treasury and shall constitute a permanent fund to be called the special fund for the vocational rehabilitation of disabled persons, to be used by the said board to defray the expenses of vocational rehabilitation in special cases, including the payment of necessary expenses of persons undergoing training services. A full report of all gifts and donations offered and accepted, together with the names of the donors and the respective amounts contributed by each, and all disbursements therefrom shall be submitted annually to the governor of the state and to the governor and legislature biennially by the state board.

SECTION 6. That Section 33-2306, Idaho Code, be, and the same is hereby amended to read as follows:

33-2306. REPORT OF STATE BOARD. The state board for vocational education shall make annually to the governor and legislature a report of all moneys expended for the vocational rehabilitation of persons disabled-in-industry-or-otherwise with disabilities, other than those who are legally blind, both from state and federal funds, and shall include such annual report in the annual report of the state board of education.

CHAPTER 47
(H.B. No. 694)

AN ACT

DIRECTING THE STATE AUDITOR TO TRANSFER FUNDS FROM THE GENERAL FUND TO THE PERMANENT BUILDING FUND; APPROPRIATING MONEYS FROM THE PERMANENT BUILDING FUND TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND THE DIVISION OF PUBLIC WORKS FOR THE PURPOSES SPECIFIED AND DESIGNATING THE PROJECTS TO BE UNDERTAKEN; EXPRESSING INTENT CONCERNING THE USE OF MONEYS APPROPRIATED BY THIS ACT; EXEMPTING THE APPROPRIATIONS FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE PROVISIONS OF SECTION 67-3516, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. The State Auditor is hereby directed to transfer \$28,778,100 from the General Fund to the Permanent Building Fund.

SECTION 2. There is hereby appropriated from the Permanent Building Fund to the Permanent Building Fund Advisory Council and the Division of Public Works the following amounts, or so much thereof as in each case may be necessary, for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair, of the following buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, named and listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building 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.

PROJECT NO. 1

| | |
|---|-------------|
| Idaho State University for a Physical Science Building | \$7,677,900 |
|---|-------------|

PROJECT NO. 2

| | |
|--|-------------|
| North Idaho College for Old Library/Lee Hall Renovation | \$2,392,000 |
|--|-------------|

PROJECT NO. 3

| | |
|--|-------------|
| College of Southern Idaho for a Library/Academic Center | \$5,332,000 |
|--|-------------|

PROJECT NO. 4

| | |
|--|-------------|
| Eastern Idaho Technical College for a Classroom/Laboratory Building | \$3,593,100 |
|--|-------------|

PROJECT NO. 5

| | |
|--|-------------|
| Boise State University for a Multi-purpose Classroom Building | \$6,239,000 |
|--|-------------|

PROJECT NO. 6

| | |
|--|-------------|
| University of Idaho for the renovation of Engineering and Physics space | \$2,120,000 |
|--|-------------|

PROJECT NO. 7

| | |
|--|-----------|
| Lewis-Clark State College for a Classroom/Laboratory and Storage Facility | \$924,100 |
|--|-----------|

PROJECT NO. 8

| | |
|---|-----------|
| Idaho Historical Society Library/Archives Building - Planning and Design | \$500,000 |
|---|-----------|

SECTION 3. It is the express intention that the moneys appropriated by this act may be made available for matching any allocation of moneys now in existence or hereafter made available by agencies of the United States and/or private donations; provided the express approval by the Permanent Building Fund Advisory Council is granted to make application for such moneys in each instance. It is further the intention of the Legislature that this authority be in effect from the effective date of this act.

SECTION 4. All appropriations made herein shall be exempt from the provisions of Chapter 36, Title 67, and Section 67-3516, Idaho Code, but shall be available for expenditure only after allotment in accordance with the other provisions of Chapter 35, Title 67, Idaho Code, and all appropriations made hereunder shall be subject to the provisions of Section 67-5711, Idaho Code, except as otherwise provided herein.

SECTION 5. An emergency existing 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 3, 1994.

CHAPTER 48
(H.B. No. 755)

AN ACT

RELATING TO THE POTATO COMMISSION; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 22-1213, IDAHO CODE, TO PROVIDE FOR THE AWARD OF INVESTIGATORY COSTS AND ATTORNEY'S FEES, TO PROVIDE FOR WHAT CONSTITUTES A VIOLATION AND WHAT CONSTITUTES A SEPARATE VIOLATION; AND AMENDING SECTION 22-1207, IDAHO CODE, TO REQUIRE THE APPLICATION OF EITHER A SEAL, LABEL, BRAND, PACKAGE OR ANY OTHER SUITABLE DEVICE, TO ALLOW THE COMMISSION TO UTILIZE MEANS TO PREVENT MISLABELING AND TO PROVIDE FOR THE DISCLOSURE OF THE GROWING AREA OF ORIGIN UPON POTATO CONTAINERS BY ALL PERSONS DOING BUSINESS IN THE STATE OF IDAHO.

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

SECTION 1. This legislation clarifies the authority previously granted by the Legislature to the Idaho Potato Commission.

SECTION 2. That Section 22-1213, Idaho Code, be, and the same is

hereby amended to read as follows:

22-1213. PENALTY FOR VIOLATIONS. (1) Any person who shall violate or aid in the violation of any of the provisions of this chapter, any rules promulgated pursuant thereto, or the terms of any licensing agreement may be assessed a civil penalty by the commission or its duly authorized agent of not more than one thousand dollars (\$1,000) for each offense and a civil penalty of not more than one thousand dollars (\$1,000) for each day of continuing violation of such statute or rule or licensing agreement and shall be liable for investigatory costs and attorney's fees reasonably incurred by the commission in connection with the violation.

(2) For purposes of this section, each container of potatoes in violation of this chapter, rules or any licensing agreement, shall constitute a separate violation for each day the container is in violation thereof.

(3) Procedure. No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to chapter 52, title 67, Idaho Code. If the commission or its agent is unable to collect such civil penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the commission or its agent, it may enforce its penalty by action in the appropriate district court. Any person against whom the commission or its agent has assessed a civil penalty pursuant to this section may, within twenty-eight (28) days of the final agency action making the assessment, appeal the assessment in accordance with chapter 52, title 67, Idaho Code. All ~~fin~~ ~~penalties~~ collected pursuant to this section shall be paid into the Idaho advertising and development fund. Nothing contained in this section shall be deemed to preclude the commission from pursuing any other civil or criminal remedies available to it as provided by law.

SECTION 3. 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 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 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~~ require 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 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 for Idaho potatoes and to prevent the misrepresentation, mislabeling or the misbranding of Idaho potatoes at any and all times at any and all points where they discover the same is being done and to require the disclosure of the growing area of origin upon potato containers by all persons doing business in the state of Idaho.

11. To make, conduct or carry on studies and research in connection with the raising, production and marketing of potatoes, including study and research dealing with the industrial and other uses of potatoes 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.

12. To require all persons with their principal place of business located in the state of Idaho to pay a one hundred dollar (\$100) annual license fee for use of any Idaho potato trade or certification mark and to require all persons with their principal place of business located outside of the state of Idaho to pay a three hundred dollar (\$300) annual license fee for use of any Idaho potato trade or certification mark.

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 an amount equal to twelve and one-half per cent (12 1/2%) of the tax collected on potatoes levied and imposed pursuant to section 22-1211, Idaho Code.

Provided, further, that none of the powers specified in subsection 11 of this section shall be exercised, and no expenditure of revenue as provided in subsection 11 of this section shall be authorized except upon the affirmative vote of six (6) or more of the members of the commission.

13. The commission, in furtherance of its duties under this act and under its rules, shall have the power to administer oaths, certify to official acts and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony. The commission may, if a witness refuses to attend or testify, or to produce any papers required by such subpoenas, report to the district court in and for the county in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witnesses, or the production of said papers, that the witness has been properly summoned, and that the witness has failed and refused to attend or produce the papers required by this subpoena before the commission, or has refused to answer questions propounded to him in the course of said proceedings, and ask an order of said court compelling the witness to attend and testify and produce said papers before the commission. The court, upon the petition of the commission, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten (10) days from the date of the order, and then and there shall show cause why he had not attended and testified or produced said papers before the commission. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission and regularly served, the court shall thereupon order that said witness appear before the commission at the time and place fixed in said order, and testify or produce the required papers. Upon failure to obey said order, said witness shall be dealt with for contempt of court.

Approved March 3, 1994.

CHAPTER 49
(H.B. No. 503)

AN ACT

RELATING TO THE IDAHO ACCOUNTANCY ACT; AMENDING SECTION 54-204, IDAHO CODE, TO REMOVE REFERENCES TO THE PUBLIC ACCOUNTANTS ADVISORY COMMITTEE; AMENDING SECTION 54-205, IDAHO CODE, TO CORRECT THE NUMBER OF BOARD MEMBERS REQUIRED FOR A QUORUM, TO DELETE REFERENCES TO THE PUBLIC ACCOUNTANTS ADVISORY COMMITTEE AND TO RENUMBER THE SECTION; AMENDING SECTION 54-207, IDAHO CODE, TO DELETE REFERENCE TO REGULATIONS; AMENDING SECTION 54-209, IDAHO CODE, TO ALLOW MANAGEMENT OR FINANCIAL WORK EXPERIENCE; AMENDING SECTION 54-210, IDAHO CODE, TO REQUIRE AN APPLICANT TO MEET THE CURRENT REQUIREMENTS OR THE EQUIVALENT FOR LICENSURE; AND AMENDING SECTIONS 54-212 AND 54-219, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE.

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

SECTION 1. That Section 54-204, Idaho Code, be, and the same is hereby amended to read as follows:

54-204. POWERS AND DUTIES. * The Idaho state board of accountancy, in addition to the other powers and duties set forth in this chapter, shall have the following powers and duties:

(1) To adopt and amend rules in accordance with the provisions of the administrative procedure act, chapter 52, title 67, Idaho Code, governing its administration and the enforcement of this chapter and the conduct of licensees including, but not limited to:

(a) Rules governing the board's meetings and the conduct of its business;

(b) Rules of procedure governing the conduct of investigations and hearings by the board;

(c) Rules specifying the education qualifications required for the issuance of certificates, the experience required for initial issuance of certificates and the continuing professional education required for renewal of licenses;

(d) Rules of professional conduct directed to controlling the quality and probity of the practice of public accountancy by licensees, and dealing among other things with independence, integrity and objectivity; competence and technical standards; responsibilities to the public; and responsibilities to clients;

(e) Rules specifying actions and circumstances that shall be deemed to constitute holding oneself out as a licensee in connection with the practice of public accountancy;

(f) Rules regarding quality reviews that may be required to be performed under the provisions of this chapter;

(g) Rules for the method and substance of examination for licenses to practice as certified public accountants. The board shall provide for examination of applicants, at least annually, at such times and places as circumstances and applications may warrant. The board shall use all or part of the uniform CPA examination, and may use any related service available from the American institute of certified public accountants (AICPA) and the national association of state boards of accountancy (NASBA), or an examination and services consistent with standards of the AICPA examination. The board may contract with third parties to perform such administrative services with respect to the examination as it deems appropriate to assist it in performing its duties hereunder. The board shall adopt a system to maintain the security and integrity of the examination process; and

(h) Such other rules as the board may deem necessary or appropriate to implement or administer the provisions and purposes of this chapter.

(2) To issue original certificates of qualification and licenses to practice as certified public accountants to such applicants as may be qualified by reciprocity, transfer of examination grades or by examination.

(3) To charge and collect from all applicants, certificate holders, and licensees such fees as are provided by this chapter and prescribed by rules of the board.

(4) To initiate or receive complaints, cause the same to be investigated, initiate proceedings, and conduct hearings or proceedings pursuant to chapter 2, title 54, Idaho Code. The board may designate a member, or any other person of appropriate competence, to serve

as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall file a report with the board. The board may find probable cause or lack of probable cause to initiate disciplinary proceedings upon the basis of the report or may return the report to the investigating officer for further investigation.

(a) In order to protect the interests of a complainant, witness, third party or defendant, the board may upon application and for good cause shown, issue a protective order, consistent with section 9-340, Idaho Code, prohibiting the disclosure of specific information otherwise not privileged and confidential and direct that the proceedings be conducted so as to implement the order.

(b) In carrying into effect the provisions of this chapter, the board may subpoena witnesses and compel their attendance, and also may require the submission of books, papers, documents or other pertinent data in any disciplinary matters or in any case wherever a violation of the provisions of this chapter is alleged. Upon failure or refusal to comply with any such order of the board, or upon failure to honor its subpoena, the board may apply to the court in the district where the witness resides to enforce compliance.

(5) To authorize by written agreement the bureau of occupational licenses as agent to act in its interest.

(6) ~~To review and act upon actions taken by the advisory committee.~~

(7) Any action, claim or demand to recover money damages from the board or its employees which any person is legally entitled to recover as compensation for the negligent or otherwise wrongful act or omission of the board or its employees, when acting within the course and scope of their employment, shall be governed by the Idaho tort claims act, chapter 9, title 6, Idaho Code. For purposes of this subsection, the term "employees" shall include special assignment members of the board and other independent contractors while acting within the course and scope of their board related work.

All hearings, investigations or proceedings conducted by the board shall, unless otherwise requested by the concerned party, be subject to disclosure according to chapter 3, title 9, Idaho Code.

~~B. The public accountants' advisory committee, in addition to other powers and duties set forth in this chapter, and subject to approval by the board, all have the following powers and duties:~~

~~(1) To recommend to the board for adoption and amendment rules to carry into effect the provisions of this chapter, and to recommend adoption and amendment of rules of professional conduct appropriate to establish and maintain a high standard of integrity, professional competence, public responsibility and dignity by those persons licensed as public accountants. Such rules and regulations shall be adopted in accordance with the administrative procedure act, chapter 52, title 67, Idaho Code.~~

~~(2) To recommend for licensing as a public accountant such applicants as may be qualified pursuant to this chapter.~~

~~(3) To receive complaints, cause the same to be investigated, initiate proceedings, and conduct hearings or proceedings pursuant to chapter 2, title 54, Idaho Code.~~

~~(4) To provide and conduct examinations of applicants for license as public accountants as required by chapter 2, title 54, Idaho Code.~~

~~(5) To authorize by written agreement the bureau of occupational licenses, as agent, to act in its interest.~~

SECTION 2. That Section 54-205, Idaho Code, be, and the same is hereby amended to read as follows:

54-205. MEETINGS -- COMPENSATION -- EXECUTIVE DIRECTOR. ~~(1)~~ The board shall have its principal office at Boise, Idaho. ~~Three-(3)~~ Four (4) members of the board shall constitute a quorum, a majority of whom may act. The board shall meet no less than three (3) times each year; provided, however, special meetings may be called at any time during the year after notice to all members of the board of such special meetings. The board shall elect annually a chair, a vice chair, a secretary and a treasurer from its members. The offices of secretary and treasurer may be in the same person. The members of the board shall be compensated as provided by section 59-509(i), Idaho Code.

The board shall have the power to name an executive director who need not be a member of the board or a licensee and who may be a full-time or part-time employee of the state of Idaho. The board shall prescribe the duties of the executive director. Such duties shall include but are not limited to:

~~(a)~~ Maintenance of a licensee registry;

~~(b)~~ The preparation of all papers and records for the board and the advisory committee; and

~~(c)~~ Enforcement or investigative activities as directed by the board.

~~(2) Three-(3) members of the advisory committee shall constitute a quorum, a majority of whom may act, and the committee shall meet no less than once each year. The advisory committee shall elect annually a chair, a vice chair, a secretary and a treasurer from its members. The offices of secretary and treasurer may be in the same person. The members of the advisory committee shall be compensated as provided by section 59-509(i), Idaho Code.~~

SECTION 3. That Section 54-207, Idaho Code, be, and the same is hereby amended to read as follows:

54-207. LICENSE -- APPLICATION. Any person meeting the qualifications as hereinafter provided, and desiring a certificate and license (where applicable), shall make a written application for such certificate and license to the board, upon forms to be prescribed and furnished by the board.

Such application shall be filed and shall be accompanied by such fee as may be required by rules and regulations of the board.

SECTION 4. That Section 54-209, Idaho Code, be, and the same is hereby amended to read as follows:

54-209. EXPERIENCE. An applicant who successfully passes the examination, with standards no less than those prescribed by the

board's rules for examination of candidates in Idaho, shall receive a license as a certified public accountant if the applicant has completed, or upon completion of the following:

(1) The applicant, in obtaining experience, must be supervised by a certified public accountant who holds a current valid license in any state or by a licensed public accountant who shall certify that experience obtained under either subsection (a) or (b) of this section consists of one (1) or more types of services involving the use of accounting or auditing skills, or one (1) or more types of management, or financial advisory or consulting skills, or the preparation of tax returns or the furnishing of advice on tax matters.

(a) Two (2) years of full-time public accounting employment, or one thousand nine hundred fifty-six (1,956) minimum hours per year; or

(b) Experience of a character and for a length of time which is, in the opinion of the board, substantially equivalent to the requirements of subsection (a) of this section. Rules shall be adopted by the board establishing such experience levels.

(2) The board by order shall also have authority to approve programs with private industry, nonprofit and governmental entities to establish acceptable experience substantially equivalent to subsection (1)(a) of this section.

SECTION 5. That Section 54-210, Idaho Code, be, and the same is hereby amended to read as follows:

54-210. RECIPROCITY -- TRANSFER OF EXAMINATION GRADES -- QUALIFICATIONS. (1) An applicant for certificate and license by reciprocity to practice as a certified public accountant in Idaho must:

(a) Be eighteen (18) years of age or older;

(b) Be of good moral character;

(c) Have obtained the education and passed the uniform CPA examination with standards no less than those ~~that would have been required at the time~~ in Idaho. The requirements of education and the Idaho standards relating to passage of the uniform CPA examination shall be waived if the applicant has no less than five (5) years' experience as determined by the board, provided that the experience or its equivalent was obtained after original licensure as a certified public accountant and within the ten (10) years immediately preceding the reciprocity application; and

(d) Have completed the necessary experience, continuing professional education, and board approved ethics examination required for issuance of a license to practice public accounting in Idaho and hold a current license in good standing in another licensing jurisdiction.

(2) An applicant for certificate and license to practice as a certified public accountant in Idaho by transfer of examination grades from another licensing jurisdiction must:

(a) Be eighteen (18) years of age or older;

(b) Be of good moral character;

(c) Have obtained the necessary education and have passed the uniform CPA examination with standards no less than those prescribed by the board's rules for examination candidates in Idaho;

and

(d) Possess experience qualifications as required under section 54-209, Idaho Code.

SECTION 6. That Section 54-212, Idaho Code, be, and the same is hereby amended to read as follows:

54-212. GENERAL FEES. The board, as prescribed by its rules, may charge an amount not to exceed:

(1) Three hundred dollars (\$300) for examination, or application for licensure by reciprocity or transfer of examination grades.

(2) Twenty-five dollars (\$25.00) for any certificate, original or replacement, to be issued as herein provided.

(3) Fifty dollars (\$50.00) for administrative services, including, but not limited to, review of examination papers and release of information to other boards for purposes of licensure.

(4) Three hundred dollars (\$300) for late fees, including late filing of the annual license renewal, and

(5) Three hundred dollars (\$300) for late fees, including late filing of the continuing professional education report.

(5) Two hundred dollars (\$200) for temporary practice registration.

(6) Two hundred dollars (\$200) for practice unit registration.

SECTION 7. That Section 54-219, Idaho Code, be, and the same is hereby amended to read as follows:

54-219. LICENSE -- RESTRICTION, REVOCATION, SUSPENSION OR DENIAL -- CAUSES -- COST RECOVERY -- ADMINISTRATIVE PENALTIES. (1) After notice and opportunity for hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for cause shown, the board may revoke, suspend, refuse to renew, administratively penalize, reprimand, restrict or place on probation the holder of a certificate or license, or refuse to issue any certificate or any license to an applicant, for any one (1) of the following causes:

(a) Any false statement with the intent to mislead or deceive the board or its members in or in connection with any application; or, cheating or any attempt to cheat in an examination.

(b) Fraud or deceit in obtaining or renewing a certificate and license to practice as a certified public accountant or licensed public accountant under the provisions of this chapter.

(c) Dishonesty, fraud or gross negligence in the practice of public accounting or in the filing or failure to file his own income tax returns.

(d) Violation of any provision of this chapter, or any rule adopted by the board under authority granted by this chapter, or an order of the board directed specifically to the licensee.

(e) Conviction of or a guilty plea to a felony under the laws of any state or of the United States.

(f) Conviction of or a guilty plea to any crime involving moral turpitude, an element of which is dishonesty or fraud, under the laws of any state or of the United States.

(g) Practicing as a certified public accountant or licensed public accountant during any period in which the license of the person so practicing has been suspended or revoked by the board.

(h) Cancellation, revocation, suspension or refusal to renew or grant a certificate or authority to practice as a certified public accountant or licensed public accountant by any other state, for any cause other than failure to pay an annual registration or license fee in such other state.

(i) Practicing as a certified public accountant or licensed public accountant under a false or assumed name; provided, however, this subsection shall have no application to practicing as a certified public accountant or licensed public accountant under the name of a practice unit, when such style or name is in conformity with a type or form approved by the rules of the board.

(j) Habitual use of drugs or intoxicants to such a degree as to render the licensee unreliable and unfit to practice as a certified public accountant or licensed public accountant.

(k) Suspension or revocation of the right to practice before any agency of the United States government or of the state of Idaho, for any cause other than failure to pay a registration or similar fee.

(l) Having been declared mentally incompetent by a court of competent jurisdiction; provided, however, that when a person's license shall have been revoked or suspended for this cause, such license shall be reinstated by the board when said disability is judicially removed.

(m) Nonpayment of the annual license fee required by this chapter, said nonpayment having continued for a period of thirty (30) days after the expiration of the previous license.

(n) Holding out as qualified or authorized to practice as a certified public accountant or licensed public accountant in this state, or practicing public accountancy without holding a current, valid, unrevoked and unsuspended certificate and license issued by the board.

(2) The expenses, including attorney fees, incurred by the board for any or all proceedings initiated against a person for violation of any of the provisions of this chapter may be charged against such person by the board, upon the finding of a violation of this chapter, in addition to any administrative penalties which may be levied by the board against such person. Administrative penalties levied by the board shall not exceed one thousand dollars (\$1,000) per violation.

(3) In lieu of or in addition to any remedy specifically provided, the board may require of a licensee or a practice unit:

(a) A quality review conducted in such fashion as the board may specify;

(b) Preissuance review;

(c) Satisfactory completion of such continuing professional education programs or examinations as the board may specify; and

(d) Other similar remedies.

(4) In any action brought under the provisions of this chapter, evidence of the commission of a single act prohibited in this chapter shall be sufficient to justify a suspension, revocation, fine, administrative penalty, restriction, reprimand, injunction, restraining

order, conviction or any other remedy authorized in this chapter. Evidence of a general course of conduct shall not be required.

Approved March 3, 1994.

CHAPTER 50
(H.B. No. 549)

AN ACT

RELATING TO THE PURE SEED LAW; AMENDING SECTION 22-434, IDAHO CODE, TO REQUIRE A SEPARATE LICENSE FOR EACH PLACE OF BUSINESS FROM WHICH SEED REGULATED UNDER THIS CHAPTER IS SOLD.

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

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

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

A separate license shall be required for each place of business ~~within the state of Idaho~~ from which seed regulated under this chapter is sold. Application for licenses shall be on a form provided by the director. No license shall be issued until the applicant shall have paid the fee provided in the following paragraphs (1), (2) and (3).

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

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

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

The license fees established in this section are minimums and any future increases shall be as promulgated by the director pursuant to chapter 52, title 67, Idaho Code. Applications shall be renewed no later than July 1 of each year.

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

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

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

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

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

Approved March 3, 1994.

CHAPTER 51
(H.B. No. 562)

AN ACT

RELATING TO ELECTIONS OF WATER AND SEWER DISTRICTS; AMENDING SECTION 42-4109, IDAHO CODE, TO PROVIDE THAT THE CONDUCT OF THE ELECTION SHALL BE IN THE MANNER SET FORTH IN CHAPTER 14, TITLE 34, IDAHO CODE.

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

SECTION 1. That Section 42-4109, Idaho Code, be, and the same is hereby amended to read as follows:

42-4109. RESOLUTION PRIOR TO CONSTRUCTION -- ELECTION. Before any district shall construct or acquire any works under this act, the commissioners of such district shall enact a resolution or resolutions which shall, (a) set forth a brief and general description of the works, and if the same are to be constructed, a reference to the preliminary report or plans and specifications which shall theretofore have been prepared and filed by an engineer chosen for that purpose; (b) set forth the cost thereof estimated by the engineer chosen as aforesaid; (c) order the construction or acquisition of such works; (d) direct that revenue bonds of the district shall be issued pursuant to this act in such amount as may be necessary to pay the cost of the works; and (e) contain such other provisions as may be necessary in the proposal.

Such resolution shall be passed and approved as provided by law for the enactment of general resolutions, but such district shall not, without the assent of a majority of the qualified electors voting at an election to be held for such purpose, issue revenue bonds for the purpose of providing funds to own, purchase, construct, extend or equip, within and without the corporate limits of such district, water systems, sewerage systems, water treatment plants and sewerage treatment plants, the principal and interest of which to be paid solely from the revenue derived from rates and charges for the use of, and the service rendered by such systems, plants and facilities.

Said resolutions shall provide for the holding of said election ~~and the giving of notice thereof by publication in the official newspaper of the district, said publication to be once a week for two (2) successive weeks prior to such election~~ in the manner set forth in chapter 14, title 34, Idaho Code. The notice of election shall set forth the purpose of said resolution, the amount of bonds authorized by it, the maturity dates of said bonds, the maximum rate of interest they shall draw, the voting places, the hours between which the polls will be open and the qualifications of voters who may vote thereat. Such election shall be conducted as are other district elections. The voting at such elections must be by ballot, and the ballots used shall be substantially as follows:

"In favor of issuing revenue bonds for the purposes provided by Resolution No."

"Against the issuance of revenue bonds for the purposes provided by Resolution No."

If, at such election, a majority of the qualified electors, voting at such election, vote in favor of issuing such revenue bonds, then such district may issue such bonds and create such indebtedness or liability in the manner and for the purpose specified in said resolution.

Approved March 3, 1994.

CHAPTER 52
(H.B. No. 591)

AN ACT

RELATING TO AMBULANCE SERVICE; AMENDING SECTION 31-3908, IDAHO CODE, TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS TO LEVY A SPECIAL TAX UP TO TEN-HUNDREDTHS OF ONE PERCENT OF MARKET VALUE FOR ASSESSMENT PURPOSES IN ANY AMBULANCE DISTRICT WITH AN ASSESSED VALUE OF THREE HUNDRED MILLION DOLLARS OR LESS.

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

SECTION 1. That Section 31-3908, Idaho Code, be, and the same is hereby amended to read as follows:

31-3908. AMBULANCE DISTRICT AUTHORIZED. (1) The county commissioners of any county shall, upon petition signed by not less than fifty (50) qualified electors of said county, or any portion thereof, which may exclude incorporated cities, undertake the following procedure to determine the advisability of resolving to establish and maintain an ambulance service district within the county as may be designated in the petition.

(a) A petition to form an ambulance service district shall be presented to the county clerk and recorder. The petition shall be signed by not less than fifty (50) of the resident real property holders within the proposed district. The petition shall designate the boundaries of the district.

(b) The petition shall be filed with the county clerk and recorder of the county in which the signers of the petition are located. Upon the filing of the petition the county clerk shall examine the petition and certify whether the required number of petitioners have signed the petition. If the number of petition signers is sufficient, the clerk shall transmit the petition to the board of county commissioners.

(c) Upon receipt of a duly certified petition the board of county commissioners shall cause the text of the petition to be published once a week for at least three (3) consecutive weeks in a newspaper of general circulation within the county. With the publication of the petition there shall be published a notice of the time of the meeting of the board of county commissioners when the petition will be considered stating that all persons interested may

appear and be heard. No more than five (5) names attached to the petition shall appear in the publication and notice, but the number of signatures shall be stated.

At the time of filing the petition the sponsors thereof shall cause to be deposited with the county clerk a sufficient sum of money to cover the cost of publication of the petition and all necessary notices. If the petition and notices are not published the deposit shall be returned to whomever deposited the funds, and if there is any surplus remaining after paying for the publication as herein provided it shall be returned to the original depositors, and if a district is created the fees so expended are an obligation of the district and shall be repaid by the district to the depositors.

(d) At the time set for hearing the petition, the board of county commissioners shall hear all persons who desire to be heard relative to the creation of an ambulance service district. The board of county commissioners may, if they so desire and it appears desirable, adjourn the meeting for not to exceed thirty (30) days in time to further hear the petitioners and protestants, if any. After the hearing or hearings, the board of county commissioners shall adopt a resolution either creating the proposed ambulance service district or denying the petition. When the board of county commissioners creates an ambulance service district the board shall adopt a resolution describing the boundaries of the district.

(e) When the board of county commissioners adopts the resolution creating the ambulance service district, the board shall include in the resolution the name of the district, and file a copy of the order creating the district with the county clerk and recorder, for which the clerk shall receive a fee of three dollars (\$3.00).

(f) Procedures for annexation, deannexation, or dissolution of a district created pursuant to this section shall be in substantial compliance with the provisions for public notice and hearing provided herein, and shall be by resolution adopted by the board of county commissioners.

(2) When the board of county commissioners has ordered the creation of an ambulance service district, pursuant to the provisions of this section, such district is hereby recognized as a legal taxing district, and providing ambulance service is a governmental function.

(3) The board of county commissioners shall be the governing board of an ambulance service district created pursuant to this section, and shall exercise the duties and responsibilities provided in chapter 39, title 31, Idaho Code.

(4) In any county where an ambulance service district is created as provided herein, the board of county commissioners is authorized to levy a special tax, not to exceed four-hundredths percent (.04%) of market value for assessment purposes, except as authorized by subsection (a) below, upon all taxable property within the district for the purposes of the district, but the levy otherwise authorized in section 31-3901, Idaho Code, shall not be made on taxable property within the district.

(a) In any county where an ambulance service district has been created as of January 1, 1976, and the market value for assessment

purposes of the district is less than ~~two~~ three hundred million dollars (\$2300,000,000), the board of county commissioners is authorized to levy a special tax, not to exceed ten-hundredths percent (.10%) of market value for assessment purposes, upon all taxable property within the district for the purposes of the district, but the levy otherwise authorized in section 31-3901, Idaho Code, shall not be made on taxable property within the district.

Approved March 3, 1994.

CHAPTER 53
(H.B. No. 652)

AN ACT

RELATING TO RECREATION DISTRICTS; AMENDING SECTION 31-4315, IDAHO CODE, TO REVISE PROCEDURES ON HOW CLAIMS AGAINST RECREATION DISTRICTS ARE PROCESSED AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-4315, Idaho Code, be, and the same is hereby amended to read as follows:

31-4315. CLAIMS AGAINST DISTRICT. All claims against the district shall be presented to the board ~~in writing, with a full account of the items verified by the oath of the claimant or the agent of the claimant that the same is correct, reasonable and just, and no claims or demands shall be allowed unless presented and verified as provided in this section.~~ Upon allowance of claims by the board, payment may be ordered by warrant, signed by the treasurer and countersigned by the president or by check signed by the treasurer and countersigned by the president. In the absence of sufficient funds for the payment of claims allowed, the board may, by resolution, order payment of claims by money borrowed by registered warrants as provided in section ~~31-3125~~ 31-2125, Idaho Code, or by money borrowed by issuing tax anticipation notes as provided by chapter 31, title 63, Idaho Code.

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

Approved March 3, 1994.

CHAPTER 54
(S.B. No. 1338)

AN ACT

RELATING TO ELECTIONS; REPEALING SECTION 34-2504, IDAHO CODE; AMENDING CHAPTER 25, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-2504, IDAHO CODE, TO REQUIRE A STATEMENT OF EXPENDITURES TO BE FILED BEFORE ELECTION DAY; AMENDING SECTION 34-2505, IDAHO CODE, TO DELETE LANGUAGE REGARDING STATEMENTS OF EXPENDITURES FILED AFTER ELECTION DAY; AMENDING SECTION 34-2418, IDAHO CODE, TO PROVIDE THAT THE BALLOTS AND BALLOT LABELS REQUIRED TO BE FURNISHED FOR PRIMARY ELECTIONS MAY BE OF DIFFERENT COLORS FOR POLITICAL PARTIES WHO ARE NOMINATING OR ELECTING CANDIDATES; AMENDING SECTION 34-622, IDAHO CODE, TO PROVIDE THAT AT THE GENERAL ELECTION 1986 AND EVERY FOUR YEARS THEREAFTER, A CORONER SHALL BE ELECTED IN EVERY COUNTY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-1707, IDAHO CODE, TO PROVIDE A DATE WHEN THE SPECIAL ELECTION WILL BE HELD; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 34-2504, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 25, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-2504, Idaho Code, and to read as follows:

34-2504. STATEMENT OF EXPENDITURES FILED BEFORE ELECTION DAY. All funds distributed to the political parties in section 34-2503, Idaho Code, shall be deposited into the political party's account established under chapter 66, title 67, Idaho Code, and all such funds shall be reported on the disclosure reports required in that chapter.

SECTION 3. That Section 34-2505, Idaho Code, be, and the same is hereby amended to read as follows:

34-2505. STATEMENT OF EXPENDITURES FILED ~~AFTER GENERAL ELECTION~~ -- RULES AND REGULATIONS -- UNQUALIFIED EXPENDITURES -- UNEXPENDED BALANCE. ~~Not later than the thirtieth day following a general election, the chairman of the committee shall be responsible to file with the office of the board a statement setting forth:~~

~~(1) the amount of money received by the committee under the provisions of section 34-2503; and~~

~~(2) the qualified election expenses (shown in such detail as the board may prescribe) incurred by the committee;~~

The board is authorized to prescribe such rules and regulations, to conduct such examinations and audits, to conduct such investigations, and to require the keeping and submission of such books, records and information as it deems necessary to carry out the func-

tions and duties imposed by this act.

If the board finds that any of the expenditures reported by the committee are not qualified election expenses, it shall so notify the committee of the amount deemed to have been not qualified. The committee shall be entitled to hearing by the board; if after the hearing by the board, the expenditures are determined not to be qualified, such committee shall pay to the state auditor an amount equal to such amount to be credited to the public school fund.

~~If the report filed under this section shows an unexpended balance of the funds provided under the terms of section 34-2503, the committee shall file monthly reports on the purposes to which such funds are used until there is no balance.~~

SECTION 4. That Section 34-2418, Idaho Code, be, and the same is hereby amended to read as follows:

34-2418. BALLOTS AND BALLOT LABELS. (1) The ballots and ballot labels required to be furnished for general or special elections shall be printed in black ink on clear white material of such size and arrangements as to suit the construction of the machine. The ballot labels for measures may contain a condensed statement of purpose for each measure to be voted on, accompanied by the words "Yes" and "No." The title of the offices on the ballot labels shall be printed in type as large as the space for the office will reasonably permit. Where more than one (1) candidate can be voted for an office, there shall be printed below the office title words indicating the number the voter is lawfully entitled to vote for out of the whole number of candidates, such as "Vote for Two."

(2) The ballots and ballot labels required to be furnished for primary elections ~~shall~~ may be of different colors for the political parties who are nominating or electing candidates.

(3) The "judiciary ballot" may be added to the ballot labels for the political parties. Candidates for the above offices will be shown under the general title of nonpartisan judicial candidates.

(4) When a vote tally system is used, the county clerk shall prepare the ballots as nearly as practicable as required by law.

SECTION 5. That Section 34-622, Idaho Code, be, and the same is hereby amended to read as follows:

34-622. ELECTION OF COUNTY CORONERS -- QUALIFICATIONS. (1) At the general election, ~~1972~~ 1986, and every ~~alternate~~ four (4) years thereafter, a coroner shall be elected in every county.

(2) No person shall be elected to the office of coroner unless he has attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States and shall have resided within the county one (1) year next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the county clerk. Each declaration shall have attached thereto a petition which contains the signatures of not less than five (5) nor more than ten (10) qualified electors.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of ten dollars (\$10.00) which shall be

deposited in the county treasury.

SECTION 6. That Section 34-1707, Idaho Code, be, and the same is hereby amended to read as follows:

34-1707. SUFFICIENCY OF PETITION -- NOTIFICATION -- EFFECT OF RESIGNATION -- SPECIAL ELECTION. (1) (a) In the event that a petition filed with the secretary of state does not contain the required number of certified signatures after being returned by the county clerks, the secretary of state shall inform the person or organization under whose authority the petition was circulated that the petition is defective for lack of certified signatures, and specify the number of additional signatures required to make the petition valid. The petition must be perfected within thirty (30) days of the date that the secretary of state finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the secretary of state shall declare the petition null and void ab initio in its entirety.

(b) In the event that a petition filed with the secretary of state is found by the secretary of state to contain the required number of certified signatures, the secretary of state shall promptly, by certified mail, inform the officer being recalled, and the petitioner, that the recall petition is in proper form.

(i) If the officer being recalled resigns his office within five (5) days after notice from the secretary of state, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(ii) If the officer being recalled does not resign his office within five (5) days after notice from the secretary of state, a special election shall be ordered by the secretary of state, unless he is the officer being recalled, in which event the governor shall order such special election. The special election must be held on the date prescribed in section 34-106, Idaho Code. If the officer being recalled is one (1) specified in section 34-1701(1)(a), Idaho Code, the special election shall be conducted statewide. If the officer being recalled is one (1) specified in section 34-1701(1)(b), Idaho Code, the special election shall be conducted only in the legislative district.

(2) (a) In the event that a petition filed with a county clerk does not contain the required number of certified signatures, the county clerk shall inform the person or organization under whose authority the petition was circulated that the petition is defective for lack of certified signatures, and specify the number of additional signatures required to make the petition valid. The petition must be perfected within thirty (30) days of the date that the clerk finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the clerk shall declare the petition null and void ab initio in its entirety.

(b) In the event that a petition filed with the county clerk is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly, by certified mail, inform the officer being recalled, and the petitioner, that the recall petition is in proper form.

(i) If the officer being recalled resigns his office within five (5) days after notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(ii) If the officer being recalled does not resign his office within five (5) days after notice from the county clerk, a special election shall be ordered by the county clerk. The special election must be held on the date prescribed in section 34-106, Idaho Code. The special election shall be conducted county-wide.

(3) (a) In the event that a petition filed with a city clerk does not contain the required number of certified signatures, the city clerk shall inform the person or organization under whose authority the petition was circulated that the petition is defective for lack of certified signatures, and specify the number of additional signatures required to make the petition valid. The petition must be perfected within thirty (30) days of the date that the city clerk finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the clerk shall declare the petition null and void ab initio in its entirety.

(b) In the event that a petition filed with a city clerk is found by the city clerk to contain the required number of certified signatures, the city clerk shall promptly, by certified mail, inform the officer being recalled, and the petitioner, that the recall petition is in proper form.

(i) If the officer being recalled resigns his office within five (5) days after notice from the city clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(ii) If the officer being recalled does not resign his office within five (5) days after notice from the city clerk, a special election shall be ordered by the city clerk. The special election must be held ~~within not less than forty-five (45) days nor more than sixty (60) days, and the date of the special election shall be specified in the order~~ on the date prescribed in section 34-106, Idaho Code. The special election shall be conducted city-wide.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 4, 5 and 6 of this act shall be in full force and effect on and after its passage and approval. Sections 1, 2 and 3 of this act shall be in full force and effect on and after July 1, 1994.

Approved March 3, 1994.

CHAPTER 55
(S.B. No. 1442)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 357, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 357, Laws of 1993, there is hereby appropriated to the Legislative Council the following amounts, to be expended according to the designated expense classes from the listed fund for the period July 1, 1993 through June 30, 1994:

| | |
|------------------------|---------------|
| FROM: | |
| General Fund | \$103,800 |
| FOR: | |
| Personnel Costs | \$ 12,200 |
| Operating Expenditures | 25,400 |
| Lump Sum | <u>66,200</u> |
| Total | \$103,800 |

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

Approved March 3, 1994.

CHAPTER 56
(S.B. No. 1517)

AN ACT
APPROPRIATING MONEYS TO THE DIVISION OF VOCATIONAL REHABILITATION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 361, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 361, Laws of 1993, there is hereby appropriated to the State Board of Education for the Division of Vocational Rehabilitation the following amounts, to be expended for the designated program according to the designated expense classes from the listed funds for the period July 1, 1993, through June 30, 1994:

VOCATIONAL REHABILITATION SERVICES:

| | |
|------------------------------|----------------|
| FROM: | |
| Federal Grants Fund | \$176,200 |
| Miscellaneous Revenue Fund | <u>17,700</u> |
| TOTAL | \$193,900 |
| FOR: | |
| Personnel Costs | \$ 57,200 |
| Operating Expenditures | 5,900 |
| Capital Outlay | 9,000 |
| Trustee and Benefit Payments | <u>121,800</u> |
| TOTAL | \$193,900 |

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

Approved March 3, 1994.

CHAPTER 57
(S.B. No. 1340)

AN ACT

RELATING TO WARRANTS OF DISTRAINT; AMENDING SECTION 63-1306, IDAHO CODE, TO INCREASE THE FEE FOR ISSUING A WARRANT OF DISTRAINT TO TEN DOLLARS.

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

SECTION 1. That Section 63-1306, Idaho Code, be, and the same is hereby amended to read as follows:

63-1306. WARRANTS OF DISTRAINT -- FEES, MILEAGE AND COMMISSIONS. Fees allowed for issuing warrants of distraint, collection, levy and return of same, shall be five ten dollars (\$510.00) for issuing each warrant. When levying on a warrant of distraint, section 31-3203, Idaho Code, "sheriff's fees" shall apply in determining service fees.

Approved March 4, 1994.

CHAPTER 58
(H.B. No. 518, As Amended)

AN ACT

RELATING TO THE STATE BOARD OF DENTISTRY; AMENDING SECTION 54-901, IDAHO CODE, TO DELETE REDUNDANT AND OBSOLETE LANGUAGE; AMENDING SECTION 54-902, IDAHO CODE, TO UPDATE THE DEFINITION OF PRACTICE OF DENTAL HYGIENE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-903, IDAHO CODE, TO UPDATE DEFINITIONS; AMENDING SECTION 54-904, IDAHO CODE, TO PROVIDE WHERE DENTAL HYGIENISTS MAY WORK UNDER GENERAL SUPERVISION; AMENDING SECTIONS 54-905 AND 54-906, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-907, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE, TO LIFT VOTING RESTRICTIONS ON DENTAL HYGIENE AND CONSUMER MEMBERS OF THE BOARD AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-908, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-909, IDAHO CODE, TO STANDARDIZE QUALIFICATIONS OF BOARD MEMBERS; AMENDING SECTION 54-910, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND CORRECT TERMINOLOGY; AMENDING SECTION 54-911, IDAHO CODE, TO ADD ONE NONDENTIST TO THE QUORUM REQUIREMENTS OF THE BOARD; AMENDING SECTION 54-912, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE, TO PROVIDE FOR DESIGNATION OF A HEARING OFFICER AND DIS-

COVERY PROCEDURES IN DISCIPLINARY PROCEEDINGS, TO AUTHORIZE THE ESTABLISHMENT AND ASSESSMENT OF FEES AND COSTS INCURRED TO ENFORCE THE CHAPTER AGAINST LICENSEES VIOLATING THE CHAPTER AND TO RENUMBER SUBSECTIONS; AMENDING SECTIONS 54-913 AND 54-914, IDAHO CODE, TO CORRECT TERMINOLOGY; AMENDING SECTION 54-915, IDAHO CODE, TO CORRECT TERMINOLOGY, TO PROVIDE THAT AN APPLICANT CONVICTED OF CERTAIN CRIMES MAY BE LICENSED IF SUFFICIENTLY REHABILITATED, TO STANDARDIZE LICENSURE QUALIFICATIONS FOR DENTISTS AND DENTAL HYGIENISTS, TO DELETE REDUNDANT LANGUAGE, TO ADD A CROSS REFERENCE AND TO RENUMBER SUBSECTIONS; AMENDING SECTION 54-916, IDAHO CODE, TO CORRECT TERMINOLOGY AND TO ELIMINATE MINIMUM FEES FOR LICENSURE; AMENDING SECTION 54-917, IDAHO CODE, TO CORRECT TERMINOLOGY AND DELETE REDUNDANT LANGUAGE; AMENDING SECTION 54-918, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE, TO PROVIDE FOR RECOGNITION OF CERTIFICATES FROM THE COMMISSION ON NATIONAL DENTAL EXAMINATIONS, TO PROVIDE A CODE REFERENCE RELATING TO THE EXEMPTION FROM DISCLOSURE OF EXAMINATION QUESTIONS AND ANSWERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-919, IDAHO CODE, TO CORRECT TERMINOLOGY; AMENDING SECTION 54-920, IDAHO CODE, TO DELETE AN INCORRECT REFERENCE, TO PROVIDE REQUIREMENTS FOR PROVISIONAL LICENSES, TO DELETE CERTAIN REQUIREMENTS TO CONVERT AN INACTIVE LICENSE TO ACTIVE STATUS, TO DELETE THE STATEMENT THAT A LICENSE WITH RETIREMENT STATUS INDICATES THE LICENSEE WAS IN GOOD STANDING AT THE TIME OF RETIREMENT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-921, IDAHO CODE, TO CORRECT TERMINOLOGY; AMENDING SECTION 54-922, IDAHO CODE, TO CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-923, IDAHO CODE, TO PROVIDE THAT A LICENSEE CONVICTED OF CERTAIN CRIMES MAY NOT BE SUBJECT TO MANDATORY LICENSE REVOCATION IF SUFFICIENTLY REHABILITATED; AMENDING SECTION 54-924, IDAHO CODE, TO AUTHORIZE THE BOARD TO LEVY ADMINISTRATIVE PENALTIES AND ASSESS ADMINISTRATIVE COSTS IN DISCIPLINARY PROCEEDINGS, TO CORRECT TERMINOLOGY, TO DEFINE MALPRACTICE, TO PROVIDE ADDITIONAL GROUNDS FOR DISCIPLINARY ACTION, TO DELETE OBSOLETE LANGUAGE, TO DELETE THE REQUIREMENT THAT A SPECIFIC TIME PERIOD BE IDENTIFIED IN AN ORDER REVOKING OR SUSPENDING A LICENSE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-925, IDAHO CODE, TO AUTHORIZE THE BOARD TO LEVY ADMINISTRATIVE PENALTIES AND ASSESS COSTS IN DISCIPLINARY PROCEEDINGS AGAINST DENTAL HYGIENISTS AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 54-926, IDAHO CODE; AND AMENDING SECTION 54-934, IDAHO CODE, TO PROVIDE A CODE REFERENCE PERTAINING TO THE EXEMPTION FROM DISCLOSURE OF PEER REVIEW COMMITTEE RECORDS.

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

SECTION 1. That Section 54-901, Idaho Code, be, and the same is hereby amended to read as follows:

54-901. DEFINITION -- PRACTICE OF DENTISTRY. The practice of dentistry is the doing by one (1) person, for a direct or indirect consideration, of one or more of the following with respect to the teeth, gums, alveolar process, jaws, or adjacent tissues of another person, namely:

Examining for diagnosis, treatment, extraction, repair, replacement, substitution, or correction;

Diagnosing of disease, pain, injury, deficiency, deformity or physical condition;

Treating, operating, prescribing, extracting, repairing, taking impressions, fitting, replacing, substituting, or correcting;

~~Cleaning, polishing, or removing stains or concretions, or applying topical medication;~~

Administering anesthetics or medicaments in connection with any of the foregoing.

~~The doing of any of the foregoing acts with respect to dental prosthetic appliances which requires or necessitates the presence, aid, assistance or cooperation of the person intended to be the user or wearer of such dental prosthetic appliance is hereby specifically defined as practicing dentistry and is not mere mechanical work upon inert matter in a dental laboratory as the term is used hereafter in this act.~~

SECTION 2. That Section 54-902, Idaho Code, be, and the same is hereby amended to read as follows:

54-902. DEFINITION. -- PRACTICE OF DENTAL HYGIENE. The practice of dental hygiene is the doing by one (1) person for a direct or indirect consideration of one (1) or more of the following with respect to the teeth or dental health of another person, namely, cleaning, polishing, removing stains or concretions; performing nonsurgical periodontal therapy; administering prescribed anesthetics or medicaments; applying preventive agents; performing nonsurgical, clinical and laboratory oral diagnosis diagnostic tests for interpretation by a dentist; preparation of preliminary records of oral conditions for interpretation by a dentist; and such other dental services as may be specified by the dentist unless prohibited by the board from time to time in its adopted rules and regulations; provided, however, a dental hygienist shall not be authorized to perform the following:

(1) ~~The diagnosis of oral conditions and treatment planning therefor;~~

(2) ~~The prescription of drugs and laboratory work authorizations;~~

(3) ~~The performance of surgical procedures on hard and soft tissue; or~~

(4) ~~The taking of any final impressions of the teeth or jaws or the relationship of the teeth or jaws for the purpose of fabricating any intra-oral restoration, appliance or prosthesis.~~

SECTION 3. That Section 54-903, Idaho Code, be, and the same is hereby amended to read as follows:

54-903. GENERAL DEFINITIONS. As used in this chapter:

(1) "Association" means the Idaho state dental association and the Idaho dental hygienists' association.

(2) "Authorized medicaments" when used in the practice of dental hygiene are medicines or healing applications limited to topical anesthetics and anticariogenic legend drugs.

(3) "Board" means the state board of dentistry.

(43) "Dental assistant" is a person who need not be licensed under this chapter, but who is regularly employed by a dentist at his office, who works under the dentist's direct supervision, and is adequately trained and qualified according to standards established by the board to perform the dental services permitted to be performed by assistants by this chapter and applicable rules and regulations of the board.

(54) "Dental hygienist" is a person both qualified and annually licensed by the laws of Idaho to practice dental hygiene.

(65) "Dental specialist" is a dentist who limits his practice to a specialty defined recognized by the American dental association, who possesses a general license for the practice of dentistry either in Idaho or another state, who has graduated from an American dental association board approved post-graduate program in his specialty and is a person both qualified and annually licensed by the laws of Idaho to practice dentistry a dental specialty.

(76) "Dentist" is a person both qualified and annually licensed by the laws of Idaho to practice dentistry.

(87) "Direct supervision" is supervision of a dental auxiliary assistant or dental hygienist requiring that a dentist diagnose the condition to be treated, a dentist authorize the procedure to be performed, a dentist remain in the dental office while the procedure is performed, and that before dismissal of the patient, a dentist approves the work performed by the auxiliary dental assistant or dental hygienist.

(98) "General supervision" is supervision of a dental hygienist requiring that a dentist authorize the procedure which is carried out, but not requiring that a dentist be in the office when the authorized procedure is performed.

(109) "Indirect supervision" is supervision of a dental hygienist requiring that a dentist authorize a procedure and that a dentist be in the dental office while the procedure is performed by the hygienist.

SECTION 4. That Section 54-904, Idaho Code, be, and the same is hereby amended to read as follows:

54-904. AUTHORIZATION FOR PROCEDURES PERFORMED UNDER GENERAL SUPERVISION BY DENTAL HYGIENISTS -- PRIVATE OFFICE -- PUBLIC SETTING. A dental hygienist is authorized to practice under general supervision when:

(1) A licensed dentist has diagnosed the condition to be treated, determined the procedure to be performed, and has delegated with written orders to a qualified dental hygienist the performance of prescribed treatment; or

(2) A supervisory dentist has evaluated the dental health plan and has issued written orders to a dental hygienist employed in a public health program, nursing home, public school or private school, written orders limited to any or all of the following procedures: oral prophylaxis, oral health screening, oral health education, and fluoride mouth-rinse programs any institutional setting where dental hygiene services may be performed.

SECTION 5. That Section 54-905, Idaho Code, be, and the same is hereby amended to read as follows:

54-905. UNLAWFUL PRACTICE OF DENTISTRY. (1) Any person who shall practice, or shall in any manner hold himself out to any other person, or to the public, as qualified or licensed to practice dentistry, or who represents himself to be a dentist, within the state of Idaho, without at the time thereof being a dentist, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000), or be imprisoned in the county jail for not less than thirty (30) days nor more than six (6) months, or both.

Each act of practice, or holding out, or representation, shall constitute a separate offense.

(2) Conviction under the provisions of this section shall not prevent issuance of an injunction as in this act provided in section 54-933, Idaho Code.

SECTION 6. That Section 54-906, Idaho Code, be, and the same is hereby amended to read as follows:

54-906. UNLAWFUL PRACTICE OF DENTAL HYGIENE. (1) Any person, not a dentist, who shall practice, or shall in any manner hold himself out to any other person, or to the public, as qualified or licensed to practice dental hygiene within the state of Idaho without at the time thereof being a licensed dental hygienist, or who performs any act, function, or service permitted a dental hygienist by this act without the supervision of a dentist as specified by the rules and regulations of the board, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300), or be imprisoned in the county jail for not less than thirty (30) days nor more than six (6) months, or both.

Each act of practice, or holding out, or representation shall constitute a separate offense.

(2) Conviction under the provisions of this section shall not prevent issuance of an injunction as in this act provided in section 54-933, Idaho Code.

SECTION 7. That Section 54-907, Idaho Code, be, and the same is hereby amended to read as follows:

54-907. STATE BOARD OF DENTISTRY ESTABLISHED. There is hereby established in the department of self-governing agencies a state board of dentistry to be composed of eight (8) members, five (5) of whom shall be dentists, two (2) of whom shall be dental hygienists, and one (1) of whom shall be a consumer person familiar with health care occupations. The dentist members of the board holding such position on July 1, 1981, shall remain in office as members of the board of dentistry until their respective terms as members of the board shall have expired, and thereafter dentist members of the board of dentistry shall be appointed by the governor in the manner hereinafter set forth herein. Upon appointment by the governor, the term of office of a den-

tist member of the board shall commence ~~as-of~~ on the first Monday of February next following his appointment and shall continue for five (5) years thereafter. A vacancy in membership of the board shall occur whenever the regular term of a member expires or when a member dies, resigns or is removed from office by the governor. Appointments to fill a vacancy occurring for some reason other than expiration of term of office shall be made for the unexpired term which is being filled. The governor may remove any member of the board from membership on the board who is found by the governor to be mentally or physically incapable of acting, or to be neglecting or refusing to act, or who ceases to have the qualifications of a member or who has failed to attend, without reasonable cause, two (2) successive meetings of the board.

The dental hygienists and consumer member of the board shall be appointed by the governor in the manner provided in section 54-908, Idaho Code. Except as provided herein, the term of office of the dental hygienists and consumer member holding such position on July 1, 1991, and regularly appointed thereafter, shall be five (5) years commencing on the first Monday of February next following appointment. ~~The dental hygienist member representing the component designated by the dental hygienists' association, pursuant to section 54-908, Idaho Code, to represent the southern portion of the state and holding office on July 1, 1991, shall serve until February 1994. The dental hygienist members shall have voting power in all board matters relating to the practice of dental hygiene. The consumer member may vote only on matters relating to administration and policy which do not directly affect scientific and practical examination of dentists or hygienists for licensing.~~

SECTION 8. That Section 54-908, Idaho Code, be, and the same is hereby amended to read as follows:

54-908. STATE BOARD OF DENTISTRY -- NOTICE OF VACANCY -- NOMINEES. (1) Prior to the expiration of the regular term of a dentist member of the board or upon the occurrence or declaration of a vacancy in the dentist membership of the board, the governor shall notify the Idaho state dental association of that fact in writing and the association shall, within sixty (60) days thereafter, nominate three (3) persons licensed to practice dentistry to fill the vacancy and shall forward the nominations to the governor, who shall appoint from among the nominees, a person to be a member of the board to fill the vacancy. The nominees shall be selected in a manner as shall be determined by the rules and regulations of the association. For the purposes of nominations and appointments, the state shall be divided by the association into four (4) components and nominations and appointments to the board shall be made in such a manner that each component shall be represented on the board by one (1) dentist member. The fifth dentist member of the board shall be a member at large who may reside in any of the four (4) components. If the association shall fail to furnish to the governor the names of nominees to fill vacancies within the time provided, the governor may appoint any dentist qualified for membership to fill the vacancy. If the vacancy is in the term of a member from one of the four (4) components, the appointee shall reside within the component.

(2) Prior to the expiration of the regular term of the a dental hygienist member of the board or upon the occurrence or declaration of a vacancy in the dental hygienist membership of the board, the governor shall notify the Idaho dental hygienists' association of that fact in writing and the association shall within sixty (60) days thereafter, nominate three (3) persons licensed to practice dental hygiene to fill the vacancy and shall forward the nominations to the governor, who shall appoint one (1) of the nominees to be a member of the board. The nominees shall be selected in a manner as shall be determined by the rules and regulations of the dental hygienists' association. For the purposes of nominations and appointments, the state shall be divided by the association into two (2) components and nominations and appointments to the board shall be made in such a manner that each component shall be represented on the board by one (1) dental hygienist member. If the dental hygienists' association fails to furnish the names of nominees within the time provided, the governor may appoint any qualified dental hygienist to fill the vacancy. If the vacancy is in the term of a member from one (1) of the two (2) components, the appointee shall reside within the component.

(3) The governor shall appoint any qualified person as a consumer member to the board, prior to the first Monday of February ~~next--following--the--effective--date--of--this--act;--and--thereafter;--prior--to--the--expiration--of~~ in the year the term of office of the consumer member shall expire or upon the vacancy of office of the consumer member; ~~as the case may be.~~

SECTION 9. That Section 54-909, Idaho Code, be, and the same is hereby amended to read as follows:

54-909. BOARD OF DENTISTRY -- QUALIFICATIONS OF MEMBERS. Each dentist and each dental hygienist member of the board shall hold a current, active status Idaho dental license; and shall be a resident of the state of Idaho. ~~and be neither directly nor indirectly--in--any way connected with or interested in the dental supply business.~~

~~The--qualifications--for--the--dental--hygienist--member--of--the--board--shall--include:~~

- ~~(1)--Current--active--Idaho--licensure;~~
- ~~(2)--Be--a--resident--of--the--state--of--Idaho;~~

~~(3) The consumer member of the board must be a resident of the state of Idaho. The consumer member and shall be representative of the public consumers of dental care services; as opposed to the professional members of the board whose scientific expertise and knowledge is required to protect the public interest. Therefore, the consumer member shall not have any direct pecuniary interest in providing health care services. No person shall qualify for appointment as a consumer member who is a member or employee of any other licensing board of health occupations; or a member or employee of any health occupation professional society or association; or a licensee of any health occupation board.~~

SECTION 10. That Section 54-910, Idaho Code, be, and the same is hereby amended to read as follows:

54-910. STATE BOARD OF DENTISTRY FUND -- CREATION OF. All fees of any kind collected under the provisions of this act shall be deposited with the state treasury to the credit of a separate fund to be known as the state board of dentistry fund and all such moneys-as-may-hereafter that comes into such this fund are--hereby is appropriated to carrying out the purposes and objects of this act, and to pay all costs and expenses incurred in connection therewith--~~No--other--state funds--shall--be--expended--for--the--purposes--of--this--act--provided--that funds--collected--hereunder--shall--be--immediately--available--in--the--bienio--1967-68--the--provisions--of--the--budget--law--notwithstanding--with this act.~~ Such moneys shall be paid out upon warrants drawn by the state auditor upon presentation of proper vouchers approved by the state board of dentistry or its ~~executive-secretary~~ administrator acting within his the administrator's delegated authority. Such claims and vouchers shall be examined by the board of examiners as are other claims against the state. Moneys paid from this fund are expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code (Standard Travel Pay and Allowance Act of 1949).

SECTION 11. That Section 54-911, Idaho Code, be, and the same is hereby amended to read as follows:

54-911. BOARD OF DENTISTRY -- ORGANIZATION -- MEETINGS -- EXPENSES -- PER DIEM. The board of dentistry shall select from its dentist members a chairman who shall serve at the pleasure of the board. The board may meet at stated times, and shall meet upon the call of its chairman or a majority of the members. It shall keep minutes of its meetings and actions thereat. Five (5) members, three (3) of whom must be dentists and one (1) of whom must be a nondentist, shall constitute a quorum, and the vote of the majority of the members present at a meeting at which a quorum is present shall determine the action of the board.

Out of any appropriation applicable to the administration of this act, each member of the board shall be compensated as provided by section 59-509(h), Idaho Code.

SECTION 12. That Section 54-912, Idaho Code, be, and the same is hereby amended to read as follows:

54-912. BOARD OF DENTISTRY -- POWERS AND DUTIES. The board shall have the following powers and duties:

(a1) To ascertain the qualifications and fitness of applicants to practice dentistry, a dental specialty or dental hygiene; to prepare, conduct and grade qualifying examinations; to issue in the name of the board a certificate of qualification to applicants found to be fit and qualified to practice dentistry or dental hygiene.

(b2) To prescribe rules for a fair and wholly impartial method of licensure and examination of applicants to practice dentistry, a dental specialty or dental hygiene.

~~(c)--in-the-event-a-dental-school-be-established-within-the-state of Idaho, or dental hygiene be taught at any school, college, institution,--university--or--department--thereof--within--the--state--of--Idaho, to prescribe by rule courses of study for and--instruction--in--dentistry~~

~~and dental hygiene, the period of study, the instructional facilities, faculty and instructor requirements, and to establish standards of preliminary education requisite to admission to the school, college, university or department thereof and to require satisfactory proof of the requirement of those standards.~~

(d3) To define by rule what shall constitute accepted and approved schools, colleges, institutions, universities or departments thereof for the teaching of dentistry or dental hygiene and to determine, accept and approve those that comply therewith.

(e4) To promulgate other rules required by law or necessary or desirable for its enforcement and administration; to define by regulation rule the terms ~~unprofessional or flagrant immoral~~ conduct or practices injurious to the public as the terms are used in section 54-924, Idaho Code, ~~and to establish by rule minimum standards of cleanliness and sanitation; to prescribe and to furnish~~ applications, certificates, licenses and other necessary forms.

(f5) To inspect or cause to be inspected the offices or operating rooms of all persons licensed under this chapter.

(g6) Upon its own motion or upon any complaint, to initiate and conduct investigations on all matters relating to the practice of dentistry or dental hygiene and to conduct hearings or proceedings on its own or through its designated hearing officer, to revoke, suspend or otherwise condition certificates of qualification or licenses of persons practicing dentistry or dental hygiene and, on such terms as the board shall deem appropriate, to revoke, or suspend, or otherwise condition such licenses, provided such hearings and proceedings shall be had in conformance with the provisions of chapter 52, title 67, Idaho Code, ~~and in lieu of revocation or suspension of licenses; to enter into and establish and enforce consent orders as authorized by chapter 52, title 67, Idaho Code, which orders may include probationary terms.~~ Final decisions of the board shall be reviewable and appealable subject to judicial review as provided in chapter 52, title 67, Idaho Code.

(h7) The board, its designated hearing officer, or representative shall have power to administer oaths, the power to engage in discovery as provided in the Idaho rules of civil procedure and chapter 52, title 67, Idaho Code, including, but not limited to, the power to take depositions of witnesses within or without the state in the manner provided by law in civil cases, and shall have power throughout the state of Idaho to require the attendance of witnesses and the production of books, records and papers as it may desire at any hearing before it of any matter which it has authority to investigate, and for that purpose the board or its designated 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 the witness resides, or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases and shall be paid from the state board of dentistry fund in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any

witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court, or any judge thereof, of any county in this state in which the disobedience, neglect or refusal occurs, upon application by the board to compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or for refusal to testify. The licensed person accused in the proceedings shall have the same right of subpoena upon making application to the board.

(i8) The board shall establish an office ~~at Boise~~ and may appoint an administrator who need not be a member of the board or a person licensed to practice dentistry or dental hygiene, and may employ other personnel, including attorneys and hearing officers, as may be necessary to assist the board. The board shall prescribe the duties of the administrator and these duties shall include the preparation of all papers and records under law for the board, and shall include enforcement activities as to the board may from time to time appear advisable, and the administrator shall act for and on behalf of the board in such manner as the board may authorize, keep records, property and equipment of the board and discharge other duties as the board may from time to time prescribe. The compensation of the administrator or other personnel shall be determined by the board and the administrator shall be bonded to the state in the time, form and manner prescribed in chapter 8, title 59, Idaho Code.

(j9) To report annually to the associations on the status of the state board of dentistry account and furnish the associations a written report on all receipts and expenditures during the preceding year.

~~(k10) The board may, by written agreement, authorize the bureau of occupational licenses as agent to act in its interest~~ Provide, by rule, for reasonable fees for administrative costs and assess costs reasonably and necessarily incurred in the enforcement of this chapter when a licensee has been found to be in violation of this chapter.

SECTION 13. That Section 54-913, Idaho Code, be, and the same is hereby amended to read as follows:

54-913. CERTIFICATES -- LICENSES -- RECORDS. (1) All certificates of qualification to practice dentistry or dental hygiene, and all annual licenses ~~therefor~~ shall be issued by the board in the name of the board, with the seal thereof attached.

(2) The board shall keep a record of all applicants for examination licensure to qualify as a dentist or dental hygienist, of applicants rejected on application or examination with the reason for rejection, of certificates of qualification and of annual licenses issued, and of dentists and dental hygienists.

SECTION 14. That Section 54-914, Idaho Code, be, and the same is hereby amended to read as follows:

54-914. DENTISTS AND DENTAL HYGIENISTS PREVIOUSLY QUALIFIED. All persons who prior to the effective date of this act who had been found qualified to practice dentistry or dental hygiene in this state and who on the effective date of this act were licensed as dentists or dental hygienists in this state shall be deemed to be qualified and

licensed dentists or dental hygienists under this act subject to the provisions of this act.

SECTION 15. That Section 54-915, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a1) Be ~~is~~ of good moral character and reputation; and has not have pled guilty to or been convicted of any felony, or of any misdemeanor involving moral turpitude, unless the person demonstrates that he has been sufficiently rehabilitated to warrant the public trust;

(b2) Shall, for dentistry, have successfully completed the course of study in dentistry in, and graduated and received a degree of doctor of dental surgery, doctor of dental medicine, or equivalent degree from a dental school accepted and approved by the board;

(c3) Shall, for dental hygiene, have successfully completed the course of study in dental hygiene in, and received a certificate thereof degree from a dental hygiene school accepted and approved by the board.

~~(d4) The board may issue provisional licenses to persons licensed to practice dentistry or dental hygiene in other states if such other states have qualifications for licensure no less strict than those of the state of Idaho. The provisional license shall be valid only until the next regularly scheduled examination and the board shall collect a fee of one hundred twenty five dollars (\$125) from the dentist applicant and sixty seven dollars and fifty cents (\$67.50) from the dental hygienist applicant prior to issuance of such provisional license. No such provisional license shall be issued to any person who has failed an examination given by the board or, prior to the effective date hereof, by the board of dental examiners. Shall, for dentistry and dental hygiene, pass the examination provided for in section 54-918, Idaho Code.~~

SECTION 16. That Section 54-916, Idaho Code, be, and the same is hereby amended to read as follows:

54-916. APPLICATION FOR EXAMINATION LICENSURE -- FEE. Any person desiring to practice dentistry, a dental specialty or dental hygiene within the state of Idaho shall, ~~in his own handwriting and under oath,~~ make an application for examination licensure in dentistry, a dental specialty or dental hygiene, as the case may be, on forms furnished by the board, which forms shall call for information from the applicant as shall show his full, true name and that he possesses all the qualifications required by law for the examination license applied for. The application and supporting instruments as shall be required, together with payment of an application fee of not ~~less than one hundred dollars (\$100);~~ nor more than three hundred dollars (\$300) for dentists, the fee to be set by the rules and regulations of the board and not ~~less than fifty dollars (\$50.00);~~ nor more than one two hundred fifty dollars (\$250) for dental hygienists, the fee to be set by

the rules and regulations of the board, and not less than two hundred fifty dollars (~~\$250~~) nor more than six hundred dollars (\$600) for dental specialists, the fee to be set by the rules and regulations of the board, shall be filed with the board at a sufficient time; ~~to be fixed by regulations; before an examination~~ to permit the board to investigate into the moral character and reputation of the applicant and his possession of the other qualifications for examination licensure. The fee shall not be refunded.

SECTION 17. That Section 54-917, Idaho Code, be, and the same is hereby amended to read as follows:

54-917. ALLOWANCE OR REJECTION OF APPLICANT. In the event the board finds upon investigation that the applicant does not possess all the qualifications required for examination licensure, or that his the application or supporting instruments contain false or misleading statements of material facts, the board shall refuse to permit the applicant to ~~take the examinations~~ be licensed, and shall in writing so notify the applicant giving the reasons therefor. The board shall record such refusal and reasons and the date and means of notification.

~~In the event the board finds that the applicant possesses all the qualifications for examination, it shall permit the applicant to take the examination in dentistry or dental hygiene, as the case may be, next given after the filing of the application;~~

~~A person who has been refused permission to take an examination, or who has failed to appear at the examination next following his application, may again apply as in the case of a first application, provided however, that a subsequent application shall fully disclose to the board the fact of the prior refusal, or the failure to appear.~~

~~An applicant who fails to pass his first examination may take the examination next following, provided he shall have notified the board of his intention to take such examination and have paid an additional examination fee within such period as prescribed by regulation. The fee shall not be refunded. An applicant who has failed the examination three (3) times shall not be allowed to retake the examination for a fourth time until he has submitted proof of additional education of a character and quality satisfactory to the board as may be required by regulation.~~

SECTION 18. That Section 54-918, Idaho Code, be, and the same is hereby amended to read as follows:

54-918. EXAMINATIONS -- CERTIFICATE OF QUALIFICATION. At least once in each calendar year ~~at times and places fixed by the board~~, the board or its agent shall conduct separate examinations in general dentistry and in dental hygiene. Examinations shall be written or clinical, or both, ~~and of such duration and character~~; and upon such subjects in dentistry and dental hygiene as the board shall determine will thoroughly test the fitness and ability of the applicant to practice dentistry or dental hygiene; ~~as the case may be. In addition, the board will conduct examinations to assess the fitness of candidates for the licensure as a dental specialist as the request for specialty~~

~~licensure arises. The board or its agent will grade the examinations, and its grades shall be final and not subject to review.~~ It shall report and record the names of applicants who pass and of those who fail the examination. Upon the ~~candidate's~~ candidate's request, the board will issue to each passing applicant in dentistry, who is qualified for Idaho licensure, a certificate of qualification to practice dentistry, and to each passing applicant in dental hygiene, who is qualified for Idaho licensure, a certificate of qualification to practice dental hygiene within the state of Idaho, ~~and to each passing applicant in a dental specialty, who is qualified for Idaho licensure, a certificate of qualification to practice a dental specialty within the state of Idaho.~~

Prior to an examination, or by general regulation rule, the board shall determine the relative weight of the written and of the clinical examination, the passing grade, not exceeding seventy per cent (70%), for each subject, section, or part of the examination and the general average passing grade, not exceeding seventy-five per cent (75%). The board may recognize a certificate granted by the ~~national board of dentistry in lieu of such examination or subject to additional examination as the board may require~~ commission on national dental examinations.

Applicants who fail the examination shall be notified thereof in writing by the board or its agent, which shall also record the fact of failure and the date and means of notification.

Written questions and answers of applicants shall be subject to disclosure according to chapter 3, title 9, Idaho Code, unless exempt from disclosure as provided by section 9-340, Idaho Code, and shall be destroyed by the board after the period of one (1) year following the examination.

SECTION 19. That Section 54-919, Idaho Code, be, and the same is hereby amended to read as follows:

54-919. CHEATING. In the event the board finds prior to the issuance of a certificate of qualification that an applicant, whether or not receiving a passing grade in the examination, has made any false statement with intent to mislead or deceive the board or its members in or in connection with his application, or has cheated or attempted to cheat in examination, such applicant shall be denied a certificate of qualification and shall be notified thereof in writing with the reasons, ~~therefor, and such the facts~~ and the date and means of notification shall be recorded by the board.

In the event of such finding, subsequent to the issuance of a certificate of qualification, proceedings may be maintained to revoke such certificate and any annual license outstanding, on such ground.

SECTION 20. That Section 54-920, Idaho Code, be, and the same is hereby amended to read as follows:

54-920. ANNUAL LICENSES -- FEES -- CLASSIFICATIONS OF LICENSES -- RIGHTS OF LICENSEES. (1) Each person who meets all other requirements to practice dentistry shall pay an annual license fee to the board on or before October 1 of each year. Each person who meets all other

requirements to practice dental hygiene shall pay an annual license fee to the board on or before April 1 of each year. Each applicant for licensure must submit to the board in writing a request for the applicable status of license. A person requesting active status license must state that he intends to fulfill the requirements for that status.

The annual license fee shall be fixed by the board, but shall not exceed:

- (a) Two hundred dollars (\$200) for a dentist with an active status;
- (b) One hundred dollars (\$100) for a dentist with an inactive status;
- (c) One hundred ten dollars (\$110) for a hygienist with an active status;
- (d) Fifty-six dollars (\$56.00) for a hygienist with an inactive status;
- (e) Two hundred dollars (\$200) for a dentist or a hygienist with a specialist status;
- (f) Ten dollars (\$10.00) for a dentist or dental hygienist with a retirement status.

The license year for dentists shall be October 1 of the current year to September 30 of the following year.

The license year for dental hygienists shall be April 1 of the current year to March 31 of the following year.

The license fee may be prorated on a monthly increment until the beginning of the next license year at the discretion of the board.

Upon payment of the applicable license fee, the board shall issue to the applicant, if its records show his qualifications not suspended or revoked, the appropriate annual license for the practice of dentistry or dental hygiene. The board may institute a late fee not to exceed twenty-five dollars (\$25.00) for payments made up to thirty (30) days past due. Failure to pay the required license fee when due shall constitute grounds to suspend, deny or revoke a license.

(2) The board of dentistry may issue different classes of licenses as defined in this subsection.

(a) The term "license with active status" means a license issued by the board to a person who is an active practitioner of dentistry or dental hygiene in the state of Idaho.

(b) The term "license with an inactive status" means a license issued by the board to a person who is not an active practitioner of dentistry or dental hygiene in the state of Idaho or who is not on the staff of any educational institution teaching dentistry or dental hygiene in the state of Idaho.

(c) The term "license with a special status" means a license issued by the board on a provisional basis under the terms of which the license must be surrendered to the board in the event of the happening of a named contingency; in the event the holder fails to comply with requirements established by the board as conditions precedent to the issuance of the license; or on the expiration of a stated period of time. The term shall also include a license which restricts or prohibits the licensee from performing certain services, or authorizes the licensee to perform only specified services.

(d) The board may issue a provisional license to a person actively licensed to practice dentistry or dental hygiene in other states if such other states have qualifications for licensure no less strict than those of the state of Idaho. The provisional license shall be valid for a specific length of time as stated by the board and the board shall collect the current active status license fee prior to issuance of such provisional license. No such provisional license shall be issued to any person who has failed an examination given by the board or its agent.

(e) The term "active practitioner of dentistry or of dental hygiene" means a person who, within the state of Idaho, performs any of the acts or performs any of the services mentioned in sections 54-901 and 54-902, Idaho Code. However, a practitioner that absences from his practice by reasons of illness or vacation not exceeding two (2) years, service in the dental department of the armed forces of the United States or the United States public health service, or the taking of board approved post-graduate educational courses, either within or without the state of Idaho, shall not affect the active status of the practitioner.

(3) (a) The board may issue a license with active status to any person who fulfills or has previously fulfilled the licensure requirements and who is an active practitioner of dentistry or dental hygiene in the state of Idaho or who signifies to the board, in writing, that upon issuance of the initial license, or reissuance of an annual license, he intends to be an active practitioner in this state within one (1) year. Exceptions may be made in conjunction with the provisions of subsection (2)(d) of this section.

(b) The board may issue a license with inactive status to any person who fulfills or has fulfilled the licensure requirements but who, for any reason, is not eligible for a license with active status.

(c) The board may issue a license with special status to any person who otherwise generally fulfills the licensure requirements but where in the judgment of the board, special circumstances exist which, for the protection of the public health and welfare, require specific limitations or who practices exclusively in a specialized area of dentistry.

A license with special status shall be considered, but not limited to one of the following:

1. A license issued which states a specific length of time it may be held valid;
2. A license issued which places specific conditions that must be fulfilled to remain effective;
3. A license issued which limits the scope or type of treatment which the holder may render or places limitations of persons for whom treatment may be rendered;
4. The board shall develop rules on specialized practice to include definitions, provisions for application, examination, limitation of practice and annual renewal of licensure.

(4) (a) A license with active status entitles the holder to practice dentistry or dental hygiene in the state of Idaho, as prescribed by the terms of the license.

(b) A license with inactive status does not entitle the holder to practice dentistry or dental hygiene in the state of Idaho. However, the board may convert a license with inactive status to a license with active status in the event the holder pays the license fee prescribed for licenses with active status and submits to the board satisfactory evidence of:

1. Compliance with the requirements of this chapter and all rules and regulations promulgated under the provisions of this chapter.

2. Evidence of good moral character and good professional conduct.

3. ~~A certificate of a licensed physician verifying that the applicant for conversion of license status is not subject to physical or mental conditions that render the applicant incapable of performing the physical tasks necessary in the efficient and competent practice of dentistry or dental hygiene, or so impair the applicant's functions of judgment as to constitute a substantial impairment for him to efficiently and competently practice dentistry or dental hygiene.~~

4. Active practice outside the state of Idaho during the previous two (2) years or employment as a dental or dental hygiene instructor. Practitioners unable to meet the active practice requirement may convert their license upon board approval.

(c) A license with special status entitles the holder thereof to practice dentistry or dental hygiene in the state of Idaho only within the limitations specifically determined by the board and for the period of time prescribed.

(5) A license with retirement status does not permit the holder to practice dentistry or dental hygiene in the state of Idaho, ~~but indicates the holder has been a practitioner holding a license in good standing at the time of retirement.~~

There is no conversion from retirement status to active status other than filing an application for examination as required of a first applicant.

SECTION 21. That Section 54-921, Idaho Code, be, and the same is hereby amended to read as follows:

54-921. REINSTATEMENT. A person whose license has been suspended or revoked for nonpayment of the required license fee may have such qualification reinstated by filing an application ~~therefor and for examination~~ licensure showing possession by him of the qualifications required of a first applicant for examination licensure, and additionally the fact, time and cause of cancelation of his previous qualification. He shall pay to the board an application fee in the same amount as prescribed by the board under the provisions of section 54-916, Idaho Code, which fee shall not be refunded. If found qualified as in the case of a first applicant for examination licensure, he may be required to take and pass the next qualifying examination, or, in the discretion of the board he may be permitted to take such special examination as shall show that he possesses the knowledge and skill requisite to the practice of dentistry or dental hygiene as the

case may be. In the event he passes such examination there shall be issued to him a certificate of qualification.

SECTION 22. That Section 54-922, Idaho Code, be, and the same is hereby amended to read as follows:

54-922. DISPLAY OF ANNUAL LICENSE. No person shall practice dentistry or dental hygiene unless he either ~~have~~ has on display in his office an unrevoked and unsuspended annual license therefor for the year in which he shall ~~so~~ practice or ~~have~~ has the same immediately producible upon request.

SECTION 23. That Section 54-923, Idaho Code, be, and the same is hereby amended to read as follows:

54-923. REVOCATION FOR CONVICTIONS OF CRIME. A certificate or other evidence of qualification and right to practice dentistry, a dental specialty or dental hygiene, and an annual license, may be revoked by the board whenever it shall be shown to the board that the holder of such certificate or other evidence of qualification, right to practice or license has been finally adjudged guilty of a felony, or of a misdemeanor involving moral turpitude, whether such final judgment shall have been entered before or after qualification, or accrual of such right, or the issuance of such certificate or other evidence of qualification, or of such annual license, unless the person demonstrates that he has been sufficiently rehabilitated to warrant the public trust.

A copy of the judgment of conviction, certified to be ~~full~~-true, correct and final by the clerk or judge of the court wherein conviction was had, shall be conclusive evidence of such conviction, and upon the filing thereof with the board, the revocation shall be entered without further proceedings.

SECTION 24. That Section 54-924, Idaho Code, be, and the same is hereby amended to read as follows:

54-924. OTHER GROUNDS OF REFUSAL, REVOCATION OR SUSPENSION OF DENTISTS -- PROBATION AGREEMENTS. ~~The certificate or other evidence of qualification, and the right to practice dentistry or any dental specialty and the annual license of any dentist or dental specialist may be revoked, or suspended by the board upon proceedings as provided by law~~ board may refuse to issue or renew a dental license, or may revoke, suspend, place on probation, reprimand or take other disciplinary action with respect to a dental license as the board may deem proper, including administrative penalties not to exceed ten thousand dollars (\$10,000) per violation and assessment of the costs of disciplinary proceedings in the event a dentist shall:

(1) Intentionally misstate, or fail fully to disclose, a fact material to determination of fitness and qualification in an application for examination licensure to practice dentistry, or cheat in an examination to practice dentistry; or procure a certificate or finding of qualification to practice dentistry or subsequently an annual license by false, fraudulent or deceitful means or in any other name

than his own true name; or

(2) Practice dentistry under any name other than his own true name except as authorized by the provisions of the professional service corporation act; or

(3) Practice or in any manner or by any means or at any place hold out or represent himself as practicing dentistry in or under the name of, or as a member, representative, agent or employee of, or in connection with, any company, association, or corporation, or under any trade, fictitious or business name except as authorized by the provisions of the professional service corporation act; or

(4) (a) Make, or cause to be made, or assist in making, any fraudulent, false, or misleading or puffing statement as to his own, or an employee's, associate's, or other dentist's or dental hygienist's skill or lack of skill, or method of practice; or

(b) Claim to practice dentistry without causing pain; or

(c) Claim superiority over other dentists; or

(d) Publish, advertise, or circulate reports, letters, certificates, endorsements, or evidence of cures or corrections of dental conditions by such dentist, his employee or associate by reason of his or their skill, experience, or ability or of his or their use of any system, method, technique, device, drug, medicine, material, manipulation or machine; or

(e) Advertise the use of, or use, any system, method, technique, device, drug, medicine, material or machine, which is either falsely advertised or misnamed; or

(5) Employ "cappers" or "steerers" any person to obtain patronage, or call or seek to call, the attention of the public to him, his office, his skill, or his practice, by public exhibition, use, reproduction, or representation of specimens or samples, of dental work, or by demonstrations in public. This shall not apply to teaching in dental or dental hygiene schools, or demonstrations or exhibitions before meetings of other dentists or dental hygienists; or

(6) Use intoxicants or drugs to such a degree as to render him unfit to practice; or be guilty of gross malpractice; or be guilty of unprofessional or flagrant immoral conduct; or

(7) Commit malpractice, that is, to provide dental care which fails to meet the standard of dental care provided by other qualified dentists in the same community or similar communities, taking into account his training, experience and the degree of expertise to which he holds himself out to the public; or

(8) Engage in unprofessional, unethical or immoral conduct, as defined by board rules; or

(9) Advertise in such way as to deceive or defraud, or probably deceive or defraud, the public or patrons; or

(810) Employ or permit any person not a dentist to practice dentistry, or any person not a dentist or dental hygienist to practice dental hygiene, in his office or under his control or direction; except that a dentist may allow a dental assistant to perform any dental services as may be specified by the board from time to time in its adopted rules and regulations. A dental assistant may not be authorized to perform any of the following:

(a) Any service which a dental hygienist is prohibited from performing by section 54-902, Idaho Code, or by any rule or regula-

~~tion adopted by the board;~~

~~(b) Removal of calculus deposits from natural tooth surfaces and the performance of soft tissue curettage procedures;~~

~~(c) Administration of general or injected local anesthetics of any nature in connection with a dental operation;~~

~~(d) Conducting oral examination for the purpose of charting existing conditions; or~~

~~(e) Interpreting radiographs; or~~

(911) Fail, neglect or refuse to keep his office or equipment, or otherwise conduct his work, ~~in a thoroughly clean and sanitary condition in accordance with current state and federal laws, rules and regulations; or~~

(102) Violate any other provisions of law or rules ~~or regulations lawfully promulgated adopted~~ by the board; ~~or~~

~~The board shall specifically set forth in the order of revocation or suspension the period of time for which a license shall be revoked or suspended and in lieu of revocation, the board may enter into a consent order providing for a probation period which shall be for a term of not more than three (3) years and shall be in lieu of other disciplinary action;~~

(113) Falsely identify himself to the public as a specialist in a specialty area of dentistry as defined by regulation rule.

SECTION 25. That Section 54-925, Idaho Code, be, and the same is hereby amended to read as follows:

54-925. OTHER GROUNDS OF REVOCATION OR SUSPENSION OF DENTAL HYGIENISTS -- PROBATION AGREEMENTS. The certificate or other evidence of qualification, and the right to practice dental hygiene and the annual license of any dental hygienist may be revoked, or suspended or otherwise conditioned by the board upon ~~proceedings as in this act provided~~ in the event such dental hygienist shall do, in respect to the practice of dental hygiene, or as a dental hygienist, any of the things or acts set forth in section 54-924, Idaho Code of this act; Provided, however, that notwithstanding any provisions of section 54-924, Idaho Code, a dental hygienist shall not practice otherwise than as provided in section 54-904, Idaho Code of this act, and his doing so shall be an additional ground for revocation, or suspension, or other conditions as determined by the board.

~~The board shall specifically set forth in the order of revocation or suspension the period of time for which such license shall be revoked or suspended and in lieu of revocation, the board may enter into a consent order providing for a probation period which shall be for a term of not more than three (3) years and shall be in lieu of other disciplinary action~~ may refuse to issue or renew a dental hygiene license, or may revoke, suspend, place on probation, reprimand or take other disciplinary action with respect to a dental hygiene license as the board may deem proper, including administrative penalties not to exceed five thousand dollars (\$5,000) per violation and assessment of the costs of disciplinary proceedings.

SECTION 26. That Section 54-926, Idaho Code, be, and the same is hereby repealed.

SECTION 27. That Section 54-934, Idaho Code, be, and the same is hereby amended to read as follows:

54-934. PEER REVIEW COMMITTEES -- IMMUNITY FROM LIABILITY -- CONFIDENTIALITY OF RECORDS. (1) The state board of dentistry or the Idaho state dental association or both may establish one or more peer review committees pursuant to this section, for the purpose of:

- (a) Determining the relevancy of a dentist's usual and reasonable fees or treatment procedure to the terms of a contract;
- (b) Assessing the quality of services rendered; or
- (c) Evaluating claims against dentists or engaging in underwriting decisions in connection with professional liability insurance coverage for dentists.

(2) The board or the associations, any one (1) of which has established a peer review committee pursuant to law, any committee member or any staff member of either the board or of the associations assisting a peer review committee, and any witness or consultant appearing before or presenting information to a peer review committee shall be immune from liability in any civil action brought as a result of a peer review investigation or proceeding conducted by a peer review committee, if the board, association, committee or staff member, witness or consultant, acts in good faith within the scope of the function of the committee, has made a reasonable effort to obtain the facts of the matter as to which the board or association or he acts, in the reasonable belief that the action taken is warranted by the facts.

(3) Any entity, organization or person acting without malice in making any report or other information available to a peer review committee, or who assists in the origination, investigation or preparation of that information, or assists a committee in carrying out any of its duties or functions, shall be immune from civil liability for any such actions.

(4) Any communications or information relating to peer committee investigations or proceedings as provided by law, and the proceedings and records of the committee related to them, shall be subject to disclosure according to chapter 3, title 9, Idaho Code, unless exempt from disclosure as provided in section 9-340, Idaho Code, and shall not be subject to discovery or introduced into evidence in any civil action against a dentist arising out of matters which are the subject of evaluation and review by the committee.

Approved March 3, 1994.

CHAPTER 59

(H.B. No. 526, As Amended in the Senate)

AN ACT

RELATING TO COLLECTION OF REAL PROPERTY TAXES; AMENDING SECTION 63-916, IDAHO CODE, TO PROVIDE THAT THE DATE FOR FINDING AN ERROR ON THE LEVY BE NO LATER THAN JANUARY 30, TO PROVIDE THAT THE COUNTY TAX COLLECTOR SHALL MAIL TO THE LAST RECORD OWNER OF ANY

PROPERTY AFFECTED BY SUCH ERRONEOUS LEVY A NOTICE OF TAX CORRECTION, AND TO PROVIDE DEADLINES FOR PAYING TAXES.

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

SECTION 1. That Section 63-916, Idaho Code, be, and the same is hereby amended to read as follows:

63-916. ERRONEOUS LEVY. (1) Whenever any board of county commissioners has discovered that a levy has been made by unintentional clerical, mathematical or electronic error, in any levy certified by such board, the board of county commissioners on its own motion may:

(a) If discovered prior to the fourth Monday of November of the year for which the levy is certified, order all necessary corrections made in all tax records, if the corrected levy is otherwise within statutory limits;

(b) If discovered after the fourth Monday of November of the year for which the levy is certified, but before ~~June 20~~ January 30 of the succeeding year, order all necessary corrections made in all tax records, if the corrected levy is otherwise within statutory limits. The corrected levy shall be applied to the taxable value within each taxing district and the taxes so applied shall be a lien on the property, and such tax levy and tax charge shall supersede all previous incorrect levies and charges made for that year, except that the tax computed using the corrected levy shall allow a credit for the amount of taxes previously paid. If additional tax is owed due to the corrected levy, the county tax collector shall, prior to the fourth Monday in May, mail to the last record owner of any property affected by such erroneous levy a notice of tax correction. The deadline for paying such tax shall be no later than June 20 of that year. Penalty and interest will be added if full tax is not paid by June 20 and the interest will be calculated from January 1 as provided in section 63-1102, Idaho Code.

(c) The levy correction shall be considered at a hearing held by the board of county commissioners at which time any taxpayer may appear and be heard upon the issue. Notice of the date, time, place and purpose of such hearing shall be published in a newspaper published in the county, or if there is none, then in a newspaper of general circulation in the county. The notice shall be run once each week for the two (2) weeks preceding the hearing. The hearing shall be held not less than seven (7) days after the first notice is published.

(2) The board of county commissioners shall submit the corrected levy and a copy of the order to the state tax commission. The state tax commission shall review the corrected levy and take action as required in section 63-917, Idaho Code.

(3) For the purposes of sections 63-117 through 63-125, Idaho Code, and for the purposes of the distributions required in section 63-3638, Idaho Code, the tax commission, county auditor, and the board of county commissioners shall use the corrected values and numbers allowed in this section to recompute and correct such distributions by adjusting future distributions to account for any difference. For the

purposes of chapters 8 and 10, title 33, Idaho Code, the state department of education shall use the corrected values and numbers allowed in this section.

Approved March 3, 1994.

CHAPTER 60
(H.B. No. 605)

AN ACT

RELATING TO THE ALCOHOL BEVERAGE CODE; AMENDING SECTION 23-1334, IDAHO CODE, TO PROVIDE CONDITIONS WHEN PERSONS UNDER THE AGE OF TWENTY-ONE MAY POSSESS OR HANDLE WINE.

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

SECTION 1. That Section 23-1334, Idaho Code, be, and the same is hereby amended to read as follows:

23-1334. MINORS -- PURCHASE, CONSUMPTION, POSSESSION, SALE OR SERVICE BY PROHIBITED -- SALE, GIFT, OR DELIVERY TO PROHIBITED -- MISREPRESENTATION OF AGE PROHIBITED -- PENALTY. (a) No person under the age of twenty-one (21) years may sell, serve, dispense, purchase, consume or possess wine provided that any person who is nineteen (19) years of age or older may sell, serve, possess or dispense wine in the course of his employment. The provisions of this section do not apply to possession by a person under the age of twenty-one (21) years making a delivery in pursuance of the order of his parent or in pursuance of his employment, or when such person under the age of twenty-one (21) years is in a private residence accompanied by his parent or guardian and with such parent's or guardian's consent.

(b) No person shall give, sell, or deliver wine to any person under the age of twenty-one (21) years.

(c) Any person under the age of twenty-one (21) years who shall by any means represent to any retailer or distributor or to any agent or employee of such retailer or distributor that he or she is twenty-one (21) years or more of age for the purpose of entering licensed premises or inducing such retailer or distributor, or his agent or employee, to sell, serve or dispense wine to such person shall be guilty of a misdemeanor.

(d) Any person who shall, by any means, represent to any retailer or distributor or the agent or employee of such retailer or distributor, that any other person is twenty-one (21) years or more of age, when in fact such other person is under the age of twenty-one (21) years, for the purpose of entering licensed premises or inducing such retailer or distributor, or the agent or employee of such retailer or distributor, to sell, serve, or dispense wine to such other person shall be guilty of a misdemeanor.

Approved March 3, 1994.

CHAPTER 61
(H.B. No. 614)

AN ACT

RELATING TO DUTIES OF PUBLIC UTILITIES; AMENDING CHAPTER 3, TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 61-337, IDAHO CODE, TO PROVIDE THAT AN EMPLOYEE OF A PUBLIC SERVICE CORPORATION IS EXEMPT FROM ANY HOURS OF SERVICE RESTRICTIONS ON DRIVERS DURING EMERGENCY RESTORATION OF PUBLIC UTILITY SERVICE.

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

SECTION 1. That Chapter 3, Title 61, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 61-337, Idaho Code, and to read as follows:

61-337. EMERGENCY RESTORATION OF PUBLIC UTILITY SERVICE. A person who is an employee of a gas corporation as defined in section 61-117, Idaho Code, an electrical corporation as defined in section 61-119, Idaho Code, a telephone corporation as defined in section 61-121, Idaho Code, or a water corporation as defined in section 61-125, Idaho Code, is exempt from any hours of service rule or regulation for drivers while operating a public utility vehicle during emergency restoration of a public utility service.

Approved March 3, 1994.

CHAPTER 62
(H.B. No. 797)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 175, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 175, Laws of 1993, there is hereby appropriated to the Attorney General the following amounts to be expended for the designated programs according to the designated expense classes from the listed fund for the period July 1, 1993, through June 30, 1994:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|----------------------------------|---------------------------|----------------------------------|--------------------------|-----------|
| I. STATE LEGAL SERVICES: | | | | |
| FROM: | | | | |
| General Fund | \$89,100 | \$ 5,300 | \$21,500 | \$115,900 |
| II. SPECIAL SERVICES LITIGATION: | | | | |
| FROM: | | | | |
| General Fund | | \$20,000 | | \$ 20,000 |

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

Approved March 3, 1994.

CHAPTER 63
(H.B. No. 502)

AN ACT

RELATING TO FAILURE TO FILE A CLAIM WAIVING AND RELINQUISHING A RIGHT TO DIVERT OR WITHDRAW AND USE WATERS OF THE STATE; AMENDING SECTION 42-245, IDAHO CODE, TO REMOVE THE DEADLINE FROM THE MANDATORY CLAIM STATUTES TO ALLOW CLAIMS TO BE EXCEPTED.

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

SECTION 1. That Section 42-245, Idaho Code, be, and the same is hereby amended to read as follows:

42-245. FAILURE TO FILE CLAIM WAIVES AND RELINQUISHES RIGHT. Any person claiming the right to divert or withdraw and use waters of the state who fails to file a claim as provided in section 42-243, Idaho Code, shall be conclusively deemed to have waived and relinquished any right, title or interest in said right.

The provisions of this section shall not apply if a claim to the right is filed by ~~June 30, 1990~~, in a general water rights adjudication proceeding commenced prior to June 30, 1988, under the provisions of chapter 14, title 42, Idaho Code.

Approved March 7, 1994.

CHAPTER 64
(H.B. No. 510, As Amended)

AN ACT

RELATING TO FEES OF DEPARTMENT OF WATER RESOURCES; AMENDING SECTION 42-203A, IDAHO CODE, TO PROVIDE FOR A FEE TO ACCOMPANY A PROTEST; AMENDING SECTION 42-221, IDAHO CODE, TO MODIFY AND PROVIDE FOR INCREASED FEES IN CONNECTION WITH THE FILING OF AN APPLICATION FOR PERMIT TO APPROPRIATE WATER, AN APPLICATION TO CHANGE AN EXISTING WATER RIGHT, AN APPLICATION FOR AMENDMENT OF PERMIT, A WATER RIGHT USE CLAIM, A READVERTISEMENT, A REQUEST FOR AN EXTENSION OF TIME, TO PROVIDE A FEE FOR THE FILING OF AN ASSIGNMENT OF A PERMIT, A PROTEST, AND AN APPLICATION TO ALTER A STREAM CHANNEL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-222, IDAHO CODE, TO PROVIDE FOR A FEE TO ACCOMPANY A PROTEST AND TO MAKE TECHNICAL

CORRECTIONS; AND AMENDING SECTION 42-224, IDAHO CODE, TO PROVIDE FOR A FEE TO ACCOMPANY A PROTEST AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 42-203A, Idaho Code, be, and the same is hereby amended to read as follows:

42-203A. NOTICE UPON RECEIPT OF APPLICATION -- PROTEST -- HEARING AND FINDINGS -- APPEALS. (1) Upon receipt of an application to appropriate the waters of this state, the department of water resources, shall prepare a notice in such form as the department may prescribe, specifying: (a) the number of the application; (b) the date of filing thereof; (c) the name and post-office address of the applicant; (d) the source of the water supply; (e) the amount of water to be appropriated; (f) in general the nature of the proposed use; (g) the approximate location of the point of diversion; (h) and the point of use. The department shall also state in said notice that any protest against the approval of such application, in form prescribed by the department, shall be filed with the department within ten (10) days from the last date of publication of such notice.

(2) The director of the department of water resources shall cause the notice to be published in a newspaper printed within the county wherein the point of diversion lies, or in the event no newspaper is printed in said county, then in a newspaper of general circulation therein. When the application proposes a diversion in excess of ten (10) c.f.s. or one thousand (1,000) acre feet, the director shall cause the notice to be published in a newspaper or newspapers sufficient to achieve statewide circulation. Any notice shall be published at least once each week for two (2) successive weeks.

(3) The director of the department shall cause a copy of the notice of application to be sent by ordinary mail to any person who requests in writing to receive any class of notices of application and who pays an annual mailing fee as established by departmental regulation.

(4) Any person, firm, association or corporation concerned in any such application may, within the time allowed in the notice of application, file with said director of the department of water resources a written protest, together with the statutory filing fee as provided in section 42-221, Idaho Code, against the approval of such application, which protest shall state the name and address of protestant and shall be signed by him or by his agent or attorney and shall clearly set forth his objections to the approval of such application. Hearing upon the protest so filed shall be held within sixty (60) days from the date such protest is received. Notice of this hearing shall be given by mailing notice not less than ten (10) days before the date of hearing and shall be forwarded to both the applicant and the protestant, or protestants, by certified mail. Such notice shall state the names of the applicant and protestant, or protestants, the time and place fixed for the hearing and such other information as the director of the department of water resources may deem advisable. In the event that no protest is filed, then the director of the department of water

resources may forthwith approve the application, providing the same in all respects conforms with the requirements of this chapter, and with the regulations of the department of water resources.

(5) Such hearing shall be conducted in accordance with the provisions of section 42-1701A(1) and (2), Idaho Code. The director of the department of water resources shall find and determine from the evidence presented to what use or uses the water sought to be appropriated can be and are intended to be applied. In all applications whether protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions. The provisions of this section shall apply to any boundary stream between this and any other state in all cases where the water sought to be appropriated has its source largely within the state, irrespective of the location of any proposed power generating plant.

(6) Any person or corporation who has formally appeared at the hearing, aggrieved by the judgment of the director of the department of water resources, may seek judicial review thereof in accordance with section 42-1701A(4), Idaho Code.

SECTION 2. That Section 42-221, Idaho Code, be, and the same is hereby amended to read as follows:

42-221. FEES OF DEPARTMENT. The department of water resources shall collect the following fees which shall constitute a fund to pay for legal advertising, the publication of public notices and for investigations, research, and providing public data as required of the department in connection with the issuance of permits and licenses as provided in this chapter in the performance of its statutory duties:

A. For filing an application for a permit to appropriate the public waters of this state:

1. For a quantity of 0.2 c.f.s. or less or for a storage volume of 20 acre feet or less \$350.00
2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s. or for a storage volume greater than 20 acre feet but not exceeding 100 acre feet \$45~~0~~¹⁰⁰
3. For a quantity greater than 1.0 c.f.s. but not exceeding 20 c.f.s., or for a storage volume greater than 100 acre feet but not exceeding 2,000 acre feet \$45~~0~~¹⁰⁰
plus \$20.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 1.0 c.f.s. or 100 acre feet.

4. For a quantity greater than 20.0 c.f.s. but not exceeding 100 c.f.s. or for a storage volume greater than 2,000 acre feet but not exceeding 10,000 acre feet ~~\$425.00~~
 plus \$10.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 20.0 c.f.s. or 2,000 acre feet.

5. For a quantity greater than 100.0 c.f.s. but not exceeding 500.0 c.f.s., or for a storage volume greater than 10,000 acre feet but not exceeding 50,000 acre feet ~~\$1,225.00~~
 plus \$5.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 100 c.f.s. or 10,000 acre feet.

6. For a quantity greater than 500 c.f.s., or for a storage volume greater than 50,000 acre feet ~~\$3,225.00~~
 plus \$1.00 for each additional 1.0 c.f.s. or part thereof or 100 acre feet or part thereof over the first 500.0 c.f.s. or 50,000 acre feet.

B. For filing application for change of point of diversion, place, period, or nature of use of water of established rights; or for an extension of time within which to resume the use of water under a vested right ~~\$100~~

~~1. For a quantity of 0.2 c.f.s. or less or for a storage volume of 20 acre feet or less \$30.00~~

~~2. For all other amounts \$50.00~~

C. For filing application for amendment of permit ~~\$250.00~~

D. For filing claim to use right under section 42-243, Idaho Code ~~\$30.100~~

~~E. For filing a late claim to use a right under section 42-243, Idaho Code, where the date filed with the department of water resources, or if mailed to the department of water resources the postmark is:~~

~~1. After June 30, 1983, but not later than June 30, 1984. \$100.00~~

~~2. After June 30, 1984, but not later than June 30, 1988. \$200.00~~

~~an assignment of permit \$25.00~~

F. For readvertising application for permit, change, exchange, or extension to resume use ~~\$250.00~~

G. For certification, each document ~~\$1.00~~

H. For making photo copies of office records, maps and documents for public use A reasonable charge as determined by the department.

I. For filing request for extension of time within which to submit proof of beneficial use on a water right permit ~~\$150.00~~

J. For tasks requiring in excess of one (1) hour research or for computerized data provided for public use A reasonable charge as determined by the department.

K. For filing proof of beneficial use of water and requests for water right license examinations, a fee based upon the rate of diversion claimed in the proof of beneficial use:

1. For a quantity of 0.2 c.f.s. or less, or for a storage volume of 20 acre feet or less \$50.00 except no fee shall be charged for domestic use for which a permit is not required.
2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0

c.f.s., or for a storage volume greater than 20 acre feet, but not exceeding 100 acre feet \$100=00
 3. For a quantity greater than 1.0 c.f.s., or for a storage volume greater than 100 acre feet \$100=00 plus \$25.00 for each additional c.f.s. or part thereof, or 100 acre feet or part thereof, over the first 1.0 c.f.s. or 100 acre feet with a maximum fee not to exceed \$600=00.

L. For filing a protest or request to intervene in a protested matter \$25.00

M. For filing an application to alter a stream channel pursuant to chapter 38, title 42, Idaho Code:

1. Application for recreational dredge permits \$10.00

2. Other applications \$20.00

N. For receipt of all notices of application within a designated area, a reasonable annual charge as determined by the department.

All fees received by the department of water resources under the provisions of this chapter shall be transmitted to the state treasurer for deposit in the water administration account.

SECTION 3. That Section 42-222, Idaho Code, be, and the same is hereby amended to read as follows:

42-222. CHANGE IN POINT OF DIVERSION, PLACE OF USE, PERIOD OF USE, OR NATURE OF USE OF WATER UNDER ESTABLISHED RIGHTS -- FORFEITURE AND EXTENSION -- APPEALS. (1) Any person, entitled to the use of water whether represented by license issued by the department of water resources, by claims to water rights by reason of diversion and application to a beneficial use as filed under the provisions of this chapter, or by decree of the court, who shall desire to change the point of diversion, place of use, period of use or nature of use of all or part of the water, under the right shall first make application to the department of water resources for approval of such change. Such application shall be upon forms furnished by the department and shall describe the right licensed, claimed or decreed which is to be changed and the changes which are proposed, and shall be accompanied by the statutory filing fee as in this chapter provided. Upon receipt of such application it shall be the duty of the director of the department of water resources to examine same, obtain any consent required by in section 42-108, Idaho Code, and if otherwise proper to provide notice of the proposed change in the same manner as applications under section 42-203A, Idaho Code. Such notice shall advise that anyone who desires to protest the proposed change shall file notice of protests with the department within ten (10) days of the last date of publication. Upon the receipt of any protest, accompanied by the statutory filing fee as provided in section 42-221, Idaho Code, it shall be the duty of the director of the department of water resources to investigate the same and to conduct a hearing thereon. He shall also advise the watermaster of the district in which such water is used of the proposed change and the watermaster shall notify the director of the department of water resources of his recommendation on the application, and the director of the department of water resources shall not finally determine the action on the application for change until he has received from such watermaster his recommendation thereof, which

action of the watermaster shall be received and considered as other evidence.

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-203A(5), Idaho Code; except the director shall not approve a change in the nature of use from agricultural use where such change would significantly affect the agricultural base of the local area. The transfer of the right to the use of stored water for irrigation purposes shall not constitute an enlargement in use of the original right even though more acres may be irrigated, if no other water rights are injured thereby. A copy of the approved application for change shall be returned to the applicant and he shall be authorized upon receipt thereof to make the change and the original water right shall be presumed to have been amended by reason of such authorized change. In the event the director of the department of water resources determines that a proposed change shall not be approved as provided in this section, he shall deny the same and forward notice of such action to the applicant by certified mail, which decision shall be subject to judicial review as hereafter provided.

(2) All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that all water rights appurtenant to land contracted in a federal cropland set-aside program, shall not be lost and forfeited for nonuse during the contracted period. The five (5) year period of nonuse for forfeiture of a water right shall begin to accrue upon termination of the contract if a period of nonuse did not occur prior to the effective date of the contract or shall continue to accrue if a period of nonuse occurred prior to the effective date of the contract. Upon proper showing before the director of the department of water resources of good and sufficient reason for nonapplication to beneficial use of such water for such term of five (5) years, the director of the department of water resources is hereby authorized to grant an extension of time extending the time for forfeiture of title for nonuse thereof, to such waters for a period of not to exceed five (5) additional years. Application for an extension shall be made before the end of the five (5) year period upon forms to be furnished by the department of water resources and shall fully describe the right on which an extension of time to resume the use is requested and the reasons for such nonuse and shall be accompanied by the statutory filing fee; provided that water rights appurtenant to land contracted in a federal cropland set-aside program are exempt from this requirement. Upon the receipt of such application it shall be the duty of the director of the department of water resources to examine the same and to provide notice of the application for an extension in the same man-

ner as applications under section 42-203A, Idaho Code. The notice shall fully describe the right, the extension which is requested and the reason for such nonuse and shall state that any person desiring to object to the requested extension may submit a protest, accompanied by the statutory filing fee as provided in section 42-221, Idaho Code, to the director of the department of water resources within ten (10) days of the last date of publication. Upon receipt of a protest it shall be the duty of the director of the department of water resources to investigate and conduct a hearing thereon as in this chapter provided. The director of the department of water resources shall find from the evidence presented in any hearing, or from information available to the department, the reasons for such nonuse of water and where it appears to the satisfaction of the director of the department of water resources that other rights will not be impaired by granting an extension of time within which to resume the use of the water and good cause appearing for such nonuse, he may grant one (1) extension of five (5) years within which to resume such use. In his approval of the application for an extension of time under this section the director of the department of water resources shall set the date when the use of water is to be resumed. Sixty (60) days before such date the director of the department of water resources shall forward to the applicant at his address of record a notice by certified mail setting forth the date on which the use of water is to be resumed and a form for reporting the resumption of the use of the water right. If the use of the water has not been resumed and report thereon made on or before the date set for resumption of use such right shall revert to the state and again be subject to appropriation, as provided in this section. In the event the director of the department of water resources determines that a proposed extension of time within which to resume use of a water right shall not be approved as provided in this section, he shall deny same and forward notice of such action to the applicant by certified mail, which decision shall be subject to judicial review as hereafter provided.

(3) Any person or persons feeling themselves aggrieved by the determination of the department of water resources in approving or rejecting an application to change the point of diversion, place, period of use or nature of use of water under an established right or an application for an extension of time within which to resume the use of water as provided in this section, may, if a protest was filed and a hearing held thereon, seek judicial review pursuant to section 42-1701A(4), Idaho Code. If no protest was filed and no hearing held, the applicant may request a hearing pursuant to section 42-1701A(3), Idaho Code, for the purpose of contesting the action of the director and may seek judicial review of the final order of the director following the hearing pursuant to section 42-1701A(4), Idaho Code.

SECTION 4. That Section 42-224, Idaho Code, be, and the same is hereby amended to read as follows:

42-224. PROTEST AGAINST LICENSE -- APPEAL FROM DECISION. Any person desiring to protest against the statements made by the person or persons submitting proof of the beneficial application of water in the published notice of their intention to submit such proof, shall file a

statement with the department of water resources, together with the statutory filing fee as provided in section 42-221, Idaho Code, on or before the date set for such proof, stating clearly the reason for such protest, and stating the reason, if any, why a license should not be issued confirming the right claimed. Such protest shall be based solely upon the statements in such notice and shall be sworn to by such protestant.

In issuing a license confirming any right to use water for beneficial purposes, the department of water resources shall be governed in its actions by the records relating to works from which such water is taken which may be on file in the office of the department, and by the reports of the examination of such works, the place where such water is used, and the extent of such use. Such license may confirm such claim in whole or in part, or such license may be refused, such determination depending upon the extent to which such claim is supported by such records, and such examination of the conditions relating to such use made on the ground under the authority of the department. If the department shall refuse to issue a license, the reasons for such refusal shall be recorded in a book kept for the purpose: provided, that anyone feeling himself aggrieved by the statements contained in the license issued by the department, or the refusal of the department to issue such license, shall be afforded an opportunity for a hearing pursuant to section 42-1701A(3), Idaho Code, and shall be entitled to seek judicial review pursuant to section 42-1701A(4), Idaho Code, of any final order of the director issued following the hearing.

Approved March 7, 1994.

CHAPTER 65
(H.B. No. 517)

AN ACT

RELATING TO THE IDAHO SAFE BOATING ACT; AMENDING SECTION 63-105P, IDAHO CODE, TO DELETE REFERENCE TO VESSEL USE PERMIT FEES; AMENDING SECTION 67-7003, IDAHO CODE, TO DELETE A CODE REFERENCE AND TO DELETE REFERENCE TO USE PERMITS; AMENDING SECTION 67-7008, IDAHO CODE, TO INCREASE VESSEL REGISTRATION FEES AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 67-7011, IDAHO CODE; AMENDING SECTION 67-7013, IDAHO CODE, TO DELETE REFERENCES TO A CODE SECTION AND TO DELETE REFERENCES TO USE PERMIT; AMENDING SECTION 67-7014, IDAHO CODE, TO DELETE A CODE REFERENCE AND TO DELETE REFERENCE TO USE FEES; AMENDING SECTION 67-7029, IDAHO CODE, TO DELETE REFERENCE TO USE PERMITS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-105P, Idaho Code, be, and the same is hereby amended to read as follows:

63-105P. PROPERTY EXEMPT FROM TAXATION -- MOTOR VEHICLES AND VESSELS PROPERLY REGISTERED. The following property is exempt from taxa-

tion: Motor vehicles properly registered and for which the required fee has been paid under the provisions of the laws of the state of Idaho, recreational vehicles for which the fees imposed by law have been paid and vessels for which the certificate of registration fees or ~~use-permit-fees~~ imposed by law have been paid.

SECTION 2. That Section 67-7003, Idaho Code, be, and the same is hereby amended to read as follows:

67-7003. DEFINITIONS. In this chapter:

- (1) "Actual physical control" means being in the operator's position of the vessel with the motor running or with the vessel moving.
- (2) "Aids to navigation" mean such buoys, batons, markers or other fixed objects in the water which are established and used to mark obstructions or to direct navigation through separate channels.
- (3) "Authorized vendor" means a retail/commercial enterprise or government office authorized by the department to sell certificates of registration and ~~use-permits~~ as provided in sections 67-7008 and 67-7011, Idaho Code.
- (4) "Commercial vessel" means any vessel used in the carriage of any person, persons or property for a valuable consideration, whether directly or indirectly flowing to the owner, partner, agent or any other person interested in the vessel.
- (5) "Department" means the Idaho department of parks and recreation.
- (6) "Director" means the director of the Idaho department of parks and recreation.
- (7) "Length of vessel" means the distance measured at the centerline at the highest point above the waterline from the fore-part of the outer hull at the bow to the aft-part of the outer hull at the stern, excepting any bowsprits, railings or extraneous or additional equipment.
- (8) "Manufacturer" means any person who is engaged in the business of manufacturing or importing new and unused vessels for the purpose of sale or trade.
- (9) "Operate" means to navigate or otherwise use a vessel on the water of this state.
- (10) "Operator" means any person who controls the direction or propulsion of any vessel on the water of this state.
- (11) "Owner" means any person having a property interest in or entitled to the use or possession of a vessel, including a person entitled to use or possession subject to the interest in another person reserved or created by agreement and securing payment of performance of an obligation, but not including a lessee under lease not intended as security.
- (12) "Passenger" means every person carried aboard a vessel other than:
 - (a) The owner or his representative;
 - (b) The operator;
 - (c) A bona fide member of the crew engaged in the business of the vessel who has contributed no consideration for carriage and who is paid for his services; or
 - (d) Any guest on board a vessel which is used exclusively for

pleasure purposes who has not contributed any consideration directly or indirectly for his carriage.

(13) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, except the United States and the state of Idaho, and includes any agent, trustee, executor, reserve assignee or similar representative of any of the above.

(14) "Private label merchandiser" means any person engaged in the business of selling or distributing, under his own trade name, vessels manufactured by another.

(15) "Regatta," "Race," "Marine Event," "Tournament," or "Exhibition" means an organized water event of limited duration which is conducted according to a prearranged schedule.

(16) "Regulatory markers" mean any fixed or anchored aid to navigation which is established and used, but is not limited to, the bathing beach markers, speed zone markers, information markers, swimming or diving markers, floating mooring buoys, fishing buoys or markers for ski courses or jumps.

(17) "Rules of the road" mean the statutory and regulatory rules governing the navigation of vessels as published by the United States Coast Guard in Navigational Rules International -- Inland.

(18) "Vessel" means every description of watercraft, including a seaplane on the water, used or capable of being used as a means of transportation on water, but does not include diver's aids operated and designed primarily to propel a diver below the surface of the water, and nonmotorized devices including inflatable air mattresses, single inner tubes, and beach and water toys not designed as a means of transportation on water.

(19) "Water of this state" means any waters in the state of Idaho over which the state has jurisdiction.

SECTION 3. That Section 67-7008, Idaho Code, be, and the same is hereby amended to read as follows:

67-7008. CERTIFICATE OF REGISTRATION -- EXPIRATION -- FEES. (1) Within fifteen (15) days after purchase, or as otherwise herein provided, the owner of each vessel requiring numbering by the state of Idaho shall file an application for registration with an assessor or authorized vendor on forms provided by the department. The application shall be signed by the owner and shall be accompanied by the fee herein designated. Upon receipt of an application in approved form, and the appropriate fee, the assessor or authorized vendor shall enter the same upon the records of its office and issue to the applicant two (2) validation stickers and a certificate of registration stating the number issued to the vessel, the receipt of any fee paid and the name and address of the owner, and the assessor or authorized vendor shall forward to the department a duplicate copy. The owner shall paint on or permanently attach to each side of the bow of the vessel the registration number and validation sticker in a manner as may be prescribed by rules and regulations of the department in order that they may be completely visible, and the number shall be maintained in legible condition. The certificate of registration shall be pocket-size and shall be on board and available at all times for inspection on the vessel

for which issued whenever that vessel is in operation, except that livery operators may have the rental agreement on board rented vessels in lieu of the certificate of registration.

(2) The owner of any vessel for which a current certificate of registration has been issued pursuant to any federal law or a federally approved numbering system of another state shall, if the vessel is operated on the waters of this state in excess of sixty (60) days, make application for a certificate of Idaho registration in the manner prescribed in this section.

(3) Each assessor and authorized vendor shall record, on a form provided by the department, the names of all owners of vessels who make application for certificates of registration, together with the amount of the fees paid by the owners. He shall, on or before the tenth of each month, forward to the department a duplicate copy of each record for the preceding month.

(4) All records of the department made or kept pursuant to this section shall be kept current and shall be public records.

(5) Every certificate of registration issued shall continue in full force and effect through December 31 of the year of issue unless sooner terminated or discontinued in accordance with law. Certificates of registration may be renewed by the owner in the same manner provided for in the initial securing of them.

(6) The owner of any vessel shall notify the department within fifteen (15) days if his vessel is destroyed or abandoned, or is sold or transferred either wholly or in part to another person or persons or if the owner's address no longer conforms to the address appearing on the certificate of registration. In all such cases, the notice shall be accompanied by a surrender of the certificate of registration. When the surrender of the certificate is by reason of the vessel being destroyed, abandoned or sold, the department shall cancel the certificate and enter that fact in its records. If the surrender is by reason of a change of address on the part of the owner, the new address shall be endorsed on the certificate and the certificate returned to the owner.

(7) Whenever the ownership of a vessel changes, the purchaser shall, within fifteen (15) days after acquisition, make application to the department for transfer to him of the certificate of registration issued for the vessel, giving his name, address, and the number of the vessel and shall, at the same time, pay to the department a transfer fee of three dollars (\$3.00). Upon receipt of the application and fee, the department shall transfer the certificate of registration issued for the vessel to the new owner or owners. Unless the application is made and the fee paid within fifteen (15) days, the vessel shall be considered to be without a certificate of registration.

(8) No number other than the registration number issued to a vessel or granted by reciprocity pursuant to law shall be painted, attached, or otherwise displayed on either side of the bow of the vessel.

(9) If any certificate of registration becomes lost, mutilated, or becomes illegible, the owner of the vessel for which the same was issued shall obtain a duplicate of the certificate from the department upon application and the payment of a fee of three dollars (\$3.00). If one or both validation stickers are lost, stolen, or destroyed, any

sticker remnants and the certificate of registration should be returned to the department along with a three dollar (\$3.00) fee and an application for a duplicate certificate of registration and validation stickers.

(10) A person engaged in the manufacture or sale of vessels of a type otherwise required to be numbered by law, may obtain pursuant to regulations duly promulgated by the department, certificates of registration for use in the testing or demonstration only of a vessel upon payment of thirteen dollars (\$13.00) for each certificate. Certificates of registration so issued may be used by the applicant in the testing or demonstration only of vessels by temporary placement of the numbers assigned by the certificates on the vessel tested or demonstrated, and shall be issued and displayed as otherwise prescribed by this chapter or by regulation of the department.

(11) The registration fees shall be:

- | | |
|---|---------------|
| (a) Vessels 0-12 feet in length | \$713.00 |
| Vessels over 12 feet in length | <u>713.00</u> |
| plus \$2.00 per foot for each additional foot in excess of 12 feet. | |

(b) The registration fees for new or used vessels which have not previously been registered in Idaho shall be:

(i) For vessels acquired or brought into the state January 1, through March 31, the full amount of the regular fees;

(ii) For vessels acquired or brought into the state April 1 through June 30, seventy-five percent (75%) of the regular fees;

(iii) For vessels acquired or brought into the state July 1 through September 30, fifty percent (50%) of the regular fees;

(iv) For vessels acquired or brought into the state after September 30, twenty-five percent (25%) of the regular fees.

(c) Each assessor and authorized vendor shall presume that any vessel is subject to the regular certificate of registration fees, unless the applicant can successfully show reasonable proof that the vessel has not previously been registered in Idaho.

(12) The provisions of subsection (11) of this section, with respect to the amount of payment of registration fees shall not apply to vessels owned by any charitable or religious organization, scout organization or any similar organization not used and operated for profit. All vessels currently registered by the state of Idaho and having paid the fees imposed by subsection (11) of this section shall not be assessed and taxed as personal property in the state of Idaho.

(13) The registration fee for vessels owned by any charitable or religious organization, scout organization or similar organization not used and operated for profit shall be two dollars (\$2.00) per year.

SECTION 4. That Section 67-7011, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 67-7013, Idaho Code, be, and the same is hereby amended to read as follows:

67-7013. REMITTANCE OF FEES. (1) There is established in the ded-

icated fund of the state treasury an account known as the "State Vessel Account," to which shall be credited:

(a) Moneys or fees collected by assessors and authorized vendors, under the provisions of this section and sections 67-7008 and 67-7011, Idaho Code; and

(b) All other moneys as may be provided by law.

(2) All fees collected by an assessor or authorized vendor under the provisions of sections 67-7008 and 67-7011, Idaho Code, shall be forwarded to the state treasurer not later than the fifteenth day of the month following the calendar month in which the fees were collected, and the state treasurer shall then pay the moneys collected into the state vessel account and the park and recreation account, as provided in subsection (3) of this section, unless otherwise provided by law.

(3) Moneys collected shall be deposited eighty-five percent (85%) to the state vessel account, and fifteen percent (15%) to the park and recreation account established in section 67-4225, Idaho Code. The department shall remit the moneys apportioned to county units of government from the state vessel account not later than January 25, April 25, July 25 and October 25 of each year.

(4) All moneys deposited to the park and recreation account are to be appropriated for the purpose of defraying the expenses, debts and costs incurred in carrying out the powers and duties of the department as provided in this chapter, and for defraying administrative expenses of the department, including salaries and wages of employees of the department, expenses for traveling, supplies, equipment and other necessary expenses of the department as they relate to administration of this chapter. All claims against moneys apportioned to the park and recreation account shall be expended by the department and certified to the state auditor, who shall, upon approval of the board of examiners, draw his warrant against the park and recreation account for all bills and claims allowed by the board. Should the related administrative costs of the department amount to less than the moneys apportioned to the park and recreation account for such purposes, the difference shall be remitted to the state vessel account and then apportioned to all counties with a boating improvement program so that the amount apportioned to each eligible county will be in the same ratio as the county's amount of funds received from the state vessel account during the prior fiscal year by a county bears to the total amounts received during that prior fiscal year by all eligible counties.

(5) All moneys deposited to the state vessel account and appropriated to the department, shall be apportioned among the counties of the state based on the designations which the owners make on their application for a certificate of registration or use-permit.

(a) An owner, when purchasing a certificate of registration or use-permit, will be allowed to designate, on the appropriate form, a primary and secondary eligible county where his boating activity occurs. The portion of his fees which are appropriated from the state vessel account shall be apportioned to the designated counties, with seventy percent (70%) of those fees apportioned to the primary designated county and thirty percent (30%) apportioned to the secondary designated county.

(b) Should an owner designate on the appropriate form only one (1) eligible county where his boating activity occurs, the full portion of his fees which are appropriated from the state vessel account shall be apportioned to the designated county.

(c) Should an owner fail to designate on the appropriate form any eligible county where his boating activity occurs, the full portion of his fees which are appropriated from the state vessel account shall be apportioned to all counties with a boating improvement program so that the amount apportioned to each eligible county will be in the same ratio as the county's amount of funds received from the state vessel account during the prior three (3) month payment period bears to the total amounts received during that prior three (3) month payment period by all eligible counties.

(6) Only those counties in the state with a boating improvement program, as recognized by the department, shall be eligible to receive moneys from the state vessel account. A "boating improvement program" means that one or more recognized boating facilities are being developed and/or maintained within the county's jurisdiction and/or that the county has or is actively developing a recognized boating law enforcement program.

(7) Moneys apportioned to the eligible counties shall be placed in and credited to an account which shall be known and designated as the county vessel fund, which shall be used and expended by the board of county commissioners for the protection and promotion of safety, waterways improvement, creation and improvement of parking areas for boating purposes, making and improving boat ramps and moorings, marking of waterways, search and rescue, and all things incident to such purposes including the purchase of real and personal property. The board of county commissioners is also authorized to use and expend funds from the county vessel fund outside the county when the board deems it advisable and for the public good.

(8) Within sixty (60) calendar days of the end of each county fiscal year, the county clerk shall calculate the ending fund balance of the county vessel fund for that fiscal year. If the ending fund balance is higher than the amount of revenues deposited in the county vessel fund from the state vessel account during that fiscal year, then the difference shall be remitted to the state vessel account within thirty (30) calendar days of that calculation. Moneys remitted to the state vessel account, in accordance with the provisions of this section, shall be apportioned to all counties with a boating improvement program so that the amount apportioned to each eligible county will be in the same ratio as the county's amount of funds received from the state vessel account during the prior county fiscal year bears to the total amounts received during that prior county fiscal year by all eligible counties. The provisions of this subsection shall not apply to specific sums of money in county vessel accounts, for which the county commissioners have given written notice, to the department of parks and recreation of an intention to retain those funds for a specific purpose. The notice shall specify the amount of the funds to be held, indicate the purpose for which the funds shall be utilized and provide the date when the funds will be expended. If an amended notice is not submitted by the county commissioners, moneys

not expended or contractually committed by the date stated in the original notice of the board of county commissioners shall revert to the state vessel account for distribution as provided in this subsection. All interest earned on moneys invested from a county vessel fund shall return to the county vessel fund.

SECTION 6. That Section 67-7014, Idaho Code, be, and the same is hereby amended to read as follows:

67-7014. ADMINISTRATIVE FEES FOR VESSELS. (1) An administrative fee of not more than one dollar and fifty cents (\$1.50) may be collected in addition to each vessel license tax ~~or fee amount~~ collected under the provisions of sections 67-7008 ~~and 67-7011~~, Idaho Code.

(2) When an assessor collects the fees, the administrative fee shall be paid to the county treasurer where the vessel is licensed and be placed in the county current expense fund for the purpose of defraying related administrative costs. The amount of the administrative fee to be collected by an assessor for each vessel shall be set by the respective boards of county commissioners conditioned on the annual budget request of their county assessor for the administration of vessel registration ~~and use fees~~.

(3) When an authorized vendor collects the fees, the administrative fee shall be set and retained by the authorized vendor where the vessel is registered. The administrative fee shall be used to defray related administrative costs.

SECTION 7. That Section 67-7029, Idaho Code, be, and the same is hereby amended to read as follows:

67-7029. AGENTS OF THE DEPARTMENT. (1) The assessors of various counties of the state shall be agents of the department and shall perform such duties as are prescribed by law.

(2) The department may authorize any person to act as agent for the issuance of certificates of registration ~~and use permits~~. In the event a person accepts such authorization, he shall be assigned a block of numbers and certificates, which upon issuance in conformity with law and with any rules ~~and regulations~~ of the department shall be valid as if issued directly by an assessor.

SECTION 8. This act shall be in full force and effect on and after January 1, 1995.

Approved March 7, 1994.

CHAPTER 66
(H.B. No. 595)

AN ACT
RELATING TO MUNICIPAL ELECTIONS; AMENDING SECTION 50-402, IDAHO CODE,
TO FURTHER DEFINE THE TERM QUALIFIED ELECTOR; AND DECLARING AN
EMERGENCY.

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

SECTION 1. That Section 50-402, Idaho Code, be, and the same is hereby amended to read as follows:

50-402. DEFINITIONS. The following words and phrases when used in this chapter, have the meanings respectively given herein.

(a) General election. "General election" means the election held on the first Tuesday succeeding the first Monday in November in each odd-numbered year at which there shall be chosen all mayors and councilmen as are by law to be elected in such years.

(b) Special election. "Special election" means any election other than a general election held at any time for any purpose provided by law.

(c) Qualified elector. A "qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in the city at least thirty (30) days next preceding the election at which he desires to vote and who is registered within the time period provided by law. A "qualified elector" shall also mean any person who is eighteen (18) years of age, is a United States citizen, who is a registered voter, and who resides in an area that the city has annexed pursuant to chapter 2, title 50, Idaho Code, within thirty (30) days of a city election.

(d) Residence.

(1) "Residence" for voting purposes, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and to which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence. In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, and motor vehicle registration.

(2) A qualified elector shall not be considered to have gained residence in any city of this state into which he comes for temporary purposes only without the intention of making it his home but with the intention of leaving it when he has accomplished the purpose that brought him there.

(3) A qualified elector who has left his home and gone to another area outside the city, for a temporary purpose only shall not be considered to have lost his residence.

(4) If a qualified elector moves outside the city, with the intentions of making it his permanent home, he shall be considered to have lost his residence in the city.

(e) Election official. "Election official" means the city clerk, registrar, judge of election, clerk of election, or constable engaged in the performance of election duties as required by this act.

(f) Election register. The "election register" means the voter registration cards of all electors who are qualified to appear and vote at the designated polling places.

(g) Combination election record and poll book. "Combination election register and poll book" is the book containing a listing of registered electors who are qualified to appear and vote at the designated polling places.

(h) Tally book. The "tally book" or "tally list" means the forms in which the votes cast for any candidate or special question are counted and totaled at the polling precinct.

(i) Reference to male. All references to the male elector and male city officials include the female elector and female city official and the masculine pronoun includes the feminine.

(j) Computation of time. Calendar days shall be used in all computations of time made under the provision of this act. In computing time for any act to be done before any election, the first day shall be included and the last, or election day, shall be excluded. Sundays and legal holidays shall be included, but if the time for any act to be done shall fall on Sunday or a legal holiday, such act shall be done upon the day following each Sunday or legal holiday.

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

Approved March 7, 1994.

CHAPTER 67
(H.B. No. 603)

AN ACT

RELATING TO VOTER REGISTRATION; PROVIDING A STATEMENT OF LEGISLATIVE INTENT; REPEALING SECTIONS 34-406 AND 34-410, IDAHO CODE; AMENDING CHAPTER 4, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-406, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF REGISTRARS; AMENDING SECTION 34-408, IDAHO CODE, TO PROVIDE THE TIME LIMIT FOR THE CLOSE OF REGISTRATION IN THE COUNTY CLERK'S OFFICE; AMENDING CHAPTER 4, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-408A, IDAHO CODE, TO PROVIDE FOR ELECTION DAY REGISTRATION AND TO PROVIDE PROCEDURES TO GOVERN ELECTION DAY REGISTRATION; AMENDING SECTION 34-409, IDAHO CODE, TO PROVIDE THE HOURS WHEN THE COUNTY CLERK'S OFFICE SHALL BE OPEN ON THE LAST DAY FOR REGISTRATION; AMENDING CHAPTER 4, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-410, IDAHO CODE, TO PROVIDE MAIL REGISTRATION AND TO PROVIDE THE FORM FOR MAIL REGISTRATION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION FOR SECTIONS 1 AND 5 AND PROVIDING AN EFFECTIVE DATE FOR REMAINING SECTIONS OF THIS ACT.

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

SECTION 1. The Legislature of the state of Idaho finds that the right of the citizens of Idaho to vote is a fundamental right. The Legislature further finds that it is the duty of state and local government to promote the exercise of the right to vote.

The purposes of this act, therefore, are:

- (1) To establish procedure that will increase the number of eligible citizens who vote in elections for state and federal offices;
- (2) To protect the integrity of the elector process;
- (3) To ensure that accurate and current voter registration rolls are maintained;
- (4) To make it possible for state and local government to enhance voter participation in elections for federal and state office, while avoiding unnecessary confusion and excessive expense necessitated by federal legislation; and
- (5) To exempt Idaho from compliance with the National Voter Registration Act of 1993, as provided in section 4(b)(2) of that act.

SECTION 2. That Sections 34-406 and 34-410, Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Chapter 4, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-406, Idaho Code, and to read as follows:

34-406. APPOINTMENT OF REGISTRARS. The county clerk shall provide for voter registration in the clerk's office and may appoint registrars to assist in voter registration throughout the county.

The county clerk shall provide all political parties within the county with a supply of the mail registration form prescribed in section 34-410, Idaho Code.

SECTION 4. That Section 34-408, Idaho Code, be, and the same is hereby amended to read as follows:

34-408. CLOSING OF REGISTER -- TIME LIMIT. (1) ~~No elector may register with official precinct registrars within seventeen (17) days preceding any election held throughout the county in which he resides for the purpose of voting at such election.~~ No elector may register in the office of the county clerk within ~~ten (10)~~ twenty-four (24) days preceding any election held throughout the county in which he resides for the purpose of voting at such election. This deadline shall also apply to any registrars the county clerk may have appointed.

(2) Any elector who will complete his residence requirement or attain the requisite voting age during the period when the register of electors is closed may register prior to the closing of the register.

SECTION 5. That Chapter 4, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-408A, Idaho Code, and to read as follows:

34-408A. ELECTION DAY REGISTRATION. An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration card, making an oath in the form prescribed by the secretary of state and providing proof of residence.

An individual may prove residence for purposes of registering by:

(1) Showing a driver's license or Idaho identification card issued through the department of transportation;

(2) Showing any document approved by the secretary of state as proper identification;

(3) Showing a current valid student identification card from a post-secondary educational institution in Idaho accompanied with a current student fee statement that contains the student's valid address in the precinct together with a picture identification card; or

(4) Having a voter who is registered to vote in the precinct sign an oath in the presence of the election judge vouching that the voter personally knows that the individual is a resident of the precinct. A registered voter shall not vouch for more than one (1) individual on election day. A voter who has been vouched for on election day may not sign a proof of residence oath vouching for any other individual on that election day.

Election day registration provided in this section shall apply to all federal elections beginning with the November, 1994, general election.

SECTION 6. That Section 34-409, Idaho Code, be, and the same is hereby amended to read as follows:

34-409. COUNTY CLERK'S OFFICE -- HOURS OPEN ON THE FINAL DAY FOR REGISTRATION. On the last day for registration of electors, including Saturday preceding the primary and general election, the county clerk's ~~in all counties shall keep his~~ office shall be open for registration of electors from the time the office is opened in the morning continuously until 8:00 p.m.

SECTION 7. That Chapter 4, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-410, Idaho Code, and to read as follows:

34-410. MAIL REGISTRATION. Any elector may register by mail for any election. Any mail registration application must be received by the county clerk prior to the close of registration as provided in section 34-408, Idaho Code, provided that any mail registration application postmarked not later than twenty-five (25) days prior to an election shall be deemed timely.

The secretary of state shall prescribe the form for the mail registration application. This mail application form shall be available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs.

Any federal mail registration form adopted pursuant to the provisions of the national voter registration act of 1993 (P.L. 103-31) shall also be accepted as a valid registration, if received prior to the close of registration.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, the provisions of Sections 1 and 5 of this act shall be in full force and effect on and after passage and approval and retroactively to March 10, 1993, and the remaining Sections of this act shall be in full force and effect on and after January 1, 1995.

Approved March 7, 1994.

CHAPTER 68
(H.B. No. 656)

AN ACT

RELATING TO THE WATERWAYS IMPROVEMENT FUND ADVISORY COMMITTEE; EXPRESSING LEGISLATIVE INTENT; AND AMENDING CHAPTER 15, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-1503, IDAHO CODE, TO CREATE THE WATERWAYS IMPROVEMENT FUND ADVISORY COMMITTEE.

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

SECTION 1. The legislature finds that the creation of a committee to assist in the evaluation of grant applications for awards from the state waterways improvement fund will benefit and improve the equitable distribution of dedicated funds from this account.

SECTION 2. That Chapter 15, Title 57, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 57-1503, Idaho Code, and to read as follows:

57-1503. WATERWAYS IMPROVEMENT FUND ADVISORY COMMITTEE. The director of the department of parks and recreation shall appoint a six (6) member advisory committee which shall be compensated as provided in section 59-509(f), Idaho Code. The committee shall act in an advisory capacity to the department on matters relating to evaluation of applications for grants to be awarded from the state waterways improvement fund. Criteria for determining awards shall be as prescribed by the department. One (1) member shall be chosen from each of the districts described in section 67-4221, Idaho Code. Each member shall be an active recreational boater and be a resident of the region. The terms of the appointment shall be three (3) years, except that the initial appointees shall commence on the date of appointment and shall be of staggered lengths so that the term of two (2) members will expire annually.

Approved March 7, 1994.

CHAPTER 69
(H.B. No. 702)

AN ACT

RELATING TO THE INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 75, TITLE 39, IDAHO CODE, TO PROVIDE ADOPTION OF THE INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE, STATING FINDINGS, STATING PURPOSES, DEFINING TERMS, AUTHORIZING ADOPTION ASSISTANCE, AUTHORIZING MEDICAL ASSISTANCE, PROVIDING FOR COMPACT ADMINISTRATION, PROVIDING FOR JOINDER AND WITHDRAWAL, PROVIDING CONSTRUCTION AND SEVERABILITY, TO PROVIDE FOR A COMPACT ADMINISTRATOR, TO PROVIDE SUPPLEMENTARY AGREEMENTS AND FINANCIAL ARRANGEMENTS, TO PROVIDE RESPONSIBILITIES OF PARENTS AND GUARDIANS, AND TO PROVIDE RESPONSIBILITIES OF ENFORCEMENT.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 75, Title 39, Idaho Code, and to read as follows:

CHAPTER 75
ADOPTION AND MEDICAL ASSISTANCE

39-7501. INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE. The interstate compact on adoption and medical assistance is hereby enacted into law and entered into by the state of Idaho as a party, and is in full force and effect between the state and other states joining the agreement in accordance with its terms.

INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE

ARTICLE I. FINDINGS

The states which are parties to this Compact find that:

- (a) In order to obtain adoptive families for children with special needs, states must assure prospective adoptive parents of substantial assistance (usually on a continuing basis) in meeting the high costs of supporting and providing for the special needs and the services required by such children.
- (b) The states have a fundamental interest in promoting adoption for children with special needs because the care, emotional stability, and general support and encouragement required by such children can be best, and often only, obtained in family homes with a normal parent-child relationship.
- (c) The states obtain fiscal advantages from providing adoption assistance because the alternative is for the states to bear the higher cost of meeting all the needs of children while in foster care.
- (d) The necessary assurances of adoption assistance for children with special needs, in those instances where children and adoptive parents live in states other than the one undertaking to provide the assistance, include the establishment and maintenance of suitable substantive guarantees and workable procedures for interstate

cooperation and payments to assist with the necessary costs of child maintenance, the procurement of services, and the provision of medical assistance.

ARTICLE II. PURPOSES

The purposes of this Compact are to:

- (a) Strengthen protections for the interests of children with special needs on behalf of whom adoption assistance is committed to be paid, when such children are in or move to states other than the one committed to provide adoption assistance.
- (b) Provide substantive assurances and operating procedures which will promote the delivery of medical and other services to children on an interstate basis through programs of adoption assistance established by the laws of the states which are parties to this Compact.

ARTICLE III. DEFINITIONS

As used in this Compact, unless the context clearly requires a different construction:

- (a) "Child with special needs" means a minor who has not yet attained the age at which the state normally discontinues children's services, or a child who has not yet reached the age of 21 where the state determines that the child's mental or physical handicaps warrant the continuation of assistance beyond the age of majority, for whom the state has determined the following:
 1. That the child cannot or should not be returned to the home of his or her parents;
 2. That there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical condition or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance;
 3. That, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in their care as a foster child, a reasonable but unsuccessful effort has been made to place the child with appropriate adoptive parents without providing adoption assistance.
- (b) "Adoption assistance" means the payment or payments for the maintenance of a child which are made or committed to be made pursuant to the adoption assistance program established by the laws of a party state.
- (c) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a Territory or Possession of the United States.
- (d) "Adoption assistance state" means the state that is signatory to an adoption assistance agreement in a particular case.
- (e) "Residence state" means the state in which the child is a resident by virtue of the residence of the adoptive parents.
- (f) "Parents" mean either the singular or plural of the word "parent".

ARTICLE IV. ADOPTION ASSISTANCE

- (a) Each state shall determine the amounts of adoption assistance and other aid which it will give to children with special needs and their adoptive parents in accordance with its own laws and programs. The adoption assistance and other aid may be made subject to periodic reevaluation of eligibility by the adoption assistance state in accordance with its laws.
- (b) The adoption assistance, medical assistance, and other services and benefits to which this Compact applies are those provided to children with special needs and their adoptive parents from the effective date of the adoption assistance agreement.
- (c) Every case of adoption assistance shall include a written adoption assistance agreement between the adoptive parents and the appropriate agency of the state undertaking to provide the adoption assistance. Every such agreement shall contain provisions for the fixing of actual or potential interstate aspects of the assistance so provided as follows:
1. An express commitment that the assistance so provided shall be payable without regard for the state of residence of the adoptive parents, both at the outset of the agreement period and at all times during its continuance;
 2. A provision setting forth with particularity the types of care and services toward which the adoption assistance state will make payments;
 3. A commitment to make medical assistance available to the child in accordance with Article V of this Compact;
 4. An express declaration that the agreement is for the benefit of the child, the adoptive parents and the state and that is enforceable by any or all of them; and
 5. The date or dates upon which each payment or other benefit provided thereunder is to commence, but in no event prior to the effective date of the adoption assistance agreement.
- (d) Any services or benefits provided for a child by the residence state and the adoption assistance state may be facilitated by the party states on each other's behalf. To this end, the personnel of the child welfare agencies of the party states will assist each other, as well as the beneficiaries of adoption assistance agreements, in assuring prompt and full access to all benefits expressly included in such agreements. It is further recognized and agreed that, in general, all children to whom adoption assistance agreements apply will be eligible for benefits under the child welfare, education, rehabilitation, mental health, and other programs of their state of residence on the same basis as other resident children.
- (e) Adoption assistance payments on behalf of a child in another state shall be made on the same basis and in the same amounts as they would be made if the child were living in the state making the payments, except that the laws of the adoption assistance state may provide for the payment of higher amounts.

ARTICLE V. MEDICAL ASSISTANCE

- (a) Children for whom a party state is committed, in accordance with the terms of an adoption assistance agreement to provide federally

aided medical assistance under Title XIX of the Social Security Act, are eligible for such medical assistance during the entire period for which the agreement is in effect. Upon application therefor, the adoptive parents of a child who is the subject of such an adoption assistance agreement shall receive a medical assistance identification document made out in the child's name. The identification shall be issued by the medical assistance program of the residence state and shall entitle the child to the same benefits, pursuant to the same procedures, as any other child who is covered by the medical assistance program in that state, whether or not the adoptive parents are themselves eligible for medical assistance.

- (b) The identification document shall bear no indication that an adoption assistance agreement with another state is the basis for its issuance. However, if the identification is issued pursuant to such an adoption assistance agreement, the records of the issuing state and the adoption assistance state shall show the fact, and shall contain a copy of the adoption assistance agreement and any amendment or replacement thereof, as well as all other pertinent information. The adoption assistance and medical assistance programs of the adoption assistance state shall be notified of the issuance of such identification.
- (c) A state which has issued a medical assistance identification document pursuant to this Compact, which identification is valid and currently in force, shall accept, process and pay medical assistance claims thereon as it would with any other medical assistance claims by eligible residents.
- (d) The federally aided medical assistance provided by a party state pursuant to this Compact shall be in accordance with paragraphs (a) through (c) of this Article. In addition, when a child who is covered by an adoption assistance agreement is living in another party state, payment or reimbursement for any medical services and benefits specified under the terms of the adoption assistance agreement, which are not available to the child under the Title XIX medical assistance program of the residence state, shall be made by the adoption assistance state as required by its law. Any payments so provided shall be of the same kind and at the same rates as provided for children who are living in the adoption assistance state. However, where the payment rate authorized for a covered service under the medical assistance program of the adoption assistance state exceeds the rate authorized by the residence state for that service, the adoption assistance state shall not be required to pay the additional amounts for the services or benefits covered by the residence state.
- (e) A child referred to in paragraph (a) of this Article, whose residence is changed from one party state to another party state shall be eligible for federally aided medical assistance under the medical assistance program of the new state of residence.

ARTICLE VI. COMPACT ADMINISTRATION

- (a) In accordance with its own laws and procedures, each state which is a party to this Compact shall designate a Compact Administrator and such Deputy Compact Administrator as it deems necessary. The

Compact Administrator shall coordinate all activities under this Compact within his or her state. The Compact Administrator shall also be the principal contact for officials and agencies within and without the state for the facilitation of interstate relations involving this Compact and the protection of benefits and services provided pursuant thereto. In this capacity, the Compact Administrator will be responsible for assisting child welfare agency personnel from other party states and adoptive families receiving adoption and medical assistance on an interstate basis.

- (b) Acting jointly, the Compact Administrators shall develop uniform forms and administrative procedures for the interstate monitoring and delivery of adoption and medical assistance benefits and services pursuant to this Compact. The forms and procedures so developed may deal with such matters as:
1. Documentation of continuing adoption assistance eligibility;
 2. Interstate payments and reimbursements; and
 3. Any and all other matters arising pursuant to this Compact.
- (c) (1) Some or all of the parties to this Compact may enter into supplementary agreements for the provision of or payment for additional medical benefits and services, as provided in Article V(d); for interstate service delivery, pursuant to Article IV(d); or for matters related thereto. Such agreements shall not be inconsistent with this Compact, nor shall they relieve the party states of any obligation to provide adoption and medical assistance in accordance with applicable state and federal law and the terms of this compact.
- (2) Administrative procedures or forms implementing the supplementary agreements referred to in paragraph (c)(1) of this Article may be developed by joint action of the Compact Administrators of those states which are party to such supplementary agreements.
- (d) It shall be the responsibility of the Compact Administrator to ascertain whether and to what extent additional legislation may be necessary in his or her own state to carry out the provisions of this Article IV or any supplementary agreements pursuant to this Compact.

ARTICLE VII. JOINDER AND WITHDRAWAL

- (a) This Compact shall be open to joinder by any state. It shall enter into force as to a state when its duly constituted and empowered authority has executed it.
- (b) In order that the provisions of this Compact may be accessible to and known by the general public, and so that they may be implemented as law in each of the party states, the authority which has executed the Compact in each party state shall cause the full text of the Compact and a notice of its execution to be published in his or her state. The executing authority in any party state shall also provide copies of the Compact upon request.
- (c) Withdrawal from this Compact shall be by written notice, sent by the authority which executed it, to the appropriate officials of all other party states, but no such notice shall take effect until one year after it is given in accordance with the requirements of this paragraph.
- (d) All adoption assistance agreements outstanding and to which a

party state is a signatory at the time when its withdrawal from this compact takes effect shall continue to have the effects given to them pursuant to this Compact until they expire or are terminated in accordance with their provisions. Until such expiration or termination, all beneficiaries of the agreements involved shall continue to have all rights and obligations conferred or imposed by this Compact, and the withdrawing state shall continue to administer the Compact to the extent necessary to accord and implement fully the rights and protections preserved hereby.

ARTICLE VIII. CONSTRUCTION AND SEVERABILITY

The provisions of this Compact shall be liberally construed 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 the United States or of any party state, or where the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state party thereto, the Compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

39-7502. COMPACT ADMINISTRATOR. Pursuant to said compact, the governor is hereby authorized and empowered to designate an officer who shall be the compact administrator and who, acting jointly with like officers of other party states, shall develop guidelines and procedures to carry out more effectively the terms of the compact. Said compact administrator shall serve subject to the pleasure of the governor. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state thereunder.

39-7503. SUPPLEMENTARY AGREEMENTS AND FINANCIAL ARRANGEMENTS. The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to the compact. In the event that such supplementary agreement shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service of this state, said supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service. The compact administrator, subject to the approval of the board of examiners, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder.

39-7504. FINANCIAL RESPONSIBILITY OF PARENTS AND GUARDIANS OF ESTATE. The compact administrator shall take appropriate action pursu-

ant to existing law to effect the recovery from relevant parents or guardians of estate, at the option of said administrator, of any and all costs expended by the state, or any of its subdivisions, with respect to Idaho children handled under said compact.

39-7505. RESPONSIBILITIES OF ENFORCEMENT. The courts, departments, agencies and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdiction.

Approved March 7, 1994.

CHAPTER 70
(H.B. No. 558)

AN ACT

RELATING TO THE TRANSFER OF OWNERSHIP OF A VEHICLE; AMENDING SECTION 49-514, IDAHO CODE, TO PROVIDE TRANSFER OF OWNERSHIP UPON INHERITANCE WITHOUT REGARD TO DOLLAR VALUE OF THE VEHICLE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 49-514, Idaho Code, be, and the same is hereby amended to read as follows:

49-514. TRANSFER OF OWNERSHIP BY OPERATION OF LAW -- LIENS -- VEHICLES REGISTERED IN FOREIGN STATE -- CERTIFICATES OF TITLE. In the event of the transfer of ownership of a vehicle by operation of law, as upon inheritance, devise or bequest, order in bankruptcy, insolvency, replevin, or execution sale, or whenever a vehicle is sold to satisfy storage or repair charges, or if the interest of the owner is terminated or the vehicle is sold under a security agreement, the department may upon the surrender of the prior certificate of title, or when that is not possible, upon presentation of satisfactory proof to the department of ownership and right to possession of the vehicle and presentation of an application for a certificate of title, issue to the applicant a certificate of title. Only an affidavit by the person or agent of the person to whom possession of the vehicle so passed, setting forth facts entitling him to possession and ownership, together with a copy of the journal entry, court order or instrument upon which the claim of possession and ownership is founded, shall be considered satisfactory proof of ownership and right of possession. If the applicant cannot produce proof of ownership he may apply directly to the department and submit any evidence as he may have, and the department shall, if it finds the evidence sufficient, issue a certificate of title to the applicant.

If from the records in the office of the department there appears to be any prior lien or liens on the vehicle, the certificate of title shall contain a statement of those liens, unless the application is

accompanied by proper evidence of their satisfaction or discharge.

In the case of a vehicle registered in a foreign state the applicant for a certificate of title under the provisions of this section must present to the department a certificate of title properly issued to the applicant under the laws of the foreign state before he shall be entitled to a certificate of title issued by the department.

Upon the death of the owner of one (1) or more registered vehicles ~~not-exceeding-a-total-value-of-one-thousand-dollars-(\$1,000)~~, the following heirs of the owner, to wit: the surviving spouse, the children, lawful issue of the deceased children, the parents, the brothers or sisters, or the guardian of the estate of any minor or insane or incompetent person having such relationship to the owner, if such person has a right to succeed to the property of the owner, may secure a transfer of the certificate or certificates of title of the owner to the vehicle or vehicles, upon presenting to the department the appropriate certificate or certificates of title, if available, and an affidavit of the person or persons setting forth the fact of survivorship or heirship, the names and addresses of any other heirs, that the decedent died intestate, that the decedent has no creditors, that the decedent did not leave other property necessitating probate, and if required by the department, a certificate of the death of the deceased. The department, when satisfied of the genuineness and regularity of the transfer, shall transfer the registrations and titles accordingly.

Approved March 8, 1994.

CHAPTER 71
(H.B. No. 771)

AN ACT

RELATING TO REAL ESTATE APPRAISERS; AMENDING SECTION 54-4105, IDAHO CODE, TO EXTEND THE EXEMPTION PROVIDED TO EMPLOYEES OF THE IDAHO TRANSPORTATION DEPARTMENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-4105, Idaho Code, be, and the same is hereby amended to read as follows:

54-4105. EXCEPTIONS. (1) The provisions of this chapter do not apply to any person who does not hold himself out as, or offer to perform services as, a real estate appraiser.

(2) The provisions of this chapter do not restrict the right to use the term "certified evaluator for ad valorem tax purposes," provided that such term is not used in a manner that creates the impression of certification by the state of Idaho to perform real estate appraisals other than ad valorem tax appraisals. However, nothing in this chapter shall entitle a state licensed or state certified real estate appraiser to appraise real estate for ad valorem tax purposes unless he has first been certified by the Idaho state tax commission

pursuant to section 63-513(24), Idaho Code.

(3) The provisions of this chapter shall not apply to a licensed real estate broker, associate broker or salesperson who, in the ordinary course of his business gives an opinion of the price of real estate for the purpose of a prospective listing or sale, provided that such person does not represent himself as being a state licensed or certified real estate appraiser.

(4) Any person who is not licensed or certified under the provisions of this chapter may assist a state licensed or certified real estate appraiser in the performance of an appraisal, provided that he is actively and personally supervised by the state licensed or certified appraiser and provided further that any appraisal report rendered in connection with the appraisal is reviewed and signed by the state licensed or certified real estate appraiser.

(5) For a period of ~~one (1) year~~ two (2) years after the enactment of this act only, the provisions of this chapter requiring mandatory licensure or certification shall not apply to employees of the Idaho transportation department.

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

Approved March 8, 1994.

CHAPTER 72
(S.B. No. 1328)

AN ACT

RELATING TO RATITES; AMENDING TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 35, TITLE 25, IDAHO CODE, TO DESIGNATE RATITES AS LIVESTOCK, TO PLACE RATITE FARMS UNDER THE JURISDICTION OF THE DEPARTMENT OF AGRICULTURE, TO RELATE RATITE LAWS TO LAWS OF LIVESTOCK AND DOMESTIC ANIMALS, TO AUTHORIZE RULES FOR DISEASE PREVENTION, TO REQUIRE INSPECTION OF RATITE FARMS, TO PROVIDE PENALTY FOR VIOLATIONS, TO DEFINE PROPERTY RIGHTS IN RATITE ANIMALS AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 35, Title 25, Idaho Code, and to read as follows:

CHAPTER 35
RATITES

25-3501. RATITES DESIGNATED LIVESTOCK. It shall be lawful for any person, persons, association or corporation to engage in the business of propagating, breeding, owning or controlling domestic ratites, which are defined as cassowary, ostrich, emu and rhea. For the pur-

poses of all classification and administration of the laws of the state of Idaho, and all administrative orders and rules pertaining thereto, the breeding, raising, producing or marketing of such animals or their products by the producer shall be deemed an agricultural pursuit; such animals shall be deemed livestock and their products shall be deemed agricultural products; the persons engaged in such agricultural pursuits shall be deemed farmers, ratite farmers, ratite breeders or ratite ranchers; the premises within which such a pursuit is conducted shall be deemed farms, ratite farms, or ratite ranches.

25-3502. RATITE FARMS PLACED UNDER JURISDICTION OF DEPARTMENT OF AGRICULTURE. The department of agriculture and the administrator of the division of animal industries shall have administrative authority for all functions which affect the breeding, raising, producing, marketing or any other phase of the production or distribution of domestic ratites, or the products thereof.

25-3503. APPLICATION OF LAWS RELATING TO LIVESTOCK AND DOMESTIC ANIMALS. All of the provisions of chapter 2, title 25, Idaho Code, applicable to livestock and domestic animals, except those provisions which by their terms are restricted to swine, bovine animals, dairy or breeding cattle, or range cattle, or other particular kind or kinds of livestock and domestic animals to the exclusion of livestock or domestic animals generally, are applicable to domestic ratite animals.

25-3504. RULES FOR DISEASE PREVENTION. The administrator of the division of animal industries is hereby authorized and empowered to make, promulgate, and enforce general and reasonable rules not inconsistent with law, for the prevention of the introduction or dissemination of diseases among domestic ratite animals of this state, and to otherwise effectuate enforcement of the provisions of chapter 2, title 25, Idaho Code, applicable to domestic ratite animals.

25-3505. INSPECTION OF RATITE FARMS. The division of animal industries and any of its officers shall have the right at any time to inspect any ratite farm, and may go upon such farms or any part thereof to inspect and examine the same and any animals therein.

25-3506. PENALTY FOR VIOLATIONS. Any person, firm or corporation violating any of the provisions of chapter 2, title 25, Idaho Code, applicable to domestic ratite animals, or of the rules promulgated by the division of animal industries for the enforcement thereof, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense.

25-3507. PROPERTY RIGHTS IN RATITE ANIMALS. Domestic ratite animals shall be, together with their offspring and increases, the subject of ownership, lien and absolute property rights, in whatever situation, location or condition such animals may thereafter become, or be, and regardless of their remaining in, or escaping from such restraint or captivity.

25-3508. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 8, 1994.

CHAPTER 73
(S.B. No. 1380, As Amended)

AN ACT

RELATING TO DOMESTIC CERVIDAE FARMS; AMENDING TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 35, TITLE 25, IDAHO CODE, TO PROVIDE THAT DOMESTIC CERVIDAE FARMING IS DEEMED AN AGRICULTURAL PURSUIT, TO PROVIDE FOR TRANSFER OF FUNCTIONS FROM THE FISH AND GAME COMMISSION TO THE DEPARTMENT OF AGRICULTURE, TO PROVIDE APPLICATION OF LAWS RELATING TO LIVESTOCK AND DOMESTIC ANIMALS, TO PROVIDE RULES FOR DISEASE PREVENTION, TO PROVIDE FOR INSPECTION, TO PROVIDE A PENALTY FOR VIOLATIONS, TO PROVIDE PROPERTY RIGHTS IN DOMESTIC CERVIDAE, TO PROVIDE FEES AND TO PROVIDE SEVERABILITY; AMENDING SECTION 36-701, IDAHO CODE, TO EXEMPT DOMESTIC CERVIDAE FROM REGULATION AND INSPECTION BY THE DEPARTMENT OF FISH AND GAME WITH AN EXCEPTION; AMENDING SECTION 36-709, IDAHO CODE, TO PROVIDE FOR INSPECTION OF DOMESTIC CERVIDAE FARMS; AND AMENDING SECTION 36-711, IDAHO CODE, TO PROVIDE THAT THE REGULATION OF DOMESTIC CERVIDAE FARMS IS VESTED IN THE DEPARTMENT OF AGRICULTURE.

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

SECTION 1. That Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 35, Title 25, Idaho Code, and to read as follows:

CHAPTER 35
DOMESTIC CERVIDAE FARMS

25-3501. DOMESTIC CERVIDAE FARMING DEEMED AGRICULTURAL PURSUIT. It shall be lawful for any person, association or corporation to breed, own or control domestic cervidae, which are defined as fallow deer (dama dama), elk (cervus elaphus) or reindeer (rangifer tarandus), but shall not include red deer (urasian cervidae) or any subspecies or hybrids thereof, and hold such animal in captivity for breeding or other useful purposes. Reindeer (rangifer tarandus) shall not be held for domestic purposes north of the Salmon River. For the purposes of all classification and administration of the laws of the state of Idaho, and all administrative orders and rules pertaining thereto, the breeding, raising, producing or marketing of such animals or their products by the producer shall be deemed an agricultural pursuit; such animals shall be deemed livestock and their products shall be deemed agricultural products; the persons engaged in such agricul-

tural pursuits shall be deemed farmers, cervidae farmers, cervidae breeders or cervidae ranchers; the premises within which such pursuit is conducted shall be deemed farms, cervidae farms, or cervidae ranches.

25-3502. TRANSFER OF FUNCTIONS FROM FISH AND GAME COMMISSION TO DEPARTMENT OF AGRICULTURE. All the functions of the fish and game commission and the department of fish and game, which affect the breeding, raising, producing, marketing, or any other phase of the production or distribution, of domestic cervidae, or the products thereof, are hereby transferred to and vested in the department of agriculture and the administrator of the division of animal industries; provided, that this act shall not limit or affect the powers or duties of the department of fish and game relating to nondomestic cervidae or the management and taking thereof, and provided further that the department of agriculture shall address the reasonable concerns of the department of fish and game respecting the domestic farming of cervidae as provided in section 36-106(e)(9), Idaho Code.

25-3503. APPLICATION OF LAWS RELATING TO LIVESTOCK AND DOMESTIC ANIMALS. All of the provisions of chapters 2, 3, 4 and 6, title 25, Idaho Code, applicable to livestock and domestic animals, except those provisions which by their terms are restricted to swine, bovine animals, dairy or breeding cattle, or range cattle, or other particular kind or kinds of livestock and domestic animals to the exclusion of livestock or domestic animals generally, are applicable to domestic cervidae.

25-3504. RULES FOR DISEASE PREVENTION. The administrator of the division of animal industries is hereby authorized and empowered to make, promulgate, and enforce general and reasonable rules not inconsistent with law, for the prevention of the introduction or dissemination of diseases among domestic cervidae of this state, and to otherwise effectuate enforcement of the provisions of chapters 2, 3, 4 and 6, title 25, Idaho Code, applicable to domestic cervidae.

25-3505. INSPECTION OF CERVIDAE FARMS. The division of animal industries and any of its officers shall have the right, at any reasonable time, to inspect any domestic cervidae farm, and may go upon such farms or any part thereof where such animals are contained to inspect and examine the same and any animals therein.

25-3506. PENALTY FOR VIOLATIONS. Any person, firm or corporation violating any of the provisions of chapters 2, 3, 4 and 6, title 25, Idaho Code, applicable to domestic cervidae, or of the rules promulgated by the division of animal industries for the enforcement thereof shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) for each offense.

25-3507. PROPERTY RIGHTS IN DOMESTIC CERVIDAE. Domestic cervidae shall be, together with their offspring and increases the subject of ownership, lien and absolute property rights, (the same as purely

domestic animals) in whatever situation, location, or condition such animals may thereafter become, or be, and regardless of their remaining in, or escaping from such restraint or captivity.

25-3508. FEES. There is hereby imposed, on domestic cervidae, a fee, not to exceed five dollars (\$5.00) per head per year and shall be due on January 1 of each year. The fee shall be used by the Idaho department of agriculture, division of animal industries, for the prevention, control and eradication of diseases of domestic cervidae. All moneys collected under this provision shall be deposited in the livestock disease control and tuberculosis indemnity fund.

25-3509. SEVERABILITY. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of application 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 2. That Section 36-701, Idaho Code, be, and the same is hereby amended to read as follows:

36-701. WILDLIFE HELD CAPTIVE WITHOUT LICENSE OR PERMIT UNLAWFUL -- EXCEPTIONS. (a) No person shall engage in any propagation or hold in captivity any species of big game animal found wild in this state, unless the person has been issued a license or permit by the director as hereinafter provided.

(b) All other species of mammals, birds or reptiles that are found in the wild in this state and are not species of special concern or threatened and endangered species, may be held in captivity without permit so long as the possessor retains proof that such wildlife was lawfully obtained. Such proof shall be maintained and presented to department representatives in accordance with section 36-709, Idaho Code.

(c) Exceptions.

1. No such license or permit shall be required of any municipal, county, state or other publicly owned zoo or wildlife exhibit or of any traveling circus, menagerie or trained act of wild animals not permanently located within the state of Idaho nor of any bona fide pet store displaying lawfully acquired wildlife for sale nor of any fur farm regulated and inspected pursuant to chapter 30, title 25, Idaho Code, nor of any domestic cervidae farm regulated and inspected pursuant to chapter 35, title 25, Idaho Code.

2. Except for the provisions of paragraph (d) below and section 36-709, Idaho Code, relating to inspection and records of same, nothing in this chapter shall be so construed as to apply to any exotic wildlife, or domestic fur farm operated under the provisions of title 25, Idaho Code, or any tropical fish or other aquaria or ornamental fish which the commission determines do not pose a threat to native fish if released into the public waters of the state.

3. Except for the provisions of section 36-709(b), Idaho Code, relating to inspection of facilities, nothing in this chapter

shall be so construed as to apply to any domestic cervidae farm.

(d) No person shall import into this state or release in the wild any species of wildlife except by permit issued by the director.

SECTION 3. That Section 36-709, Idaho Code, be, and the same is hereby amended to read as follows:

36-709. REASONABLE INSPECTION -- NOTICE OF VIOLATION -- REQUIRED RECORDS. (a) Inspection of Facilities Operated Under License or Permit. As a condition to the issuance of a license or permit for the confinement of wildlife as hereinbefore provided in this chapter, the director or his duly authorized representative shall have the right at any reasonable time to enter upon and inspect any facility and wildlife held in captivity. The director shall give written notice of any violation and shall specify a reasonable time of not less than ten (10) days to remove or eliminate the violation. If upon the expiration of such time the violation has not been removed or eliminated, he may issue a citation and pursue the matter in a court of competent jurisdiction.

(b) Inspection of Other Facilities. The director or his duly authorized representatives shall have the right at any reasonable time to go upon and inspect any fur farm or domestic cervidae farm operated under the provisions of title 25, Idaho Code, as amended, or any other facilities where wildlife, including birds, is held in captivity without a permit.

(c) Records Required. Any person who imports, possesses or sells any wildlife, exotic or found wild in this state, shall keep accurate records as to the dates, names and addresses of persons or facilities from which the wildlife was obtained, as well as records of disposal, purchase or sale of any wildlife in their possession or possessed during the past five (5) years. Such records shall be produced at the request of the director or his duly authorized representative.

(d) Failure to Allow Inspection or to Produce Records. No person shall refuse reasonable inspection or to fail to maintain or to produce records for the director or his representative on request.

SECTION 4. That Section 36-711, Idaho Code, be, and the same is hereby amended to read as follows:

36-711. REGULATION OF DOMESTIC FUR-BEARING ANIMALS AND DOMESTIC CERVIDAE. The authority to regulate the breeding, raising, producing, marketing or any other phase of the production or distribution, of domestic fur-bearing animals and domestic cervidae or the products thereof, is vested in the department of agriculture. Nothing in this section shall limit or affect the powers or duties of the fish and game commission and the department of fish and game relating to nondomestic fur-bearing animals and cervidae or the capture and taking thereof. As used in this section, "domestic fur-bearing animal" means fox, mink, chinchilla, karakul, marten, fisher, muskrat, nutria, beaver, and all other fur-bearing animals raised in captivity for breeding or other useful purposes. "Domestic cervidae," as used in this

section, means fallow deer (dama dama), elk (cervus elaphus) and reindeer (rangifer tarandus), but shall not include red deer (urasian cervidae) or any subspecies or hybrids thereof. Reindeer (rangifer tarandus) shall not be held for domestic purposes north of the Salmon River.

Approved March 8, 1994.

CHAPTER 74
(H.B. No. 601)

AN ACT

RELATING TO PROPERTY SUBJECT TO TAXATION; AMENDING SECTION 63-102, IDAHO CODE, TO PROVIDE THAT LIENS FOR PROPERTY TAXES LEVIED SHALL BE PERPETUAL AND CONTINUOUS AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-102, Idaho Code, be, and the same is hereby amended to read as follows:

63-102. PROPERTY SUBJECT TO ASSESSMENT -- LIEN OF TAXES ~~----PERSONAL--PROPERTY--FROM--WITHOUT--STATE.~~ (1) All real property subject to assessment shall be assessed annually for taxation for state, county, city, school district and other purposes, under the provisions of this act, as of 12:01 a.m. on the first day of January in the year in which such taxes are levied, except as otherwise provided. All taxes levied upon real property under the provisions of this act, shall be a lien upon the real property assessed.

(2) All personal property subject to assessment shall be assessed annually for taxation for state, county, city, school district and other purposes, under the provisions of this act, as of 12:01 a.m. on the first day of January in the year in which such taxes are levied, except as otherwise provided. All taxes levied upon personal property shall be a lien upon the personal property assessed and upon any other personal or real property of the owner thereof within the county where assessed, whether the property is exempt from execution or not, except as otherwise provided by law.

(3) All liens attach as of the first day of January in that year, and shall only be discharged by the payment, cancellation or rebate of the taxes as provided in this act. Property tax liens shall be perpetual and continuous on all personal and real property.

(4) Personal property coming into the state from without the state after the first day of January, shall be assessed, as of the date of its entry into the state as follows, if before the first of April, for its full assessed value; if on the first day of April and before the first day of July, for three-fourths (3/4) of its full assessed value; if on the first day of July and before the first day of October, for one-half (1/2) of its full assessed value, and if during the remainder of the taxing year, for one-fourth (1/4) of its full

assessed value, and the taxes so levied thereupon shall be a lien on such property from the date of its entry into the state.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval and retroactively to January 1, 1994.

Approved March 9, 1994.

CHAPTER 75
(H.B. No. 617)

AN ACT

RELATING TO THE IDAHO SOLID WASTE FACILITIES ACT; AMENDING SECTION 39-105, IDAHO CODE, TO DELETE A GRANT OF CONDITIONAL AUTHORITY OF THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE BASED UPON APPROVED STATE STATUS, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-7402, IDAHO CODE, TO PROVIDE A REFERENCE TO FEDERAL REGULATIONS; AMENDING SECTION 39-7403, IDAHO CODE, TO INCORPORATE DEADLINE PROVISIONS OF FEDERAL REGULATIONS; AMENDING SECTION 39-7404, IDAHO CODE, TO INCORPORATE ANY ADDITIONAL FLEXIBILITY OR EXTENSION OF FEDERAL REGULATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-7406, IDAHO CODE, TO DELETE EXCEPTIONS TO THE CHAPTER CONTINGENT UPON APPROVED STATE STATUTES; AMENDING SECTION 39-7410, IDAHO CODE, TO AUTHORIZE APPLICATION OF AN ALTERNATIVE SCHEDULE FOR COMPLIANCE IF APPROVED BY THE DIRECTOR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-7413, IDAHO CODE, TO CORRECT CODE REFERENCES; AMENDING SECTION 39-7415, IDAHO CODE, TO PROVIDE EXCEPTIONS AS PROVIDED BY FEDERAL REGULATIONS; AMENDING SECTION 39-7416, IDAHO CODE, TO PROVIDE EXCEPTIONS AS PROVIDED BY FEDERAL REGULATIONS; AMENDING SECTION 39-7417, IDAHO CODE, TO PROVIDE EXCEPTIONS AS PROVIDED BY FEDERAL REGULATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-105, Idaho Code, be, and the same is hereby amended to read as follows:

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

1. All of the powers and duties of the department of public health, the department of health, the board of health, and the air pollution control commission, are hereby transferred to the director of the department of health and welfare, provided, however, that rule making rulemaking and hearing functions relating to environmental protection, public health and licensure and certification standards shall be vested in the board of health and welfare. The director shall have all such powers and duties as may have been or could have been exercised by his predecessors in law, including the authority to adopt,

promulgate, and enforce rules and regulations in those circumstances when the authority to adopt, promulgate, and enforce such rules and regulations is not vested in the board of health and welfare, and shall be the successor in law to all contractual obligations entered into by his predecessor in law. All ~~rule-making~~ rulemaking proceedings and hearings of the director shall be governed by the provisions of chapter 52, title 67, Idaho Code.

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

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

a. The issuance of licenses and permits as prescribed by law and by the rules and regulations of the board. For each air quality operating permit issued under title V of the federal clean air act and its implementing regulations, the director shall, consistent with the federal clean air act and its implementing regulations, expressly include a provision stating that compliance with the conditions of the permit shall be deemed compliance with the applicable requirements of the federal clean air act and the title V implementing regulations. The director may develop and issue general permits covering numerous similar sources, as authorized by 40 CFR 70.6(d) as may be amended, and as appropriate.

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

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

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

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

f. The supervision and administration of the various schools, hospitals and institutions that were the responsibility of the

board of health at the time this act went into effect.

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

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

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

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

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

l. The supervision and administration of administrative units whose responsibility shall be to assist and encourage counties, cities, other governmental units, and industries in the control of and/or abatement of environmental and health problems.

m. The administration of solid waste disposal site and design review in accordance with the provisions of chapter 74, title 39, Idaho Code, and chapter 4, title 39, Idaho Code, and in particular as follows:

i. The issuance of a solid waste disposal site certificate in the manner provided in chapter 74, title 39, Idaho Code.

ii. Provide review and approval regarding the design of solid waste disposal facilities and ground water monitoring systems and approval of all applications for flexible standards as provided in 40 CFR 258, in accordance with the provisions of chapter 74, title 39, Idaho Code.

iii. Cooperating and coordinating with operational monitoring of solid waste disposal sites by district health departments pursuant to authority established in chapters 4 and 74, title 39, Idaho Code.

iv. The authority granted to the director pursuant to provisions of this subsection shall be effective upon enactment of chapter 74, title 39, Idaho Code, by the legislature. ~~If the state of Idaho has not obtained approved state status from the United States environmental protection agency (USEPA) relative to chapter 74, title 39, Idaho Code, this subsection shall be of no force and effect effective July 1, 1995.~~

v. The authority to develop and propose regulations as necessary to supplement details of compliance with the solid waste facilities act and applicable federal regulations, pro-

vided that such regulations shall not conflict with the provisions of this act nor shall such regulations be more strict than the requirements established in federal law or in the solid waste facilities act.

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

o. The formulation and adoption of a comprehensive state nutrient management plan for the surface waters of the state of Idaho in consultation with the appropriate state or federal agencies, local units of government, and with public involvement as provided for under the administrative procedure act. The director shall recommend by March 1, 1990, to the board for adoption, rules and regulations setting forth procedures for development of the plan, including mechanisms to keep the public informed and encourage public participation in plan development.

The plan shall be developed on a hydrologic basin unit basis with a lake system emphasis. The panhandle hydrologic basin plan shall be completed no later than July 1, 1995. The remaining basin plans shall be completed no later than January 1, 1995. Each plan shall identify nutrient sources; the dynamics of nutrient removal, use, and dispersal; and preventative or remedial actions where feasible and necessary to protect the surface waters of the state. The director shall formulate and recommend to the board for adoption rules and regulations as necessary to implement the plan. The plan shall be used by the department and other appropriate agencies including soil conservation districts, public health districts and local units of government in developing programs for nutrient management. State and local units of government shall exercise their police powers in compliance with the comprehensive state nutrient management plan of this act. Local nutrient management programs adopted by any local unit of government prior to the completion of the state comprehensive nutrient management plan or a hydrologic basin plan shall be consistent with the criteria for inclusion in the comprehensive state nutrient management plan as enumerated in this subsection, as evidenced by findings of fact by the local units of government and confirmed by the division of environmental quality and the local health district board. The director shall recommend by March 1, 1990, to the board for adoption, rules and regulations for procedures to determine consistency.

p. The formulation of a water quality management plan for Priest lake in conjunction with a planning team from the Priest lake area whose membership shall be appointed by the board and consist of a fair representation of the various land managers, and user and interest groups of the lake and its Idaho watershed. The stated goal of the plan shall be to maintain the existing water quality of Priest lake while continuing existing nonpoint source activities in the watershed and providing for project specific best management practices when necessary. The plan shall include comprehensive characterization of lake water quality through completion of a baseline monitoring program to be conducted by the department and shall consider existing economics and nonpoint source activity dependent industries of the Priest lake area. The planning team

shall conduct public hearings and encourage public participation in plan development including opportunity for public review and input. Technical assistance to the planning team, with state nonpoint source management programs in forest practices, road construction and maintenance, agriculture and mining shall be provided by the department. Technical assistance to the planning team on area planning, zoning and sanitary regulations shall be provided by the clean lakes council. The plan shall be submitted to the board for its approval at the end of a three (3) year plan development period. Upon review and acceptance by the board, the plan shall be submitted to the legislature for amendment, adoption or rejection. If adopted by the legislature, the plan shall be enacted by passage of a statute at the regular legislative session when it receives the plan and shall have the force and effect of law. Existing forest practices, agricultural and mining nonpoint source management programs are considered to be adequate to protect water quality during the plan development period.

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

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

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

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

SECTION 2. That Section 39-7402, Idaho Code, be, and the same is hereby amended to read as follows:

39-7402. APPLICABILITY. (1) The standards and procedures set forth in this chapter apply to owners and operators of new municipal solid waste landfill (MSWLF) units, existing MSWLF units, and lateral expansions of existing MSWLF units, except as otherwise specifically provided.

(2) The requirements of this chapter do not apply to MSWLF units that ceased to accept waste on or prior to October 9, 1991.

(3) MSWLF units that receive waste after October 9, 1991, but stop receiving waste before ~~October 9, 1993~~ in conformance with the provisions of 40 CFR 258.1(d), are exempt from the requirements of

this chapter, except as provided in ~~40 CFR 258.1(d)~~ or as otherwise expressly provided herein.

(4) All MSWLF units that receive waste on or after October 9, 1993, must comply with all of the requirements of this chapter, unless otherwise allowed in 40 CFR 258.1(d), (e) or (f).

(5) MSWLF units failing to satisfy these standards shall cease operation and shall not accept municipal solid waste for disposal by order of the division of environmental quality and/or the district health department until provisions of this chapter are complied with unless a compliance schedule has been approved by the director of the department of health and welfare and/or the district health department.

(6) MSWLF units failing to satisfy the requirements set forth in this act are considered open dumps for purposes of state solid waste management planning and are prohibited under section 4005 of RCRA.

(7) MSWLF units containing sewage sludge and which fail to satisfy the criteria set forth in 40 CFR 258 violate sections 309 and 405(e) of the clean water act.

SECTION 3. That Section 39-7403, Idaho Code, be, and the same is hereby amended to read as follows:

39-7403. DEFINITIONS. As used in this chapter:

(1) "Active portion" means that part of a facility or unit that has received or is receiving wastes and that has not been closed in accordance with 40 CFR 258.60.

(2) "Agricultural wastes" mean wastes generated on farms resulting from the production of agricultural products including, but not limited to, manures and carcasses of dead animals weighing each or collectively in excess of fifteen (15) pounds but do not include wastes that are classified as hazardous.

(3) "Applicant" means the owner or the operator with the owner's written consent.

(4) "Aquifer" means a geological formation, group of formations, or a portion of a formation capable of yielding significant quantities of ground water to wells or springs.

(5) "Board" means the Idaho board of health and welfare.

(6) "Buffer zone" means that part of a facility that lies between the active portion and the property boundary.

(7) "Clean soils and clean dredge spoils" mean soils and dredge spoils which are not hazardous wastes or problem wastes as defined in this section.

(8) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses and other nonmanufacturing activities, excluding residential and industrial wastes.

(9) "Construction/demolition waste" means the waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures. Such waste includes, but is not limited to, bricks, concrete, other masonry materials, soil, rock, lumber, road spoils, rebar, paving materials and tree stumps. Noninert wastes and asbestos wastes are not considered to be demolition waste

for the purposes of this chapter.

(10) "Contaminate" means to allow discharge of a substance from a landfill that would cause:

(a) The concentration of that substance in the ground water to exceed the maximum contamination level (MCL) specified in 40 CFR 258.40, Idaho drinking water standards; or

(b) A statistically significant increase in the concentration of that substance in the ground water where the existing concentration of that substance exceeds the maximum contamination level specified in paragraph (a) of this subsection; or

(c) A statistically significant increase above background in the concentration of a substance which:

(i) is not specified in paragraph (a) of this subsection; and

(ii) is a result of the disposal of solid waste; and

(iii) has been determined by the department to present a substantial risk to human health or the environment in the concentrations found at the point of compliance.

(11) "County" means any county in the state of Idaho.

(12) "Cover material" means soil or other suitable material that is used to protect the active portion of the MSWLF unit.

(13) "Director" means the director of the Idaho department of health and welfare.

(14) "Existing MSWLF unit" means any municipal solid waste landfill unit that is receiving solid waste as of ~~October-9, 1993~~ the applicable date specified in 40 CFR 258.1(e).

(15) "Facility" means all contiguous land and structures, buffer zones, and other appurtenances and improvements on the land used for the disposal of solid waste.

(16) "Floodplain" means the area encompassed by the one hundred (100) year flood as defined by applicable federal emergency management agency (FEMA) flood insurance maps or, if no map exists, then as defined in 40 CFR 258.11.

(17) "Ground water" means water below the land surface in a zone of saturation.

(18) "Health district" means one (1) of the seven (7) district health departments of the state of Idaho.

(19) "Holocene fault" means a fault characterized as a fracture or a zone of fractures in any material along which strata on one (1) side have been displaced with respect to that on the other side and holocene being the most recent epoch of the quaternary period, extending from the end of the pleistocene epoch to the present.

(20) "Household waste" means any solid waste, including garbage, trash and sanitary waste in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas.

(21) "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under subtitle C of RCRA. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer and agricultural chemicals; food and related products and by-products; inorganic chemicals; iron

and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

(22) "Inert wastes" mean noncombustible, nonhazardous, nonputrescible, nonleaching solid wastes that are likely to retain their physical and chemical structure under expected conditions of disposal, including resistance to biological attack.

(23) "Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well or waste pile.

(24) "Landspreading disposal facility" or "land application unit" means a facility that applies sludges or other solid wastes onto or incorporates solid waste into the soil surface, excluding manure spreading operations, at greater than agronomic rates and soil conditions and immobilization rates.

(25) "Lateral expansion" means a horizontal expansion of the waste boundaries of an existing MSWLF unit.

(26) "Leachate" means a liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials removed from such waste.

(27) "Limited purpose landfill" means a landfill that receives solid waste of limited type with known and consistent composition other than wood wastes, municipal solid waste, inert waste and construction/demolition waste.

(28) "Liquid waste" as defined in 40 CFR 258.28(c)(1).

(29) "Monofill" means a landfill which contains a specific waste whose waste stream characteristics remain unchanged over time and may include special wastes, problem wastes or other consistent characteristic wastes but do not include wastes regulated under any other applicable regulations.

(30) "Municipal solid waste landfill unit (MSWLF)" means a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR 257.2. A MSWLF unit also may receive other types of RCRA subtitle D wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion.

(31) "New MSWLF unit" means any municipal solid waste landfill unit that has not received waste prior to October 9, 1993, or prior to October 9, 1995, if the MSWLF unit meets the conditions specified in 40 CFR 258.1(f)(1).

(32) "Open burning" means the combustion of solid waste without: (a) control of combustion air to maintain adequate temperature for efficient combustion; (b) containment of the combustion reaction in an enclosed device to provide sufficient resident time and mixing for complete combustion; and (c) control of the emission of the combustion products.

(33) "Operator" means the person(s) responsible for the overall

operation of a facility or part of a facility.

(34) "Owner" means the person(s) who owns a facility or part of a facility.

(35) "Permeability" means the capacity of a material to transmit a liquid. For the purposes of this chapter permeability is expressed in terms of hydraulic conductivity of water in centimeters-per-second units of measurement.

(36) "Person" means an individual, association, firm, partnership, political subdivision, public or private corporation, state or federal agency, municipality, industry, or any other legal entity whatsoever.

(37) "Pile" or "waste pile" means any noncontainerized solid, nonflowing waste that is accumulated for treatment or storage.

(38) "Plan of operation" means the written plan developed by an owner or operator of a MSWLF unit detailing how the facility is to be operated during its active life, during closure, and throughout the post closure period.

(39) "Point of compliance" means a vertical surface located at the hydraulically downgradient intercept with the uppermost aquifer at which a release from a waste management unit measured as change in constituent values will trigger assessment monitoring. Point of compliance shall be used to define the facility design, location and frequency of ground water monitoring wells and corrective action.

(40) "Post closure" means the requirements placed upon the MSWLF unit after closure to ensure their environmental safety for a thirty (30) year period or until the site becomes stabilized in accordance with section 39-7416, Idaho Code.

(41) "Processing" means an operation conducted on solid waste to prepare it for disposal.

(42) "Qualified professional" means a licensed professional geologist or licensed professional engineer, as appropriate, holding current professional registration in compliance with applicable provisions of the Idaho Code.

(43) "RCRA" means the resource conservation and recovery act (42 U.S.C. sec. 6901 et seq.), as amended.

(44) "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

(45) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

(46) "Saturated zone" means that part of the earth's crust in which all voids are filled with water.

(47) "Septage" means a semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a septic tank system.

(48) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial waste water treatment plant, water supply treatment plant or air pollution control facility exclusive of the treated effluent from a waste water treatment plant.

(49) "Solid waste" means any garbage or refuse, sludge from a waste water treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include solid or dissolved materials in

domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. 1342, or source, special nuclear, or by-product material as defined in the atomic energy act of 1954, as amended (68 Stat. 923). These regulations shall not apply to the following solid wastes:

- (a) Overburden, waste dumps and low grade stockpiles from mining operations;
- (b) Liquid wastes whose discharge or potential discharge is regulated under federal, state or local water pollution permits;
- (c) Hazardous wastes as designated in the hazardous waste management act, chapter 44, title 39, Idaho Code;
- (d) Wood waste used for ornamental, animal bedding, mulch and plant bedding and road building purposes;
- (e) Agricultural wastes, limited to manures and crop residues, returned to the soils at agronomic rates;
- (f) Clean soils and clean dredge spoils as otherwise regulated under section 404 of the federal clean water act (PL 95-217);
- (g) Septage taken to a sewage treatment plant permitted by either the U.S. environmental protection agency or the department;
- (h) Radioactive wastes, defined in the radiation and nuclear materials act, chapter 30, title 39, Idaho Code; and
- (i) Wood debris resulting from the harvesting of timber and the disposal of which is permitted under chapter 1, title 38, Idaho Code.

(50) "Special waste" means those wastes which require special treatment or handling after it arrives at the disposal site. The term includes, but is not limited to, asbestos containing material, petroleum contaminated soils, low-level PCB containing material, low-level dioxin containing material and uncut tires.

(51) "Statistically significant" means significant as determined by ANOVA analysis of variance as applied within 40 CFR 258.53(h)(2) or as provided by 40 CFR 258.53(g)(5).

(52) "Uppermost aquifer" means the geological formation nearest the natural ground surface that is an aquifer as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

(53) "Waste management unit boundary" means a vertical surface located at the hydraulically downgradient limit of the unit. This vertical surface extends down into the uppermost aquifer.

(54) "Water quality standard" means a standard set for maximum allowable contamination in surface waters and ground water as set forth in the water quality standards for waters for the state of Idaho (IDAPA 16.01.2001).

(55) "Wetlands" as defined in 40 CFR 232.2(r).

(56) "Wood waste" means solid waste consisting of wood pieces or particles generated as a by-product or waste from the manufacturing of wood products, handling and storage of raw materials and trees and stumps. This includes, but is not limited to, sawdust, chips, shavings, bark, pulp, hog fuel and log yard waste, but does not include wood pieces or particles containing chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate.

Undefined terms shall be given their usual and ordinary meaning

within the context of the provisions of this chapter.

SECTION 4. That Section 39-7404, Idaho Code, be, and the same is hereby amended to read as follows:

39-7404. CONSISTENCY WITH FEDERAL LAW -- STATUS OF APPENDICES. The legislature intends that the state of Idaho enact and carry out a solid waste program that will enable the state to achieve approved state status with respect to solid waste disposal facility regulation from the federal government.

The legislature finds that subtitle D of RCRA, and in particular the code of federal regulations, title 40, part 257 and 258, establish complex, detailed and costly provisions for the disposal of solid waste. By the provisions of this chapter, the legislature desires to avoid duplicative or conflicting state and federal regulatory systems and allow local MSWLF unit owners the maximum flexibility possible under 40 CFR 257 and 258, to meet the substantive goals of protection of human health and the environment with consideration for actual site and climatic conditions. At any time that 40 CFR 257 or 40 CFR 258 is amended, any additional flexibility or extension otherwise prohibited by this chapter shall be allowed as applicable.

The board may not promulgate any rule ~~or regulation~~ pursuant to this act that would impose conditions or requirements more stringent or broader in scope than the referenced RCRA regulations of the United States environmental protection agency or the provisions of this chapter. Until regulations are adopted, agency conclusions in appendix B through appendix H, inclusive, per the "Federal Register" of October 9, 1991, shall be used for technical guidance for relevant provisions of this chapter.

SECTION 5. That Section 39-7406, Idaho Code, be, and the same is hereby amended to read as follows:

39-7406. RESPECTIVE ROLES OF COUNTY, DIRECTOR AND HEALTH DISTRICT -- LIBERAL CONSTRUCTION. (1) The county, director and health district each perform key roles in statewide solid waste management. Principal jurisdiction for the various functions of solid waste regulation and management as it pertains to site selection, development, operation, and closure shall be carried out as outlined herein:

(a) Each county may select a solid waste landfill site or sites, evaluate said site(s) for compliance with site certification criteria, develop design plans for construction and operation of MSWLF unit(s), including ground water monitoring programs, provide for public review of its site certification, facility design and operation plans through the conduct of a twenty-eight (28) day public comment period, publish legal notices, serve as the repository of funds established for financial assurance, cooperate with the director and district to construct and operate a solid waste disposal system which protects human health and the environment, and perform such other solid waste related duties as may be specified in chapter 44, title 31, Idaho Code;

(b) The director shall interact and cooperate with federal agencies to secure approved state status concerning solid waste pro-

grams, administer the site selection process by requiring an owner to certify, through such professional documentation as may be required in this chapter, that the site is not encumbered by critical site limitations as set forth in section 39-7407, Idaho Code, ascertaining that such certification has been made by a qualified professional, review and approve MSWLF unit design plans, the ground water monitoring program, alternative daily cover and final cover, alternative closure and post-closure care requirements recommended to the director for approval by the district, financial assurance and any other approvals required in 40 CFR 258, prepare and/or adopt such regulations as may be necessary to implement the provisions of this chapter, and cooperate in actual site monitoring and corrective action programs; and

(c) The health district shall ascertain that operations standards are met, prepare and/or adopt technical guidance, review and recommend approval of alternative operating, closure and post-closure requirements to the director, and review and enforce all aspects of operation, closure and post closure except as specified above.

(d) All approvals required by 40 CFR 258 shall be obtained by the owner and/or applicant; and all provisions of 40 CFR 258 which provide for flexibility may be obtained by the owner and/or applicant; and the director shall have the authority to grant all such approvals in accordance with the provisions of this chapter, the duty to make a determination that an application meets standards or provides an acceptable alternative, and the duty to approve or disapprove the application in a timely manner prescribed in this chapter.

(2) This chapter shall be liberally construed to allow these public entities having jurisdiction to perform their respective roles to protect human health and the environment through expeditious and technically proper solid waste management practices, while recognizing the authority of local governments to act in their governmental capacity to perform the duties prescribed in chapter 44, title 31, Idaho Code.

~~(3) Absent approved state status, on and after July 1, 1995, the Idaho department of health and welfare shall possess no jurisdiction over a MSWLF site owned by a political subdivision of the state, except as may be incidental to regulatory authority vested in the department by other statutes, provided further that application of such other statutes to MSWLF sites shall recognize the absolute need of society to dispose of the solid waste it generates in a cost efficient and reliable manner.~~

~~Absent approved state status on and after July 1, 1995, MSWLF owners and operators shall comply with all requirements of 40 CFR 257 and 258 as applicable.~~

SECTION 6. That Section 39-7410, Idaho Code, be, and the same is hereby amended to read as follows:

39-7410. GROUND WATER MONITORING DESIGN. (1) Applicability. These requirements apply to MSWLF units except ~~as provided in 40 CFR 258.1(f)~~, or when suspended upon demonstration in accordance with 40 CFR 258.50 that there is no potential for migration of hazardous constituents from the MSWLF unit to the uppermost aquifer during the

active life of the unit and the post-closure care periods when certified by a qualified professional and approved by the director. All monitoring programs shall be conducted in a manner consistent with the guidance of relevant portions of appendix F per the "Federal Register" of October 9, 1991. The schedule for compliance as provided by 40 CFR 258.50 shall apply unless an alternative schedule is approved by the director.

(2) Ground water monitoring program.

(a) A ground water monitoring system must be installed that consists of a sufficient number of wells, installed at appropriate locations and depths, to conform with the requirements of 40 CFR 258.51(a) and (d).

(b) A multiunit ground water monitoring system may be constructed instead of separate ground water monitoring systems for each MSWLF unit as provided in 40 CFR 258.51(b).

(c) Monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole as provided in 40 CFR 258.51(c). Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata, and in accordance with Idaho department of water resources, well construction standards and the monitoring well standards of the national ground water association.

(3) Point of compliance. For each MSWLF unit, the relevant point of compliance shall be set as a function of site and monitoring program design subject to the approval of the director. The relevant point of compliance for purposes of MSWLF unit design, well location and corrective action shall be:

(a) ~~h~~Located within the flow pathway(s) predicted from the results of the hydrogeologic investigation;

(b) ~~n~~No more than one hundred fifty (150) meters downgradient from the waste management unit boundary;

(c) ~~o~~On contiguous property owned, or otherwise subject to possessory rights by the MSWLF owner;

(d) ~~s~~Shall be identified by the qualified professional on all reports and documents pertaining to analysis of ground water protection measures; and

(e) ~~d~~Determined in consideration of factors provided in 40 CFR 258.40(d).

(4) Ground water characterization, sampling and analysis requirements.

(a) The ground water monitoring system must include sampling and analysis procedures consistent with 40 CFR 258.53.

(b) Monitoring wells shall be tested for the constituents listed in 40 CFR 258, appendix I, plus temperature, unless otherwise authorized by the director as provided in 40 CFR 258.54.

(c) Background values will be based on an independent sample from each well sampled at three (3) month intervals in a one (1) year period.

(5) Detection monitoring program.

(a) Detection monitoring is required throughout the active life and post-closure care period at MSWLF units as provided in 40 CFR 258.54 at all ground water monitoring wells as defined in 40 CFR

258.51(a)(1) and (a)(2) for constituents listed in 40 CFR 258, appendix I.

(b) Each well shall be monitored on a semiannual basis after background characterization. Alternative constituents and sampling frequency may be approved by the director based upon considerations as defined in 40 CFR 258.54 (a)(2) and (b). Requests for alternative constituents or frequency shall be based on a report certified by a qualified professional.

(c) Each ground water sample event must include a determination of the ground water surface elevation, flow direction and rate.

SECTION 7. That Section 39-7413, Idaho Code, be, and the same is hereby amended to read as follows:

39-7413. OPERATIONS PLAN REVIEW. (1) Prior to operation of a MSWLF unit, an operations plan shall be submitted to the health district with jurisdiction. It shall be the responsibility of each applicant of a MSWLF unit to certify to the health district that the provisions of section 39-741~~2~~2, Idaho Code, have been complied with through development of an operating plan. No solid waste disposal facility shall accept waste without a current operating certificate from the health district with jurisdiction.

(2) The health district shall review operational plans in the same manner as the director reviews requests for site certification pursuant to section 39-7408, Idaho Code. An applicant shall provide information in the operations plan in sufficient detail to show compliance with the provisions of section 39-7412, Idaho Code, and required procedures adopted pursuant thereto. The same standards of review shall apply to an operations plan as apply to the site certification process. The health district shall accept certification by a qualified professional that standards of operation have been met upon presentation of the professional's certification of compliance and presentation of a written explanation of operational practices which will be undertaken to meet standards established in section 39-7412, Idaho Code.

(3) If an operations plan provides for alternative operating criteria requiring approval by the director as provided in 40 CFR 258, the health district shall make a decision recommending approval or disapproval. Such plan shall be submitted by the health district to the director for his review. The submittal shall be accompanied by findings of fact and the recommendation from the health district.

(4) The director shall review the recommendation submitted by the health districts and shall make a decision to approve or disapprove. The director shall review recommendations for approval using the same standards of review provided in section 39-7408(2)(e), Idaho Code.

SECTION 8. That Section 39-7415, Idaho Code, be, and the same is hereby amended to read as follows:

39-7415. STANDARDS FOR CLOSURE. (1) Applicability. These standards apply to all MSWLF units that receive wastes on or after October 9, 1993, except as provided by 40 CFR 258. MSWLF units that accept waste after October 9, 1991, but cease to accept waste prior to Octo-

ber 9, 1993, shall at a minimum comply with subsections (2)(a) and (3) of this section in addition to the "sanitary landfill closure guidance" criteria as adopted by the health district.

(2) Cover designs. Owners or operators of MSWLF units shall install one (1) of the following final cover systems:

(a) A cover as provided under 40 CFR 258.60(a); or

(b) The cover material must be fine-grained with intrinsic permeability no greater than 1×10^{-3} cm/sec and a minimum thickness of twenty-four (24) inches; and

(i) have capillary holding capacity greater than the projected maximum accumulated volume of water as determined by utilization of accepted water balance methodology based on local or regional twenty-five (25) year climatic records;

(ii) annual precipitation is less than twenty-five (25) inches with net evaporative losses greater than thirty (30) inches annually;

(iii) the top six (6) inches of the cover shall be capable of sustaining shallow rooted native plant growth; and

(iv) this design shall demonstrate consideration of site specific factors as provided in 40 CFR 258.60(b) or:

(c) As provided in 40 CFR 258.60(b).

(3) The final grade of slopes shall be greater than two per cent (2%) unless otherwise supported by the post closure plan and uses approved by the health district, and the grade of side slopes not more than thirty-three per cent (33%).

(4) Closure plan preparation, placement in operating record, notice of intent to close, time requirements for commencement and completion of closure activities, certification, deed notation and removal of deed notation shall be conducted as provided in 40 CFR 258.60(c) through (j), inclusive.

SECTION 9. That Section 39-7416, Idaho Code, be, and the same is hereby amended to read as follows:

39-7416. STANDARDS FOR POST CLOSURE CARE. (1) Applicability. Post closure maintenance standards apply to all MSWLF units that receive wastes on or after October 9, 1993, except as provided by 40 CFR 258.1.

(2) Post closure care shall be conducted as provided under 40 CFR 258.61.

SECTION 10. That Section 39-7417, Idaho Code, be, and the same is hereby amended to read as follows:

39-7417. FINANCIAL ASSURANCE FOR CLOSURE, POST CLOSURE CARE AND CORRECTIVE ACTION. (1) Applicability. These requirements shall apply to new MSWLF units, existing MSWLF units and lateral expansions except as exempted in 40 CFR 258.1(d) and 258.70(a).

(2) The requirements of this section are effective April 9, 1994, except for MSWLF units meeting the conditions of 40 CFR 258.1(f)(1), in which case the effective date is October 9, 1995, or at such later date upon subsequent amendment of 40 CFR 258.70 through 258.74.

(3) All MSWLF units shall be underwritten by financial assurance provisions as provided by the following:

- (a) Closure as provided in 40 CFR 258.71;
- (b) Post closure care as provided in 40 CFR 258.72; and
- (c) Corrective action as provided in 40 CFR 258.73.

(4) The financial assurance mechanisms provided for MSWLF units shall include any mechanism or a combination of mechanisms meeting the criteria of 40 CFR 258.74.

(5) Counties may use available borrowing capability through registered warrants for a prearranged amount and preapproved by a lending institution as a financial mechanism to assure assessment monitoring and corrective action needs.

(6) Subdivisions of the state may use any method provided by law to meet the requirements of this section.

(7) MSWLF units owned or operated by subdivisions of the state that qualify under 40 CFR 258.74(f) may include any mechanism allowed to them upon adoption and publication.

(8) Financial assurance funds for MSWLF units not located on federal or state lands shall be deposited in a county trust fund in the county in which the MSWLF unit is located. The county shall act as the trustee for the trust funds, and as named coprincipal for surety bonds, letters of credit, and insurance. As trustee, the county may require an independent audit of the adequacy of the financial assurance but shall not become liable for financial assurance except in the case of default as otherwise defined by federal and state law.

SECTION 11. An emergency existing 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 9, 1994.

CHAPTER 76
(H.B. No. 679)

AN ACT
RELATING TO ASSESSMENT OF MANUFACTURED HOMES; AMENDING SECTION 63-307C, IDAHO CODE, TO PROVIDE THAT THE REVERSAL OF DECLARATION WHICH TREATS A MANUFACTURED HOME AS REAL PROPERTY SHALL BE RECORDED.

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

SECTION 1. That Section 63-307C, Idaho Code, be, and the same is hereby amended to read as follows:

63-307C. REVERSAL OF DECLARATION WHICH TREATS A MANUFACTURED HOME AS REAL PROPERTY. (1) Once a manufactured home has been converted to real property under the provisions of section 63-307B, Idaho Code, it shall be deemed a fixture and an improvement to the real property to which it is affixed. Physical removal shall be prohibited without the

consent of all persons or entities who, at the time or of removal have an interest in the real property or title to any estate in the real property to which the manufactured home has been affixed. The homeowner shall obtain a title report from a title insurance company which shall establish the identity of those individuals or entities whose consent must be obtained. Consent to removal of the manufactured home shall not be required from the owners of rights of way, easements or owners of subsurface rights.

(2) Physical removal shall include, without limitation, the separation of the manufactured home from the foundation system, except for the temporary purposes of repair or improvement thereto.

(3) At least thirty (30) days before the manufactured home is to be removed, the homeowner shall give written notice of the intended removal to the county assessor in the county in which the real property is located. The county assessor shall require written evidence that the necessary consents have been obtained from those persons or entities identified in the title report as required by the provisions of subsection (1) of this section. In addition, removal shall be prohibited until the county treasurer has given written approval for the removal of the manufactured home by certifying that all taxes, due and payable, have been paid.

(4) The manufactured homeowner shall, within five (5) days of removal, make application for the issuance of a certificate of title for the manufactured home. Immediately upon issuance of a certificate of title, the manufactured home shall again become personal property and the declaration of reversal shall be recorded.

(5) The state tax commission shall prescribe the forms to be used by the county assessor to reverse the option exercised under the provisions of section 63-307B, Idaho Code, which created the real property designation.

Approved March 9, 1994.

CHAPTER 77
(H.B. No. 705)

AN ACT

RELATING TO DUTIES OF THE BOARD OF COUNTY COMMISSIONERS TO PROVIDE NOTICE OF INCORPORATION OF DISTRICTS; REPEALING SECTION 31-863, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-863, Idaho Code, be, and the same is hereby repealed.

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

Approved March 9, 1994.

CHAPTER 78
(S.B. No. 1443)

AN ACT

RELATING TO THE MUTUALIZATION OF SERVICE CORPORATIONS ORGANIZED OR EXISTING UNDER CHAPTER 34, TITLE 41, IDAHO CODE; AMENDING CHAPTER 28, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2854A, IDAHO CODE, TO PROVIDE FOR THE MANNER IN WHICH HOSPITAL SERVICE CORPORATIONS, COMBINED HOSPITAL AND PROFESSIONAL SERVICE CORPORATIONS AND PROFESSIONAL SERVICE CORPORATIONS ARE REQUIRED TO OR MAY MUTUALIZE AND TO PROVIDE THE EFFECTS OF MUTUALIZATION; AMENDING SECTION 41-2835, IDAHO CODE, TO PROVIDE FOR THE NUMBER AND COMPOSITION OF DIRECTORS OF THE BOARD AFTER THE EFFECTIVE DATE OF MUTUALIZATION OF FORMER HOSPITAL, PROFESSIONAL AND COMBINED HOSPITAL AND PROFESSIONAL SERVICE CORPORATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-3406, IDAHO CODE, TO PROVIDE REQUIREMENTS IN ARTICLES OF INCORPORATION FOR SERVICE CORPORATIONS; AMENDING SECTION 41-3408, IDAHO CODE, TO REVISE REQUIREMENTS FOR ISSUANCE OF A CERTIFICATE OF AUTHORITY; AMENDING SECTION 41-3409, IDAHO CODE, TO REVISE REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATES OF AUTHORITY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-3410, IDAHO CODE, TO PROVIDE FOR ISSUANCE OR REFUSAL OF ISSUANCE OF A CERTIFICATE OF AUTHORITY AS A PROFESSIONAL SERVICE CORPORATION; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Chapter 28, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-2854A, Idaho Code, and to read as follows:

41-2854A. MUTUALIZATION OF SERVICE CORPORATIONS. (1) Every corporation organized or existing under chapter 34, title 41, Idaho Code, as a hospital service corporation, a combined professional service and hospital service corporation, or a professional service corporation whose articles of incorporation specify participant licensee services are to be provided by physicians or surgeons, of either medicine and surgery or of osteopathic medicine and surgery, shall file with the director of the department of insurance a plan of mutualization on or before January 1, 1995. Any other corporation organized under chapter 34, title 41, Idaho Code, may at any time file a plan of mutualization. Any corporation organized under chapter 34, title 41, Idaho Code, may hereafter be referred to in this section as a "service corporation." The director of the department of insurance shall approve any plan of mutualization so filed, and forthwith issue a certificate of authority to the filing corporation to transact insurance in this state pursuant thereto, if:

(a) Except as herein provided and except as consistent with or implicit in the conversion of the service corporation to a mutual insurer, the plan does not deprive existing corporate members of

statutory rights expressly set forth in chapter 34, title 41, Idaho Code;

(b) The plan has been approved by the corporation's board of directors;

(c) The corporation satisfies the minimum surplus or deposit requirements of this title for the type or types of mutual insurer to which it will convert, as specified by the corporation in its plan; and

(d) The plan requires the corporation to honor subscribers' existing contractual rights in their subscriber agreements as if the corporation had not been converted to a mutual insurer. Approval by the service corporation's board of directors of the plan of mutualization shall be sufficient and effective without the approval or vote of the service corporation's members, notwithstanding any other provision of law to the contrary or of the service corporation's bylaws or articles of incorporation. The filing of such a board-approved plan, together with the issuance by the director of the department of insurance of a certificate of authority, shall constitute legal authority, effective from and after the effective date of the plan, specified in the plan, for the corporation to transact insurance in Idaho as a nonprofit mutual insurer pursuant to such plan.

(2) A plan of mutualization shall provide that, from and after its effective date, the corporation's reserves shall not be used for any purpose or distributed in any manner contrary to this title. A plan of mutualization shall also provide for a "transition period" commencing with the plan's effective date and ending with a date identified as the "transition period termination date," which shall be a date not later than the first anniversary of the effective date of such plan. Prior to the expiration of the transition period, the corporation's reserves shall not be used for any purpose or distributed in any manner contrary to section 41-3421, Idaho Code. Following conversion, the corporation shall continue to be a nonprofit corporation; provided however, the board of directors of a mutualized service corporation may from time to time declare, apportion, and pay or credit to the corporation's members dividends pursuant to this title if the corporation's articles of incorporation (as amended, if applicable, in conjunction with the filing or after the effective date of its plan of mutualization) expressly so provide. Notwithstanding any other provision of law to the contrary, no corporation (including by way of illustration and not limitation, any direct or indirect successor corporation or entity, by merger or acquisition of substantially all its assets) mutualizing under this section shall, in the event of its dissolution, distribute any of its assets except as provided by its articles of incorporation in effect immediately before the effective date of its plan of mutualization; nor shall any such corporation take or fail to take any action that would prevent it from making such distributions at the time of its dissolution.

(3) From and after the transition period termination date, the obligations of participant hospitals, participant physicians, and other licensees under sections 41-3415, 41-3415A, 41-3416 and 41-3431, Idaho Code, and all voting rights held by participant hospitals, participant physicians, and any other participant licensees by virtue of

participant status under chapter 34, title 41, Idaho Code, shall be extinguished, but until such transition period termination date, they shall retain such voting rights and obligations as they held and for which they were accountable prior to mutualization hereunder, including duties and responsibilities to the corporation and its subscribers. Each policyholder of a policy issued on or after such plan's effective date shall have all the rights and liabilities of a member of a mutual insurer under the policy, under the corporation's articles of incorporation and bylaws, and as provided by law. Before such transition period termination date, the corporation shall replace, convert by agreement with subscribers, or allow to lapse pursuant to their express terms all subscriber agreements, so that from and after such transition period termination date the corporation shall have no subscriber agreements in force. From and after the effective date of its plan of mutualization, the corporation shall issue no subscriber agreements, but shall be authorized to accept applications for and to issue insurance policies of the kind or kinds specified by the plan and the corporation is qualified to issue pursuant to law.

(4) The service corporation shall file with the director of the department of insurance, as part of its plan of mutualization, amended bylaws and articles of amendment to articles of incorporation, approved by its board of directors, which articles and bylaws shall conform in all respects with the requirements of this chapter and any applicable rules duly promulgated hereunder, and shall become effective on the effective date of such plan. Approval by the service corporation's board of directors of such amendments to its articles and bylaws shall be sufficient and effective without the approval or vote of the corporation's members, notwithstanding any contrary provision of law or of the service corporation's bylaws or articles of incorporation. Pursuant to the Idaho nonprofit corporation act, the service corporation shall also file with the Idaho secretary of state articles of amendment to its articles of incorporation.

(5) For the period ending on the transition period termination date, the corporation's plan of mutualization and its articles of incorporation and bylaws may contain provisions the corporation's board of directors, in the exercise of its discretion and in fulfillment of its duties, deems necessary, convenient or prudent to implement the plan of mutualization, including, but not limited to, transition provisions, expressly identified as such, that allocate voting power among policyholder members, participant licensees and participant hospitals, as applicable and as the board of directors may deem reasonably appropriate; provided however, all transition provisions, whether in the corporation's articles of incorporation, bylaws or plan of mutualization, shall, without further action or filing, expire upon the transition period termination date.

(6) Within forty-two (42) days of the filing date of a corporation's plan of mutualization, the director shall approve the same and issue a certificate of authority to the corporation unless the director finds such plan does not comply with subsection (1) of this section, in which case the director shall within such forty-two (42) day period issue a written order disapproving such plan and specifying the reasons therefor. The corporation may preserve the legal effectiveness and effective date of its plan by curing or otherwise

responsibly addressing each asserted deficiency identified by the director and filing within fourteen (14) days of the effective date of the director's order an amended plan of mutualization that reflects corrections and responses made. Within fourteen (14) days of the such filing, the director shall issue a certificate of authority or a final order disapproving such amended plan and specifying the reasons therefor, which final order may, within forty-two (42) days after its effective date, be appealed to the district court for Ada County, State of Idaho. Notwithstanding the director's final order, the corporation shall be legally authorized to transact business pursuant to its plan of mutualization until the forty-second day following the latest of:

- (a) The effective date of the director's final order;
- (b) The entry of final judgment by the district court in which review of the director's final order has been sought; and
- (c) The director's compliance and the district court's compliance (by entry of a final judgment) with the opinion issued by the last appellate court to which appeal may be taken that has reviewed the district court's judgment concerning the director's final order. If the director has prevailed upon final judgment being entered, the corporation's legal authority to transact business pursuant to its plan of mutualization shall expire at the end of such period; however, if the corporation has prevailed or corrected all deficiencies identified in the director's final order, the director shall, before or upon the expiration of such period, issue a certificate of authority to the corporation. Issuance of a certificate of authority under this section shall not preclude the director from commencing any proceedings for alleged violations of this title. The procedure in this subsection shall apply to corporations existing under chapter 34, title 41, Idaho Code, on December 31, 1993.

(7) Sections 41-2805 and 41-2806, Idaho Code, and any other provision of this title dealing with newly organized mutual insurers as such, shall have no application to a plan of mutualization under this section or to the corporation adopting or implementing such plan.

(8) If, pursuant to section 41-3406, Idaho Code, a mutualizing service corporation is also operating as a health maintenance organization immediately prior to the effective date of its plan of mutualization, it shall be legally authorized to continue such operations in the manner provided for in said plan after the effective date thereof as if such service corporation had not become a mutual insurer under this section.

(9) From and after the effective date of a plan of mutualization, a corporation mutualizing under this section shall be liable for the tax imposed and provided for in section 41-402, Idaho Code, but only with respect to insurance policies (as opposed to subscriber agreements) issued by it, and subject to refunds, reductions and other adjustments applicable to other domestic mutual insurers. Until all subscriber agreements are terminated, expire or are otherwise converted to policies of insurance issued by the corporation as a mutual insurer, the corporation shall continue to be liable for and pay the tax on subscriber contracts in the manner provided in section 41-3427, Idaho Code, subject to the same exemptions provided in that section,

except for premium taxes paid pursuant to this subsection on policies issued as a mutual insurer.

(10) Except as modified in this section and other applicable law, after the effective date of a service corporation's plan of mutualization, all contracts, rights, powers, privileges, liabilities and obligations of such corporation shall continue unchanged and in effect until repealed, terminated, cancelled, amended, waived, satisfied or otherwise legally extinguished.

SECTION 2. That Section 41-2835, Idaho Code, be, and the same is hereby amended to read as follows:

41-2835. DIRECTORS. (1) The affairs of every domestic insurer shall be managed by a board of directors consisting of not less than five (5) directors nor more than fifteen (15) directors.

(2) Directors shall be elected by the members or stockholders of a domestic insurer at the annual meeting of stockholders or members. Directors may be elected for terms of not more than five (5) years each and until their successors are elected and have qualified, and if to be elected for terms of more than one (1) year the insurer's ~~by-laws~~ bylaws shall provide for a staggered term system under which the terms of a proportionate part of the members of the board of directors shall expire on the date of each annual meeting of stockholders or members.

(3) A director of a stock insurer shall be a stockholder thereof, and a director of a mutual insurer shall be a ~~policy-holder~~ policyholder thereof.

(4) As to an insurer operating as an authorized insurer only in the state of Idaho, a majority of the members of the insurer's board of directors shall be citizens of and shall actually reside in this state.

(5) Notwithstanding the provisions of subsection (1) of this section, a service corporation converted to a mutual insurer pursuant to section 41-2854A, Idaho Code, shall be managed by a board of directors consisting of not less than five (5) directors nor more than twenty-five (25) directors. In the case of a service corporation that was a professional service corporation under chapter 34, title 41, Idaho Code, immediately prior to the effective date of its plan of mutualization, the board of directors after the effective date may include professionals of the kind or kinds designated in the corporation's articles of incorporation as participant licensees immediately prior to such effective date, so long as a majority of directors are not professionals of the kind or kinds so designated. In the case of a service corporation that was a hospital service corporation under chapter 34, title 41, Idaho Code, immediately prior to the effective date of its plan of mutualization, the board of directors after the effective date shall include one (1) or more individuals representing a hospital or hospitals, so long as a majority of directors are not representing or employed by any hospital. In the case of a service corporation that was a combined professional service and hospital service corporation under chapter 34, title 41, Idaho Code, immediately prior to the effective date of its plan of mutualization, the board of directors after the effective date shall include one (1) or more indi-

viduals representing a hospital or hospitals, and one (1) or more professionals of the kind or kinds designated in the corporation's articles of incorporation as participant licensees immediately prior to such effective date, so long as a majority of directors are neither such professionals nor representing or employed by any hospital, nor any combination thereof; further, the number of directors who are hospital representatives shall equal the number of directors who are professionals of the kind or kinds designated as participant licensees in the corporation's articles of incorporation in effect immediately prior to such effective date. Notwithstanding the provisions of subsection (3) of this section, a director elected as a hospital representative need not be a policyholder so long as the represented hospital is a policyholder.

SECTION 3. That Section 41-3406, Idaho Code, be, and the same is hereby amended to read as follows:

41-3406. INCORPORATION -- LAWS APPLICABLE -- APPROVAL OF ARTICLES OF INCORPORATION -- AMENDMENT. (1) A service corporation shall be formed as a nonprofit, nonstock professional service corporation or ~~hospital-service-corporation; or a combination professional and hospital--service--corporation;~~ consistent with the applicable requirements of this chapter under the statutes of Idaho governing the formation of nonprofit, nonstock corporations in general. The articles of incorporation shall specify the category or categories of participant licensee services to be provided by a professional service corporation; provided however, after December 31, 1994, no service corporation, whether a professional service corporation or a combined hospital and professional service corporation, shall be formed that provides in its articles of incorporation for physicians or surgeons as participant licensees, nor shall any existing service corporation of any kind thereafter amend its articles to provide for physicians or surgeons as participant licensees.

(2) Before the articles of incorporation of any such proposed corporation hereafter formed are filed with the secretary of state, they shall be submitted to the director, and the secretary of state shall not file the articles unless the director's approval is indorsed thereon. The director shall so approve the articles unless he finds, after reference of such articles to the attorney general, that they do not comply with law. If not so approved, the director shall return the proposed articles of incorporation to the incorporators together with his written statement of the particulars of the reasons for nonapproval.

(3) No amendment of the articles of incorporation of any service corporation shall be filed with the secretary of state unless it is first submitted to and approved by the director, and bears the director's approval indorsed thereon. The director shall so approve the amendment unless he finds, after reference of such amendment to the attorney general, that it was not lawfully adopted or that the articles of incorporation as so amended would be unlawful. If not so approved, the director shall return the proposed amendment to the corporation together with his written statement of the particulars of the reasons for nonapproval.

(4) Such a service corporation heretofore or hereafter formed or converted to a nonprofit mutual insurer pursuant to statute, if within its corporate powers as stated in its articles of incorporation, may also operate as a health maintenance organization and exercise all of the powers and fulfill all applicable requirements under house bill 394, second regular session, forty-second Idaho legislature. If the corporation is to operate concurrently as both a service corporation and a health maintenance organization, its health maintenance organization operations may be conducted through a separate division or department, which division or department shall operate and be treated as a separate entity for the purpose of such laws.

SECTION 4. 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 director 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, Idaho Code, as a professional service corporation, ~~or as a hospital service corporation, or as a combined professional 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 professional service corporation, it must have in force~~ service agreements with participant licensees located in the areas of the subscribers' residences convenient as to location and sufficient in numbers, capacity and facilities reasonably to furnish respective categories of health care services then provided or proposed to be provided by the corporation to its subscribers. Said professional service corporation shall be ready and willing at all times to enter into service agreements with all licensees of the category or categories specified in its articles of incorporation who are qualified under the laws of the state of Idaho and who desire to become participant licensees of said corporation and who practice within the general area served by said professional service corporation.

(54) If a newly formed corporation, it must possess sufficient available working funds to pay all reasonably anticipated cost of acquisition of new business and operating expenses, other than payment for ~~hospital or~~ professional 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.

(65) Must fulfill all other applicable requirements of this chapter.

SECTION 5. That Section 41-3409, Idaho Code, be, and the same is

hereby amended to read as follows:

41-3409. APPLICATION FOR CERTIFICATE OF AUTHORITY. (1) Application for a certificate of authority to transact business as a service corporation shall be made to the director, on forms as prepared and furnished by the director and requiring such information relative to the applicant, its directors, officers, and affairs as the director may reasonably require consistent with this chapter.

(2) The application shall be accompanied by such of the following documents as may not already be on file with the director:

(a) One (1) copy of the applicant's articles of incorporation and of all amendments thereto, certified by the secretary of state;

(b) One (1) copy of the applicant's ~~by-laws~~ bylaws, certified by its corporate secretary;

(c) ~~If a professional service corporation, a~~ One (1) copy of each form of service agreement entered into or proposed to be entered into with participant licensees, together with a list showing the name, residence and office addresses, and date of execution of the service agreement by each such licensee;

(d) ~~If a hospital service corporation, a copy of each service agreement entered into with participant hospitals, certified by the applicant's corporate secretary;~~

(e) A copy of each form of subscriber's contract proposed to be offered;

(fe) A schedule of the rates proposed to be charged subscribers;

(gf) A financial statement of the applicant as of a date not more than thirty (30) days before the filing of the application, showing among other things the amount of working funds available to the applicant, the source of such funds, and accompanied by a copy of the agreement under which any such funds were contributed to or provided for the applicant; and

(hg) A copy of any other relevant document reasonably requested by the director.

(3) At time of filing the application the applicant shall pay to the director the application fee and the fee for issuance of the certificate of authority as specified in section 41-3433, Idaho Code, (fee schedule).

SECTION 6. That Section 41-3410, Idaho Code, be, and the same is hereby amended to read as follows:

41-3410. ISSUANCE OR REFUSAL OF CERTIFICATE OF AUTHORITY. (1) If after the application for certificate of authority is completed the director finds that the applicant is fully qualified for a certificate of authority in accordance with the provisions of this chapter, and that the service agreements, subscriber's contracts, and schedule of rates are in compliance with the applicable provisions of this chapter, he shall issue to the applicant a certificate of authority as a professional service corporation ~~or as a hospital service corporation, or as a combined professional and hospital service corporation, as the case may be.~~

(2) If the director does not so find, he shall refuse to issue a certificate of authority and shall give the applicant written notice

thereof setting forth the particulars of the reasons for such refusal, accompanied by return of the fee theretofore tendered for issuance of the certificate of authority.

(3) The director shall either issue or refuse to issue the certificate of authority within a reasonable time after the filing and completion of application therefor.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2 and 7 of this act shall be in full force and effect on and after passage and approval, and Sections 3, 4, 5 and 6 of this act shall be in full force and effect on and after January 1, 1995.

Approved March 10, 1994.

CHAPTER 79
(S.B. No. 1341)

AN ACT

RELATING TO PLATS AND VACATIONS; AMENDING SECTION 50-1324, IDAHO CODE, TO REQUIRE THAT THE COUNTY TREASURER MUST CERTIFY THAT ALL TAXES DUE ARE PAID BEFORE A PLAT CAN BE VACATED.

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

SECTION 1. That Section 50-1324, Idaho Code, be, and the same is hereby amended to read as follows:

50-1324. RECORDING VACATIONS. (1) Before a vacation of a plat can be recorded, the county treasurer must certify that all taxes due are paid and such certification is recorded as part of the records of the vacation. The treasurer shall withhold the certification only when property taxes are due, but not paid.

(2) Upon payment of the appropriate fee therefor, the county recorder of each county shall index and record, in the same manner as other instruments affecting the title to real property, a certified copy of each ordinance, resolution or order by which any lot, tract, public street, public right of way, private road, easement, common, plat or any part thereof has been vacated. Such certification shall be by the officer having custody of the original document and shall certify that the copy is a full, true and correct copy of the original.

Approved March 10, 1994.

CHAPTER 80
(S.B. No. 1429)

AN ACT

RELATING TO POWERS OF COUNTY COMMISSIONERS CONCERNING CONTROL OF PESTS; AMENDING SECTION 25-2601, IDAHO CODE, TO DELETE WILDCAT AND LYNX FROM THE LIST OF PREDATORY ANIMALS, TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY TO CLASSIFY CERTAIN ANIMALS OR INSECTS THAT FEED, PREY UPON OR DESTROY ANY LIVESTOCK TO BE AGRICULTURAL PESTS AND TO TAKE SUCH STEPS TO CONTROL SUCH PESTS.

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

SECTION 1. That Section 25-2601, Idaho Code, be, and the same is hereby amended to read as follows:

25-2601. CONTROL OF PESTS -- POWERS OF COUNTY COMMISSIONERS. The board of county commissioners of each and every county of this state are all hereby granted full power and authority to declare any predatory animal, including coyote, ~~wildcat~~, ~~or lynx~~ that feeds upon, preys upon or destroys any poultry or livestock of any kind upon any public or private lands within their respective counties, or any rodent, jack-rabbit, gopher, ground squirrel, cricket, locust, grasshopper and other insect pests or plant disease causing organisms/agents or any other invertebrate organism that feeds, preys upon, or destroys any livestock, natural grasses, or cultivated crops of any kind upon any public or private lands within their respective counties, to be agricultural pests, and to take all steps that they may deem necessary to control such pests.

Approved March 10, 1994.

CHAPTER 81
(S.B. No. 1536)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 1994; AMENDING SECTION 2, CHAPTER 384, LAWS OF 1993, TO APPROPRIATE ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE; EXPRESSING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 384, Laws of 1993, be, and the same is hereby amended to read as follows:

SECTION 2. There is hereby appropriated to the Department of Health and Welfare the following amounts to be expended for the design-

nated programs according to the designated expense classes from the various funds listed for the period July 1, 1993, through June 30, 1994:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|-----------------|---------------|
| I. INDIRECT SUPPORT SERVICES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 4,497,100 | \$ 3,949,300 | \$ 376,600 | | | \$ 8,823,000 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | | 122,300 | | | | 122,300 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | 4,527,700 | 3,481,900 | 352,500 | | | 8,362,100 |
| TOTAL | \$ 9,024,800 | \$ 7,553,500 | \$ 729,100 | | | \$ 17,307,400 |
| II. DIVISION OF HEALTH SERVICES: | | | | | | |
| A. PHYSICAL HEALTH SERVICES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 659,700 | \$ 1,321,300 | | \$ 1,234,700 | | \$ 3,215,700 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | 450,800 | 372,300 | | 354,100 | | 1,177,200 |
| Cancer Control | | | | | | |
| Fund | 19,700 | 355,600 | | | | 375,300 |
| Central Tumor | | | | | | |
| Registry Fund | | | | 125,000 | | 125,000 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | 1,701,000 | 1,190,500 | | 19,187,600 | | 22,079,100 |
| TOTAL | \$ 2,831,200 | \$ 3,239,700 | | \$ 20,901,400 | | \$ 26,972,300 |
| B. EMERGENCY MEDICAL SERVICES: | | | | | | |
| FROM: | | | | | | |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | | \$ 101,000 | | \$ 23,000 | | \$ 124,000 |
| Emergency | | | | | | |
| Medical Services | | | | | | |
| Funds | | | | | | |
| I & II | \$ 669,900 | 651,500 | \$ 100,000 | 632,400 | | 2,053,800 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | 45,600 | 268,700 | | | | 314,300 |
| TOTAL | \$ 715,500 | \$ 1,021,200 | \$ 100,000 | \$ 655,400 | | \$ 2,492,100 |
| C. LABORATORY SERVICES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 1,238,300 | \$ 313,300 | | \$ 166,700 | | \$ 1,718,300 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | 594,200 | 220,200 | \$ 8,000 | 26,200 | | 848,600 |
| Water Pollution | | | | | | |
| Control | | | | | | |
| Fund | 94,400 | 15,500 | | | | 109,900 |
| Hazardous Waste | | | | | | |
| Monitoring | | | | | | |
| Fund | 69,800 | 42,300 | | | | 112,100 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|-----------------|---------------|
| Cooperative Welfare Fund (Federal) | 253,400 | 208,900 | | 10,900 | | 473,200 |
| TOTAL | \$ 2,250,100 | \$ 800,200 | \$ 8,000 | \$ 203,800 | | \$ 3,262,100 |
| DIVISION | | | | | | |
| TOTAL | \$ 5,796,800 | \$ 5,061,100 | \$ 108,000 | \$ 21,760,600 | | \$ 32,726,500 |
| III. DIVISION OF WELFARE: | | | | | | |
| A. ELIGIBILITY SERVICES: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 7,435,800 | \$ 2,718,400 | | | | \$ 10,154,200 |
| Cooperative Welfare Fund (Other) | 58,400 | 14,700 | | | | 73,100 |
| Cooperative Welfare Fund (Federal) | 7,612,700 | 2,569,100 | | | | 10,181,800 |
| TOTAL | \$15,106,900 | \$ 5,302,200 | | | | \$ 20,409,100 |
| B. MEDICAL ASSISTANCE PAYMENTS: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 2,453,400 | \$ 2,227,300 | \$ 88,500 | \$ 87,733,900 | | \$ 92,503,100 |
| | 2,527,300 | 4,189,200 | | 90,148,400 | | 96,953,400 |
| Cooperative Welfare Fund (Other) | 250,900 | 122,800 | | 12,952,500 | | 13,326,200 |
| Medical Assistance Fund | | | | 15,000 | | 15,000 |
| Liquor Fund | | | | 650,000 | | 650,000 |
| Cooperative Welfare Fund (Federal) | 3,304,600 | 6,397,300 | 112,300 | 216,858,700 | | 225,944,900 |
| | 3,471,200 | 7,695,200 | | 221,959,100 | | 233,237,800 |
| TOTAL | \$ 6,800,900 | \$ 8,747,400 | \$ 200,800 | \$317,482,100 | | \$332,439,200 |
| | 6,249,400 | 12,007,200 | | 325,725,000 | | 344,182,400 |
| C. ADULT AND ADC ASSISTANCE PAYMENTS: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 130,500 | \$ 563,600 | \$ 35,000 | \$12,854,800 | | \$13,583,900 |
| | | | | 14,979,800 | | 15,708,900 |
| Cooperative Welfare Fund (Other) | | | | 16,143,800 | | 16,143,800 |
| | | | | 9,200,000 | | 9,200,000 |
| Cooperative Welfare Fund (Federal) | 197,500 | 1,108,100 | 53,600 | 11,537,400 | | 12,896,600 |
| | | | | 14,462,200 | | 15,821,400 |
| TOTAL | \$ 328,000 | \$ 1,671,700 | \$ 88,600 | \$ 40,536,800 | | \$ 42,724,300 |
| | | | | 38,642,000 | | 40,730,300 |
| D. CHILD SUPPORT ENFORCEMENT: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 390,400 | \$ 343,700 | \$ 2,400 | | | \$ 736,500 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|-----------------|---------------|
| Cooperative Welfare Fund (Other) | 853,400 | 322,100 | | | | 1,175,500 |
| Cooperative Welfare Fund (Federal) | 2,727,200 | 5,954,200 | 21,600 | | | 8,703,000 |
| TOTAL | \$ 3,971,000 | \$ 6,620,000 | \$ 24,000 | | | \$ 10,615,000 |
| DIVISION | | | | | | |
| TOTAL | \$25,494,000 | \$22,341,300 | \$ 313,400 | \$357,930,100 | | \$406,007,600 |
| | 25,655,300 | 25,601,100 | | 364,367,000 | | 415,936,800 |
| IV. DIVISION OF FAMILY AND CHILDREN'S SERVICES: | | | | | | |
| A. SOCIAL SERVICES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 6,324,500 | \$ 1,176,900 | \$ 28,000 | \$ 2,614,400 | | \$ 10,143,800 |
| | 6,378,300 | 1,889,700 | | | | 10,910,400 |
| Cooperative Welfare Fund (Other) | 392,600 | 580,900 | | 1,769,000 | | 2,742,500 |
| Cooperative Welfare Fund (Federal) | 7,699,300 | 2,459,100 | | 53,100 | | 10,211,500 |
| TOTAL | \$14,416,700 | \$ 4,216,900 | \$ 28,000 | \$ 4,436,500 | | \$ 23,069,800 |
| | 14,470,200 | 4,929,700 | | | | 23,864,400 |
| B. SUBSTANCE ABUSE: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 29,500 | \$ 22,600 | | \$ 935,400 | | \$ 987,500 |
| Cooperative Welfare Fund (Other) | | 9,000 | | | | 9,000 |
| Alcoholism Treatment Fund | 146,800 | 49,000 | | 1,513,100 | | 1,708,900 |
| Cooperative Welfare Fund (Federal) | 292,700 | 821,900 | | 1,650,200 | | 2,764,800 |
| TOTAL | \$ 469,000 | \$ 902,500 | | \$ 4,098,700 | | \$ 5,470,200 |
| C. STATE YOUTH SERVICES CENTER: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | | | | \$ 4,699,400 | | \$ 4,699,400 |
| Cooperative Welfare Fund (Other) | | | | 462,100 | | 462,100 |
| State Youth Training Center Income Fund | | | | 564,000 | | 564,000 |
| Cooperative Welfare Fund (Federal) | | | | 195,900 | | 195,900 |
| TOTAL | | | | \$ 5,921,400 | | \$ 5,921,400 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|-----------------|--------------------------|
| D. JUVENILE JUSTICE: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 1,340,100 | \$ 1,511,800 | | \$ 2,627,900 | | \$ 5,479,800 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | | 133,200 | | | | 133,200 |
| Idaho Youth | | | | | | |
| Corrections | | | | | | |
| Fund | | 140,000 | | | | 140,000 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | | 65,500 | | 2,173,700 | | 2,239,200 |
| TOTAL | \$ 1,340,100 | \$ 1,850,500 | | \$ 4,801,600 | | \$ 7,992,200 |
| E. DETENTION AND ASSESSMENT: | | | | | | |
| FROM: | | | | | | |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | \$ 404,600 | \$ 84,300 | \$ 1,600 | | | \$ 490,500 |
| F. FAMILY SELF-SUPPORT: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 748,900 | \$ 668,400 | | \$ 1,885,700 | | \$ 3,223,000 |
| | | | | <u>2,353,700</u> | | <u>3,771,000</u> |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | <u>1,184,500</u> | <u>1,681,800</u> | <u>200</u> | <u>5,652,800</u> | | <u>8,519,300</u> |
| | | | | <u>6,582,600</u> | | <u>9,449,100</u> |
| TOTAL | \$ 1,933,400 | \$ 2,350,200 | \$ 200 | \$ 7,458,500 | | \$ 11,742,300 |
| | | | | <u>8,936,300</u> | | <u>13,220,100</u> |
| DIVISION | | | | | | |
| TOTAL | \$18,563,500 | \$ 9,404,400 | \$ 1,800 | \$ 20,795,300 | \$ 5,921,400 | \$ 54,686,400 |
| | <u>18,617,300</u> | <u>10,117,200</u> | <u>29,800</u> | <u>22,273,100</u> | | <u>56,958,800</u> |
| V. DIVISION OF ENVIRONMENT: | | | | | | |
| A. INEL OVERSIGHT: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 111,900 | \$ 51,900 | | | | \$ 163,800 |
| Hazardous | | | | | | |
| Waste | | | | | | |
| Monitoring | | | | | | |
| Fund | 197,700 | 18,000 | | | | 215,700 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | <u>1,235,100</u> | <u>661,300</u> | <u>40,000</u> | <u>\$ 796,400</u> | | <u>2,732,800</u> |
| TOTAL | \$ 1,544,700 | \$ 731,200 | \$ 40,000 | \$ 796,400 | | \$ 3,112,300 |
| B. PLANNING AND SUPPORT SERVICES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 124,800 | \$ 78,400 | | | | \$ 203,200 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | | 17,400 | \$ 500 | | | 17,900 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|-----------------|---------------|
| Water | | | | | | |
| Pollution Control Fund | 463,300 | 245,400 | 68,100 | | | 776,800 |
| Hazardous Waste Monitoring Fund | 307,500 | 375,400 | 7,600 | | | 690,500 |
| Cooperative Welfare Fund (Federal) | 842,100 | 545,400 | | | | 1,387,500 |
| TOTAL | \$ 1,737,700 | \$ 1,262,000 | \$ 76,200 | | | \$ 3,075,900 |
| C. PERMITS AND ENFORCEMENT: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 265,300 | \$ 24,600 | | | | \$ 289,900 |
| Cooperative Welfare Fund (Other) | 1,441,000 | 517,000 | 315,500 | | | 2,273,500 |
| Water Pollution Control Fund | 388,800 | 56,100 | | | | 444,900 |
| Hazardous Waste Monitoring Fund | 426,800 | 107,500 | 270,400 | | | 804,700 |
| Cooperative Welfare Fund (Federal) | 426,600 | 104,500 | 43,100 | | | 574,200 |
| TOTAL | \$ 2,948,500 | \$ 809,700 | \$ 629,000 | | | \$ 4,387,200 |
| D. COMMUNITY PROGRAMS: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 184,500 | \$ 49,300 | | | | \$ 233,800 |
| Cooperative Welfare Fund (Other) | 933,400 | 189,700 | \$ 124,000 | \$ 200,000 | | 1,447,100 |
| Water Pollution Control Fund | 1,978,000 | 1,446,900 | \$ 180,500 | \$11,085,600 | | 14,691,000 |
| Hazardous Waste Monitoring Fund | 252,000 | 44,400 | | | | 296,400 |
| State Agricultural Smoke Management Fund | | 30,000 | | | | 30,000 |
| Cooperative Welfare Fund (Federal) | 3,839,100 | 684,400 | 34,300 | 1,003,700 | | 5,561,500 |
| TOTAL | \$ 7,187,000 | \$ 2,444,700 | \$ 338,800 | \$ 12,289,300 | | \$ 22,259,800 |
| DIVISION TOTAL | \$13,417,900 | \$ 5,247,600 | \$1,084,000 | \$ 13,085,700 | | \$ 32,835,200 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|-------------------|-------------------|
| VI. VETERANS SERVICES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | | | | | \$ 1,914,900 | \$ 1,914,900 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | | | | | 4,289,600 | 4,289,600 |
| Idaho Veterans Home | | | | | | |
| Income Fund | | | | | 331,100 | 331,100 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | | | | | <u>2,156,700</u> | <u>2,156,700</u> |
| TOTAL | | | | | \$ 8,692,300 | \$ 8,692,300 |
| VII. DIVISION OF COMMUNITY REHABILITATION: | | | | | | |
| A. COMMUNITY DEVELOPMENTAL DISABILITIES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 5,712,100 | \$ 1,234,700 | | \$ 1,379,700 | | \$ 8,326,500 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | 1,858,700 | 24,900 | | 31,400 | | 1,915,000 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | <u>816,600</u> | <u>523,900</u> | | <u>1,561,400</u> | | <u>2,901,900</u> |
| TOTAL | \$ 8,387,400 | \$ 1,783,500 | | \$ 2,972,500 | | \$ 13,143,400 |
| B. IDAHO STATE SCHOOL AND HOSPITAL: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | | | | | \$ 5,455,600 | \$ 5,455,600 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | | | | | 487,700 | 487,700 |
| Medical Assistance | | | | | | |
| Fund | | | | | 3,500 | 3,500 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | | | | | <u>13,555,500</u> | <u>13,555,500</u> |
| TOTAL | | | | | \$ 19,502,300 | \$ 19,502,300 |
| C. COMMUNITY MENTAL HEALTH SERVICES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 5,887,000 | \$ 958,100 | | \$ 718,700 | \$ 71,200 | \$ 7,635,000 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | 3,882,900 | 534,800 | | 7,400 | | 4,425,100 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | <u>129,300</u> | <u>800,400</u> | | <u>93,400</u> | | <u>1,023,100</u> |
| TOTAL | \$ 9,899,200 | \$ 2,293,300 | | \$ 819,500 | \$ 71,200 | \$ 13,083,200 |
| D. STATE HOSPITAL NORTH: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | | | | | \$ 3,465,500 | \$ 3,465,500 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|-----------------|---------------|
| Cooperative | | | | | | |
| Welfare Fund (Other) | | | | | 282,300 | 282,300 |
| Alcoholism Treatment Fund | | | | | 319,900 | 319,900 |
| State Hospital North Income Fund | | | | | 571,500 | 571,500 |
| Cooperative Welfare Fund (Federal) | | | | | 74,600 | 74,600 |
| TOTAL | | | | | \$ 4,713,800 | \$ 4,713,800 |
| E. STATE HOSPITAL SOUTH: | | | | | | |
| FROM: | | | | | | |
| General Fund | | | | | \$ 8,004,800 | \$ 8,004,800 |
| Cooperative Welfare Fund (Other) | | | | | 1,831,800 | 1,831,800 |
| State Hospital South Income Fund | | | | | 905,100 | 905,100 |
| TOTAL | | | | | \$10,741,700 | \$ 10,741,700 |
| F. STATE ECONOMIC OPPORTUNITY OFFICE: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 41,800 | \$ 4,900 | | | | \$ 46,700 |
| Cooperative Welfare Fund (Federal) | 441,900 | 152,300 | | \$ 12,821,900 | | 13,416,100 |
| TOTAL | \$ 483,700 | \$ 157,200 | | \$ 12,821,900 | | \$ 13,462,800 |
| G. ADULT SERVICES: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 1,129,500 | \$ 156,000 | | \$ 53,900 | | \$ 1,339,400 |
| Cooperative Welfare Fund (Other) | 190,900 | 27,500 | | | | 218,400 |
| TOTAL | \$ 1,320,400 | \$ 183,500 | | \$ 53,900 | | \$ 1,557,800 |
| DIVISION | | | | | | |
| TOTAL | \$20,090,700 | \$ 4,417,500 | | \$ 16,667,800 | \$35,029,000 | \$ 76,205,000 |
| VIII. INDEPENDENT COMMISSIONS AND COUNCILS: | | | | | | |
| A. DOMESTIC VIOLENCE COUNCIL: | | | | | | |
| FROM: | | | | | | |
| Domestic Violence Fund | \$ 73,600 | \$ 80,300 | \$ 200 | \$ 267,100 | | \$ 421,200 |
| Cooperative Welfare Fund (Federal) | 8,000 | | | 610,600 | | 618,600 |
| TOTAL | \$ 81,600 | \$ 80,300 | \$ 200 | \$ 877,700 | | \$ 1,039,800 |
| B. DEVELOPMENTAL DISABILITIES COUNCIL: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 17,500 | \$ 18,500 | | \$ 8,600 | | \$ 44,600 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|-----------------|--------------------|
| Cooperative Welfare Fund (Federal) | 213,200 | 86,600 | | 111,700 | | 411,500 |
| TOTAL | \$ 230,700 | \$ 105,100 | | \$ 120,300 | | \$ 456,100 |
| C. COMMISSION ON ALCOHOL AND DRUG ABUSE: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 60,200 | \$ 38,200 | | | | \$ 98,400 |
| D. COUNCIL FOR THE DEAF AND HEARING IMPAIRED: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 50,100 | | | | | \$ 50,100 |
| DIVISION | | | | | | |
| TOTAL | \$ 422,600 | \$ 223,600 | \$ 200 | \$ 998,000 | | \$ 1,644,400 |
| GRAND | | | | | | |
| TOTAL | \$92,811,100 | \$54,249,000 | \$2,236,500 | \$431,245,500 | \$49,642,700 | \$630,710,700 |
| | <u>93,025,400</u> | <u>58,221,600</u> | <u>2,264,500</u> | <u>439,152,200</u> | | <u>642,306,400</u> |

SECTION 2. It is legislative intent that this act is not in conflict with other acts that may be passed by the Second Regular Session of the Fifty-second Idaho Legislature amending Section 2, Chapter 384, Laws of 1993, with regard to the total funds appropriated to the Department of Health and Welfare.

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, 1994.

CHAPTER 82
(H.B. No. 509, As Amended)

AN ACT

RELATING TO AUTHORIZATION FOR A TELEPHONE ORDER AND CREDIT CARD PAYMENT SERVICE FOR CONTROLLED HUNT PERMITS AND LICENSES, TAGS, AND PERMITS; AMENDING SECTION 36-104, IDAHO CODE, TO ALLOW A SERVICE FEE FOR TELEPHONE AND CREDIT CARD ORDERS; AMENDING SECTION 36-106, IDAHO CODE, TO PROVIDE AUTHORIZATION FOR A TELEPHONE ORDER AND CREDIT CARD PAYMENT SERVICE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 36-104, Idaho Code, be, and the same is hereby amended to read as follows:

36-104. GENERAL POWERS AND DUTIES OF COMMISSION. (a) Organization -- Meetings. The members of the commission shall annually meet at their offices in the city of Boise and organize by electing from their

membership a chairman, who shall hold office for a period of one (1) year, or until his successor has been duly elected. In addition to the regular annual meeting, to be held in January, said commission shall hold other regular quarterly meetings in April, July and October of each year at such places within the state as the commission shall select for the transaction of business. Special meetings may be called at any time and place by the chairman or a majority of the members of the commission. Notice of the time, place and purpose of any and all special meetings shall be given by the secretary to each member of the commission prior to said meeting.

(b) Authorization for Commission Powers and Duties. For the purpose of administering the policy as declared in section 36-103, Idaho Code, the commission is hereby authorized and empowered to:

1. Investigate and find facts regarding the status of the state's wildlife populations in order to give effect to the policy of the state hereinbefore announced.

2. Hold hearings for the purpose of hearing testimony, considering evidence and determining the facts as to when the supply of any of the wildlife in this state will be injuriously affected by the taking thereof, or for the purpose of determining when an open season may be declared for the taking of wildlife. Whenever said commission determines that the supply of any particular species of wildlife is being, or will be, during any particular period of time, injuriously affected by depletion by permitting the same to be taken, or if it should find a longer or different season, or different bag limit should be adopted for the better protection thereof, or if it finds that an open season may be declared without endangering the supply thereof, then it shall make a rule embodying its findings in respect to when, under what circumstances, in which localities, by what means, what sex, and in what amounts and numbers the wildlife of this state may be taken.

3. Whenever it finds it necessary for the preservation, protection, or management of any wildlife of this state, by reason of any act of God or any other sudden or unexpected emergency, declare by temporary rule the existence of such necessity, and the cause thereof, and prescribe and designate all affected areas or streams, and close the same to hunting, angling or trapping, or impose such restrictions and conditions upon hunting, angling or trapping as said commission shall find to be necessary. Every such temporary rule shall be made in accordance with the provisions of chapter 52, title 67, Idaho Code.

4. At any time it shall deem necessary for the proper management of wildlife on any game preserve in the state of Idaho, declare an open season in any game preserve as it deems appropriate.

5. (A) Upon notice to the public, hold a public drawing giving to license holders, under the wildlife laws of this state, the privilege of drawing by lot for a controlled hunt permit authorizing the person to whom issued to hunt, kill, or attempt to kill any species of wild animals or birds designated by the commission under such rules as it shall prescribe.

(B) The commission may, under rules as it may prescribe, authorize the director to issue additional controlled hunt

permits and collect fees therefor authorizing owners, lessees in control of land valuable for habitat or propagation purposes of deer, elk or antelope, or members of their immediate families, to hunt deer, elk or antelope in controlled hunt units containing the eligible land owned or controlled by those individuals in areas where permits for deer, elk or antelope are limited.

(C) There shall be no fee charged to any individual for submitting an application to participate in a controlled hunt; provided, however, a permit fee of not to exceed three dollars (\$3.00) for deer, ten dollars (\$10.00) for moose, sheep and goat and five dollars (\$5.00) for elk, antelope and such other species as may be determined in the future, shall be charged for the privilege of participating in a controlled hunt, and a fee may be charged for telephone and credit card orders in accordance with the provisions of subsection (e)11. of section 36-106, Idaho Code. All procedures under this section shall be under the control and in the discretion of the director of the department of fish and game. No person shall transfer any such permit to any other person nor shall any person make use of such permit issued to any other person.

6. Adopt rules pertaining to the importation, exportation, release, sale, possession or transportation into, within or from the state of Idaho of any species of live, native or exotic wildlife or any eggs thereof.

7. Acquire for and on behalf of the state of Idaho, by purchase, condemnation, lease, agreement, gift, or other device, lands or waters suitable for the purposes hereinafter enumerated in this paragraph. Whenever the commission proposes to purchase a tract of land in excess of fifteen (15) acres, the commission shall notify the board of county commissioners of the county where this land is located of the intended action. The board of county commissioners shall have ten (10) days after official notification to notify the commission whether or not they desire the commission to hold a public hearing on the intended purchase in the county. The commission shall give serious consideration to all public input received at the public hearing before making a final decision on the proposed acquisition. Following any land purchase, the fish and game commission shall provide, upon request by the board of county commissioners, within one hundred twenty (120) days, a management plan for the area purchased that would address noxious weed control, fencing, water management and other important issues raised during the public hearing. When considering purchasing lands pursuant to this paragraph, the commission shall first make a good faith attempt to obtain a conservation easement, as provided in chapter 21, title 55, Idaho Code, before it may begin proceedings to purchase, condemn or otherwise acquire such lands. If the attempt to acquire a conservation easement is unsuccessful and the commission then purchases, condemns or otherwise acquires the lands, the commission shall record in writing the reasons why the attempt at acquiring the conservation easement was unsuccessful and then file the same in its records and in a report to the joint finance-appropriations committee. The commission shall develop,

operate, and maintain the lands, waters or conservation easements for said purposes, which are hereby declared a public use:

(A) For fish hatcheries, nursery ponds, or game animal or game bird farms;

(B) For game, bird, fish or fur-bearing animal restoration, propagation or protection;

(C) For public hunting, fishing or trapping areas to provide places where the public may fish, hunt, or trap in accordance with the provisions of law, or the regulation of the commission;

(D) To extend and consolidate by exchange, lands or waters suitable for the above purposes.

8. Enter into cooperative agreements with educational institutions, and state, federal, or other agencies to promote wildlife research and to train students for wildlife management.

9. Enter into cooperative agreements with state and federal agencies, municipalities, corporations, organized groups of landowners, associations, and individuals for the development of wildlife rearing, propagating, management, protection and demonstration projects.

10. In the event owners or lawful possessors of land have restricted the operation of motor-propelled vehicles upon their land, the commission, upon consultation with all other potentially affected landowners, and having held a public hearing, if requested by not less than ten (10) residents of any county in which the land is located, may enter into cooperative agreements with those owners or possessors to enforce those restrictions when the restrictions protect wildlife or wildlife habitat. Provided, however, the commission shall not enter into such agreements for lands which either lie outside or are not adjacent to any adjoining the proclaimed boundaries of the national forests in Idaho.

(A) The landowners, with the assistance of the department, shall cause notice of the restrictions, including the effective date thereof, to be posted on the main traveled roads entering the areas to which the restrictions apply. Provided, however, that nothing in this subsection shall allow the unlawful posting of signs or other information on or adjacent to public highways as defined in subsection (5) of section 40-109, Idaho Code.

(B) Nothing in this section authorizes the establishment of any restrictions that impede normal forest or range management operations.

(C) No person shall violate such restrictions on the use of motor-propelled vehicles or tear down or lay down any fencing or gates enclosing such a restricted area or remove, mutilate, damage or destroy any notices, signs or markers giving notice of such restrictions. The commission may promulgate rules to administer the restrictions and cooperative agreements addressed in this subsection.

11. Capture, propagate, transport, buy, sell or exchange any species of wildlife needed for propagation or stocking purposes, or to exercise control of undesirable species.

12. Adopt rules pertaining to the application for, issuance of

and administration of a lifetime license certificate system.

13. Adopt rules governing the application and issuance of permits for and administration of fishing contests on waters under the jurisdiction of the state.

(c) Limitation on Powers. Nothing in this title shall be construed to authorize the commission to change any penalty prescribed by law for a violation of its provisions, or to change the amount of license fees or the authority conferred by licenses prescribed by law.

(d) Organization of Work. The commission shall organize the department, in accordance with the provisions of title 67, Idaho Code, into administrative units as may be necessary to efficiently administer said department. All employees of the department except the director shall be selected and appointed by the director in conformance with the provisions of chapter 53, title 67, Idaho Code.

SECTION 2. That Section 36-106, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

(e) Duties and Powers of Director.

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

essary powers incident thereto not specifically conferred on the commission.

2. The director is hereby authorized to appoint as many classified employees as the commission may deem necessary to perform administrative duties, to enforce the laws and to properly implement management, propagation, and protection programs established for carrying out the purposes of the Idaho fish and game code.

3. The appointment of such employees shall be made by the director in accordance with the Idaho personnel commission act and rules promulgated pursuant to chapter 53, title 67, Idaho Code, and they shall be compensated as provided therein. Said employees shall be bonded to the state of Idaho in the time, form, and manner prescribed by chapter 8, title 59, Idaho Code.

4. The director is hereby authorized to establish and maintain fish hatcheries for the purpose of hatching, propagating, and distributing all kinds of fish.

5. (A) The director, or any person appointed by him in writing to do so, may take wildlife of any kind, dead or alive, or import the same, subject to such conditions, restrictions and regulations as he may provide, for the purpose of inspection, cultivation, propagation, distribution, scientific or other purposes deemed by him to be of interest to the fish and game resource of the state.

(B) The director shall have supervision over all of the matters pertaining to the inspection, cultivation, propagation and distribution of the wildlife propagated under the provisions of title 36, Idaho Code. He shall also have the power and authority to obtain, by purchase or otherwise, wildlife of any kind or variety which he may deem most suitable for distribution in the state and may have the same properly cared for and distributed throughout the state of Idaho as he may deem necessary.

(C) The director is hereby authorized to issue a license/tag/permit to a nonresident landowner who resides in a contiguous state for the purpose of taking one (1) animal during an emergency depredation hunt which includes the landowner's Idaho property subject to such conditions, restrictions or regulations as the director may provide. The fee for this license/tag/permit shall be equal to the costs of a resident hunting license, a resident tag fee and a resident depredation permit.

6. (A) The director shall have the power, at any time when it is desired to introduce any new species, or if at any time any species of wildlife of the state of Idaho shall be threatened with excessive shooting, trapping, or angling or otherwise, to close any open season for such time as he may designate; in the event an emergency is declared to exist such closure shall become effective forthwith upon written order of the director; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.

(B) In order to protect property from damage by wildlife, the fish and game commission may delegate to the director or his designee the authority to declare an open season upon

that particular species of wildlife to reduce its population. The director or his designee shall make an order embodying his findings in respect to when, under what circumstances, in which localities, by what means, and in what amounts, numbers and sex the wildlife subject to the hunt may be taken. In the event an emergency is declared to exist such open season shall become effective forthwith upon written order of the director or his designee; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.

(C) Any order issued under authority hereof shall be published in at least one (1) newspaper of general circulation in the area affected by the order for at least once a week for two (2) consecutive weeks, and such order shall be posted in public places in each county as the director may direct.

(D) During the closure of any open season or the opening of any special depredation season by the director all provisions of laws relating to the closed season or the special depredation season on such wildlife shall be in force and whoever violates any of the provisions shall be subject to the penalties prescribed therefor.

7. The director shall make an annual report to the governor, the legislature, and the secretary of state, of the doings and conditions of his office, which report shall be made in accordance with section 67-2509, Idaho Code.

8. The director may sell or cause to be sold publications and materials in accordance with section 59-1012, Idaho Code.

9. Any deer, elk, antelope, moose, bighorn sheep or bison imported or transported by the department of fish and game shall be tested for the presence of certain communicable diseases that can be transmitted to domestic livestock. Those communicable diseases to be tested for shall be arrived at by mutual agreement between the department of fish and game and the department of agriculture. Any moneys expended by the department of fish and game on wildlife disease research shall be mutually agreed upon by the department of fish and game and the department of agriculture.

In addition, a comprehensive animal health program for all deer, elk, antelope, moose, bighorn sheep, or bison imported into, transported, or resident within the state of Idaho shall be implemented after said program is mutually agreed upon by the department of fish and game and the department of agriculture.

In order to enhance and protect the health of wildlife within the state, as well as safeguard the health of livestock resources, the director of the department of agriculture shall employ at least one (1) veterinarian licensed in Idaho whose duties shall include, but not be limited to, addressing wildlife disease issues and coordinating disease prevention work between the department of fish and game and the department of agriculture. The employing of said veterinarian shall be by mutual agreement of the director of the department of fish and game and of the director of the department of agriculture. The veterinarian shall be on the staff of the division of animal industries, department of agriculture. The salary or compensation to be paid said veterinarian or veterinarians shall be divided equally between the department of fish and game

and the department of agriculture, and the department of fish and game's portion shall be deposited directly into the livestock disease control account. The veterinarian shall be employed on and after July 1, 1989.

10. In order to monitor and evaluate the disease status of wildlife and to protect Idaho's livestock resources, any suspicion by fish and game personnel of a potential communicable disease process in wildlife shall be reported within twenty-four (24) hours to the department of agriculture. All samples collected for disease monitoring or disease evaluation of wildlife shall be submitted to the division of animal industries, department of agriculture.

11. (A) The director is authorized to enter into an agreement with an independent contractor for the purpose of providing a telephone order and credit card payment service for controlled hunt permits, licenses, tags, and permits.

(B) The contractor may collect a fee for its service in an amount to be set by contract.

(C) All moneys collected for the telephone orders of such licenses, tags, and permits shall be and remain the property of the state, and such moneys shall be directly deposited by the contractor into the state treasurer's account in accordance with the provisions of section 59-1014, Idaho Code. The contractor shall furnish a good and sufficient surety bond to the state of Idaho in an amount sufficient to cover the amount of the telephone orders and potential refunds.

(D) The refund of moneys for unsuccessful controlled hunt permit applications and licenses, tags, and permits approved by the department may be made by the contractor crediting the applicant's or licensee's credit card account.

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, 1994.

CHAPTER 83
(H.B. No. 607)

AN ACT

RELATING TO THE OFFENSE OF RAPE; AMENDING SECTION 18-6101, IDAHO CODE, TO DEFINE FEMALE RAPE TO INCLUDE PENETRATION OF THE ORAL AND ANAL OPENINGS, AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 18-6101, Idaho Code, be, and the same is hereby amended to read as follows:

18-6101. RAPE DEFINED. Rape is an act of sexual intercourse defined as the penetration, however slight, of the oral, anal or

vaginal opening with the perpetrator's penis accomplished with a female under either of the following circumstances:

1. Where the female is under the age of eighteen (18) years.
2. Where she is incapable, through lunacy or any other unsoundness of mind, whether temporary or permanent, of giving legal consent.
3. Where she resists but her resistance is overcome by force or violence.
4. Where she is prevented from resistance by threats of immediate and great bodily harm, accompanied by apparent power of execution; or by any intoxicating, narcotic, or anaesthetic substance administered by or with the privity of the accused.
5. Where she is at the time unconscious of the nature of the act, and this is known to the accused.
6. Where she submits under the belief that the person committing the act is her husband, and the belief is induced by artifice, pretense or concealment practiced by the accused, with intent to induce such belief.

Approved March 10, 1994.

CHAPTER 84
(H.B. No. 649)

AN ACT

RELATING TO RESIDENT FISHING, HUNTING AND TRAPPING LICENSE FEES; AMENDING SECTION 36-406, IDAHO CODE, TO PROVIDE THAT IF A PURCHASER OF AN EIGHTH CLASS LICENSE DOES NOT MEET THE ARCHERY EDUCATION REQUIREMENTS, THEN THE ISSUER OF THE LICENSE MUST INDICATE ON THE FACE OF THE LICENSE THAT THE ARCHERY PERMIT IS INVALIDATED; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 36-406, Idaho Code, be, and the same is hereby amended to read as follows:

36-406. RESIDENT FISHING, HUNTING AND TRAPPING LICENSES -- FEES.
(a) Adult Licenses -- Combination -- Fishing -- Hunting -- Trapping. A license of the first class may be had by a person possessing the qualifications therein described on payment of twenty dollars (\$20.00) for a combined fishing and hunting license entitling the purchaser to hunt and fish for game animals, game birds, unprotected and predatory animals and fish of the state, fifteen dollars (\$15.00) for a fishing license entitling the purchaser to fish in the public waters of the state, six dollars (\$6.00) for a hunting license entitling the purchaser to hunt game animals, game birds, unprotected and predatory animals of the state, and twenty-five dollars (\$25.00) for a trapping license entitling the purchaser to trap furbearers, unprotected and predatory animals of the state.

(b) Youth Licenses -- Hunting -- Trapping. A license of the sec-

ond class may be had by a person possessing the qualifications therein described on payment of four dollars (\$4.00) for a hunting license, and five dollars (\$5.00) for a trapping license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(c) Youth Combination -- Fishing Licenses. A license of the third class may be purchased by a person possessing the qualifications therein described on payment of ten dollars (\$10.00) for a combined fishing and hunting license, and seven dollars (\$7.00) for a fishing license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(d) Senior Resident Combination. A license of the fourth class may be had by a person possessing the qualifications therein described on payment of four dollars (\$4.00) for a combined fishing and hunting license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(e) Lifetime Licenses -- Combination -- Hunting -- Fishing. A license of the fifth class may be obtained at no additional charge by a person possessing the qualifications therein described for a combined hunting and fishing license, for a hunting license, or for a fishing license, entitling the person to the same privileges as the corresponding license of the first class provides. Lifetime licensees must be certified under the provisions of section 36-411, Idaho Code, before being issued a license to hunt.

(f) A license of the eighth class may be had by a person possessing the qualifications therein described on payment of sixty-nine dollars (\$69.00) entitling the purchaser to hunt and fish for game animals, game birds, fish, and unprotected and predatory animals of the state. With payment of the required fee, a person shall receive with this license a deer tag, an elk tag, a bear tag, a turkey tag, a mountain lion tag, an archery hunt permit, a muzzleloader permit, an upland game permit, a migratory waterfowl stamp, a steelhead trout permit and an anadromous salmon permit. All persons authorized to sell such license shall charge a commission of one dollar (\$1.00) for each license sold, to be retained by them as compensation for sale of the license. This shall be in addition to the sixty-nine dollar (\$69.00) charge. The director shall promptly transmit to the state treasurer all moneys received pursuant to this subsection for deposit as follows:

- (i) Three dollars (\$3.00) in the set-aside account for the purposes of section 36-111(1)(a), Idaho Code;
- (ii) Two dollars (\$2.00) in the set-aside account for the purposes of section 36-111(1)(b), Idaho Code;
- (iii) One dollar and fifty cents (\$1.50) in the set-aside account for the purposes of section 36-111(1)(c), Idaho Code;
- (iv) Five dollars (\$5.00) in the set-aside account for the purposes of section 36-111(1)(e), Idaho Code;
- (v) Two dollars (\$2.00) in the set-aside account for the purposes of section 36-111(1)(f), Idaho Code; and
- (vi) The balance in the fish and game account.

All persons purchasing a license pursuant to this subsection shall observe and shall be subject to all rules and regulations of the commission regarding the fish and wildlife of the state.

If the purchaser of this license does not meet the archery education requirements of section 36-411(b), Idaho Code, then, notwithstanding the provisions of section 36-304, Idaho Code, the archery hunt permit portion of this license is invalid. The fee for this license will not change and the issuer of the license must indicate on the face of the license that the archery permit is invalidated.

(g) Resident Two Day Upland Game Hunting License. A license of the first class may be had by a person possessing the qualifications therein described on payment of five dollars (\$5.00) entitling the purchaser to hunt upland game birds (to include turkeys), doves, cottontail rabbits, and pygmy rabbits for any two (2) days during established seasons. A person holding this license is exempt from the requirement to purchase a separate upland game permit as required in section 36-409(h), Idaho Code. Notwithstanding the requirement of section 36-107(c), Idaho Code, the director shall set aside the entire amount of this license for the purposes specified in section 36-409(h), Idaho Code.

(h) Resident Two Day Deer Hunting License. A license of the first class may be had by a person possessing the qualifications therein described on payment of ten dollars (\$10.00) entitling the purchaser to hunt deer for any two (2) days during established seasons. With payment of the required fee, a person shall receive a deer tag.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1994.

Approved March 10, 1994.

CHAPTER 85
(S.B. No. 1379)

AN ACT

RELATING TO THE ISSUANCE OF DRIVER'S LICENSES AND IDENTIFICATION CARDS; AMENDING SECTION 49-315, IDAHO CODE, TO PROVIDE THAT DRIVER'S LICENSES SHALL HAVE A DISTINGUISHING PRINTING OF THE WORDS "UNDER 21" ON THE LICENSE IF THE DRIVER IS UNDER THE AGE OF TWENTY-ONE WHEN THE LICENSE IS ISSUED; AND AMENDING SECTION 49-2444, IDAHO CODE, TO PROVIDE THAT IDENTIFICATION CARDS SHALL HAVE A DISTINGUISHING PRINTING OF THE WORDS "UNDER 21" ON THE CARD IF THE HOLDER IS UNDER THE AGE OF TWENTY-ONE WHEN THE CARD IS ISSUED.

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

SECTION 1. That Section 49-315, Idaho Code, be, and the same is hereby amended to read as follows:

49-315. LICENSES ISSUED TO DRIVERS. (1) The department shall issue to every qualifying applicant a driver's license as applied for,

which shall bear a distinguishing number assigned to the licensee, the full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, color photograph, name of this state, date of issuance, date of expiration, license class, endorsements, restrictions and "under 21 until (month, day, year)", and any other distinguishing printing of the words "under 21" on the license, if applicable, and the applicant's signature. No driver's license shall be valid until it has been signed on the signature line of the license by the licensee.

(2) Every driver's license shall bear a color photograph of the licensee, which shall be taken by the examiner at the time the application is made. The photograph shall normally be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant, but the requirement for an uncovered face photograph may be waived by the department for medical or safety purposes. A driver's license may contain a statement or indication of the medical condition of the licensee.

(3) The department shall notify the commercial driver license information system that a class A, B or C driver's license has been issued as required by 49 CFR part 383.

(4) A licensee desiring to donate any or all organs or tissue in the event of death, pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, at the option of the donor may indicate this desire on the driver's license by the imprinting of the word "donor" on the license.

SECTION 2. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. IDENTIFICATION CARD ISSUED. (1) The department shall issue an identification card which shall set forth the information contained in the application, in a form as prescribed by the department. All identification cards issued on or after January 1, 1993, shall not contain the applicant's social security number. An applicant's social security number shall be exempt from disclosure except for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners. Each card shall be issued a distinguishing number and shall bear upon it a color photograph of the applicant which shall be taken by the examiner at the time of application. The photograph shall normally be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant, but the requirement for an uncovered face photograph may be waived by the department for medical or safety purposes. No person shall receive an identification card unless and until he surrenders to the department all identification cards in his possession issued to him by Idaho or any other jurisdiction, or until he executes an affidavit that he does not possess an identification card. A notation of "under 21 until (month, day, year)" and any other distinguishing printing of the words "under 21" on the identification card shall be made if applicable. The fee for an identification card shall be seven dollars and fifty cents (\$7.50) of which five dollars (\$5.00) shall be retained by the county and credited to the current

expense fund, and two dollars and fifty cents (\$2.50) shall be deposited in the state treasury to the credit of the highway distribution account. Every identification card shall expire on the cardholder's birthday in the fourth year following issuance of the card.

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

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

(4) A person possessing an identification card desiring to donate any or all organs or tissue in the event of death, pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, at the option of the donor may indicate this desire on the identification card by the imprinting of the word "donor" on the identification card.

(5) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(6) The department shall cancel any identification card upon determining that the person was not entitled to the issuance of the identification card, or that the person failed to give the required and correct information in his application or committed fraud in making the application. Upon cancellation, the person shall surrender the cancelled identification card to the department.

(7) If any person shall fail to return to the department the identification card as required, the department may direct any peace officer to secure its possession and return the identification card to the department.

Approved March 14, 1994.

CHAPTER 86
(S.B. No. 1433, As Amended)

AN ACT

RELATING TO EMERGENCY COMMUNICATIONS SERVICES; AMENDING SECTION 31-4802, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 31-4803, IDAHO CODE, TO PROVIDE THAT EMERGENCY COMMUNICATIONS SERVICES MAY BE PROVIDED ON A MULTICOUNTY OR REGIONAL BASIS; PROVIDING A STATEMENT OF LEGISLATIVE INTENT THAT MULTICOUNTY OR REGIONAL AGREEMENTS CURRENTLY EXISTING ARE CONSISTENT WITH ORIGINAL LEGISLATIVE INTENT AND RATIFYING THOSE AGREEMENTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-4802, Idaho Code, be, and the same is hereby amended to read as follows:

31-4802. DEFINITIONS. As used in this chapter:

(1) "Administrator" means the person, officer or agency designated to operate a consolidated emergency communication system, and to receive funds for such an operation.

(2) "Consolidated emergency communications system" means facilities, equipment and dispatching services directly related to establishing, maintaining, or enhancing a 911 emergency communications service.

(3) "Governing board" means the joint powers board, if the 911 service area is a multicounty area, or the board of county commissioners of the county or the city council if the 911 service area is a city, or both the board of county commissioners and the city council if the 911 service area includes both city and county residents but not the entire county.

(4) "911 service area" means an a regional, multicounty, county or area other than a whole county in which area the residents have voted to establish a consolidated emergency communications system.

SECTION 2. That Section 31-4803, Idaho Code, be, and the same is hereby amended to read as follows:

31-4803. AUTHORITY TO ESTABLISH AND FOR VOTERS TO APPROVE FUNDING FOR A CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEM. (1) The board of commissioners of any county may establish a consolidated emergency communications system by virtue of authority granted by this chapter or by chapter 23, title 67, Idaho Code. The service area may be regional, multicounty, county-wide, or any part or parts of the county, and may include or exclude a city or cities. If the board of county commissioners has adopted a resolution stating that the county is unable to establish a county-wide consolidated emergency communications system, or if the voters reject a county-wide consolidated 911 system, then a 911 service area may be established by action of any city or cities within the county. The service area shall be described in the ordinance of creation. The ordinance shall further provide for an election on the question as provided in subsection (2) of this section. The ordinance of creation shall define the governing board, designate the administrator, and the agency to service the 911 calls. The costs of the election ordered by the county shall be a proper charge against the county current expense fund. The costs of the election for a 911 service area shall be a proper charge against the city or cities initiating the election.

(2) The voters of any county or 911 service area may authorize funding to support implementation of a consolidated emergency communication system pursuant to the provisions of this chapter. The authorization to provide such funding must be made by the registered voters of the county or of the 911 service area at either a primary or general election. A notice for any election shall be published for twenty (20) days as required by section 60-109, Idaho Code. A sixty percent (60%) majority of the votes cast in favor of the question shall be necessary to authorize the telephone line user fee.

(3) If a 911 system is to be financed in whole or in part by a telephone line user fee, the governing board shall submit the question to the electors of the county or 911 service area in substantially the following form:

"Shall the governing board of be authorized to institute a telephone line user fee in an amount no greater than one dollar (\$1.00) per month to be used to fund an emergency telephone system, commonly known as 911 service?"

(4) No telephone line user fee for a consolidated emergency communication system shall be charged without voter approval as provided in subsection (2) of this section.

(5) Any net savings in operating expenditures realized by any taxing district utilizing a consolidated emergency communication system shall be used by that taxing district for a reduction in the ad valorem tax charges of that taxing district.

SECTION 3. It was and is hereby declared to be the intent of the Legislature that counties may enter into joint powers agreements pursuant to the provisions of Chapter 23, Title 67, Idaho Code, to provide emergency communications services on a regional or multicounty basis. Therefore, notwithstanding any provision of law or court ruling to the contrary, all joint powers agreements between counties to provide emergency communications services on a regional or multicounty basis existing prior to the adoption of this enactment are hereby ratified, approved and affirmed.

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

Approved March 14, 1994.

CHAPTER 87
(S.B. No. 1537)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 1994; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 354, Laws of 1993, there is hereby appropriated to the Lava Hot Springs Foundation the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 1993, through June 30, 1994:

| | |
|------------------------------|----------|
| LAVA HOT SPRINGS FOUNDATION: | |
| FROM: | |
| Public Recreation Fund | \$60,000 |
| FOR: | |
| Operating Expenditures | \$60,000 |

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

Approved March 14, 1994.

CHAPTER 88
(H.B. No. 650, As Amended)

AN ACT

RELATING TO WASTEFUL DESTRUCTION OF WILDLIFE; AMENDING SECTION 36-1202, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR ALL CARNIVORES BUT BLACK BEAR AND TO PROVIDE AN EXEMPTION TO LIVESTOCK OWNERS OR THEIR EMPLOYEES IN PROTECTING THEIR LIVESTOCK.

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

SECTION 1. That Section 36-1202, Idaho Code, be, and the same is hereby amended to read as follows:

36-1202. WASTEFUL DESTRUCTION OF WILDLIFE OR MUTILATION UNLAWFUL. It is a misdemeanor for any person to:

(a) Waste. Through carelessness, neglect or otherwise, to allow or cause the waste of any game bird, game animal or game fish or any portion thereof usually eaten by humans.

(b) Destruction -- Mutilation. Capture or kill any game animal, except ~~a carnivore~~ all carnivores but black bear, and detach or remove from the carcass only the head, hide, antlers, horns or tusks and leave the carcass to waste.

(c) Prima Facie. To fail to properly dress and care for any game animal except ~~carnivore~~ all carnivores but black bear killed by him and if the carcass is reasonably accessible; failure to take or transport same to his camp within twenty-four (24) hours shall be prima facie evidence of a violation of the provisions of this section.

(d) Livestock owners or their employees in protecting their livestock as provided in subsection (b) of section 36-1107, Idaho Code, are exempt from subsections (b) and (c) of this section.

Approved March 14, 1994.

CHAPTER 89
(H.B. No. 680)

AN ACT

RELATING TO CITY BUDGETS; AMENDING SECTION 50-1002, IDAHO CODE, TO REVISE THE REQUIREMENTS APPLYING TO THE PUBLICATION OF CITY BUDGETS.

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

SECTION 1. That Section 50-1002, Idaho Code, be, and the same is hereby amended to read as follows:

50-1002. ANNUAL BUDGET. The city council of each city shall, prior to passing the annual appropriation ordinance, prepare a budget, estimating the probable amount of money necessary for all purposes for which an appropriation is to be made, including interest and principal due on the bonded debt and sinking fund, itemizing and classifying the proposed expenditures by department, fund or service, as nearly as may be practicable, and specifying any fund balances accumulated under section 50-1005A, Idaho Code. To support such proposed expenditure, the council shall prepare an estimate of the total revenue anticipated during the ensuing fiscal year for which a budget is being prepared classifying such receipts by source as nearly as may be possible and practicable, said estimate to include any surplus not subject to the provisions of sections 50-1004 and 50-1005A, Idaho Code, nor shall said estimated revenue include funds accumulated under section 50-236, Idaho Code. The proposed budget for the ensuing fiscal year shall list expenditures and revenues during each of the two (2) previous fiscal years by fund and/or department. Following tentative approval of the revenues and expenditures estimated by the council, the same shall be entered at length in the journal of proceedings. Prior to certifying to the county commissioners, a notice of time and place of public hearing on the budget, which notice shall include the proposed expenditures and revenues by fund and/or department including the two (2) previous fiscal years, and a statement of the estimated revenue from property taxes and the total amount from sources other than property taxes of the city for the ensuing fiscal year, shall be published twice at least seven (7) days apart in the official newspaper. At said hearing any interested person may appear and show cause, if any he has, why such proposed budget should or should not be adopted.

Approved March 14, 1994.

CHAPTER 90
(H.B. No. 744)

AN ACT

RELATING TO LOCAL PLANNING AND FUTURE ACQUISITIONS MAP; AMENDING SECTION 67-6517, IDAHO CODE, TO EXTEND THE MAXIMUM TIME PERIOD FOR WHICH AN ACQUISITIONS MAP SHALL DESIGNATE LANDS PROPOSED FOR ACQUISITION BY A PUBLIC AGENCY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 67-6517, Idaho Code, be, and the same is hereby amended to read as follows:

67-6517. FUTURE ACQUISITIONS MAP. Upon the recommendation of the planning or planning and zoning commission each governing board may adopt, amend, or repeal a future acquisitions map in accordance with

the notice and hearing procedures provided in section 67-6509, Idaho Code. The map shall designate land proposed for acquisition by a public agency for a maximum ~~six~~(6) twenty (20) year period. Lands designated for acquisition may include land for:

- (a) Streets, roads, other public ways, or transportation facilities proposed for construction or alteration;
- (b) Proposed schools, airports, or other public buildings;
- (c) Proposed parks or other open spaces; or
- (d) Lands for other public purposes.

Upon receipt of a request for a permit as defined in this chapter, or a building permit as defined in a local ordinance, for a development on any lands designated upon the future acquisitions map, the zoning or planning and zoning commission or the governing board shall notify the public agency proposing to acquire the land. Within thirty (30) days of the date of that notice, the public agency may, in writing, request the commission or governing board to suspend consideration of the permit for sixty (60) days from the date of the request to allow the public agency to negotiate with the land owner to obtain an option to purchase the land, acquire the land, or institute condemnation proceedings as may be authorized in the Idaho Code. If the public agency fails to do so within the sixty (60) days, the commission or governing board shall resume consideration of the permit. Nothing in this chapter shall limit a governing board from adopting local ordinances as required or authorized which include lands on the future acquisitions map.

Approved March 14, 1994.

CHAPTER 91
(H.B. No. 776)

AN ACT

RELATING TO TOURISM ASSESSMENTS; AMENDING SECTION 67-4718, IDAHO CODE, TO PROVIDE FOR THE SHARING OF LIMITED TOURISM ASSESSMENT INFORMATION BETWEEN THE STATE TAX COMMISSION AND THE IDAHO DEPARTMENT OF COMMERCE AND TO CORRECT A SPELLING ERROR.

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

SECTION 1. That Section 67-4718, Idaho Code, be, and the same is hereby amended to read as follows:

67-4718. ASSESSMENT -- COUNCIL ACCOUNT. (1) From and after January 1, 1985, there is hereby levied and imposed an assessment at the rate of two percent (2%) of the amount of a sale as defined in section 67-4711, Idaho Code. The receipts from the assessment levied by this section shall be paid to the state tax commission in like manner, and under the definitions, rules and regulations of said commission for the collection and administration of the state sales tax under chapter 36, title 63, Idaho Code. No assessment shall be collected where there is an original written agreement that the space is to be occupied by

the same person pursuant to a lease or similar agreement for a period in excess of thirty (30) days.

(2) The council may, by duly adopted resolution, determine that a lesser amount of assessment shall be imposed and the department shall certify such lesser assessment rate to the state tax commission; the rate of assessment shall be that amount so certified. In the absence of such certification the rate of assessment shall be that rate set forth in subsection (1) of this section.

(3) The assessment set forth herein shall be collected by the state tax commission in the same manner as provided in chapter 36, title 63, Idaho Code, for the collection of sales and use tax, and shall be distributed as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the tax commission to be paid shall be paid through the state refund account and those moneys are continuously appropriated.

(b) An amount of money equal to the actual cost of the collection and administration of the tax imposed by the provisions of this section shall be retained by the commission. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered unencumbered balance in excess of the actual cost at the end of each fiscal year shall be distributed as provided in paragraph (c) of this subsection.

(c) All remaining moneys received pursuant to this chapter shall be distributed to the Idaho travel and convention account, established in the dedicated fund, and all such moneys are set aside and appropriated to the department to administer pursuant to the provisions of this chapter.

(4) The state tax commission, upon written request of the director of the department of commerce, will make available information identifying those paying the assessment, either individually or by category. Such information however, shall not show the amount paid, nor any liabilities or delinquencies of those who have the duty to collect and remit the assessment authorized in this section.

Approved March 14, 1994.

CHAPTER 92
(H.B. No. 854)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 384, LAWS OF 1993; PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL FUND; EXPRESSING LEGISLATIVE INTENT FOR THE LOWER BOISE RIVER WATER QUALITY PLAN; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 384, Laws of 1993, there is hereby appropriated to the Department of Health and Welfare the following amount, to be expended according to the designated expense class from the listed funds for the period July 1, 1993, through June 30, 1994:

I. DIVISION OF ENVIRONMENT:

A. COMMUNITY PROGRAMS:

| | |
|------------------------------------|------------------|
| FOR: | |
| Operating Expenditures | \$160,000 |
| FROM: | |
| General Fund | \$ 40,000 |
| Cooperative Welfare Fund (Federal) | 80,000 |
| Cooperative Welfare Fund (Other) | 40,000 |
| TOTAL | <u>\$160,000</u> |

SECTION 2. As appropriated, the State Auditor shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. It is legislative intent that the appropriation of \$40,000 from the General Fund for Division of Environment Community Programs in Section 1 of this act for the Lower Boise River Water Quality Plan, be used only for the matching of local and then USGS funding for this specific program. In the event that local or USGS matching funds are not available, the full \$40,000 in state funds shall revert back to the General Fund.

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

Approved March 14, 1994.

CHAPTER 93
(S.B. No. 1347)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-514, IDAHO CODE, TO PROVIDE FOR INCORPORATED UNDERWRITERS FOR REINSURANCE AND TO PROVIDE REQUIREMENTS FOR INCORPORATED MEMBERS OF A GROUP AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-514, Idaho Code, be, and the same is hereby amended to read as follows:

41-514. CREDIT FOR REINSURANCE. (1) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer

meets the requirements of paragraph (a) or (b) or (c) or (d) or (e) of this subsection. If meeting the requirements of paragraph (c) or (d) of this subsection, the requirements of paragraph (f) must also be met.

(a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in this state.

(b) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state.

An accredited reinsurer is one which:

(i) Files with the director evidence of its submission to this state's jurisdiction;

(ii) Submits to this state's authority to examine its books and records;

(iii) Is licensed to transact insurance or reinsurance in at least one (1) state, or in the case of United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one (1) state;

(iv) Files annually with the director a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and either

A. Maintains a surplus as regards policy-holders policyholders in an amount which is not less than twenty million dollars (\$20,000,000) and whose accreditation has not been denied by the director within ninety (90) days of its submission; or

B. Maintains a surplus as regards policy-holders policyholders in an amount less than twenty million dollars (\$20,000,000) and whose accreditation has been approved by the director.

No credit shall be allowed a domestic ceding insurer, if the assuming insurers' accreditation has been revoked by the director after notice and hearing.

(c) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(i) Maintains a surplus as regards policy-holders policyholders in an amount not less than twenty million dollars (\$20,000,000); and

(ii) Submits to the authority of this state to examine its books and records.

Provided, however, that the requirement of paragraph (c)(i) of this subsection does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(d) (i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a quali-

fied United States financial institution, as defined in subsection (3) of this section for the payment of the valid claims of its United States ~~policy-holders~~ policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the director information substantially the same as that required to be reported on the NAIC annual statement form by licensed insurers to enable the director to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars (\$20,000,000). In the case of a group of which includes incorporated and individual unincorporated underwriters, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group; the incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; and the group shall make available to the director an annual certification of the solvency of each underwriter by the groups domiciliary regulator and its independent public accountants.

(ii) In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in the previous paragraph, and which is under the supervision of the department of trade and industry of the United Kingdom and submits to this state's authority to examine its books and records and bears the expense of the examination, and which has aggregate ~~policy-holders'~~ policyholders' surplus of ten billion dollars (\$10,000,000,000); the trust shall be in an amount equal to the group's several liabilities attributable to business written in the United States plus the group shall maintain a joint trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group, and each member of the group shall make available to the director an annual certification of the member's solvency by the member's domiciliary regulator and its independent public account.

(iii) Such trust shall be established in a form approved by the director of insurance. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States ~~policy holders~~ policyholders and ceding insurers, their assigns and

successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the director. The trust described herein must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.

(iv) No later than February 28 of each year the trustees of the trust shall report to the director in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(e) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), (b), (c) or (d) of this section but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction.

(f) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted in paragraphs (c) and (d) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(i) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or of any appellate court in the event of an appeal; and

(ii) To designate the director or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company.

(2) A reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements in subsection (1) of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer and such reduction shall be in the amount of funds held by or on behalf of the ceding insurer; including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if such security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or, in the case of a trust, held in a qualified United States financial institution, as defined in subsection (4) of this section. This security may be in the form of:

(a) Cash.

(b) Securities listed by the securities valuation office of the national association of insurance commissioners and qualifying as admitted assets.

(c) Clean, irrevocable, unconditional letters of credit, as

defined in subsection (3)(a) of this section, issued or confirmed by a qualified United States institution no later than December 31 in respect of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the date of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment whichever first occurs.

(d) Any other form of security acceptable to the director.

(3) For purposes of subsection (2)(c) of this section a "qualified United States financial institution" means an institution that:

(a) Is organized or (in the case of a United States office of a foreign banking organization) licensed, under the laws of the United States or any state thereof;

(b) Is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(c) Has been determined by either the director or the securities valuation office of the national association of insurance commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the director.

(4) A "qualified United States financial institution" means, for purposes of the provisions of this statute specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(a) Is an organization, or (in the case of a United States branch or agency office of a foreign banking organization) licensed, under the laws of the United States or any thereof and has been granted authority to operate with fiduciary powers; and

(b) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

(5) The provisions of this section shall apply to all sessions after the effective date of this act under reinsurance agreements which have had an inception, anniversary, or renewal date not less than six (6) months after the effective date of this act.

Approved March 15, 1994.

CHAPTER 94
(S.B. No. 1413)

AN ACT

RELATING TO REGULATION OF DOGS ATTACKING OR HARASSING BIG GAME; AMENDING SECTION 36-1101, IDAHO CODE, TO PROVIDE A COMPLETE CROSS REFERENCE TO THE PENALTY PROVISION APPLICABLE TO THE OFFENSE AND TO

MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 36-1401, IDAHO CODE, TO PROVIDE A CORRECT CROSS REFERENCE TO THE OFFENSE.

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

SECTION 1. That Section 36-1101, Idaho Code, be, and the same is hereby amended to read as follows:

36-1101. TAKING OF WILDLIFE UNLAWFUL EXCEPT BY STATUTE OR COMMISSION REGULATION -- METHODS PROHIBITED -- EXCEPTIONS. ~~(a) It is unlawful, except as may be otherwise provided under this title or commission regulations promulgated pursuant thereto, for any person to take any of the game animals, birds or fur-bearing animals of this state. It is unlawful for any person to~~

(a) It is unlawful, except as may be otherwise provided by Idaho law, including this title or commission regulations rules promulgated pursuant thereto, for any person to take any of the game animals, birds or fur-bearing animals of this state.

(b) Except as may be otherwise provided under this title or commission regulations rules promulgated pursuant thereto, it is unlawful for any person to:

1. Hunt from Motorized Vehicles. Hunt any of the game animals or game birds of this state from or by the use of any motorized vehicle except as provided by commission regulation rule; provided however, that the commission shall promulgate rules and regulations which shall allow a physically handicapped person to apply for a special permit which would allow the person to hunt from a motorized vehicle which is not in motion. A physically handicapped person means a person:

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

(B) Who suffers from lung disease to the extent that his forced (respiratory) expiratory volume for one (1) second when measured by spirometry is less than one (1) liter or his arterial oxygen tension (po_2) is less than 60 mm/Hg on room air at rest.

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

The commission shall specify the form of application for and design of the special permit which shall allow a physically handicapped person to hunt from a motorized vehicle which is not in motion. No fee shall be charged for the issuance of the special permit and the issuance of a special permit shall not exempt a person from otherwise properly purchasing or obtaining other necessary licenses, permits and tags in accordance with this title and rules and regulations promulgated pursuant thereto. The special permit shall not be transferable and may only be used by the person to whom it is issued. A person who

has been issued a special permit which allows a physically handicapped person to hunt from a motorized vehicle not in motion shall have that permit prominently displayed on any vehicle the person is utilizing to hunt from and the person shall produce, on demand, the permit and other identification when so requested by a conservation officer of the department of fish and game. A person possessing a special permit shall not discharge any firearm from or across a public highway. In addition to other penalties any unauthorized use of the special permit shall be grounds for revocation of the permit.

2. Molest with Motorized Vehicles. Use any motorized vehicle to molest, stir up, rally or drive in any manner any of the game animals or game birds of this state.

3. Communicate from Aircraft. Make use of aircraft in any manner to spot or locate game animals, game birds or fur-bearing animals of this state from the air and communicate the location or approximate location thereof by any signals whatsoever, whether radio, visual or otherwise, to any person then on the ground.

4. Hunt from Helicopter. Make use of any helicopter in any manner in the taking of game or loading, transporting, or unloading hunters, game or hunting gear in any manner except when such use is at recognized airports or airplane landing fields, or at heliports which have been previously established on private land or which have been established by a department or agency of the federal, state or local government or when said use is in the course of emergency or search and rescue operations.

5. Artificial Light. Hunt any animal or bird except raccoon by the aid of a spotlight, flashlight or artificial light of any kind. The act of casting or throwing, after sunset, the beam or rays of any spotlight, headlight or other artificial light capable of utilizing six (6) volts or more of electrical power upon any field, forest or other place by any person while having in his possession or under his control any uncased firearm or contrivance capable of killing any animal or bird, shall be prima facie evidence of hunting with an artificial light. Provided nothing in this subsection shall apply where the headlights of a motor vehicle, operated and proceeding in a normal manner on any highway or roadway, cast a light upon animals or birds on or adjacent to such highway or roadway and there is no intent or attempt to locate such animals or birds. Provided further, nothing in this subsection shall prevent the hunting of unprotected or predatory wildlife with the aid of artificial light when such hunting is for the purpose of protecting property or livestock, is done by landowners or persons authorized in writing by them to do so and is done on property they own, lease or control; and provided further that the hunting and taking of unprotected or predatory wildlife with the aid of artificial light on public lands is authorized after obtaining a permit to do so from the director. The director may, for good cause, refuse to issue such permit.

Other provisions of this subsection notwithstanding, the commission may establish ~~regulations~~ rules allowing the hunting of raccoon with the aid of an artificial light.

6. Regulation of Dogs.

(A) No person shall make use of a dog for the purpose of

pursuing, taking or killing any of the big game animals of this state except as otherwise provided by ~~regulations~~ rules of the commission.

(B) Any person who is the owner of, or in possession of, or who harbors any dog found running at large and which is actively tracking, pursuing, harassing or attacking, or which injures or kills deer or any other big game animal within this state shall be guilty as provided in section 36-1401(a)1.(F), Idaho Code. It shall be no defense that such dog or dogs were pursuing said big game animals without the aid or direction of the owner, possessor, or harborer.

(C) Any dog found running at large and which is actively tracking, pursuing, harassing, attacking or killing deer or any other big game animal may be destroyed without criminal or civil liability by the director, or any peace officer, or other persons authorized to enforce the Idaho fish and game laws.

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

36-1401. VIOLATIONS. (a) Infractions. Any person who pleads guilty to or is found guilty of a violation of the following provisions of the fish and game code or the following rules ~~and regulations~~ promulgated pursuant thereto is guilty of an infraction:

1. Statutes

(A) Take, transport, use or have in possession bait fish as set forth in section 36-902(d), Idaho Code.

(B) Chumming as set forth in section 36-902(e), Idaho Code.

(C) Nonresident child under the age of fourteen (14) years fishing without a valid license and not accompanied by a valid license holder as set forth in section 36-401(a)2., Idaho Code.

(D) Use or cut a hole larger than ten (10) inches in the ice for ice fishing as set forth in section 36-1509(a), Idaho Code.

(E) Store fish without required tags/permits/statements as set forth in section 36-503, Idaho Code.

(F) Own, possess or harbor any dog found running loose and which is tracking, pursuing, harassing or attacking a big game animal as set forth in section 36-1101(~~fb~~)26.(B), Idaho Code.

(G) Hunt migratory waterfowl without having in possession a signed federal migratory bird hunting stamp as set forth in section 36-1102(b)2., Idaho Code.

(H) Hunt migratory waterfowl without having in possession a signed Idaho migratory waterfowl stamp as set forth in section 36-414(2), Idaho Code.

(I) Hunt upland game birds without having in possession an upland game permit as set forth in section 36-409(h), Idaho Code.

(J) Trap in or on, destroy or damage any muskrat house as provided in section 36-1103(c), Idaho Code.

2. Rules and Regulations

- (A) Fish from a raft or boat with motor attached in waters where motors are prohibited.
- (B) Fish with hooks larger than allowed in that water.
- (C) Fish with barbed hooks in waters where prohibited.
- (D) Exceed any established bag limit for fish except anadromous fish bag limits, by two (2) fish.
- (E) Fish with more than the approved number of lines or hooks.
- (F) Fail to leave head and/or tail on fish while fish are in possession or being transported.
- (G) Snag or hook fish other than in the head and fail to release, excluding anadromous fish.
- (H) Fail to attend fishing line and keep it under surveillance at all times.
- (I) Fail to comply with mandatory check and report requirements.
- (J) Fail to leave evidence of sex or species attached as required on game birds.
- (K) Hunt or take migratory game birds while in possession of shot other than steel shot in a steel shot zone.
- (L) Fail to release, report or turn in nontarget trapped animals.
- (M) Fail to complete required report on trapped furbearer.
- (N) Fail to present required furbearer animal parts for inspection.
- (O) Fail to attach identification tags to traps.
- (P) Trap with illegal bait or bait set illegally.

(b) Misdemeanors. Any person who pleads guilty to, is found guilty or is convicted of a violation of the provisions of this title, or rules or regulations promulgated pursuant thereto, or orders of the commission, except where an offense is expressly declared to be an infraction or felony, shall be guilty of a misdemeanor.

(c) Felonies. Any person who pleads guilty to, is found guilty or is convicted of a violation of the following offenses shall be guilty of a felony:

1. Knowingly and intentionally selling or offering for sale or exchange, or purchasing or offering to purchase or exchange, any wildlife, or parts thereof, which has been unlawfully killed, taken or possessed.
2. Releasing into the wild, without a permit from the director, any of the following wildlife, whether native or exotic: ungulates, bears, wolves, large felines, swine, or peccaries.
3. Unlawfully killing, possessing or wasting of any combination of numbers or species of wildlife which has a single or combined reimbursable damage assessment of more than one thousand dollars (\$1,000), as provided in section 36-1404, Idaho Code.
4. Conviction within five (5) years of three (3) or more violations of the provisions of this title, penalties for which include either or both a mandatory license revocation or a reimbursable damage assessment.

CHAPTER 95
(S.B. No. 1445)

AN ACT

RELATING TO MORTICIANS; AMENDING SECTION 54-1116, IDAHO CODE, TO PROHIBIT ADVERTISING OR USING THE NAME OF A PERSON WHO IS NOT AN EMPLOYEE OF THE FUNERAL ESTABLISHMENT IN CONNECTION WITH THAT OF ANY FUNERAL ESTABLISHMENT.

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

SECTION 1. That Section 54-1116, Idaho Code, be, and the same is hereby amended to read as follows:

54-1116. DENIAL, SUSPENSION, OR REVOCATION OF LICENSES -- GROUNDS -- PROBATION. The board may refuse to issue or may refuse to renew or may suspend or may revoke any license, or may place the holder thereof on a term of probation, after proper hearing, upon finding that the holder of such license committed any of the following acts or omissions:

- A. Conviction of a crime involving moral turpitude.
- B. Conviction of a felony.
- C. Unprofessional conduct, which is hereby defined to include:

(1) Misrepresentation or fraud in the conduct of mortician or funeral director services;

(2) False or misleading advertising as the holder of a license for the practice of mortician or funeral director services; advertising or using the name of an unlicensed person who is not an employee of the funeral establishment in connection with that of any funeral establishment;

(3) Solicitation of dead human bodies by the licensee, his agents, assistants or employees, whether such solicitation occurs before death or after death; provided, that this shall not be deemed to prohibit general advertising;

(4) Employment by the licensee of persons known as "cappers," or "steerers," or "solicitors," or other such persons to solicit or obtain agreements with the public for the performance of mortician services;

(5) Employment directly or indirectly, of any resident trainee, agent, assistant, employee, or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular mortician, funeral director or funeral establishment;

(6) The direct or indirect payment, or offer of payment, of a commission by the licensee, his agents, assistants, or employees for the purpose of securing business;

(7) Gross immorality;

(8) Aiding or abetting an unlicensed person to practice mortician or funeral director services;

(9) Using profane, indecent or obscene language in the presence of a dead human body, or within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of;

(10) Violation of any of the provisions of this act;

(11) Violation of any state law, or municipal or county ordinance, or regulation authorized under this act affecting the handling, custody, care, processing or transportation of dead human bodies;

(12) Fraud or misrepresentation in obtaining or renewing a license;

(13) Refusing to promptly surrender the custody of a dead human body upon the express order of the person lawfully entitled to the custody thereof;

(14) Solicitation or acceptance, directly or indirectly, of a request, before need, for an agreement to provide mortician services or funeral supplies at a price less than that offered by such person to others at time of need;

(15) Violation of any statutes of any state having to do with prearrangement or prefinancing of mortician services or funeral supplies.

Approved March 15, 1994.

CHAPTER 96
(H.B. No. 548)

AN ACT

RELATING TO THE DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE; AMENDING SECTION 22-103, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS AND TO AUTHORIZE THE DIRECTOR TO ADMINISTER OATHS, CERTIFY TO ALL OFFICIAL ACTS AND ISSUE SUBPOENAS FOR THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF DOCUMENTS.

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

SECTION 1. That Section 22-103, Idaho Code, be, and the same is hereby amended to read as follows:

22-103. DUTIES OF DIRECTOR. The director of the department of agriculture shall execute the powers and discharge the duties vested by law in him or in the department, including, but not limited to, the following:

(1) Pursuant to chapter 53, title 67, Idaho Code, hire, assign duties and evaluate the performance of all employees of the department.

(2) Designate employees for special assignment, office or function as the needs of the department may require.

(3) Acquire, generate, develop and disseminate information and data concerning agricultural pursuits, productivity and product quality.

(4) Encourage and promote in every practical manner, the interests of agriculture, horticulture, apiculture, aquaculture, the livestock industries, poultry and fowl raising, wool and fur-bearing animals and their allied industries.

(5) Assist, encourage and promote the organization of farmers' institutes, agricultural, horticultural, management or cooperative

societies and organizations for the benefit of agricultural pursuits in this state.

(6) Promote improved methods of production, storage, sales and marketing of agricultural industries.

(7) Establish and promulgate standards of construction, use and sanitation of open and closed receptacles for farm products, and standards for grade or other classification of farm products.

(8) Prescribe and promulgate rules ~~and--regulations~~ governing marks, brands and labels, and the registration thereof, for use upon receptacles for farm products.

(9) Promote, in the interest of the public, economical and efficient use of products and commodities used in the production of agricultural, horticultural, meats and other products and farm commodities and their distribution.

(10) Cooperate with producers, processors and consumers in devising and maintaining economical and efficient systems of distribution, and to assist in the reduction of waste and expense incidental to the marketing of agricultural products.

(11) Gather and diffuse timely information and statistics concerning supply, demand, prevailing prices and commercial movement of agricultural products.

(12) Maintain a market news service, including information concerning crops, freight rates, commission rates and such other information as may be of service to producers and consumers, and to act as a clearinghouse for information between producers and consumers.

(13) Cooperate with the secretary, colleges and universities, experiment stations, and other agencies which cooperate in devising, research and development and utilization of improved agricultural production and other activities.

(14) Investigate the practices, methods of factors, management techniques of commission merchants, track buyers and others who receive, solicit, buy, sell, handle on commission or otherwise, or deal in grains, eggs, livestock, vegetables or other products used as human foods, to the end that distribution of such commodities through such factors, commission merchants, track buyers and others be efficiently and economically accomplished without hardship, waste or fraud.

(15) Enter and inspect any right-of-way of any irrigation canal, railway, public highway, field, orchard, nursery, fruit or vegetable packing house, store room, sales room, storage facility, depot or other place where fruits and vegetables are grown or stored and to inspect fruits, trees, plants, vines, shrubs or other articles within the state, and if such places or articles are infested with pests, insects or their eggs or larvae, or with any contagious or transmittable diseases injurious to plant life, to abate or eradicate the same as a nuisance.

(16) Provide treatment for and prevent the spread of infectious or communicable diseases among bees, livestock, fur-bearing animals or domestic animals through the systematic and periodic inspection, testing or treatment of such bees and animals at the expense of the owner thereof.

(17) Protect the livestock interests of the state from losses due to disease or hazards to animal health and communicable to humans

through agricultural products.

(18) Maintain recording of earmarks, eartags or other identifying marks not covered under any other provisions of law.

(19) Purchase, lease, hold, sell, and dispose of real and personal property of the department when, in the judgment of the director, such transactions promote the purposes for which the department is established.

(20) Contract with any state agency, federal agency or agency of another state concerning any matter, program or cooperative effort within the scope and jurisdiction of its authority pursuant to law.

(21) Assist in the improvement of country life, farm occupations and to cooperate in effectuating equality of opportunity of those employed in agricultural pursuits in the state of Idaho.

(22) Investigate diseases, contamination of livestock and poultry, agricultural, horticultural, and farm products, suspected to be infected or contaminated by bacterial, viral, protozoal, parasitic, chemical, nuclear, botanical or other disease-producing agents, or carrying a residue of any such disease-producing agent or chemical in excess of any tolerance established by federal or state law or regulation and to examine, conduct tests, and issue "hold orders" on any livestock, poultry, agricultural, horticultural or farm products as deemed necessary to effectuate a diagnosis of disease, contamination or chemical level to safeguard and protect animal and man. And additionally, authorize and implement a predator control program on state and private lands using any kind of toxic material or substance suitable for such purpose. Any toxic material or substance shall be approved for use by the director. In order to carry out the provisions of this subsection (22), the director shall prescribe and promulgate rules and regulations pursuant to chapter 52, title 67, Idaho Code.

(23) Prescribe by rule or regulation an interest charge which may be assessed on all accounts which are thirty (30) days past due from the initial billing date or the assessment due date. The interest rate charged shall not exceed twelve per cent (12%) per annum.

(24) To take all steps that are deemed necessary to prevent and control damage or conflicts on federal, state, or other public or private lands caused by predatory animals, rodents, or birds, including threatened or endangered wildlife within the state of Idaho as are established by federal or state law, federal or state regulation, or county ordinance, that are injurious to animal husbandry, agriculture, horticulture, forestry, wildlife and human health and safety.

(25) To administer oaths, certify to all official acts and subpoena any person in this state as a witness; to compel through subpoena the production of books, papers, and records; and to take the testimony of any person on deposition in the same manner as prescribed by law in the procedure before the courts of this state. A subpoena issued by the director shall extend to all parts of the state and may be served by any person authorized to do so. All powers of the director enumerated in this subsection (25) with respect to administering oaths, power of subpoena, and other powers in hearings on complaints shall likewise be applicable to hearings held on applications for the issuance or renewal of licenses.

CHAPTER 97
(H.B. No. 552)

AN ACT

RELATING TO DEALERS IN FARM PRODUCE; AMENDING SECTION 22-1303, IDAHO CODE, TO INCREASE THE APPLICATION FEES FOR COMMISSION MERCHANTS, DEALERS, BROKERS AND AGENTS.

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

SECTION 1. That Section 22-1303, Idaho Code, be, and the same is hereby amended to read as follows:

22-1303. LICENSE REQUIRED -- APPLICATION, ISSUANCE, FEES. No person shall act as a commission merchant, dealer, broker, or agent without having obtained a license as provided in this chapter. Every person, acting as a commission merchant, dealer, broker or agent as herein defined shall file an application with the director for a license to transact the business of commission merchant, dealer, broker and/or agent, and such application shall be accompanied by the license fee herein provided for each specified class of business. Separate applications shall be filed for each class of business.

Such application shall in each case state the class or classes of farm products the applicant proposes to handle, the full name of the person applying for such license, and if the applicant be a firm, exchange, association or corporation, the full name of each member of the firm, or the names of the officers of the exchange, association or corporation shall be given in the application. Such application shall further state the principal business address of the applicant in the state of Idaho and elsewhere, and the name or names of the person or persons authorized to receive and accept service of summons and legal notices of all kinds for the applicant within the state of Idaho. Such applicant shall further satisfy the director of his or its character, responsibility and good faith in seeking to carry on the business stated in the application.

In addition to the general requirements applicable to all classes of applications as in this section set forth, the following requirements shall apply to the class of application noted:

(a) Commission merchants: Each application shall include a schedule of commissions and charges for services, and such designated commissions and charges shall not be changed or varied for the license period except by written contract between the parties.

(b) Agents: Each application shall include such information as the director may consider proper or necessary, and shall include the name and address of applicant, and the name and address of each commission merchant, dealer or broker represented or sought to be represented by said agent, and the written indorsement or nomination of such commission merchant, dealer or broker.

The director shall thereupon issue to such applicant a license entitling the applicant to conduct the business described in the application at the place named in the application until the 30th day of May next following, or until the same shall have been revoked for

cause. The director may also issue to each agent a card or cards, which shall bear the signature of such agent and his principal, separate cards being required for each principal. Any agent shall show card or cards upon the request of any interested person.

Fraud or misrepresentation in making any application shall ipso facto work a revocation of any license granted thereunder. All indicia of the possession of a license shall be at all times the property of the state of Idaho, and each licensee shall be entitled to the possession thereof only for the duration of said license.

For filing the applications herein described, each applicant must pay a fee as follows:

- (a) Commission merchants: One hundred twenty-five dollars (~~\$100-0025~~) for each year.
- (b) Dealers: One hundred twenty-five dollars (~~\$100-0025~~) for each year.
- (c) Brokers: One hundred twenty-five dollars (~~\$100-0025~~) for each year.
- (d) Agents: ~~Twenty~~Thirty-five dollars (~~\$235.00~~) for each year.

Any person who shall have been licensed as a commission merchant shall, upon application, be licensed also as a dealer and as a broker as defined herein, without payment of further fees, and shall thereupon conform to the parts of this chapter regulating the business of a dealer and/or broker. Any person who has applied for and received a license as a dealer or broker in the manner and upon payment of the fee herein set forth may apply for and secure a license as a commission merchant in addition to the license issued to him as such dealer or broker, without payment of further fee and upon further complying with those parts of this chapter regulating the licensing of a commission merchant.

Approved March 15, 1994.

CHAPTER 98
(H.B. No. 582)

AN ACT

RELATING TO HEALTH INSURANCE CLAIMS; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-286, IDAHO CODE, TO REQUIRE THE USE OF A UNIFORM CLAIM FORM/FORMAT AND UNIFORM BILLING AND CLAIM CODES AND TO DIRECT THE DIRECTOR OF INSURANCE TO PROMULGATE THE FORM.

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

SECTION 1. That Chapter 2, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-286, Idaho Code, and to read as follows:

41-286. UNIFORM CLAIMS PROCESSING. (1) Beginning July 1, 1995, all providers of health insurance coverage in Idaho shall use a uni-

form claim form/format and uniform billing and claim codes.

(2) The uniform claim form/format and billing codes shall be promulgated by the director as provided in chapter 52, title 67, Idaho Code. The director, when developing the claim form/format and billing codes shall take into consideration forms/formats now in use and shall consult with appropriate federal, state and private organizations.

(3) Beginning July 1, 1996, all insurers shall offer compatible systems of electronic billing approved by the director in accordance with chapter 52, title 67, Idaho Code. The system approved by the director may include monitoring and disseminating information concerning eligibility and coverage of individuals.

Approved March 15, 1994.

CHAPTER 99
(H.B. No. 594)

AN ACT

RELATING TO ORGANIC FOOD PRODUCTS; AMENDING CHAPTER 11, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-1108, IDAHO CODE, TO CLARIFY THE ADMINISTRATIVE APPEALS PROCEDURE AVAILABLE TO PERSONS WHO ARE SUBJECT TO THE PROVISIONS OF THE ORGANIC FOOD PRODUCTS LAW; AMENDING SECTION 22-1102, IDAHO CODE, TO REVISE THE DEFINITION OF ORGANICALLY GROWN FOOD; AMENDING SECTION 22-1102, IDAHO CODE, AS AMENDED BY CHAPTER 314, LAWS OF 1992, TO REVISE THE DEFINITION OF ORGANICALLY GROWN FOOD; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 11, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-1108, Idaho Code, and to read as follows:

22-1108. APPEAL PROCESS. Any person aggrieved by an agency action in the administration and enforcement of this chapter or rules promulgated pursuant thereto may, within sixty (60) days after the action is taken, petition the director for a hearing to determine the matter as provided for in relation to contested cases pursuant to chapter 52, title 67, Idaho Code.

SECTION 2. That Section 22-1102, Idaho Code, be and the same is hereby amended to read as follows:

22-1102. DEFINITIONS. In this chapter:

(1) "Director" means the director of the department of agriculture or the director's designee.

(2) "Food products" shall include all agricultural, horticultural, viticultural and vegetable products of the soil, and apiary and apiary products, but shall not include poultry and poultry products, livestock and livestock products, dairy products or aquaculture prod-

ucts.

(3) "Handler" means any person or organization who processes, packages, transports or stores organic food or nonorganic food.

(4) "Organic certification seal" means the design approved by the director and which when imprinted or affixed on labels, packages or products, or used in advertising in any manner, shall signify that the standards and regulations developed in accordance with the provisions of this chapter and all other conditions of the provisions of this chapter have been met.

(5) "Organic food" means any food product that is marketed using the term organic, or any derivative of organic in its labeling or advertising. Organic foods are those processed, packaged, transported and stored to retain maximum nutritional value, without the use of artificial preservatives, coloring or other additives, irradiation, or synthetic pesticides.

(6) "Organically grown food" means food products grown in Idaho which are produced without the use of synthetically compounded fertilizers, pesticides, or growth regulators for a period not ~~to exceed~~ less than thirty-six (36) months prior to harvest. Organically grown foods are produced under the standards and regulations established in accordance with the provisions of this chapter.

(7) "Person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

(8) "Producer" means any person or organization who:

(a) Grows, raises or produces a food product; and

(b) Sells the food product as, or offers it for sale as, an organic food.

(9) "Vendor" means any person who sells organic food to the consumer or another vendor.

SECTION 3. That Section 22-1102, Idaho Code, as amended by Chapter 314, Laws of 1992, be, and the same is hereby amended to read as follows:

22-1102. DEFINITIONS. In this chapter:

(1) "Director" means the director of the department of agriculture or the director's designee.

(2) "Food products" shall include all agricultural, horticultural, viticultural and vegetable products of the soil, apiary and apiary products, and lamb, but shall not include poultry and poultry products, other livestock and livestock products, dairy products or aquaculture products.

(3) "Handler" means any person or organization who processes, packages, transports or stores organic food or nonorganic food.

(4) "Lamb" means a young sheep that has not reached one (1) year of age.

(5) "Organic certification seal" means the design approved by the director and which when imprinted or affixed on labels, packages or products, or used in advertising in any manner, shall signify that the standards and regulations developed in accordance with the provisions of this chapter and all other conditions of the provisions of this chapter have been met.

(6) "Organic food" means any food product that is marketed using the term organic, or any derivative of organic in its labeling or advertising. Organic foods are those processed, packaged, transported and stored to retain maximum nutritional value, without the use of artificial preservatives, coloring or other additives, irradiation, or synthetic pesticides.

(7) "Organically grown food" means food products grown in Idaho which are produced without the use of synthetically compounded fertilizers, pesticides, or growth regulators for a period not to exceed less than thirty-six (36) months prior to harvest. Organically grown foods are produced under the standards and regulations established in accordance with the provisions of this chapter.

(8) "Person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

(9) "Producer" means any person or organization who:

(a) Grows, raises or produces a food product; and

(b) Sells the food product as, or offers it for sale as, an organic food.

(10) "Vendor" means any person who sells organic food to the consumer or another vendor.

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

Approved March 15, 1994.

CHAPTER 100
(H.B. No. 616)

AN ACT

RELATING TO THE PROTECTION OF PUBLIC EMPLOYEES; AMENDING TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 21, TITLE 6, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR REPORTING OF GOVERNMENTAL WASTE OR VIOLATION OF LAW, TO PROVIDE FOR REMEDIES FOR EMPLOYEE BRINGING ACTION, TO PROVIDE FOR COURT ORDERS, TO PROVIDE FOR AWARD OF ATTORNEYS' FEES AND COSTS, TO PROVIDE NO IMPAIRMENT OF EMPLOYEE RIGHTS UNDER A COLLECTIVE BARGAINING AGREEMENT, TO PROVIDE FOR A NOTICE OF EMPLOYEE PROTECTION, TO PROVIDE AN EFFECTIVE DATE AND TO PROVIDE APPLICATION.

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

SECTION 1. That Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 21, Title 6, Idaho Code, and to be read as follows:

CHAPTER 21
PROTECTION OF PUBLIC EMPLOYEES

6-2101. LEGISLATIVE INTENT. The legislature hereby finds, determines and declares that government constitutes a large proportion of the Idaho work force and that it is beneficial to the citizens of this state to protect the integrity of government by providing a legal cause of action for public employees who experience adverse action from their employer as a result of reporting waste and violations of a law, rule or regulation.

6-2102. SHORT TITLE. This act is known as the "Idaho Protection of Public Employees Act."

6-2103. DEFINITIONS. As used in this chapter:

(1) "Adverse action" means to discharge, threaten or otherwise discriminate against an employee in any manner that affects the employee's employment, including compensation, terms, conditions, location, rights, immunities, promotions or privileges.

(2) "Communicate" means a verbal or written report.

(3) "Employee" means a person who performs a service for wages or other remuneration.

(4) (a) "Employer" means the state of Idaho, or any political subdivision or governmental entity eligible to participate in the public employees retirement system, chapter 13, title 59, Idaho Code;

(b) "Employer" includes an agent of an employer.

(5) "Public body" means any of the following:

(a) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, educational institution or any other body in the executive branch of state government;

(b) An agency, board, commission, council, institution member or employee of the legislative branch of state government;

(c) A county, city, town, regional governing body, council, school district, special district, municipal corporation, other political subdivision, board, department, commission, council, agency or any member or employee of them;

(d) Any other body that is created by state or local authority, or any member or employee of that body;

(e) A law enforcement agency or any member or employee of a law enforcement agency; and

(f) The judiciary and any member or employee of the judiciary.

6-2104. REPORTING OF GOVERNMENTAL WASTE OR VIOLATION OF LAW -- EMPLOYER ACTION.

(1) (a) An employer may not take adverse action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith the existence of any waste of public funds, property or manpower, or a violation or suspected violation of a law, rule or regulation adopted under the law of this state, a political subdivision of this state or the United States. Such communication shall be made at a time and

in a manner which gives the employer reasonable opportunity to correct the waste or violation.

(b) For purposes of subsection (1)(a) of this section, an employee communicates in good faith if there is a reasonable basis in fact for the communication. Good faith is lacking where the employee knew or reasonably ought to have known that the report is malicious, false or frivolous.

(2) An employer may not take adverse action against an employee because an employee participates or gives information in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review.

(3) An employer may not take adverse action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law or a rule or regulation adopted under the authority of the laws of this state, political subdivision of this state or the United States.

(4) An employer may not implement rules or policies that unreasonably restrict an employee's ability to document the existence of any waste of public funds, property or manpower, or a violation, or suspected violation of any laws, rules or regulations.

6-2105. REMEDIES FOR EMPLOYEE BRINGING ACTION -- PROOF REQUIRED.

(1) As used in this section, "damages" means damages for injury or loss caused by each violation of this chapter, and includes court costs and reasonable attorneys' fees.

(2) An employee who alleges a violation of this chapter may bring a civil action for appropriate injunctive relief or actual damages, or both, within one hundred eighty (180) days after the occurrence of the alleged violation of this chapter.

(3) An action begun under this section may be brought in the district court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has his principal place of business.

(4) To prevail in an action brought under the authority of this section, the employee shall establish, by a preponderance of the evidence, that the employee has suffered an adverse action because the employee, or a person acting on his behalf engaged or intended to engage in an activity protected under section 6-2104, Idaho Code.

6-2106. COURT ORDERS FOR VIOLATION OF CHAPTER.

A court, in rendering a judgment brought under this chapter, may order any or all of the following:

(1) An injunction to restrain continued violation of the provisions of this act;

(2) The reinstatement of the employee to the same position held before the adverse action, or to an equivalent position;

(3) The reinstatement of full fringe benefits and seniority rights;

(4) The compensation for lost wages, benefits and other remuneration;

(5) The payment by the employer of reasonable costs and attorneys' fees;

(6) An assessment of a civil fine of not more than five hundred dollars (\$500), which shall be submitted to the state treasurer for deposit in the general fund.

6-2107. AWARD OF ATTORNEYS' FEES AND COSTS TO EMPLOYER -- ACTION WITHOUT BASIS IN LAW OR FACT. A court may also order that reasonable attorneys' fees and court costs be awarded to an employer if the court determines that an action brought by an employee under this chapter is without basis in law or in fact. However, an employee shall not be assessed attorneys' fees under this section if, after exercising reasonable and diligent efforts after filing a suit, the employee files a voluntary dismissal concerning the employer, within a reasonable time after determining that the employer would not be liable for damages.

6-2108. NO IMPAIRMENT OF EMPLOYEE RIGHTS UNDER COLLECTIVE BARGAINING AGREEMENT -- CONFIDENTIALITY PROTECTED. This chapter shall not be construed to diminish or impair the rights of an employee under any collective bargaining agreement, nor to permit disclosures which would diminish or impair the rights of any person to the continued protection of confidentiality of communications where statute or common law provides such protection.

6-2109. NOTICE OF EMPLOYEE PROTECTION. An employer shall use appropriate means to notify its employees of their protection and obligation under this chapter.

SECTION 2. This act shall be in full force and effect on and after July 1, 1994, and shall apply to acts occurring on or after July 1, 1994.

Approved March 15, 1994.

CHAPTER 101
(H.B. No. 654)

AN ACT

RELATING TO RECORDED LIVESTOCK BRANDS; AMENDING SECTION 25-1144, IDAHO CODE, TO PROVIDE THAT A BRAND SHALL BE VALID FOR FIVE YEARS AND MAKING TECHNICAL CORRECTIONS; AMENDING SECTION 25-1145, IDAHO CODE, TO REQUIRE RENEWAL OF BRANDS AT THE END OF THE FIVE YEAR RECORDING PERIOD; AND AMENDING CHAPTER 11, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-1145A, IDAHO CODE, TO PROVIDE TRANSITION TO THE FIVE YEAR RENEWAL PERIOD.

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

SECTION 1. That Section 25-1144, Idaho Code, be, and the same is hereby amended to read as follows:

25-1144. MANNER OF RECORDING BRANDS. Every stock grower whose brands are not recorded, desiring to use any brand on any livestock

shall make and file an application setting forth a facsimile and description of the brand which he desires to use which application shall state the post-office address and county of his residence and he shall file such application with the state brand inspector and the same shall be recorded in a book kept for that purpose, by the state brand inspector and from and after the filing of such application, the stock grower filing the same, shall have the exclusive right to use such brand, within the state of Idaho. Such recording shall be valid for a period of not more than ~~two-(2)~~ five (5) years, as determined by rules ~~and regulations~~ of the state brand board, subject to the renewal provisions of section 25-1145, Idaho Code. Such person upon the filing of the brand shall pay to the state brand inspector for recording the brand the sum of not more than fifty dollars (\$50.00) and it shall be the duty of the state brand inspector to furnish without further or other charge, one (1) certified copy of the application to the owner thereof upon his request and for each additional copy he shall be paid a reasonable fee as determined by the state brand board not to exceed one dollar and fifty cents (\$1.50) for the additional certified copies: provided, further, that the state brand inspector shall not file or record any such brand if the same has already been filed or recorded by him in favor of some other stock grower. The certified copy of the application shall contain the registration number of such brand, description or facsimile copy of the recorded brand, location of brand on the animal, expiration of the recorded brand and the name and address of the owner of the recorded brand.

SECTION 2. That Section 25-1145, Idaho Code, be, and the same is hereby amended to read as follows:

25-1145. RENEWAL OF BRANDS. (1) On July 1, 1989~~95~~ and at the end of each recording period of an original application pursuant to section 25-1144, Idaho Code, and at the end of each successive ~~two-(2)~~ year period thereafter on the first day of July, the recording of every brand in the office of the state brand inspector shall be renewed upon application for such renewal by the owner. The fee of the state brand inspector for filing each such renewal application shall be twenty not more than fifty dollars (~~\$250.00~~) and it shall be the duty of the state brand inspector to furnish without further or other charge one (1) certified copy of the certificate of such brand to the owner thereof upon his request, and for each additional certified copy the state brand inspector shall be paid reasonable fee as determined by the state brand board not to exceed one dollar and fifty cents (\$1.50) for the additional certified copy. The fee for recording each renewal shall be paid coincident with the filing of the application therefor.

(2) Each application for the renewal and the record of renewal of each brand shall be made in the same manner as is provided by law for the filing of an original application for the recording of a brand.

(3) If an application for the renewal of any brand shall not be made and the fee therefor paid within the period of six (6) months after the expiration date for such renewal, then such brand may be allotted by the state brand inspector to any other person who shall apply therefor.

SECTION 3. That Chapter 11, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-1145A, Idaho Code, and to read as follows:

25-1145A. TRANSITION -- FIVE YEAR RENEWAL PERIOD. For the purposes of implementing the five (5) year renewal period, as provided in sections 25-1144 and 25-1145, Idaho Code, on a rotating basis, on July 1, 1995, the renewal of brands shall be for the period as follows:

(1) All brands for applicants with last names beginning with the letters A-C shall be renewed for a period of five (5) years and the fee shall be fifty dollars (\$50.00);

(2) All brands for applicants with last names beginning with the letters D-H shall be renewed for a period of four (4) years and the fee shall be forty dollars (\$40.00);

(3) All brands for applicants with last names beginning with the letters I-M shall be renewed for a period of three (3) years and the fee shall be thirty dollars (\$30.00);

(4) All brands for applicants with last names beginning with the letters N-S shall be renewed for a period of two (2) years and the fee shall be twenty dollars (\$20.00);

(5) All brands for applicants with last names beginning with the letters T-Z shall be renewed for a period of one (1) year and the fee shall be ten dollars (\$10.00).

Thereafter, all renewals shall be for a period of five (5) years.

The provisions of this section shall be automatically repealed and shall be null and void on and after June 30, 1996.

Approved March 15, 1994.

CHAPTER 102
(H.B. No. 754)

AN ACT

RELATING TO PESTICIDES; AMENDING CHAPTER 34, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-3426, IDAHO CODE, TO PROVIDE THAT CITIES, COUNTIES, TAXING DISTRICTS OR OTHER POLITICAL SUBDIVISIONS OF THE STATE ARE PREEMPTED FROM REGULATION OF PESTICIDES.

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

SECTION 1. That Chapter 34, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-3426, Idaho Code, and to read as follows:

22-3426. UNIFORMITY OF STATE PESTICIDE REGULATION. Notwithstanding any other provision of law to the contrary, no city, county, taxing district or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, resolution or statute regarding pesticide sale, use, or application including with-

out limitation: registration, notification of use, advertising and marketing, distribution, application methods, applicator training and certification, storage, transportation, disposal, disclosure of confidential information or product composition.

Approved March 15, 1994.

CHAPTER 103
(H.B. No. 862)

AN ACT

APPROPRIATING MONEYS FROM THE PARKS AND RECREATION EXPENDABLE TRUST FUND TO THE BUDGET RESERVE FUND; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO SECTION 3, CHAPTER 360, LAWS OF 1993; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN MONEYS; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated and transferred from the Parks and Recreation Expendable Trust Fund for deposit in the Budget Reserve Fund, the sum of \$27,000.

SECTION 2. It is legislative intent that the provisions of Section 3, Chapter 360, Laws of 1993, notwithstanding, the appropriation contained in Section 1 of this act shall satisfy the provision for repayment of the Budget Reserve Fund moneys which were used in support of the Idaho Oregon Trail Sesquicentennial Wagon Train reenactment.

SECTION 3. It is legislative intent that any balances held in the Parks and Recreation Expendable Trust Fund for the Idaho Oregon Trail Executive Committee be used as matching funds for support of Oregon Trail interpretive projects in the state of Idaho, such as informational kiosks or signing projects.

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

Approved March 15, 1994.

CHAPTER 104
(H.B. No. 612)

AN ACT

RELATING TO INCOME TAX DEDUCTIONS AND CREDITS; AMENDING SECTION 63-3022E, IDAHO CODE, TO PROVIDE A DEDUCTION FROM TAXABLE INCOME FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES WHO FILE THEIR OWN TAX RETURN AND TO MAKE CHANGES IN TERMINOLOGY; AMENDING SECTION

63-3025D, IDAHO CODE, TO PROVIDE A CREDIT ON TAXABLE INCOME FOR HOUSEHOLDS MAINTAINING A DEPENDENT WITH A DEVELOPMENTAL DISABILITY, OR FOR INDIVIDUALS WITH A DEVELOPMENTAL DISABILITY WHO FILE THEIR OWN TAX RETURN; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3022E, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022E. HOUSEHOLD DEDUCTION FOR DEPENDENTS SIXTY-FIVE YEARS OF AGE OR OLDER OR ~~DEVELOPMENTALLY-DISABLED PERSONS WITH DEVELOPMENTAL DISABILITIES~~. (1) An additional deduction from taxable income, as defined by section 63 of the Internal Revenue Code, shall be allowed in the case of an individual who maintains a household, which includes as an immediate member of the family residing in that household, one (1) or more individuals sixty-five (65) years of age or older, or a ~~developmentally-disabled person with developmental disabilities~~ as defined in subsection (4) of section 66-402, Idaho Code, regardless of the age of the person when such developmental disability appeared, each of whom receives more than one-half (1/2) of his or her support for the year from the individual who maintains the household. The amount of the deduction shall be one thousand dollars (\$1,000) for each individual sixty-five (65) years of age or older or ~~developmentally-disabled with developmental disabilities~~.

(2) There shall not be allowed more than three (3) deductions of one thousand dollars (\$1,000) under the provisions of this section on any one (1) return.

(3) No deductions shall be allowed under this section for the person(s) in whose name(s) the income tax return is filed except as set forth in subsection (4) of this section.

(4) A deduction of one thousand dollars (\$1,000) shall be allowed under this section for a person with a developmental disability, as defined in subsection (4) of section 66-402, Idaho Code, who is filing his own return.

SECTION 2. That Section 63-3025D, Idaho Code, be, and the same is hereby amended to read as follows:

63-3025D. PAYMENT FOR DEPENDENTS SIXTY-FIVE YEARS OF AGE OR OLDER OR PERSON WITH DEVELOPMENTAL DISABILITIES. (1) In lieu of the deduction from taxable income allowed by section 63-3022E, Idaho Code, a resident individual who maintains a household, which includes as an immediate member of the family residing in that household, one or more individuals sixty-five (65) years of age or older or individuals with developmental disabilities, as defined in subsection (4) of section 66-402, Idaho Code, each of whom receives more than one-half (1/2) of his or her support for the year from the individual who maintains the household, shall be entitled to a payment from the refund account of one hundred dollars (\$100) for each such elderly member of the family or family member with a developmental disability. Any such payment shall be paid to such individual only upon his making application

therefor at such time and in such manner as may be prescribed by the state tax commission.

(2) No more than three (3) such payments shall be made under the provisions of this section to any one (1) individual in any calendar year.

(3) No payment may be claimed under the provisions of this section by the individual himself except as set forth in subsection (4) of this section.

(4) A credit of one hundred dollars (\$100) shall be allowed under this section for a person with a developmental disability as defined in subsection (4) of section 66-402, Idaho Code, who is filing his own tax return.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1994.

Approved March 16, 1994.

CHAPTER 105
(S.B. No. 1405)

AN ACT

RELATING TO FUNERAL REQUIREMENTS; AMENDING SECTION 27-302, IDAHO CODE, TO DELETE OBSOLETE REFERENCE TO EMBALMER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 27-305, IDAHO CODE, TO REQUIRE LICENSURE AS A FUNERAL ESTABLISHMENT TO OPERATE A CREMATORY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 27-307, TO STRIKE OBSOLETE REFERENCES TO EMBALMER AND TO INCLUDE MORTICIAN; AMENDING SECTION 31-2808, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES TO EMBALMER, TO INCLUDE MORTICIAN AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-269, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES TO EMBALMER, TO INCLUDE MORTICIAN AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-1131, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES TO EMBALMER, TO INCLUDE MORTICIAN AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 27-302, Idaho Code, be, and the same is hereby amended to read as follows:

27-302. CREMATION OF HUMAN REMAINS. The funeral director, or mortician or-embalmer having charge of the preparation of a human body for burial and the last rites thereof shall have the right to be present, either in person or by his employees, at any state stage of the cremation of such human remains.

SECTION 2. That Section 27-305, Idaho Code, be, and the same is hereby amended to read as follows:

27-305. PERMITS TO OPERATE CREMATORIES. Any person, firm, association or corporation desiring a crematory in the state of Idaho shall be a funeral establishment licensed under section 54-1111, Idaho Code, and shall apply for and receive from the director of the department of health and welfare a permit or license to be issued by and in such form as the director shall prescribe. Applications for permits to operate crematories shall be in writing and shall contain the name of the applicant, the address and the location of the crematory and a description of the type of structure and equipment to be used in the operation of the crematory, and such further information as the director may require. The director shall examine the premises and structure to be used as a crematory and shall issue the permit only if the applicant and structure meet the standards required by the rules and regulations of the state board of health and welfare and the provisions of this act.

SECTION 3. That Section 27-307, Idaho Code, be, and the same is hereby amended to read as follows:

27-307. RECORDS OF CREMATORIES. Upon the receipt of a human body for cremation, the crematory shall deliver to the funeral director or his agent who delivers such body to the crematory, a receipt therefor showing the date of delivery, name of the funeral director from whom the body is received and the name of the deceased. Each crematory shall maintain a record of each cremation of human remains disclosing the name of the person cremated, the name of the person authorizing the cremation, the date the body was received, the date the cremation was performed and such other information as the state board of health and welfare may require. The record of each cremation shall be signed by the owner or operator of the crematorium and by the licensed embalmer mortician who supervised the cremation. Such records shall be kept at the crematory for inspection by the director of the department of health and welfare who may also require copies thereof to be filed with him containing such information as may be necessary for the use of the director.

SECTION 4. That Section 31-2808, Idaho Code, be, and the same is hereby amended to read as follows:

31-2808. MAKING FINAL DISPOSITION OF DEAD HUMAN BODIES PROHIBITED. No coroner or person acting as coroner who is a licensed funeral director or a licensed embalmer mortician, owner, proprietor or employee of any establishment engaged in making final disposition of dead human bodies, and no establishment with which such coroner or person acting as coroner is associated, shall, except for ambulance services, perform any of the services of a funeral director or embalmer mortician or furnish any materials connected with or incidental to the final disposition of the body of any person whose death is required by law to be investigated by such coroner or other person acting in that capacity. Any person who violates this section shall be guilty of a misdemeanor. Provided, however, that the provisions of this section shall not be applicable in counties wherein there resides only one (1) licensed funeral director or licensed embalmer mortician.

SECTION 5. That Section 39-269, Idaho Code, be, and the same is hereby amended to read as follows:

39-269. **DISINTERMENT -- RULES AND REGULATIONS.** No body or still-born fetus shall be disinterred within the state of Idaho except upon a permit granted by the state registrar of vital statistics. The forms of disinterment permits shall be prepared by the state registrar. Disinterment and removal must be done under the personal supervision of a licensed embalmer mortician. Only such persons as are actually necessary shall be present. The coffin shall not be opened either at place of disinterment or place of destination, except special permit be issued by the state registrar. And in case of disinterment of bodies dead by reason of contagious and infectious diseases, as shown by the certificate of death given by the certifying physician or coroner, the sexton and all other persons engaged in such removal or being present shall immediately thereafter change and disinfect their clothing and properly disinfect their hands, head and face, provided, that such disinterment may also be governed by rules ~~and regulations~~ promulgated by the state board of health and welfare and a synopsis of the same shall be printed on the back of every permit. In case of any contagious and infectious disease where remains are to be shipped to points in other states, permission must first be obtained from the state health officer of such state. The state registrar may also issue a special disinterment permit for legal purposes. This permit for legal purposes shall be granted only upon application of a prosecuting attorney, the attorney general of this state, or the coroner of the county in which the body is interred, stating therein such facts which make it evident to the state registrar that the ends of justice require that disinterment be permitted. Such special disinterment for legal purposes shall be governed by rules ~~and regulations~~ promulgated by the state board of health and welfare and a synopsis of the same shall be printed on the back of every such special disinterment permit for legal purposes. Bodies in a receiving vault when prepared by a licensed embalmer mortician shall not be regarded as disinterred bodies until after the expiration of thirty (30) days.

SECTION 6. That Section 54-1131, Idaho Code, be, and the same is hereby amended to read as follows:

54-1131. **DEFINITIONS.** As used in sections 54-1132 through 54-1143, Idaho Code:

A. "Beneficiary" means the person who is to receive the funeral or cemetery merchandise or funeral or cemetery services.

B. "Certified person or seller" means any person holding a certificate of registration or who is registered to sell or offer for sale prearrangement sales contracts.

C. "Funeral or cemetery merchandise" means personal property normally and customarily sold by funeral service establishments, cemeteries, and crematoriums including, but not limited to, caskets or other primary containers, burial vaults, casket-vaults, grave liners, funeral clothing or accessories, monuments, grave markers and cremation urns. It shall include:

- (1) Merchandise identified for the purchaser or the beneficiary

to be manufactured for future delivery and use.

(2) Merchandise that has been manufactured and held by the manufacturer for future delivery and use.

(3) Merchandise that has been manufactured and delivered to and in the possession of the seller, who has placed it, until needed, in storage.

D. "Funeral or cemetery services" means those services normally and customarily performed by a funeral service practitioner, embalmer mortician, funeral service establishment, cemetery or crematorium in conjunction with funeral or memorial services, interment, entombment or cremation.

E. "Guaranteed contract" means a written prearrangement sales contract that guarantees the beneficiary funeral or cemetery services or funeral or cemetery merchandise contained in the contract and under which no charges other than the sales price contained in the contract shall be required upon delivery of the merchandise or performance of the funeral and cemetery services.

F. "Nonguaranteed contract" means a written prearrangement sales contract that does not guarantee the beneficiary any specific funeral or cemetery merchandise or services. Any funds paid under this contract are only a deposit to be applied toward the final cost of the funeral or cemetery merchandise or services.

G. "Prepaid prearrangement sale or prearrangement sales contract" means any sale, other than a contract of life insurance entered into by an insurance company, that has as its purpose the furnishing of funeral or cemetery merchandise or funeral or cemetery services in connection with the final disposition or commemoration of the memory of a dead human body, for use at a time determinable by the death of the person or persons whose body or bodies are to be disposed and where the sale terms require payment or payments to be made at a currently determinable time.

H. "Primary container" means a casket, rental casket, casket-vault, chapel-vault or other container which serves as the repository for dead human remains.

I. "Public cemetery" means a cemetery owned and operated by a cemetery district organized under Idaho law, or by a municipal corporation or political subdivision of the state of Idaho.

J. "Purchaser" means a beneficiary or a person acting on behalf of a beneficiary who enters into a prearrangement sales contract with a certified person under which any payment or payments made under the contract are required to be deposited in trust.

K. "Secondary container" means a vault, grave liner, urn or other container purchased by the buyer for a burial or required by the cemetery which will be the repository for the primary container.

L. "Trustee" means any bank, trust company or savings institution authorized to do business in the state of Idaho where accounts are insured with the federal deposit insurance corporation, the federal savings and loan insurance corporation or other similar agency of the United States government.

CHAPTER 106
(H.B. No. 861)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 384, LAWS OF 1993; PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL FUND; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO JUVENILE OFFENDER RELEASES; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 384, Laws of 1993, there is hereby appropriated to the Department of Health and Welfare the following amount, to be expended according to the designated expense classes from the listed fund for the period July 1, 1993, through June 30, 1994:

I. DIVISION OF FAMILY AND CHILDREN SERVICES:

A. DETENTION AND ASSESSMENT:

FOR:

| | |
|------------------------|----------------|
| Personnel Costs | \$170,300 |
| Operating Expenditures | <u>504,800</u> |
| TOTAL | \$675,100 |

FROM:

| | |
|--------------|-----------|
| General Fund | \$675,100 |
|--------------|-----------|

SECTION 2. As appropriated, the State Auditor shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. It is legislative intent that no release of juvenile offenders shall occur until a thorough investigation of available facilities has been made.

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

Approved March 17, 1994.

CHAPTER 107
(H.B. No. 695)

AN ACT

RELATING TO THE RIGHT TO FARM ACT; REPEALING SECTION 22-4504, IDAHO CODE; AMENDING CHAPTER 45, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-4504, IDAHO CODE, TO PROHIBIT THE ADOPTION OF ORDINANCES OR RESOLUTIONS DECLARING AGRICULTURAL PRACTICES A NUI-

SANCE AND TO PROVIDE APPLICATION TO AGRICULTURAL OPERATIONS THAT WERE INCORPORATED INTO MUNICIPALITIES.

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

SECTION 1. That Section 22-4504, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 45, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-4504, Idaho Code, and to read as follows:

22-4504. LOCAL ORDINANCES. No city, county, taxing district or other political subdivision of this state shall adopt any ordinance or resolution that declares any agricultural operation operated in accordance with generally recognized agricultural practices to be a nuisance nor shall any zoning ordinance that forces the closure of any such agricultural operation be adopted. Zoning and nuisance ordinances shall not apply to agricultural operations that were established outside the corporate limits of a municipality and then were incorporated into the municipality by annexation.

Approved March 18, 1994.

CHAPTER 108
(S.B. No. 1431)

AN ACT

RELATING TO THE COMPREHENSIVE STATE WATER PLAN; APPROVING THE COMPREHENSIVE STATE WATER PLAN FOR THE SNAKE RIVER, MILNER DAM TO KING HILL, IDAHO, AS ADOPTED BY THE IDAHO WATER RESOURCE BOARD ON DECEMBER 10, 1993; AND DESIGNATING CERTAIN STREAM REACHES ON THE SNAKE RIVER AS PROTECTED RIVERS.

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

SECTION 1. That pursuant to section 42-1734B(6), Idaho Code, the Comprehensive State Water Plan for the Snake River, Milner Dam to King Hill, Idaho, adopted by resolution of the Idaho Water Resource Board on December 10, 1993, is herein approved.

SECTION 2. The following stream reaches of the Snake River are designated protected rivers as set forth in the plan adopted by the Water Resource Board:

1. Snake River from the downstream project boundary of the Milner Hydroelectric Project, (approximately 700 feet downstream from the Idaho Power Company main Milner powerhouse), River Mile 637, to a point 100 feet downstream of the Murtaugh Bridge "Recreational" (7 miles). Within the segment the Board prohibits construction or expansion of dams or impoundments; construction of hydropower projects; and

mineral or sand and gravel extraction. Within the stream channel, alterations would be prohibited except those necessary (1) to maintain and improve existing utilities, roadways, diversion works, fishery enhancement structures, and stream access facilities; (2) for the maintenance of private property; (3) for new diversion works; and (4) for construction of new public access facilities and fishery enhancement structures. Construction of private river access facilities (i.e., boat docks) may be allowed with Idaho Water Resource Board and other regulatory agencies' approval. New diversion works are limited to pump installations which do not create an obstruction in the river; are to supply water for domestic, commercial, or municipal uses; are visually blended with the surroundings so as to be less noticeable from the river; and are constructed to minimize harm to fish and wildlife.

2. Snake River 100 feet downstream of the Murtaugh Bridge to a point 100 feet upstream of the Hansen Bridge as "Natural" (9.5 miles). Within the segment the Board prohibits construction or expansion of dams or impoundments; construction of hydropower projects; construction of water diversion works; dredge or placer mining; alterations of the stream bed; and mineral or sand and gravel extraction within the stream bed.

3. Snake River 100 feet upstream of Hansen Bridge to the upstream project boundary of Twin Falls Hydroelectric Project [River Mile 619.5, the east boundary of Lot 5, Section 10, T10S, R18E, B.M.] "Recreational" (2 miles). Within the segment, the Board prohibits construction or expansion of dams or impoundments; construction of hydropower projects; and mineral or sand and gravel extraction. Within the stream channel, alterations would be prohibited except those necessary (1) to maintain and improve existing utilities, roadways, diversion works, fishery enhancement structures, and stream access facilities; (2) for the maintenance of private property; (3) for new diversion works; and (4) for construction of new public access facilities and fishery enhancement structures. Construction of private river access facilities (i.e., boat docks) may be allowed with Idaho Water Resource Board and other regulatory agencies' approval. New diversion works are limited to pump installations that do not create an obstruction in the river; are to supply water for domestic, commercial, or municipal uses; are visually blended with the surroundings so as to be less noticeable from the river; and are constructed to minimize harm to fish and wildlife.

4. Snake River from the downstream project boundary of the Twin Falls Hydroelectric Project [River Mile 617] to the confluence of the westerly spring flow from the Devil's Corral spring area [River Mile 616] "Recreational" (1 mile). State protection of this segment shall in no way impede relicensing of the Shoshone Falls Hydroelectric Project, or an expansion of the Shoshone Falls Hydroelectric Project boundary that would not result in any change in the size of the impoundment or in reservoir elevation. Within the segment the Board prohibits construction or expansion of dams or impoundments; construction of hydropower projects; and mineral or sand and gravel extraction. Within the stream channel, alterations would be prohibited except those necessary (1) to maintain and improve existing utilities, roadways, diversion works, fishery enhancement structures, and stream access facilities; (2) for

the maintenance of private property; (3) for new diversion works; and (4) for construction of new public access facilities and fishery enhancement structures. Construction of private river access facilities (i.e., boat docks) may be allowed with Idaho Water Resource Board and other regulatory agencies' approval. New diversion works are limited to pump installations which do not create an obstruction in the river; are to supply water for domestic, commercial, or municipal uses; are visually blended with the surroundings so as to be less noticeable from the river; and are constructed to minimize harm to fish and wildlife.

5. Snake River from River Mile 614.4 (approximately 800 feet downstream from the Shoshone Falls powerhouse) to the Highway 30 Bridge "Recreational" (32 miles). The licensed Auger Falls Hydroelectric Project, FERC #4797, is exempt from the prohibitions of this designation. A permit to appropriate water for the Boulder Rapids Hydroelectric Project, FERC #10772, was approved in May, 1984, with extensions for proof of beneficial use authorized in 1989 and 1993. A public hearing, held in response to a request for exemption from interim protection designation prohibitions, identified significant public concern that the Boulder Rapids development would preclude or jeopardize existing beneficial uses. However, Idaho Code 42-1734F(1) states that prohibitions promulgated pursuant to State designation of protected rivers shall not limit, restrict, or conflict with approved applications for the appropriation of water.

Within the segment the Board prohibits construction or expansion of dams or impoundments; construction of hydropower projects; and mineral or sand and gravel extraction. Within the stream channel, alterations would be prohibited except those necessary (1) to maintain and improve existing utilities, roadways, diversion works, fishery enhancement structures, and stream access facilities; (2) for the maintenance of private property; (3) for new diversion works; and (4) for construction of new public access facilities and fishery enhancement structures. Construction of private river access facilities (i.e., boat docks) may be allowed with Idaho Water Resource Board and other regulatory agencies' approval. New diversion works are limited to pump installations that do not create an obstruction in the river; are to supply water for domestic, commercial, or municipal uses; are visually blended with the surroundings so as to be less noticeable from the river; and are constructed to minimize harm to fish and wildlife.

6. Snake River from the downstream project boundary of the Lower Salmon Falls Hydroelectric Project [River Mile 573] to the upstream project boundary of the Bliss Hydroelectric Project [River Mile 565.5] "Recreational" (8 miles). Within the segment the Board prohibits construction or expansion of dams or impoundments; construction of hydropower projects; and mineral or sand and gravel extraction. Within the stream channel, alterations would be prohibited except those necessary (1) to maintain and improve existing utilities, roadways, diversion works, fishery enhancement structures, and stream access facilities; (2) for the maintenance of private property; (3) for new diversion works; and (4) for construction of new public access facilities and fishery enhancement structures. Construction of private river access facilities (i.e., boat docks) may be allowed with Idaho Water

Resource Board and other regulatory agencies' approval. New diversion works are limited to pump installations that do not create an obstruction in the river; are to supply water for domestic, commercial, or municipal uses; are visually blended with the surroundings so as to be less noticeable from the river; and are constructed to minimize harm to fish and wildlife.

7. Snake River from the downstream project boundary of the Bliss Hydroelectric Project [River Mile 560] to the confluence of Clover Creek "Recreational" (12 miles). Within the segment the Board prohibits construction or expansion of dams or impoundments; construction of hydropower projects; and mineral or sand and gravel extraction. Within the stream channel, alterations would be prohibited except those necessary (1) to maintain and improve existing utilities, roadways, diversion works, fishery enhancement structures, and stream access facilities; (2) for the maintenance of private property; (3) for new diversion works; and (4) for construction of new public access facilities and fishery enhancement structures. Construction of private river access facilities (i.e., boat docks) may be allowed with Idaho Water Resource Board and other regulatory agencies' approval. New diversion works are limited to pump installations that do not create an obstruction in the river; are to supply water for domestic, commercial, or municipal uses; are visually blended with the surroundings so as to be less noticeable from the river; and are constructed to minimize harm to fish and wildlife.

Approved March 18, 1994.

CHAPTER 109
(H.B. No. 469)

AN ACT

RELATING TO STRATEGIC PLANNING; AMENDING SECTION 67-3507, IDAHO CODE, TO CORRECT A REFERENCE.

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

SECTION 1. That Section 67-3507, Idaho Code, be, and the same is hereby amended to read as follows:

67-3507. EXECUTIVE BUDGET. The executive budget document shall consist of the following three (3) parts:

(1) Part I of the executive budget document shall consist of a budget message by the governor which shall outline the financial plan of the executive department of the state government for the next fiscal year, describing in connection therewith the important features of the financial plan.

(2) Part II of the budget document shall present in detail for the next fiscal year, as minimum information to be included in Part II, items showing: estimates of agency needs based on the governor's recommendations, to meet the expenditure needs of the state from all statutory funds classified by agencies and showing the cost of each

major program. Part II shall also set forth the governor's recommendations for the capital program. All funds, including federal and local funds and interaccount receipts received for any purpose, shall be accounted for in the budget.

(3) Part III of the budget document shall consist of the annual performance plans required in section 637-1903, Idaho Code.

Approved March 21, 1994.

CHAPTER 110
(H.B. No. 512)

AN ACT

RELATING TO THE DEPARTMENT OF ADMINISTRATION; AMENDING SECTION 67-5726, IDAHO CODE, TO PROVIDE THAT NO VENDOR MAY SUBMIT A BID TO PROVIDE PROPERTY TO THE STATE IF THE VENDOR WAS PAID FOR HIS INVOLVEMENT IN PRE-BID ACTIVITIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-5726, Idaho Code, be, and the same is hereby amended to read as follows:

67-5726. PROHIBITIONS. (1) No contract or order or any interest therein shall be transferred by the contractor or vendor to whom such contract or order is given to any other party, without the approval in writing of the administrator. Transfer of a contract without approval shall cause the annulment of the contract so transferred, at the option of the state. All rights of action, however, for any breach of such contract by the contracting parties are reserved to the state. No member of the legislature or any officer or employee of any branch of the state government shall directly, himself, or by any other person in trust for him or for his use or benefit or on his account, undertake, execute, hold or enjoy, in whole or in part, any contract or agreement made or entered into by or on behalf of the state of Idaho, if made by, through, or on behalf of the department in which he is an officer or employee; or if made by, through or on behalf of any other department unless the same are made after competitive bids.

(2) Except as provided by section 67-5718, Idaho Code, no officer or employee shall influence or attempt to influence the award of a contract to a particular registered vendor, or to deprive or attempt to deprive any registered vendor of an acquisition contract.

(3) No officer or employee shall conspire with a vendor or its agent, and no vendor or its agent shall conspire with an officer or employee, to influence or attempt to influence the award of a contract, or to deprive or attempt to deprive a registered vendor of an acquisition award.

(4) No officer or employee shall fail to utilize an open contract without justifiable cause for such action. No officer or employee shall accept property which he knows does not meet specifications or substantially meet the original performance test results.

(5) Deprivation, influence or attempts thereat shall not include written reports, based upon substantial evidence, sent to the administrator of the division of purchasing concerning matters relating to the responsibility of registered vendors.

(6) No vendor or related party, or subsidiary, or affiliate of a vendor may submit a bid to obtain a contract to provide goods property to the state, if the vendor or related party, or affiliate or subsidiary was paid for services utilized in preparing the bid specifications or if the services influenced the procurement process.

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

Approved March 21, 1994.

CHAPTER 111
(H.B. No. 580)

AN ACT

RELATING TO THE SALES TAX ACT; AMENDING SECTION 63-3613, IDAHO CODE, TO DELETE FROM THE DEFINITION OF SALES PRICE OF OUTFITTING SERVICES THE REQUIREMENT THAT EXCLUDED GOVERNMENTAL FEES MUST BE FOR THE PURPOSE OF MANAGING THE LAND AND WATER, AND TO ALLOW REFUNDS OF OVER PAID SALES TAXES RESULTING FROM BAD DEBTS TO BE CLAIMED MONTHLY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3620, IDAHO CODE, RELATING TO SELLERS PERMITS, TO DELETE THE REQUIREMENT THAT A SEPARATE PHYSICAL PERMIT BE ISSUED FOR EACH PLACE OF BUSINESS; AMENDING SECTION 63-3621, IDAHO CODE, RELATING TO CREDIT FOR TAXES PAID TO OTHER STATES, TO RELATE THE CREDIT TO THE TAX ACTUALLY PAID RATHER THAN TO THE RATE OF TAX; AMENDING SECTION 63-3624, IDAHO CODE, RELATING TO ASSESSMENT OF SALES TAXES AGAINST PERSONS MAKING IMPROPER EXEMPTION CLAIMS, TO CLARIFY THAT SALES TAX MAY BE COLLECTED FOR BOTH TAXABLE SALES AND TAXABLE SERVICES IMPROPERLY CLAIMED EXEMPT; AND AMENDING SECTION 63-3638, IDAHO CODE, RELATING TO DISTRIBUTION OF SALES TAX REVENUES, TO ALLOW THE IDAHO TRANSPORTATION DEPARTMENT TO RETAIN ONE DOLLAR OF SALES TAX REVENUE COLLECTED BY THE DEPARTMENT IN REGARD TO MOTOR VEHICLES FOR EACH SUCH TRANSACTION PROCESSED BY THE DEPARTMENT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-3613, Idaho Code, be, and the same is hereby amended to read as follows:

63-3613. SALES PRICE. (a) The term "sales price" means the total amount for which tangible personal property, including services agreed to be rendered as a part of the sale, is sold, rented or leased, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

1. The cost of the property sold. However, in accordance with such rules and regulations as the state tax commission may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale or rental, has reimbursed his vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold or rented the property prior to making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.
2. The cost of materials used, labor or service cost, losses, or any other expense.
3. The cost of transportation of the property prior to its sale.
4. The face value of manufacturer's discount coupons. A manufacturer's discount coupon is a price reduction coupon presented by a consumer to a retailer upon purchase of a manufacturer's product, the face value of which may only be reimbursed by the manufacturer to the retailer.
 - (b) The term "sales price" does not include any of the following:
 1. Retailer discounts allowed and taken on sales, but only to the extent that such retailer discounts represent price adjustments as opposed to cash discounts offered only as an inducement for prompt payment.
 2. Any sums allowed on merchandise accepted in payment of other merchandise, provided that this allowance shall not apply to the sale of a "new manufactured home" or a "modular building" as defined herein.
 3. The amount charged for property returned by customers when the amount charged therefor is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.
 4. The amount charged for labor or services rendered in installing or applying the property sold, provided that said amount is stated separately and such separate statement is not used as a means of avoiding imposition of this tax upon the actual sales price of the tangible personal property; except that charges by a manufactured homes dealer for set up of a manufactured home shall be included in the "sales price" of such manufactured home.
 5. The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.
 6. The amount charged for finance charges, carrying charges, service charges, time-price differential, or interest on deferred payment sales, provided such charges are not used as a means of avoiding imposition of this tax upon the actual sales price of the tangible personal property.
 7. Charges for transportation of tangible personal property after sale; except that charges by a manufactured homes dealer for transportation of a manufactured home shall be included in the

"sales price" of such manufactured home.

8. Manufacturers' rebates when used at the time of a retail sale as a down payment on or reduction to the retail sales price of a motor vehicle to which the rebate applies. A manufacturer's rebate is a cash payment made by a manufacturer to a consumer who has purchased or is purchasing the manufacturer's product from the retailer.

89. The amount of any fee imposed upon an outfitter as defined in section 36-2102, Idaho Code, by a governmental entity pursuant to statute for the purpose of conducting outfitting activities on land or water subject to the jurisdiction of the governmental entity, ~~which fee is used for the purpose of managing the land or water upon which the outfitting activity occurs~~, provided that the fee is stated separately and is presented as a use fee paid by the outfitted public to be passed through to the governmental entity.

(c) The sales price of a "new manufactured home" or a "modular building" as defined in this act shall be limited to and include only fifty-five per cent (55%) of the sales price as otherwise defined herein.

(d) For sales made on and after January 1, 1967, taxes previously paid on amounts represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax herein provided in this chapter or, if no such tax is due, refunded; ~~provided, however, that such credit or refund may be claimed only upon that sales tax returned for the month following the filing date of the taxpayer's state income tax return in which a deduction is claimed for such worthless accounts~~. If such accounts are thereafter collected, a tax shall be paid upon the amount so collected.

(e) Tangible personal property when sold at retail for more than eleven cents (\$.11) but less than one dollar and one cent (\$.01) through a vending machine shall be deemed to have sold at a sales price equal to one hundred seventeen per cent (117%) of the price which is paid for such tangible personal property and/or its component parts including packaging by the owner or operator of the vending machines.

SECTION 2. That Section 63-3620, Idaho Code, be, and the same is hereby amended to read as follows:

63-3620. PERMITS -- ISSUANCE -- REVOCATION -- RESALE CERTIFICATES -- PENALTIES. (a) Every person desiring to engage in or conduct business as a seller within this state shall file with the state tax commission an application for a permit ~~for each place of business~~. Every application for a permit shall be made upon a form prescribed by the state tax commission and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the state tax commission may require. The applications, or any information contained thereon, may be made available by the tax commission to authorized representatives of state or federal agencies. The application shall be signed by the owner if he is a natural person; in the case of an association or partnership by a member or partner; in the

case of a corporation, by an executive officer or other person authorized by the corporation to sign the application. Initial permits shall be issued without charge.

(b) The person signing the application shall certify that the applicant will actively engage in or conduct a business making sales subject to tax under this chapter.

(c) After compliance by the applicant with the requirements set out above and in section 63-3625, Idaho Code, the state tax commission shall grant and issue to each applicant a ~~separate permit for each place of business within the state~~. A permit shall not be assignable, and shall be valid only for the person in whose name it is issued ~~and for the transaction of business at the place designated therein~~. The permit or a copy thereof shall at all times be conspicuously displayed at the each place for which issued where the person to whom it is issued conducts business.

(d) A seller whose permit has been previously suspended or revoked shall pay the state tax commission a fee of ten dollars (\$10.00) for the renewal or issuance of a permit in the event of a first revocation and twenty-five dollars (\$25.00) for renewal after each successive revocation unless the suspension or revocation is for inactivity pursuant to section 63-3620A, Idaho Code.

(e) Whenever any person fails to comply with any provision of this act relating to the sales tax or any rules or regulations of the state tax commission relating to the sales tax prescribed and adopted under this act, the state tax commission, upon hearing, after giving the person ten (10) days notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person. The state tax commission shall give to the person written notice of the suspension or revocation of any of his permits. The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The state tax commission shall not issue a new permit after the revocation of a permit unless the commission is satisfied that the former holder of the permit will comply with the provisions of this act relating to the sales tax and the regulations of the state tax commission.

(f) A person who engages in business as a seller in this state without a permit or permits, or after a permit has been suspended, and each officer of any corporation which so engages in business is guilty of a misdemeanor punishable by a fine not in excess of one hundred dollars (\$100), and each day shall constitute a separate offense.

(g) (i) For the purpose of the proper administration of this act and to prevent evasion of the sales tax, it shall be presumed that all sales are subject to the tax. The burden of proving that a sale is not a sale at retail is upon the person who makes the sale unless he obtains from the purchaser a resale certificate, or has a resale certificate on file from the purchaser, to the effect that the property is purchased for resale. It shall be presumed that sales made to a person who has completed a resale certificate for the seller's records are not taxable and the seller need not collect sales or use taxes unless the tangible personal property or services purchased are taxable to the purchaser as a matter of

law in the particular instance claimed on the resale certificate. (ii) A seller may accept a resale certificate from a purchaser prior to the time of sale, at the time of the sale, or at any reasonable time after the sale when necessary to establish the privilege of the exemption. The resale certificate relieves the seller from the burden of proof only if taken from a person who is engaged in the business of selling or renting tangible personal property and who holds a permit provided for in this section, or who is a retailer not engaged in business in this state, 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. Other than as provided elsewhere in this section, when a resale certificate, properly executed, is presented to the seller, the seller has no duty or obligation to collect sales or use taxes in regard to any sales transaction so documented regardless of whether the purchaser properly or improperly claimed an exemption. A seller so relieved of the obligation to collect tax is also relieved of any liability to the purchaser for failure to collect tax or for making any report or disclosure of information required or permitted under this chapter.

(iii) The resale certificate shall be signed by and bear the name and address of the purchaser or his agent, shall indicate the number of the permit issued to the purchaser or that the purchaser is an out-of-state retailer, and shall indicate the general character of the tangible personal property sold or rented by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

(h) If a purchaser who gives a resale certificate makes any use of the property other than retention, demonstration or display while holding it for sale or rent in the regular course of business, the use shall be taxable to the purchaser as of the time the property is first used by him, and the sales price of the property to him shall be deemed the measure of the tax.

(i) Any person who gives a resale certificate for property which he knows at the time of purchase is not to be resold or rented by him in the regular course of business for the purpose of evading payment to the seller of the amount of the tax applicable to the transaction is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment for a period not in excess of one (1) year, or by both such fine and imprisonment.

(j) If a purchaser gives a resale certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but with such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

SECTION 3. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as follows:

63-3621. IMPOSITION AND RATE OF THE USE TAX -- EXEMPTIONS. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after July 1, 1965, for storage, use, or other consumption in this state at the rate of five per cent (5%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property.

(a) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(b) Every retailer engaged in business in this state, and making sales of tangible personal property for the storage, use, or other consumption in this state, not exempted under section 63-3622, Idaho Code, shall, at the time of making the sales or, if storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax commission.

(c) The provisions of this section shall not apply when the retailer pays sales tax on the transaction and collects reimbursement for such sales tax from the customer.

(d) Every retailer engaged in business in this state or maintaining a place of business in this state shall register with the state tax commission and give the name and address of all agents operating in this state, the location of all distributions or sales houses or offices or other places of business in this state, and such other information as the state tax commission may require.

(e) For the purpose of the proper administration of this act and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use, or other consumption in this state. The burden of proving the sale is tax exempt is upon the person who makes the sale unless he obtains from the purchaser a resale certificate to the effect that the property is purchased for resale or rental. It shall be presumed that sales made to a person who has completed a resale certificate for the seller's records are not taxable and the seller need not collect sales or use taxes unless the tangible personal property purchased is taxable to the purchaser as a matter of law in the particular instance claimed on the resale certificate.

A seller may accept a resale certificate from a purchaser prior to the time of sale, at the time of sale, or at any reasonable time after the sale when necessary to establish the privilege of the exemption. The resale certificate relieves the person selling the property from the burden of proof only if taken from a person who is engaged in the business of selling or renting tangible personal property and who holds the permit provided for by section 63-3620, Idaho Code, or who is a retailer not engaged in business in this state, 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. Other than as provided elsewhere in this section, when a resale certificate, properly executed, is presented to the seller, the seller has no duty or obligation to collect sales or use taxes in regard to any sales transaction so documented regardless of whether the purchaser properly or improperly claimed an exemption. A seller so relieved of the obligation to collect tax is also relieved of any liability to the purchaser for failure to collect tax or for making any report or disclosure of information required or permitted under this chapter.

The resale certificate shall bear the name and address of the purchaser, shall be signed by the purchaser or his agent, shall indicate the number of the permit issued to the purchaser, or that the purchaser is an out-of-state retailer, and shall indicate the general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

(f) If a purchaser who gives a resale 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.

(g) If a purchaser gives a resale certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

(h) Any person violating any provision of this section is guilty of a misdemeanor and punishable by a fine not in excess of one hundred dollars (\$100), and each violation shall constitute a separate offense.

(i) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a retailer, for storage, use or other consumption in this state.

(j) It shall be presumed that tangible personal property delivered outside this state to a purchaser known by the retailer to be a resident of this state was purchased from a retailer for storage, use, or other consumption in this state. This presumption may be controverted by evidence satisfactory to the state tax commission that the property was not purchased for storage, use, or other consumption in this state.

(k) When the tangible personal property subject to use tax has been subjected to a general retail sales or use tax by another state of the United States ~~at a rate~~ in an amount equal to or greater than the rate amount of the Idaho tax, and evidence can be given of such payment, the property will not be subject to Idaho use tax. If the rate amount paid the other state was less, the property will be subject to use tax to the extent that the Idaho rate tax exceeds the rate

of tax paid to the other state. For the purposes of this subsection, a registration certificate or title issued by another state or subdivision thereof for a vehicle or trailer or a vessel as defined in section 67-7003, Idaho Code, shall be sufficient evidence of payment of a general retail sales or use tax.

(1) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than a cumulative period of time totaling ninety (90) days in any consecutive twelve (12) months, and which is not required to be registered or licensed under the laws of this state, or to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired by such person in another state while a bona fide resident thereof and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial.

(m) The use tax herein imposed shall not apply to the storage, use or other consumption of tangible personal property which is or will be incorporated into real property and which has been donated to and has become the property of:

- (1) A nonprofit organization as defined in section 63-36220, Idaho Code; or
- (2) The state of Idaho; or
- (3) Any political subdivision of the state.

This exemption applies whether the tangible personal property is incorporated in real property by the donee, a contractor or subcontractor of the donee, or any other person.

SECTION 4. That Section 63-3624, Idaho Code, be, and the same is hereby amended to read as follows:

63-3624. ADMINISTRATION. (a) The state tax commission shall enforce the provisions of this act and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this act. The state tax commission may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

(b) The state tax commission shall employ qualified auditors for examination of taxpayers' records and books. The state tax commission shall also employ such accountants, investigators, regional supervisors, assistants, clerks, and other personnel as are necessary for the efficient administration of this act, and may delegate authority to its representatives to conduct hearings, or perform any other duties imposed by this act.

(c) Every seller, every retailer, and every person storing, using, or otherwise consuming in this state tangible personal property purchased from a retailer shall keep such records, receipts, invoices and other pertinent papers as the state tax commission may require. Every such seller, retailer or person who files the returns required under this act shall keep such records for not less than four (4)

years from the making of such records unless the state tax commission in writing sooner authorizes their destruction.

(d) Retail food stores may petition to the state tax commission to be relieved from the responsibility of retaining detailed invoices of nontaxed sales for which the documentation required in sections 63-3620, 63-3621, or 63-3622, Idaho Code, and any other documentation which may be required by the tax commission, has been obtained by the store from the purchaser. The tax commission shall review each petition and may examine the books and records of the petitioner to insure that the products sold by the petitioner are those sold by a retail food store. The tax commission shall give written notice of its determination to the petitioner as soon as practicable after receiving the written request, but in no event later than sixty (60) days after receiving the petition. As used in this section, "retail food stores" shall mean those retail stores primarily engaged in selling food for home preparation and consumption described in major group 54 of the standard industrial classification manual (SIC) of 1987, as amended, published by the office of management and budget of the executive office of the president of the United States.

(e) The state tax commission, or any person authorized in writing by it, may examine the books, papers, records, and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

(f) Purchasers claiming exemption from tax and retailers whose pertinent records are kept outside of the state must bring the records to Idaho for examination by the state tax commission upon request of the latter, or, by agreement with the state tax commission, permit an auditor designated by the state tax commission to visit the place where the records are kept, and there audit such records.

(g) In the administration of the use tax, the state tax commission 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 state tax commission requires and shall set forth the names and addresses of purchasers of tangible personal property, the sale price of the property, the date of sale, and such other information as the state tax commission may require.

(h) When the tax commission determines that a retail sale claimed exempt under any of the provisions of this chapter is not exempt and the purchaser has failed to voluntarily report and pay use tax in regard to the property or services purchased on a use tax return, the tax commission may collect the sales tax which was due at the time of the sale or the use tax due at the time of storage, use or other consumption of the taxable goods or services by issuing to the purchaser a notice of deficiency determination, asserting tax together with interest, at the rate provided in section 63-3045, Idaho Code, and may assert penalties found elsewhere in this chapter.

(i) If the tax commission determines that the purchaser has repeatedly or intentionally made purchases claimed to be exempt that

are not exempt, and the purchaser has failed to voluntarily report and pay use tax in regard to those purchases, or the commission determines that the purchaser has repeatedly or intentionally made purchases claimed to be exempt that are not exempt and has removed the goods from this state, the commission may assert a penalty equal to five percent (5%) of the sales price of the property or two hundred dollars (\$200), whichever is greater. The tax commission may abate the penalty when the purchaser establishes during a proceeding for redetermination that there was reasonable grounds for believing that the purchase was properly exempt from tax.

SECTION 5. That Section 63-3638, Idaho Code, be, and the same is hereby amended to read as follows:

63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this chapter shall be distributed by the tax commission as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(b) Five hundred thousand dollars (\$500,000) per year is continuously appropriated and shall be distributed to the permanent building account, provided by section 57-1108, Idaho Code.

(c) Four million eight hundred thousand dollars (\$4,800,000) per year is continuously appropriated and shall be distributed to the water pollution control account established by section 39-3605, Idaho Code.

(d) (1) An amount equal to the sum required to be certified by the chairman of the Idaho housing agency to the state tax commission pursuant to section 67-6211, Idaho Code, in each year is continuously appropriated and shall be paid to any capital reserve fund, established by the Idaho housing agency pursuant to section 67-6211, Idaho Code. Such amounts, if any, as may be appropriated hereunder to the capital reserve fund of the Idaho housing agency shall be repaid for distribution under the provisions of this section, subject to the provisions of section 67-6215, Idaho Code, by the Idaho housing agency, as soon as possible, from any moneys available therefor and in excess of the amounts which the agency determines will keep it self-supporting.

(2) An amount equal to the sum required by the provisions of section 63-124, Idaho Code, is continuously appropriated and shall be paid as provided by section 63-124, Idaho Code.

(e) Six percent per cent (~~6.8%~~) is hereby appropriated and shall be paid to the county treasurer of each county in amounts to be determined as follows:

(1) Each taxing district other than school districts shall be entitled to a base share of sales tax moneys equal to the amount distributed to that district for the fourth calendar quarter of 1979. The computation shall not include any distributions made to the credit of either the former county school levy or the state water pollution control levy. The percentage so determined for each taxing district shall be applied each quarter to the above percentage of sales tax. The resulting sums shall be paid to the

county treasurer of each county for distribution to each taxing district, except school districts, which received sales tax moneys in 1979. Whenever a taxing district is dissolved, the dissolved district's share of sales moneys shall be credited continuously to the county current expense fund.

(2) Whenever the amount of nonschool district sales tax moneys distributed exceeds in any quarter the total amount of moneys distributed to nonschool districts for the base quarter, which is the fourth calendar quarter of 1979, by ten percent per cent (10%), or more, the excess of the base quarter shall be paid to the county treasurer of each county for distribution to each taxing district in the county, except school districts, in the following manner.

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 63-105Y, Idaho Code, 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 63-105Y, Idaho Code, for all counties in the state. The percentage so determined for each county shall be applied to the sales tax distributed under this subsection and the resulting sum shall be paid to the county treasurer of each county for distribution to each taxing district, except school districts, in the county as follows:

(i) The county commissioners in each county shall take the tax charge, applicable to the first real and personal property rolls equalized by county commissioners sitting as a board of equalization, of each taxing district within the county, except school districts, and divide it by the total current tax charges applicable to those first real and personal property rolls of all taxing districts, except school districts, within said county and the resulting percentages shall be applied to the county's proportionate share of said sales tax account and the resulting amount shall be distributed to each taxing district in the county periodically but not less frequently than quarterly by the county auditor and applied by such taxing districts in the same manner and in the same proportions as revenues from ad valorem taxation.

(ii) The moneys set aside and appropriated to the county treasurer out of the sales tax account 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 moneys replace.

(3) All moneys distributed pursuant to subsection (e) shall be subject to the redistribution provisions of section 40-801, Idaho Code, where applicable.

(f) One dollar (\$1.00) on each application for certificate of title to a motor vehicle, or initial application for registration processed by the county assessor or the Idaho transportation department excepting those applications in which any sales or use taxes due have been previously collected by a retailer, shall be a fee for the services of the assessor of the county or the Idaho transportation

department in collecting such taxes, and shall be paid into the current expense fund of the county or state highway account established in section 40-702, Idaho Code.

(g) Seven and three-quarters per cent (7.75%) is continuously appropriated and shall be distributed to the revenue sharing account which is created in the state operating fund, and the moneys in the revenue sharing account will be paid by the tax commission as follows:

(1) One-half (1/2) shall be paid to the various cities as follows:

(i) Fifty per cent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the population of that city bears to the population of all cities within the state; and

(ii) Fifty per cent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the preceding year's market value for assessment purposes for that city bears to the preceding year's market value for assessment purposes for all cities within the state.

(2) One-half (1/2) shall be paid to the state's general account or to the various counties as follows:

(i) One million three hundred twenty thousand dollars (\$1,320,000) shall be distributed one forty-fourth (1/44) to each of the various counties; and

(ii) The balance of such amount shall be paid to the various counties, and each county shall be entitled to an amount in the proportion that the population of that county bears to the population of the state.

(h) Any moneys remaining over and above those necessary to meet and reserve for payments under other subsections of this section shall be distributed to the general account.

Approved March 21, 1994.

CHAPTER 112

(H.B. No. 611, As Amended)

AN ACT

RELATING TO THE WORKER'S COMPENSATION SYSTEM; AMENDING SECTION 72-102, IDAHO CODE, TO FURTHER DEFINE THE TERM OCCUPATIONAL DISEASES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING CHAPTER 4, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-451, IDAHO CODE, TO PROVIDE CONDITIONS WHEN WORKER'S COMPENSATION BENEFITS FOR PSYCHOLOGICAL INJURIES SHALL BE COMPENSATED AND TO PROVIDE FOR CAUSES OF ACTION FOR BENEFITS.

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

SECTION 1. That Section 72-102, Idaho Code, be, and the same is hereby amended to read as follows:

72-102. DEFINITIONS. Words and terms used in the workmen's compensation law, unless the context otherwise requires, are defined in the subsections which follow:

(1) "Alien" means a person who is not a citizen, a national or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(2) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this law.

(3) "Burial expenses" mean a sum, not to exceed six thousand dollars (\$6,000) for funeral and burial or cremation, together with the actual expenses of transportation of the employee's body to his place of residence within the United States or Canada.

(4) "Commission" means the industrial commission.

(5) "Community service worker" means any person who has been convicted of a criminal offense, any juvenile who has been found to be within the purview of chapter 18, title 16, Idaho Code, and who has been informally diverted under the provisions of section 16-1807A, Idaho Code, or any person or youth who has been diverted from the criminal or juvenile justice system and who performs a public service for any department, institution, office, college, university, authority, division, board, bureau, commission, council, or other entity of the state, or any city, county, school district, irrigation district or other taxing district authorized to levy a tax or an assessment or any other political subdivision.

(6) "Compensation" used collectively means any or all of the income benefits and the medical and related benefits and medical services.

(7) "Death" means death resulting from an injury or occupational disease.

(8) Dependency limitations.

(a) "Adopted" and "adoption" include cases where persons are treated as adopted as well as those of legal adoption unless legal adoption is specifically provided.

(b) "Brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption.

(c) "Child" includes adopted children, posthumous children, and acknowledged illegitimate children, but does not include stepchildren unless actually dependent.

(d) "Grandchild" includes children of legally adopted children and children of stepchildren, but does not include stepchildren of children, stepchildren of stepchildren, or stepchildren of adopted children unless actually dependent.

(e) "Parent" includes stepparents and parents by adoption.

(f) "Grandparent" includes parents of parents by adoption, but does not include parents of stepparents, stepparents of parents, or stepparents of stepparents.

(9) "Disability," for purposes of determining total or partial temporary disability income benefits, means a decrease in wage-earning capacity due to injury or occupational disease, as such capacity is affected by the medical factor of physical impairment, and by perti-

nent nonmedical factors as provided in section 72-430, Idaho Code.

(10) "Employee" is synonymous with "workman" and means any person who has entered into the employment of, or who works under contract of service or apprenticeship with, an employer. It does not include any person engaged in any of the excepted employments enumerated in section 72-212, Idaho Code, unless an election as provided in section 72-213, Idaho Code, has been filed. Any reference to an employee who has been injured shall, where the employee is dead, include a reference to his dependents as herein defined, if the context so requires, or, where the employee is a minor or incompetent, to his committee or guardian or next friend.

(11) "Employer" means any person who has expressly or impliedly hired or contracted the services of another. It includes contractors and subcontractors. It includes the owner or lessee of premises, or other person who is virtually the proprietor or operator of the business there carried on, but who, by reason of there being an independent contractor or for any other reason, is not the direct employer of the workmen there employed. If the employer is secured, it means his surety so far as applicable.

(12) "Gender and number." The masculine gender includes the feminine and neuter; "husband" or "wife" includes "spouse"; the singular number includes plural and the plural the singular.

(13) "Income benefits" mean payments provided for or made under the provisions of this law to the injured employee disabled by an injury or occupational disease, or his dependents in case of death, excluding medical and related benefits.

(14) "Independent contractor" means any person who renders service for a specified recompense for a specified result, under the right to control or actual control of his principal as to the result of his work only and not as to the means by which such result is accomplished.

(15) "Injury" and "accident."

(a) "Injury" means a personal injury caused by an accident arising out of and in the course of any employment covered by the workmen's compensation law.

(b) "Accident" means an unexpected, undesigned, and unlooked for mishap, or untoward event, connected with the industry in which it occurs, and which can be reasonably located as to time when and place where it occurred, causing an injury.

(c) "Injury" and "personal injury" shall be construed to include only an injury caused by an accident, which results in violence to the physical structure of the body. The terms shall in no case be construed to include an occupational disease and only such nonoccupational diseases as result directly from an injury.

(16) "Medical and related benefits" mean payments provided for or made for medical, hospital, burial and other services as provided in this law other than income benefits.

(17) "Medical services" mean medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicines, apparatus, appliances, prostheses, and related services, facilities and supplies.

(18) "Occupational diseases."

(a) "Occupational disease" means a disease due to the nature of

an employment in which the hazards of such disease actually exist, are characteristic of, and peculiar to the trade, occupation, process, or employment, but shall not include psychological injuries, disorders or conditions unless the conditions set forth in section 72-451, Idaho Code, are met.

(b) "Contracted" and "incurred," when referring to an occupational disease, shall be deemed the equivalent of the term "arising out of and in the course of" employment.

(c) "Disablement," except in the case of silicosis, means the event of an employee's becoming actually and totally incapacitated because of an occupational disease from performing his work in the last occupation in which injuriously exposed to the hazards of such disease, and "disability" means the state of being so incapacitated.

(d) "Disablement," in the case of silicosis, means the event of first becoming actually incapacitated, because of such disease, from performing any work in any remunerative employment; and "disability" means the state of being so incapacitated.

(e) "Silicosis" means the characteristic fibrotic condition of the lungs caused by the inhalation of silicon dioxide (SiO_2) dust.

(19) "Outworker" means a person to whom articles or materials are furnished to be treated in any way on premises not under the control or management of the person who furnished them.

(20) "Person" means the state or any political subdivision thereof, or any individual, partnership, firm, association, trust, corporation, including the state insurance fund, or any representative thereof.

(21) "Physician" means medical physicians and surgeons, ophthalmologists, otorhinolaryngologists, dentists, osteopaths, osteopathic physicians and surgeons, optometrists, podiatrists, chiropractic physicians, and members of any other healing profession licensed or authorized by the statutes of this state to practice such profession within the scope of their practice as defined by the statutes of this state and as authorized by their licenses.

(22) "Secretary" means the secretary of the commission.

(23) "Self-insurer" means an employer who has been authorized under the provisions of this law to carry his own liability to his employees covered by this law.

(24) "State" includes any state, district, commonwealth, zone or territory of the United States or any province of Canada.

(25) "Surety" means any insurer authorized to insure or guarantee payment of workmen's compensation liability of employers in any state; it also includes the state insurance fund, a self-insurer and an inter-insurance exchange.

(26) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone and the territories of the United States.

(27) "Wages" and "wage earning capacity" prior to the injury or disablement from occupational disease means the employee's money payments for services as calculated under section 72-419, Idaho Code, and shall additionally include the reasonable market value of board, rent, housing, lodging, fuel, and other advantages which can be estimated in money which the employee receives from the employer as part of his

remuneration, and gratuities received in the course of employment from others than the employer. "Wages" shall not include sums which the employer has paid to the employee to cover any special expenses entailed on him by the nature of his employment.

(28) "Wages" and "wage earning capacity" after the injury or disablement from occupational disease shall be presumed to be the actual earnings after the injury or disablement, which presumption may be overcome by showing that those earnings do not fairly and reasonably represent wage earning capacity; in such a case wage earning capacity shall be determined in the light of all factors and circumstances which may affect the worker's capacity to earn wages.

(29) "Work experience student" means any person enrolled in the public school districts of this state and who, as part of his instruction, is enrolled in a class or program for academic credit and for which the student is employed by, or works for, a private or governmental entity. The student need not receive wages from the private or governmental entity in order to be classified as a work experience student.

(30) "Workmen's compensation law" means and includes the workmen's compensation law of this state and any like or similar law of any state, United States, territory, or province of Canada.

SECTION 2. That Chapter 4, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 72-451, Idaho Code, and to read as follows:

72-451. PSYCHOLOGICAL ACCIDENTS AND INJURIES. Psychological injuries, disorders or conditions shall not be compensated under this title, unless the following conditions are met:

(1) Such injuries of any kind or nature emanating from the workplace shall be compensated only if caused by accident and physical injury as defined in section 72-102(15)(a) through (15)(c), Idaho Code, or only if accompanying an occupational disease with resultant physical injury, except that a psychological mishap or event may constitute an accident where: (i) it results in resultant physical injury so long as the psychological mishap or event meets the other criteria of this section, and (ii) it is readily recognized and identifiable as having occurred in the workplace, and (iii) it must be the product of a sudden and extraordinary event; and

(2) No compensation shall be paid for such injuries arising from conditions generally inherent in every working situation or from a personnel related action including, but not limited to, disciplinary action, changes in duty, job evaluation or employment termination; and

(3) Such accident and injury must be the predominant cause as compared to all other causes combined of any consequence for which benefits are claimed under this section; and

(4) Where psychological causes or injuries are recognized by this section, such causes or injuries must exist in a real and objective sense; and

(5) Any permanent impairment or permanent disability for psychological injury recognizable under the Idaho worker's compensation law must be based on a condition sufficient to constitute a diagnosis

using the terminology and criteria of the American psychiatric association's diagnostic and statistics manual of mental disorders, third edition revised, or any successor manual promulgated by the American psychiatric association, and must be made by a psychologist, or psychiatrist duly licensed to practice in the jurisdiction in which treatment is rendered; and

(6) Clear and convincing evidence that the psychological injuries arose out of and in the course of the employment from an accident or occupational disease as contemplated in this section is required.

Nothing herein shall be construed as allowing compensation for psychological injuries from psychological causes without accompanying physical injury.

This section shall apply to accidents and injuries occurring on or after July 1, 1994, and to causes of action for benefits accruing on or after July 1, 1994, notwithstanding that the original worker's compensation claim may have occurred prior to July 1, 1994.

Approved March 21, 1994.

CHAPTER 113
(H.B. No. 625)

AN ACT

RELATING TO THE FISH AND GAME ADVISORY COMMITTEE; AMENDING SECTION 36-122, IDAHO CODE, TO REVISE THE TERM OF OFFICE FOR MEMBERS AND TO PROVIDE A MAXIMUM NUMBER OF YEARS OR TERMS THAT A MEMBER MAY SERVE.

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

SECTION 1. That Section 36-122, Idaho Code, be, and the same is hereby amended to read as follows:

36-122. ADVISORY COMMITTEE. (a) There is hereby created the fish and game advisory committee. The committee shall consist of twelve (12) members. Six (6) members of the committee shall be appointed by the director of the department of fish and game to generally represent wildlife interests. Six (6) members of the committee shall be appointed by the director of the department of agriculture to generally represent agricultural interests. At the beginning of each odd-numbered year, the director of the department of agriculture shall appoint a chairman from among his appointees, and the director of the department of fish and game shall appoint a vice-chairman from among his appointees. At the beginning of each even-numbered year, the director of the department of fish and game shall appoint a chairman from among his appointees, and the director of the department of agriculture shall appoint a vice-chairman from among his appointees. The committee shall meet at such times as appropriate, but not less frequently than annually.

(b) ~~The term of office of a member shall be four (4) years, and appointments to fill vacancies shall be for the balance of the unex-~~

pired--term Commencing July 1, 1994, two (2) of the members of the committee appointed by the director of the department of agriculture and two (2) of the members appointed by the director of the department of fish and game shall serve one (1) year terms, two (2) of the members appointed by the director of the department of agriculture and two (2) of the members appointed by the director of the department of fish and game shall serve two (2) year terms and two (2) of the members appointed by the director of the department of agriculture and two (2) of the members appointed by the director of the department of fish and game shall serve three (3) year terms. Thereafter all members shall serve three (3) year terms. Appointments to fill vacancies shall be for the balance of the unexpired term. A member may serve seven (7) consecutive years or two (2) consecutive terms, whichever is less. All members shall serve at the pleasure of the respective directors of the department of agriculture or the department of fish and game. Members shall be compensated as provided in section 59-509(b), Idaho Code, and such expenses shall be paid from the big game primary depredation account.

(c) The department of fish and game shall provide staff assistance and support for the committee.

(d) The committee shall have the authority to:

1. Act as a liaison between the commission, landowners, the department of agriculture, the department of fish and game, and wildlife, outdoor recreation and sportsmen's organizations;
2. Act as an independent resource to give advice and recommendations on administration of the programs authorized in sections 36-1108 and 36-1109, Idaho Code.

Approved March 21, 1994.

CHAPTER 114
(H.B. No. 653)

AN ACT

RELATING TO POWERS OF PORT DISTRICTS; AMENDING SECTION 70-1501, IDAHO CODE, TO AUTHORIZE PORT DISTRICTS TO CONSTRUCT, CONDEMN, PURCHASE, ACQUIRE, ADD TO, MAINTAIN AND OPERATE PUBLIC PARK FACILITIES OR RECREATION FACILITIES OR AREAS.

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

SECTION 1. That Section 70-1501, Idaho Code, be, and the same is hereby amended to read as follows:

70-1501. ACQUISITION OF PROPERTY AND FACILITIES -- OPERATION. A port district may construct, condemn, purchase, acquire, add to, maintain and operate any and all facilities and services reasonably incident to the operation of a modern, efficient and competitive port, including by way of illustration and not of limitation, sea walls, jetties, piers, wharves, docks, marinas, boat landings and other harbor improvements, public park facilities, recreation facilities or

areas, warehouses, storehouses, elevators, grain bins, coal storage plant, terminals, icing plants, bunkers, oil tanks, ferries, dredges, tugs and other waterborne vehicles, canals, locks, tidal basins, bridges, subways, tramways, cableways, conveyors, belt line railroads, administration buildings, fishing terminals, facilities for the freezing or processing of goods, agricultural products, meats or perishable commodities, rail and motor vehicle transfer and terminal facilities, water transfer and terminal facilities, improvements relating to industry and manufacturing and to commercial transportation, together with all modern appliances and facilities for the economical handling, packaging, storing and transportation of freight and passengers, and/or any combination thereof. In connection with its operations, a port district may perform all customary services including, but not limited to, the handling, weighing, measuring, reconditioning and storage for hire, processing and/or holding for transshipment of all commodities.

Approved March 21, 1994.

CHAPTER 115
(H.B. No. 657)

AN ACT

RELATING TO THE UNLAWFUL TAKING OF WILDLIFE; AMENDING SECTION 36-1101, IDAHO CODE, TO CORRECT A TYPOGRAPHICAL ERROR AND TO PROVIDE PENALTIES FOR THE TAKING OR ATTEMPTED TAKING OF SIMULATED WILDLIFE BEING UTILIZED BY PERSONNEL AUTHORIZED TO ENFORCE IDAHO FISH AND GAME LAWS OR RULES PROMULGATED PURSUANT THERETO AND TO PROVIDE PENALTIES.

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

SECTION 1. That Section 36-1101, Idaho Code, be, and the same is hereby amended to read as follows:

36-1101. TAKING OF WILDLIFE UNLAWFUL EXCEPT BY STATUTE OR COMMISSION REGULATION -- METHODS PROHIBITED -- EXCEPTIONS. ~~(a) It is unlawful, except as may be otherwise provided under this title or commission regulations promulgated pursuant thereto, for any person to take any of the game animals, birds or fur-bearing animals of this state. It is unlawful for any person to~~

(a) It is unlawful, except as may be otherwise provided by Idaho law, including this title or commission regulations promulgated pursuant thereto, for any person to take any of the game animals, birds or fur-bearing animals of this state.

(b) Except as may be otherwise provided under this title or commission regulations promulgated pursuant thereto, it is unlawful for any person to:

1. Hunt from Motorized Vehicles. Hunt any of the game animals or game birds of this state from or by the use of any motorized vehicle except as provided by commission regulation; provided however,

that the commission shall promulgate rules and regulations which shall allow a physically handicapped person to apply for a special permit which would allow the person to hunt from a motorized vehicle which is not in motion. A physically handicapped person means a person:

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

(B) Who suffers from lung disease to the extent that his forced (respiratory) expiratory volume for one (1) second when measured by spirometry is less than one (1) liter or his arterial oxygen tension (po_2) is less than 60 mm/Hg on room air at rest.

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

The commission shall specify the form of application for and design of the special permit which shall allow a physically handicapped person to hunt from a motorized vehicle which is not in motion. No fee shall be charged for the issuance of the special permit and the issuance of a special permit shall not exempt a person from otherwise properly purchasing or obtaining other necessary licenses, permits and tags in accordance with this title and rules and regulations promulgated pursuant thereto. The special permit shall not be transferable and may only be used by the person to whom it is issued. A person who has been issued a special permit which allows a physically handicapped person to hunt from a motorized vehicle not in motion shall have that permit prominently displayed on any vehicle the person is utilizing to hunt from and the person shall produce, on demand, the permit and other identification when so requested by a conservation officer of the department of fish and game. A person possessing a special permit shall not discharge any firearm from or across a public highway. In addition to other penalties any unauthorized use of the special permit shall be grounds for revocation of the permit.

2. Molest with Motorized Vehicles. Use any motorized vehicle to molest, stir up, rally or drive in any manner any of the game animals or game birds of this state.

3. Communicate from Aircraft. Make use of aircraft in any manner to spot or locate game animals, game birds or fur-bearing animals of this state from the air and communicate the location or approximate location thereof by any signals whatsoever, whether radio, visual or otherwise, to any person then on the ground.

4. Hunt from Helicopter. Make use of any helicopter in any manner in the taking of game or loading, transporting, or unloading hunters, game or hunting gear in any manner except when such use is at recognized airports or airplane landing fields, or at heliports which have been previously established on private land or which have been established by a department or agency of the federal, state or local government or when said use is in the course of

emergency or search and rescue operations.

5. Artificial Light. Hunt any animal or bird except raccoon by the aid of a spotlight, flashlight or artificial light of any kind. The act of casting or throwing, after sunset, the beam or rays of any spotlight, headlight or other artificial light capable of utilizing six (6) volts or more of electrical power upon any field, forest or other place by any person while having in his possession or under his control any uncased firearm or contrivance capable of killing any animal or bird, shall be prima facie evidence of hunting with an artificial light. Provided nothing in this subsection shall apply where the headlights of a motor vehicle, operated and proceeding in a normal manner on any highway or roadway, cast a light upon animals or birds on or adjacent to such highway or roadway and there is no intent or attempt to locate such animals or birds. Provided further, nothing in this subsection shall prevent the hunting of unprotected or predatory wildlife with the aid of artificial light when such hunting is for the purpose of protecting property or livestock, is done by landowners or persons authorized in writing by them to do so and is done on property they own, lease or control; and provided further that the hunting and taking of unprotected or predatory wildlife with the aid of artificial light on public lands is authorized after obtaining a permit to do so from the director. The director may, for good cause, refuse to issue such permit.

Other provisions of this subsection notwithstanding, the commission may establish regulations allowing the hunting of raccoon with the aid of an artificial light.

6. Regulation of Dogs.

(A) No person shall make use of a dog for the purpose of pursuing, taking or killing any of the big game animals of this state except as otherwise provided by regulations of the commission.

(B) Any person who is the owner of, or in possession of, or who harbors any dog found running at large and which is actively tracking, pursuing, harassing or attacking, or which injures or kills deer or any other big game animal within this state shall be guilty as provided in section 36-1401, Idaho Code. It shall be no defense that such dog or dogs were pursuing said big game animals without the aid or direction of the owner, possessor, or harborer.

(C) Any dog found running at large and which is actively tracking, pursuing, harassing, attacking or killing deer or any other big game animal may be destroyed without criminal or civil liability by the director, or any peace officer, or other persons authorized to enforce the Idaho fish and game laws.

7. Attempt to take Simulated Wildlife.

(A) Attempt to take, by firearm or any other contrivance capable of killing an animal or bird, simulated wildlife in violation of any of the provisions of this title or commission rules applicable to the taking of the wildlife being simulated, when the simulated wildlife is being used by a conservation officer or other person authorized to enforce

Idaho fish and game laws or rules promulgated pursuant thereto. No person shall be found guilty of violating this subpart provided that no other law or rule has been violated. (B) Any person pleading guilty to, convicted of or found guilty for attempting to take simulated wildlife within this state shall be guilty of a misdemeanor and shall be punished as provided in either subsection (b) or (d) of section 36-1402, Idaho Code.

Approved March 21, 1994.

CHAPTER 116
(H.B. No. 659)

AN ACT

RELATING TO REGULATORY TAKINGS; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 80, TITLE 67, IDAHO CODE, TO PROVIDE A DECLARATION OF PURPOSE, TO PROVIDE DEFINITIONS, TO PROVIDE THAT THE ATTORNEY GENERAL SHALL ESTABLISH GUIDELINES AND TO PROVIDE A SHORT TITLE.

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

SECTION 1. That Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 80, Title 67, Idaho Code, and to read as follows:

CHAPTER 80
REGULATORY TAKINGS

67-8001. DECLARATION OF PURPOSE. The purpose of this chapter is to establish an orderly, consistent review process that better enables state agencies to evaluate whether proposed regulatory or administrative actions may result in a taking of private property without due process of law. It is not the purpose of this chapter to expand or reduce the scope of private property protections provided in the state and federal constitutions.

67-8002. DEFINITIONS. As used in this chapter:

(1) "Private property" means all real property protected by the fifth amendment and the fourteenth amendment of the constitution of the United States or section 13, article I, of the constitution of the state of Idaho.

(2) "State agency" means the state of Idaho and any officer, agency, board, commission, department or similar body of the executive branch of the state government.

(3) "Taking" means an uncompensated deprivation of private property in violation of the state or federal constitution.

67-8003. PROTECTION OF PRIVATE PROPERTY. (1) The attorney general shall establish, by October 1, 1994, an orderly, consistent process,

including a checklist, that better enables a state agency to evaluate proposed regulatory or administrative actions to assure that such actions do not result in an unconstitutional taking of private property. The attorney general shall only review and update the process on an annual basis to maintain consistency with changes in law. All state agencies shall follow the guidelines of the attorney general.

(2) Local governments are encouraged to utilize the process established in this act to assure that proposed regulatory or administrative actions do not result in an unconstitutional taking of private property.

(3) The review process used by a state agency shall be protected by attorney client privilege. Nothing in this section grants a person the right to seek judicial relief requiring compliance with the provisions of this chapter.

67-8004. SHORT TITLE. The provisions of this chapter shall be known and cited as the "Idaho Regulatory Takings Act."

Approved March 21, 1994.

CHAPTER 117
(H.B. No. 665)

AN ACT

RELATING TO PROPERTY SUBJECT TO TAXATION; AMENDING SECTION 63-105A, IDAHO CODE, TO PROVIDE THAT INVENTORY PROPERTY OF THE FARMERS HOME ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF AGRICULTURE SHALL BE SUBJECT TO TAXATION.

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

SECTION 1. That Section 63-105A, Idaho Code, be, and the same is hereby amended to read as follows:

63-105A. PROPERTY EXEMPT FROM TAXATION -- GOVERNMENT PROPERTY.

(1) The following property is exempt from taxation: Property belonging to the United States, except when taxation thereof is authorized by the congress of the United States, this state, or to any county or municipal corporation or school district within this state.

(2) However, unimproved real property of more than ten (10) contiguous acres owned in fee simple by the department of fish and game shall be subject to a fee in lieu of taxes contingent upon the following conditions and requirements;

(a) The fee in lieu of taxes shall not exceed the property tax for the property at the time of acquisition by the department of fish and game, unless the tax rate for the property shall have been increased.

(b) The department shall determine and identify the parcels of property and their current use as qualified under the provisions of this act. The department shall consult with the appropriate county treasurer and determine the fee to be paid on the property.

The fee shall be an amount equal to the tax the property would generate if assessed as agricultural property.

(c) Any future increase in the fee paid in lieu of taxes shall be determined by the amount of taxes the property would generate if assessed as agricultural property. The increase may be determined by the department working cooperatively with the appropriate county assessor. The method used for determining the fee that would be due on department property is to be used only under this subsection and has no other application in any other section of the Idaho Code.

(d) The department shall then provide to the assessor of the county where the parcels are located on or before the second Monday of March each year, a listing identifying each parcel of unimproved property by legal description, size and amount of the fee for the preceding calendar year. The treasurer shall prepare and submit a billing for payment based on this information to the department. Once the fee has been determined, payment shall be made by June 20 of that year from moneys appropriated for that purpose. However, if the fees exceed the moneys appropriated for that purpose, the director of the department of fish and game shall calculate the percent reduction that must be made and certify the proportionate reduction to each county assessor.

(e) For the purpose of this section only, unimproved real property shall mean property on which no homesite or improved site is located, and homesite or improved site shall mean any buildings, structures, or fixtures which have been erected or affixed to the land and the necessary acreage required to utilize the homesite or improved site as determined by the county assessor shall be exempt. For purposes of this subsection only, roads or fences shall not be considered as improvements.

(3) However, inventory property of the farmers home administration of the United States department of agriculture shall be subject to taxation as other property in the county.

Approved March 21, 1994.

CHAPTER 118
(H.B. No. 688)

AN ACT

RELATING TO LICENSES TO HUNT, FISH AND TRAP; AMENDING SECTION 36-409, IDAHO CODE, TO PROVIDE A NONRESIDENT BIRD OF PREY CAPTURE PERMIT AND TO PROVIDE PROPER TERMINOLOGY.

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

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

36-409. GAME TAGS -- ARCHERY PERMITS -- FEES -- PENALTY. (a) Resident Game Tags. A resident who has obtained a permit to hunt, as pro-

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

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

(c) Schedule of Game Tag Fees.

| Game | Resident | Nonresident |
|--------------------------|----------|----------------|
| Moose | \$60.00 | \$900.00 |
| Bighorn Sheep | 60.00 | 900.00 |
| Mountain Goat | 60.00 | 900.00 |
| Elk | 15.00 | 325.00 |
| Deer | 9.00 | 225.00 |
| Antelope | 26.50 | 225.00 |
| Mountain Lion | 25.00 | 225.00 |
| Bear | 6.00 | 225.00 |
| Turkey | 6.00 | 35.00 |
| Deer, Elk and Bear 'Pak' | 29.00 | not applicable |

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

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

(f) Archery Permits. In addition to meeting the license and tag requirements provided in this chapter, any persons participating in any controlled or general game season which has been specifically designated as an archery hunt must have in his possession an archery hunt permit which may be purchased at a fee of seven dollars and fifty cents (\$7.50).

(g) Muzzleloader Permit. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as a muzzleloader hunt must have in his possession a

muzzleloader permit which may be purchased at a fee of seven dollars and fifty cents (\$7.50).

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

(i) Hound Hunter Permit. Any person using a dog for the purpose of hunting or for taking, as defined in section 36-202, Idaho Code, big game or furbearing animals must have in his possession a valid hound hunter permit which may be purchased for a fee of ten dollars (\$10.00).

(j) Nonresident Bird of Prey Capture Permit. The commission may, under rules as it may prescribe, issue a nonresident bird of prey capture permit. This capture permit may be purchased by any licensed, nonresident falconer for capturing birds of prey in Idaho. The fee for the permit shall be one hundred dollars (\$100) and the permit shall be issued under the condition that the nonresident's home state allows reciprocal raptor capturing privileges for Idaho falconers. Any funds in excess of those required to issue and administer nonresident capture permits shall be used to issue and administer any resident falconry program established by the commission.

Approved March 21, 1994.

CHAPTER 119
(H.B. No. 689)

AN ACT

RELATING TO PLACING DEBRIS ON PUBLIC OR PRIVATE PROPERTY; AMENDING SECTION 18-7031, IDAHO CODE, TO PROVIDE A PUNISHMENT AND A PEACE OFFICER OR STATE FISH AND GAME PERSONNEL SUPERVISED PUBLIC SERVICE CONSISTING OF CLEARING UP AND PROPERLY DISPOSING OF DEBRIS FROM PUBLIC PROPERTY OR FROM PRIVATE PROPERTY WITH THE WRITTEN CONSENT OF THE PRIVATE PROPERTY OWNER.

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

SECTION 1. That Section 18-7031, Idaho Code, be, and the same is hereby amended to read as follows:

18-7031. PLACING DEBRIS ON PUBLIC OR PRIVATE PROPERTY A MISDEMEANOR. ~~That it shall constitute a misdemeanor, and be punishable as such;~~ for any person, natural or artificial, to deposit upon any pub-

lic or private property within this state any debris, paper, litter, glass bottles, glass, nails, tacks, hooks, cans, barbed wire, boards, trash, garbage, lighted material or other waste substances on any place not authorized by any county, city, village or the owner of such property, and is punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding three hundred dollars (\$300), or both. Additionally, a peace officer or state fish and game personnel supervised public service of not less than eight (8) hours and not more than forty (40) hours may be imposed to clean up and to properly dispose of debris from public property, or from private property with the written consent of the private property owner, as ordered by the court.

Approved March 21, 1994.

CHAPTER 120
(H.B. No. 711)

AN ACT

RELATING TO RIGHT OF SPOUSE TO FILE PROPERTY TAX CLAIM; AMENDING SECTION 63-118, IDAHO CODE, TO PROVIDE THAT A SPOUSE MAY FILE A CLAIM FOR PROPERTY TAX REDUCTION ON BEHALF OF A CLAIMANT WHO DIES ON OR AFTER JANUARY 1, 1994; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-118, Idaho Code, be, and the same is hereby amended to read as follows:

63-118. CLAIM IS PERSONAL. (1) The right to file a claim under the provisions of sections 63-117 through and including 63-125, Idaho Code, shall be personal to the claimant and shall not survive his death, except as provided in subsection (2) of this section. Such right may be exercised on behalf of a living claimant by an agent authorized in writing to so act or by a guardian or other representative acting pursuant to judicial authority. If a claimant dies after having filed a timely claim, the amount thereof shall be allowed to his personal representative, if one is appointed, or to surviving heirs.

(2) A claimant's spouse may file a claim subject to the provisions of section 63-121, Idaho Code, on behalf of a claimant who dies on or after January 1, only if the claimant qualified for tax reduction granted under the provisions of sections 63-117 through and including 63-125, Idaho Code, on January 1.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1994.

Approved March 21, 1994.

CHAPTER 121
(H.B. No. 745)

AN ACT

RELATING TO PUBLIC TRANSPORTATION SERVICES; AMENDING CHAPTER 8, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-876, IDAHO CODE, TO PROVIDE THAT COUNTIES CAN ESTABLISH, FUND AND OPERATE PUBLIC TRANSPORTATION SERVICES.

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

SECTION 1. That Chapter 8, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-876, Idaho Code, and to read as follows:

31-876. PUBLIC TRANSPORTATION SERVICES. (1) The boards of county commissioners in their respective counties shall have the authority to establish, fund and operate public transportation services that the board of county commissioners considers to be of public benefit.

(2) Public transportation services include, without limitation, fixed transit routes; scheduled or unscheduled transit service; paratransit services for the elderly, disabled or other persons dependent on public transportation; shuttle and commuter services between cities, counties, health care facilities, employment centers, educational institutions and park-and-ride locations; subscription van and car-pooling services; and transportation services unique to social service programs.

(3) The board of county commissioners may become the designated grantee and receive funding from other federal, state, local and private sources and use said funds for the sponsorship, promotion and administration of such public transportation services as they may deem beneficial.

Approved March 21, 1994.

CHAPTER 122
(H.B. No. 748)

AN ACT

RELATING TO ABSENTEE VOTING; AMENDING SECTION 34-410A, IDAHO CODE, TO CORRECT REFERENCES TO FEDERAL STATUTES; AMENDING SECTION 34-1002, IDAHO CODE, TO CORRECT REFERENCES AND TO PERMIT APPLICATION FOR ABSENTEE BALLOT BY FACSIMILE AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 34-1002A, IDAHO CODE; AND AMENDING SECTION 34-1003, IDAHO CODE, TO STRIKE OBSOLETE PROVISIONS AND CLARIFY THE PROCEDURE FOR ANY QUALIFIED VOTER TO VOTE ABSENTEE.

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

SECTION 1. That Section 34-410A, Idaho Code, be, and the same is hereby amended to read as follows:

34-410A. ABSENTEE REGISTRATION FOR UNIFORMED OVERSEAS CITIZENS. An elector who is within the purview of the Uniformed Overseas Citizens Absentee Voting Rights Act of 1975 (89 Stat. 1142) (UOCAVA, 42 U.S.C. 1973 ff, et seq.) may register by mailing a request for registration to the county clerk of the county in which the elector resided prior to leaving the United States. Such request, if received no later than thirty (30) days preceding an election, shall cause the county clerk to send to the elector a registration card on which the elector shall supply the information needed to qualify the elector as an eligible individual under the provisions of the "Uniformed Overseas Citizens Voting Rights Act of 1975" (89 Stat. 1142) (UOCAVA, 42 U.S.C. 1973 ff, et seq.). The elector shall supply such information under oath or affirmation and return the registration card to the county clerk. An elector registered under the provisions of this section is entitled to vote for candidates for federal office only.

SECTION 2. That Section 34-1002, Idaho Code, be, and the same is hereby amended to read as follows:

34-1002. APPLICATION FOR ABSENTEE BALLOT. Any registered elector may make written application to the county clerk, or other proper officer charged by law with the duty of issuing official ballots for such election, for an official ballot or ballots of the kind or kinds to be voted at the election. The application shall contain the name of the elector, his home address, county, and address to which such ballot shall be forwarded. The application for absentee ballot of an elector registered according to the provisions of section 34-410A, Idaho Code, shall contain the name of the elector, his former address in the county, and the address to which such ballot shall be forwarded.

The application for an absent elector's ballot shall be signed personally by the applicant. The application shall be filed with the county clerk not later than 5:00 P.M. on the day before the election. Application for an absentee ballot may be made by using a facsimile machine. In the event a registered elector is unable to vote in person at his designated polling place on the day of election because of an emergency situation which rendered him physically unable, he may nevertheless apply for an absent elector's ballot on the day of election by notifying the county clerk. No person, may, however, be entitled to vote under an emergency situation unless the situation claimed rendered him physically unable to vote at his designated polling place within forty-eight (48) hours prior to the closing of the polls.

A person in the United States service may make application for an absent elector's ballot by use of a properly executed federal post card application as provided for in the laws of the United States known as "Federal Uniformed Overseas Citizens Absentee Voting Assistance Act of 1955," (UOCAVA, 42 U.S.C. 1973 ff, et seq.). A properly executed federal postcard post card application (F.P.C.A.), if received prior to the primary election, shall be considered as a request for an absent elector's ballot for both the primary and gen-

eral election. The issuing officer shall keep as a part of the records of his office a list of all applications so received and of the manner and time of delivery or mailing to and receipt of returned ballot.

SECTION 3. That Section 34-1002A, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 34-1003, Idaho Code, be, and the same is hereby amended to read as follows:

34-1003. ISSUANCE OF ABSENTEE BALLOT. Upon receipt of an application for an absent elector's ballot within the proper time, the county clerk receiving it shall examine the records of his office to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested and, if found to be so, he shall arrange for the applicant to vote by absent elector's ballot, in the following manner:

(1) ~~If the applicant is classed under section 34-1002A(1), Idaho Code, the clerk shall deliver to the applicant by mail to the mailing address given in the application, an official absent elector's ballot, a return envelope with the affidavit thereon properly filled in as to precinct and residence address as shown by the records in his office, and an instruction card.~~

(2) ~~If the applicant is classed under section 34-1002A(2), Idaho Code, and if the applicant in the United States service submits a properly executed federal post card application and the county clerk receiving it shall determine that such applicant is not properly registered, the county clerk shall cause the applicant to be registered and shall then deliver to the applicant the official elector's ballot and other materials as above set forth.~~

(3) ~~If the applicant is classed under section 34-1002A(3), Idaho Code, the county clerk shall forthwith notify the applicant that he shall appear personally and vote at the absent elector's voting place in the county courthouse during the time prescribed.~~

(4) ~~In the case of applicants classified under subsections (1) and (2) of this section, the absent elector's ballot and other materials shall be delivered or mailed to the absent elector within forty-eight (48) hours after the receipt of the application, if the official ballots are then printed, or, if not then printed, within forty-eight (48) hours after such printed ballots shall be delivered to the county clerk. All absentee ballots for the general election shall be printed no later than fifty (50) days prior to the election.~~

(5) ~~If the applicant is classed under section 34-1002A(4), Idaho Code, the county clerk shall forthwith notify the applicant by setting forth the time and place at which the county clerk or deputy clerk and witnesses shall personally deliver the absentee ballot. Each political party which desires to have a witness accompany the clerk or deputy clerk shall supply the county clerk with the name of its county chairman or an alternate who may be delegated to act on behalf of said political party no later than sixty (60) days prior to the election.~~

~~The clerk, upon receiving an application under section 34-1002A(5), Idaho Code, shall notify the county chairman of each political party or the person authorized to act for the party, of the date and approximate hour the clerk or deputy clerk intends to deliver~~

~~the ballot.~~

~~If the political party desires to supply a witness, it shall be the party's duty to supply the names of witnesses and it shall have the duty to see that said witness is present at the appointed time. If the clerk so requests, a witness may be required to be available throughout the business day on which the ballot is to be delivered.~~

~~Should the witness so designated fail to appear or if the political party does not desire to have a witness present, the clerk may proceed as prescribed by law, without further compliance with subsection (5) of this section. The absentee ballot may be delivered to the absent elector in the office of the county clerk, by postage prepaid mail or by other appropriate means. A political party may supply a witness to accompany the clerk in the personal delivery of an absentee ballot. If the political party desires to supply a witness it shall be the duty of the political party to supply the names of such witnesses to the clerk no later than forty-five (45) days prior to the election. The clerk shall notify such witnesses of the date and approximate hour the clerk or deputy clerk intends to deliver the ballot.~~

~~A candidate for public office or a spouse of a candidate for public office shall not sign as be a witness or as a deputy clerk in the personal delivery of absentee ballots under section 34-1002A(5), Idaho Code.~~

(6) An elector physically unable to mark his own ballot may receive assistance in marking such ballot from the officer delivering same or an available person of his own choosing. In the event the election officer is requested to render assistance in marking an absent elector's ballot, the officer shall ascertain the desires of the elector and shall vote the applicant's ballot accordingly. When such ballot is marked by an election officer, the witnesses on hand shall be allowed to observe such marking. No county clerk, deputy, or other person assisting a disabled voter shall attempt to influence the vote of such elector in any manner.

~~(7) Notwithstanding any other provision of law to the contrary, the county clerk may, upon appropriate request, mail absentee ballots to electors within the county if such mailing would enhance the electors' franchise.~~

Approved March 21, 1994.

CHAPTER 123
(H.B. No. 760)

AN ACT

RELATING TO HIGHWAY DISTRICT ELECTIONS; AMENDING SECTION 40-206, IDAHO CODE, TO STRIKE PROVISIONS GOVERNING NOTICE OF ELECTION; AMENDING SECTION 40-1304, IDAHO CODE, TO CHANGE THE DATE WHEN COMMISSIONERS TAKE OFFICE; AMENDING SECTION 40-1305, IDAHO CODE, TO PROVIDE THE DATE OF HIGHWAY DISTRICT COMMISSIONERS ELECTIONS AND TO REQUIRE COMMISSIONERS TO BE ELECTED COUNTYWIDE; AMENDING CHAPTER 13, TITLE 40, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 40-1305A, 40-1305B, 40-1305C, 40-1305D, 40-1305E, 40-1305F, 40-1305G,

40-1305H, 40-1305I, 40-1305J, 40-1305K, 40-1305L, 40-1305M, 40-1305N, 40-1305O, 40-1305P AND 40-1305Q, IDAHO CODE, TO PROVIDE FOR ELECTION ADMINISTRATION, TO REQUIRE REGISTRATION, TO PROVIDE DECLARATION OF CANDIDACY, TO PROVIDE NOTICE OF ELECTION FILING DEADLINE, TO PROVIDE NOTICE OF ELECTION, TO GOVERN PROCEDURE WHEN ONLY ONE NOMINATION IS FILED AND TO PROVIDE THAT NO ELECTION SHALL BE HELD, TO GOVERN WRITE-IN CANDIDATES, TO PROVIDE FOR ABSENTEE BALLOTS, TO PROVIDE THE CONDUCT OF THE ELECTION ON ELECTION DAY, TO PROVIDE THE CANVASS OF VOTE, TO PROVIDE FOR COMPARISON OF POLL LISTS, BALLOTS AND REGISTRATION CARDS, TO PROVIDE FOR COUNTING OF BALLOTS AND CERTIFICATES OF ELECTION JUDGES, TO PROVIDE TRANSMISSION OF SUPPLIES FOLLOWING THE ELECTION, TO PROVIDE MEETINGS OF THE BOARD OF CANVASSERS, TO PROVIDE FOR THE BOARD STATEMENT OF THE NUMBER OF VOTES CAST, TO PROVIDE FOR CERTIFICATES OF ELECTION AND TO GOVERN PROCEDURE WHEN A TIE VOTE IS CAST.

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

SECTION 1. That Section 40-206, Idaho Code, be, and the same is hereby amended to read as follows:

40-206. PUBLICATION OF NOTICES. Whenever publication of a notice by a county highway system or highway district is required for an override or bond election, ~~candidate-declarations, notice-of-election of-commissioners~~ or a hearing, it shall appear in a newspaper printed and published within the district or county, or in some newspaper of general circulation in the county or district, and the notice shall be published as follows:

(1) The publication of notice for an override or bond election shall be published at least three (3) times in a weekly newspaper or at least six (6) consecutive times in a daily newspaper. The last notice shall be published not less than five (5) days prior to an override or bond election, except as otherwise specifically provided in this title.

~~(2) (a) The publication of notice for a declaration of candidacy for election as a commissioner shall be published for at least one (1) time in a weekly newspaper or at least two (2) consecutive times in a daily newspaper. The first notice shall be published not more than ten (10) days prior to the first Tuesday in September, and the last notice shall be published not more than ten (10) days prior to the first Tuesday in October.~~

~~(b) The publication of notice for election of commissioners shall be published for at least three (3) successive times in a weekly newspaper, or one (1) time each week for three (3) successive weeks in a daily newspaper, and the last notice shall be published not less than five (5) days prior to the election.~~

~~(3) The publication of notice for a hearing shall be published at least one (1) time in a weekly newspaper or at least two (2) consecutive times in a daily newspaper. The last notice shall be published not less than five (5) days prior to the hearing, except as otherwise specifically provided in this title.~~

SECTION 2. That Section 40-1304, Idaho Code, be, and the same is

hereby amended to read as follows:

40-1304. DIVISION OF DISTRICTS INTO SUBDISTRICTS -- VACANCY IN OFFICE OF HIGHWAY COMMISSIONER. At the meeting of the commissioners at which the highway district is declared organized, the commissioners shall divide the highway district into three (3) subdistricts, as nearly equal in population, area and mileage as practicable, to be known as highway commissioners subdistricts one, two and three. Subdistricts may be revised or modified as changes in conditions demand. Not more than one (1) of the highway district commissioners shall be an elector of the same highway subdistrict. The first highway district commissioners appointed by the governor shall serve until the next highway district election, at which their successors shall be elected. The highway commissioners shall take office on ~~January~~ October 1 of ~~the year immediately~~ following their election. Any vacancy occurring in the office of highway commissioner, other than by expiration of the term of office, shall be filled by the highway district board and be for the balance of the term of the person replaced. If the remaining highway district commissioners are unable to agree on a person to fill the vacancy within ten (10) days after the vacancy occurs, the chairman of the commissioners of the county in which the highway district is located shall then become a member of the highway district board for the purpose of filling the vacancy only. If a majority of the highway district board so constituted shall be unable to agree upon a person to fill the vacancy within five (5) days, or if two (2) or more vacancies shall occur in the board of highway commissioners at one (1) time, a special election to fill the vacancy shall be called and held in the same manner provided by law for the holding of elections for highway commissioners, except that the date of the election shall be as soon as possible, and all duties imposed by law upon the highway district board in connection with elections shall be performed by the county commissioners.

SECTION 3. That Section 40-1305, Idaho Code, be, and the same is hereby amended to read as follows:

40-1305. ELECTION OF HIGHWAY COMMISSIONERS -- TERM OF OFFICE. (1) On the first ~~Monday of December~~ Tuesday of August of the next odd-numbered year following the appointment of the first highway district commissioners, commissioners from subdistricts one and two shall be elected for a term of two (2) years. Thereafter the term of office of all commissioners shall be four (4) years. Highway district commissioners elected prior to ~~July~~ January 1, 1985, for a term to expire on January 1, 1996, shall continue in office until ~~the expiration of the term for which they were elected, and~~ October 1, 1995. Highway district commissioners elected prior to January 1, 1994, for a term to expire on January 1, 1998, shall continue in office until October 1, 1997. Elections for commissioners of each of the subdistricts shall continue on the schedule previously established prior to ~~July 1, 1985~~.

(2) ~~Each highway commissioners have power to make regulations for the conduct of the election as are not inconsistent with any statutory provisions. At elections for highway commissioners, the polls shall be open from twelve o'clock noon to eight o'clock in the eve-~~

~~ning. Except as otherwise provided by statute, the election, and all other elections held under this chapter, shall be held in conformity with the general laws of the state shall be elected on a district wide basis.~~

SECTION 4. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305A, Idaho Code, and to read as follows:

40-1305A. ELECTION ADMINISTRATION. Highway district commissioners shall have authority to administer highway district elections in accordance with the provisions of this chapter. The commissioners shall select polling places and appoint an election official and election judges and clerks and set their compensation. In all matters not specifically covered by this chapter, the provisions of title 34, Idaho Code, shall govern the procedure for highway district elections.

Highway districts may contract with the county clerk to conduct all or part of the elections for a highway district. In the event of such a contract, the county clerk shall perform all necessary duties of the election official of a highway district including, but not limited to, notice of the filing deadline, notice of the election, and preparation of the election calendar.

SECTION 5. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305B, Idaho Code, and to read as follows:

40-1305B. REGISTRATION. All electors must register with the county clerk before being able to vote in highway district elections. The county clerk shall determine, for each registered elector, the elections for which he is eligible to vote by a determination of the applicable code areas. The register of electors shall be maintained by the clerk in a manner which will make this information readily available to the electors and to the election officials of the highway districts.

The county clerk shall appoint an election official designated by the highway district, if requested, as an at-large registrar as provided in section 34-406, Idaho Code, except that no compensation shall be paid by the county clerk for electors registered by these special registrars.

SECTION 6. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305C, Idaho Code, and to read as follows:

40-1305C. DECLARATION OF CANDIDACY. Candidates for election as a highway district commissioner shall be nominated by nominating petitions, each of which shall bear the name of the nominee, the subdistrict for which the nomination is made, the term for which nomination is made, bear the signature of not less than five (5) electors of the

candidate's specific subdistrict, and be filed with the election official of the highway district. The form of the nominating petition shall be as provided by the county clerk. The nomination shall be filed not later than 5:00 p.m. on the sixth Friday preceding the election for which the nomination is made. The election official shall verify the qualifications of the nominee, and shall not more than seven (7) days following the filing certify the nominees to be placed on the ballot.

SECTION 7. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305D, Idaho Code, and to read as follows:

40-1305D. NOTICE OF ELECTION FILING DEADLINE. (1) The nomination for highway district commissioner shall be filed not later than the sixth Friday preceding the election for which the nomination is made.

(2) Not more than fourteen (14) days nor less than seven (7) days preceding the candidate filing deadline for an election, the election official of the highway district shall cause to be published a notice of the forthcoming candidate filing deadline. The notice shall include not less than the name of the highway district, the place where filing for each subdistrict takes place, and a notice of the availability of declarations of candidacy. The notice shall be published in the official newspaper of the highway district.

It shall be the duty of the election official of the highway district to notify the county clerk, not later than the last day of November, of any election for that political subdivision to occur during the next calendar year. In the event of failure to so notify the county clerk, the election official of the highway district shall cause to be published notice of the omitted election as soon as he is aware of the omission. This publication shall be in addition to the publication required in paragraph (2) of this section.

SECTION 8. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305E, Idaho Code, and to read as follows:

40-1305E. NOTICE OF ELECTION. The election official of the highway district shall give notice for the election by publishing such notice in the official newspaper of the highway district. The notice shall state the date of the election, the polling places, and the hours during which the polls shall be open for the purpose of voting. The first publication shall be made not less than twelve (12) days prior to the election, and the last publication of notice shall be made not less than five (5) days prior to the election.

SECTION 9. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION to be known and designated as Section 40-1305F, Idaho Code, and to read as follows:

40-1305F. BOARD OF COMMISSIONERS -- ONE NOMINATION -- NO ELECTION. In any election for a highway district commissioner, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a subdistrict to be filled, it shall not be necessary for the candidate of that subdistrict to stand for election, and the board of highway district commissioners shall declare such candidate elected as commissioner, and the secretary of the highway district shall immediately make and deliver to such person a certificate of election signed by him and bearing the seal of the district.

SECTION 10. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305G, Idaho Code, and to read as follows:

40-1305G. WRITE-IN CANDIDATES. No write-in candidate for any elective office shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of the office. The declaration of intent shall be filed with the highway district election official not less than eleven (11) days before the date of the election. The election official shall verify the legal qualification of the write-in candidate.

SECTION 11. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305H, Idaho Code, and to read as follows:

40-1305H. ABSENTEE BALLOTS. Any registered elector may vote at the highway district election by absentee ballot and the election official of the highway district shall provide an absentee ballot, receive the returned ballot and count the ballot as provided in chapter 10, title 34, Idaho Code. In the event of a written application to the county clerk for an absentee ballot, the application shall be deemed to be an application for all ballots to be voted in the election, and the county clerk shall notify the election official of the highway district conducting an election at that date, and the election official shall provide the ballot of the highway district to the elector.

Upon the return of an absentee ballot, the election official shall enclose the same unopened in a carrier envelope indorsed with the name and official title of the election official and the words: "absent electors' ballot to be opened at the polls." He shall hold the same until delivery of the official ballots to the judges of election of the precinct in which the elector resides and shall deliver the ballot or ballots to the judges with the official ballots. Between opening and closing of the polls on election day, the judges of each precinct shall open the carrier envelope, announce the absent elector's name, and compare the signature upon the return envelope with the elector's registration card, and upon verification, deposit the ballot envelopes in the proper ballot boxes and cause the absent elector's name to be

entered on the poll books and his registration card marked the same as though he had been present and voted in person. The ballot envelope shall not be opened until the ballots are counted.

SECTION 12. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305I, Idaho Code, and to read as follows:

40-1305I. CONDUCT OF ELECTION ON ELECTION DAY. At all highway district elections, the polls shall be opened at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the election official may, at his option, open the polls in his jurisdiction at 7:00 a.m.

Highway districts conducting elections on the same date as any other political subdivisions shall, whenever practicable, use the same polling places and share the services of the judges and clerks.

SECTION 13. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305J, Idaho Code, and to read as follows:

40-1305J. CANVASS OF VOTES. (1) When the polls are closed the judges must immediately proceed to count the ballots cast at such election. The counting must be continued without adjournment until completed and the result declared.

(2) The canvass of election results shall proceed in the manner provided in chapter 12, title 34, Idaho Code.

SECTION 14. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305K, Idaho Code, and to read as follows:

40-1305K. COMPARISON OF POLL LISTS, BALLOTS AND REGISTRATION CARDS -- VOID BALLOTS. The counting must commence by comparison of the marked registration cards and the poll lists from the commencement, and a correction of any mistake that may be found therein, until they are found to agree. This box shall then be opened and the ballots found therein counted by the judges, unopened and the number of ballots in the box must agree with the number marked in the poll book or election register as having received a ballot, and this number, together with the number of spoiled ballots, must agree with the number of stubs or counterfoils in the books from which the ballots have been taken. If the number of ballots issued does not agree with the number of stubs or counterfoils, the election judges shall have authority to make any decision to correct the situation; but this shall not be construed to allow the judges to void all ballots cast at that polling place.

SECTION 15. That Chapter 13, Title 40, Idaho Code, be, and the

same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305L, Idaho Code, and to read as follows:

40-1305L. COUNTING OF BALLOTS -- CERTIFICATES OF JUDGES. The ballots and polls lists agreeing, the election personnel shall then proceed to tally the votes cast. Any ballot or part of a ballot from which it is impossible to determine the elector's choice, shall be void and shall not be counted. When a ballot is sufficiently plain to determine therefrom a part of the voter's intention, it shall be the duty of the judges to count such part.

Following the counting, the judges must post a correct copy of the results at the polling place. In no event shall the results of any count be released to the public until all voting places in the highway district have closed on election day.

SECTION 16. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305M, Idaho Code, and to read as follows:

40-1305M. TRANSMISSION OF SUPPLIES TO DISTRICT OFFICE. After the counting of the votes, the judges of the election shall enclose and seal the combination election record and poll book, tally books, all ballot stubs, unused ballot books, and other supplies in a suitable container and deliver them to the highway district election officials office. The office of the highway district election official shall remain open until all election materials from all polling places have been received.

SECTION 17. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305N, Idaho Code, and to read as follows:

40-1305N. BOARD OF CANVASSERS -- MEETINGS. The board of highway district commissioners shall be the board of canvassers and the highway district election official shall serve as their secretary for this purpose. The board of canvassers shall meet within seven (7) days after the election for the purpose of canvassing the election returns of all polling places within the highway district.

SECTION 18. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305O, Idaho Code, and to read as follows:

40-1305O. BOARD'S STATEMENT OF VOTES CAST. The board shall examine and make a statement of the total number of votes cast for all candidates voted upon at the election. It shall also include the total number of votes cast for each candidate for office by polling place. The board shall certify that such statement is true, subscribe their names thereto, and deliver it to the highway district secretary.

SECTION 19. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305P, Idaho Code, and to read as follows:

40-1305P. CERTIFICATES OF ELECTION. Immediately after the election canvass, the highway district secretary shall issue a certificate of election to the commissioner candidates who received the highest number of votes for that subdistrict and they shall be considered duly elected to assume the duties of the office for the next ensuing term.

SECTION 20. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1305Q, Idaho Code, and to read as follows:

40-1305Q. TIE VOTES. In the case of a tie vote between candidates at an election the interested candidates shall appear before the highway district secretary or a noninterested official of the district within two (2) days after the canvass and the tie shall be determined by a toss of a coin.

Approved March 21, 1994.

CHAPTER 124
(H.B. No. 777)

AN ACT

RELATING TO UNCLAIMED OR ABANDONED PROPERTY; AMENDING CHAPTER 5, TITLE 14, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 14-501A, IDAHO CODE, TO PROVIDE A STATEMENT OF GENERAL PRINCIPLES OF APPLICATION TO THE UNIFORM UNCLAIMED PROPERTY ACT AS A GUIDE TO INTERPRETATION AND CONSTRUCTION OF THE ACT; AND AMENDING SECTION 14-523, IDAHO CODE, RELATING TO DISPOSITION OF MONEY RECEIVED FROM THE UNCLAIMED PROPERTY ACT, TO INCREASE THE RETAINED BALANCE IN THE UNCLAIMED PROPERTY TRUST ACCOUNT FROM ONE HUNDRED THOUSAND DOLLARS TO TWO HUNDRED FIFTY THOUSAND DOLLARS, TO DELETE THE REQUIREMENT TO IDENTIFY ANNUITANTS AND INSURED IN THE PUBLIC LISTING OF BENEFICIAL OWNERS OF UNCLAIMED PROPERTY IN CUSTODY OF THE STATE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Chapter 5, Title 14, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 14-501A, Idaho Code, and to read as follows:

14-501A. GENERAL PRINCIPLES. (1) It is the public policy of this state that all unclaimed property shall be placed into the protective custody of the administrator. The rights of the party originally own-

ing or being entitled to the property shall not be forfeited or extinguished. The administrator shall be a trustee, acting always, and with full authority, to safeguard and foster the rights of the original owner or party now entitled to the property. The state shall have a continuing and perpetual obligation to restore the property or make restitution to the original owner or party now entitled to the property or its value.

(2) Any public or private provision, contract, agreement, practice, resolution, ordinance, decision, order, or understanding, in any form, shall be absolutely void as contrary to this public policy, if the purpose or effect of that provision is to evade, avoid, or contradict the custodial taking of unclaimed property by the administrator.

(3) Until such time as the unclaimed property is presumed abandoned, reported, and paid or delivered to the administrator, a holder of unclaimed property shall have a continuing duty to take reasonable and prudent action to preserve and safeguard the property and shall not allow the property to be dissipated, transferred, converted, or reduced by any means, including a deduction for service, maintenance, or other charges, other than as permitted by this act or by regulation of the administrator.

(4) This act shall be liberally construed in favor of the state and so as to foster the report and turnover of unclaimed property to the administrator.

SECTION 2. That Section 14-523, Idaho Code, be, and the same is hereby amended to read as follows:

14-523. DISPOSITION OF MONEY RECEIVED. (1) All money received under this chapter, including the proceeds from the sale of property under section 14-522, Idaho Code, shall be deposited in the unclaimed property account.

(2) All money in the unclaimed property account is hereby continuously appropriated to the state tax commission, without regard to fiscal years, for expenditure in accordance with law in carrying out and enforcing the provisions of this chapter, including, but not limited to, the following purposes:

(a) For payment of claims allowed by the state tax commission under the provisions of this chapter.

(b) For refund, to the person making such deposit of amounts, including overpayments, deposited in error in such account.

(c) For payment of the costs of appraisals incurred by the state tax commission covering property held in the name of the account.

(d) For payment of the cost incurred by the state tax commission for the purchase of lost instrument indemnity bonds, or for payment to the person entitled thereto, for any unpaid lawful charges or costs which arose from holding any specific property or any specific funds which were delivered or paid to the state tax commission, or which arose from complying with this chapter with respect to such property or funds.

(e) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner.

(f) For payment of costs of official advertising in connection with the sale of property held in the name of the account.

(g) For transfer to the general account as provided in subsection (3) of this section.

(h) For transfer to the inheritance tax account of the amount of any inheritance taxes determined to be due and payable to the state by any claimant with respect to any property claimed by him under the provisions of this chapter.

(3) At the end of each month, or oftener more often, if it deems it advisable, the state tax commission shall transfer all money in the unclaimed property account in excess of one two hundred fifty thousand dollars (\$10250,000) to the general account. Before making this transfer, it shall record the name and last known address, if available, of each person appearing from the holder's report to be entitled to the property ~~and the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, and the name of the corporation.~~ The record shall be available for public inspection at all reasonable business hours.

Approved March 21, 1994.

CHAPTER 125
(H.B. No. 814)

AN ACT

RELATING TO THE IDAHO HERITAGE TRUST FOUNDATION; AMENDING SECTION 5, CHAPTER 256, LAWS OF 1992, TO EXTEND THE SUNSET PROVISION TO JULY 3, 1996.

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

SECTION 1. That Section 5, Chapter 256, Laws of 1992, be, and the same is hereby amended to read as follows:

SECTION 5. That Section 2, Chapter 129, Laws of 1990, be, and the same is hereby amended to read as follows:

SECTION 2. This act shall be in full force and effect on and after July 3, 1990, but shall be null, void and of no force and effect on and after July 3, 19946.

Approved March 21, 1994.

CHAPTER 126
(H.B. No. 887)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 381, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 381, Laws of 1993, there is hereby appropriated to the State Treasurer the following amount to be expended according to the designated expense classes from the listed fund for the period July 1, 1993, through June 30, 1994:

| FROM: | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | TOTAL |
|-------------------------------|---------------------------|----------------------------------|----------|
| Professional Services Fund | \$19,000 | \$26,900 | \$45,900 |

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

Approved March 21, 1994.

CHAPTER 127
(S.B. No. 1302)

AN ACT

RELATING TO REVIEW OF DEATH SENTENCES BY THE SUPREME COURT; AMENDING SECTION 19-2827, IDAHO CODE, TO DELETE THE REQUIREMENT THAT THE COURT DETERMINE WHETHER THE SENTENCE OF DEATH IS DISPROPORTIONATE TO THE PENALTY IMPOSED IN SIMILAR CASES.

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

SECTION 1. That Section 19-2827, Idaho Code, be, and the same is hereby amended to read as follows:

19-2827. REVIEW OF DEATH SENTENCES -- PRESERVATION OF RECORDS. (a) Whenever the death penalty is imposed, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the Supreme Court of Idaho. The clerk of the trial court, within ten (10) days after receiving the transcript, shall transmit the entire record and transcript to the Supreme Court of Idaho and to the attorney general together with a notice prepared by the clerk and a report prepared by the trial judge setting forth the findings required by section 19-2515(d), Idaho Code, and such other matters concerning the sentence imposed as may be required by the Supreme Court. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and punishment prescribed. The report may be in the form of a standard questionnaire prepared and supplied by the Supreme Court of Idaho.

(b) The Supreme Court of Idaho shall consider the punishment as well as any errors enumerated by way of appeal.

(c) With regard to the sentence the court shall determine:

(1) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor, and

(2) Whether the evidence supports the judge's finding of a statutory aggravating circumstance from among those enumerated in section 19-2515, Idaho Code, and

(3) Whether the sentence of death is excessive or--disproportionate--to--the--penalty--imposed--in--similar--cases;--considering--both--the--crime--and--the--defendant.

(d) Both the defendant and the state shall have the right to submit briefs within the time provided by the court, and to present oral argument to the court.

(e) ~~The court shall include in its decision a reference to those similar cases which it took into consideration.~~ In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, shall be authorized to:

(1) Affirm the sentence of death; or

(2) Set the sentence aside and remand the case for resentencing by the trial judge based on the record and argument of counsel.

(f) The sentence review shall be in addition to direct appeal, if taken, and the review and appeal shall be consolidated for consideration.

(g) The Supreme Court shall collect and preserve the records of all cases in which the penalty of death was imposed from and including the year 1975.

Approved March 21, 1994.

CHAPTER 128
(S.B. No. 1324)

AN ACT

RELATING TO THE AERONAUTICS ADVISORY BOARD; AMENDING SECTION 21-134, IDAHO CODE, TO INCREASE THE COMPENSATION OF MEMBERS OF THE IDAHO AERONAUTICS ADVISORY BOARD.

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

SECTION 1. That Section 21-134, Idaho Code, be, and the same is hereby amended to read as follows:

21-134. IDAHO AERONAUTICS ADVISORY BOARD CREATED -- DUTIES -- COMPENSATION. There is hereby created and established the Idaho aeronautics advisory board. The board shall consult with and advise the Idaho transportation department on matters concerning aeronautics. Members shall be compensated as provided by section 59-509(fg), Idaho Code.

Approved March 21, 1994.

CHAPTER 129
(S.B. No. 1344)

AN ACT

RELATING TO PROFESSIONAL EMPLOYER RECOGNITION; AMENDING TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 24, TITLE 44, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A STATEMENT OF PURPOSE, TO PROVIDE DEFINITIONS, TO PROVIDE EXEMPTIONS, TO SPECIFY MINIMUM STANDARDS TO QUALIFY FOR RECOGNITION AS A PROFESSIONAL EMPLOYER, TO PROVIDE APPLICATION OF OTHER LAW, AND TO PROVIDE SEVERABILITY; AND AMENDING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1349D, IDAHO CODE, TO PROVIDE FINANCING OF UNEMPLOYMENT BENEFIT PAYMENTS BY PROFESSIONAL EMPLOYERS AND THEIR CLIENTS.

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

SECTION 1. That Title 44, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 24, Title 44, Idaho Code, and to read as follows:

CHAPTER 24
IDAHO PROFESSIONAL EMPLOYER

44-2401. SHORT TITLE. This act shall be known and may be cited as the "Idaho Professional Employer Recognition Act."

44-2402. PURPOSE. The legislature recognizes the increased popularity of professional employer services to small Idaho businesses and, therefore, deems it necessary in the interest of public health, safety and welfare to recognize such business enterprises, set forth certain definitions, and provide statutory guidelines.

44-2403. DEFINITIONS. As used in this chapter:

- (1) "Administration fee" means those charges made by the professional employer to the client over and above the cost of taxes, premiums, wages, state and federal withholdings or licensing procedures.
- (2) "Assigned worker" is a person with an employment relationship with both the professional employer and the client.
- (3) "Client" means a person who obtains its work force from another person through a professional employer arrangement.
- (4) "Person" means an individual, an association, a company, a firm, a partnership or a corporation.
- (5) "Professional employer arrangement" means an arrangement, under contract or otherwise, whereby:
 - (a) A professional employer assigns workers to perform services for a client;
 - (b) The arrangement is intended to be, or is, on-going rather than temporary in nature; and
 - (c) Employer responsibilities are in fact shared by the professional employer and the client for assigned workers.
 - (d) For the purposes of this chapter, a professional employer

arrangement shall not include:

- (i) Temporary employees;
- (ii) Arrangements wherein a person, whose principal business activity is not entering into professional employer arrangements, shares employees with a commonly owned company within the meaning of section 414(b) and (c) of the Internal Revenue Code of 1986, as amended, and which does not hold itself out as a professional employer;
- (iii) Arrangements for which a person assumes full responsibility for the product or service performed by such person or his agents and retains and exercises, both legally and in fact, a complete right of direction and control over the individuals whose services are supplied under such contractual arrangements, and such person and his agents perform a specified function for the client which is separate and divisible from the primary business or operations of the client.

(6) "Professional employer" means any person engaged in providing the services of employees pursuant to one (1) or more professional employer arrangements or any person that represents itself to the public as providing services pursuant to a professional employer arrangement.

(7) "Temporary employee" means a worker employed by an organization which hires its own employees and assigns them to a third party to support or supplement the third party's work force in work situations such as employee absences, temporary skill shortages, seasonal workload conditions, and special assignments and projects.

44-2404. EXEMPTIONS. This chapter shall not apply to labor organizations or to any political subdivision of the state, the United States, and any programs or agencies thereof. A professional employer arrangement shall have no effect on existing collective bargaining agreements.

44-2405. MINIMUM STANDARDS. (1) Each professional employer shall, as a condition to being recognized by this chapter, agree to the following standards:

(a) Have a written contract between the client and the professional employer setting forth the responsibilities and duties of each party. The contract shall disclose to the client the services to be rendered, the respective rights and obligations of the parties, and provide that the professional employer:

- (i) Reserves a right of direction and control over workers assigned to the client's location. However, the client may retain such sufficient direction and control over the assigned workers as is necessary to conduct the client's business and without which the client would be unable to conduct its business, discharge any fiduciary responsibility which it may have, or comply with any applicable licensure, regulatory or statutory requirement of the client;
- (ii) Assume responsibility for the withholding and remittance of payroll-related taxes and employee benefits from its own accounts, as long as the contract between the client and

professional employer remains in force;

(iii) Retain authority to hire, terminate, discipline, and reassign assigned workers. However, the client, if it accepts the responsibility for its action, may have the right to accept or cancel the arrangement of any assigned worker.

(b) Give written notice of the general nature of the relationship between the professional employer and the client to the workers assigned to the client and the public at large. Such notice may be posted in a visible and conspicuous manner at the client's work site.

(2) It is anticipated that under this chapter professional employers will, from time to time, receive from client companies, moneys which represent assigned workers' wages, withholdings, taxes, and benefit plan payments. Each professional employer shall keep in force, in the state of Idaho, a separate bank account or accounts for the purpose of keeping such money separate from the professional employer's operating funds. Assigned workers' wages, withholdings, taxes, and benefit plan payments shall be promptly paid from such trust accounts.

(3) A professional employer shall be considered an employer for purposes of withholding state income tax pursuant to section 63-3035, Idaho Code, to the same extent as the professional employer is an employer for withholding federal income taxes pursuant to the Internal Revenue Code. As long as the professional employer's contract with the client remains in force, the professional employer shall have a right to and shall perform the following responsibilities:

(a) Pay wages and collect, report and pay employment taxes from its trust accounts;

(b) Pay unemployment taxes as required in Idaho state unemployment laws, chapter 13, title 72, Idaho Code;

(c) Work with the client in securing and providing worker's compensation coverage for all of its assigned workers.

(4) A recognized professional employer shall be deemed the employer for the purposes of sponsoring and maintaining benefit and welfare plans for its assigned workers.

(5) Subject to any contrary provisions of the contract between the client and the professional employer, the professional employer arrangement that exists between a professional employer and its clients shall be interpreted for the purposes of sales tax on services, insurance and bonding as follows:

(a) A professional employer shall not be liable for the acts, errors or omissions of a client or of any assigned worker acting under the direction and control of a client. A client shall not be liable for the acts, errors or omissions of a professional employer or of any assigned worker of a professional employer acting under the direction and control of the professional employer. Nothing herein shall limit any contractual liability between the professional employer and the client, nor shall this subsection in any way limit the liabilities of any professional employer or client as defined elsewhere in this chapter;

(b) Workers assigned or contracted to a client by a professional employer are not deemed employees of the professional employer for purposes of general liability insurance, automobile insurance,

fidelity bonds, surety bonds, employer's liability which is not covered by worker's compensation, or liquor liability insurance carried by the professional employer unless the employees are included by specific reference in the applicable employment arrangement contract, insurance contract or bond;

(c) If Idaho enacts a tax on services similar to the sales tax, the administration fee will be the amount which is taxed.

(6) The sale of professional employer arrangements in conformance with the provisions of this chapter shall not constitute the sale of insurance within the meaning of applicable Idaho law.

44-2406. OTHER LAW. Nothing in this chapter exempts a client of a professional employer company nor a worker assigned to a client by a professional employer from any other state, local or federal license or registration requirement. Any individual who must be licensed, registered or certified according to law and who is an assigned worker is deemed an employee of the client for purposes of the license, registration or certification. Except to the extent provided otherwise in the contract with a client, a professional employer is not liable for the general debts, obligations, loss of profits, business goodwill or other consequential special or incidental damages of a client with which it has entered into a professional employer arrangement.

44-2407. SEVERABILITY. If any provisions of this chapter, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are severable.

SECTION 2. That Chapter 13, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 72-1349D, Idaho Code, and to read as follows:

72-1349D. FINANCING OF BENEFITS PAYMENTS BY PROFESSIONAL EMPLOYERS AND THEIR CLIENTS. (1) Nonprofit organizations and governmental entities excepted. Financing of benefits for workers assigned by a professional employer to a nonprofit organization, as defined in section 72-1349A(a), Idaho Code, shall be paid by the nonprofit organization, as provided in section 72-1349A, Idaho Code. Financing of benefits for workers assigned by a professional employer to a governmental entity shall be paid by the governmental entity, as provided in section 72-1349B, Idaho Code. Financing of benefits for workers assigned by a professional employer to any entity other than a nonprofit organization or governmental entity shall be made in accordance with the provisions of this section.

(2) Liability for contributions. Unless a professional employer meets the minimum requirements of this act, its client shall remain liable as a covered employer for any contributions owing on wages under the provisions of this act. During the term of a professional employer arrangement, a professional employer is liable, in accordance with the provisions of sections 72-1349, 72-1354 and 72-1360, Idaho

Code, for the payment of contributions, penalties, and interest on wages paid to employees assigned to a client company, except compensation paid to sole proprietors or partners in the client company.

(3) Joint and several liability. A client is jointly and severally liable for any unpaid contributions, interest and penalties due under the provisions of this act from the professional employer for wages paid to workers assigned to the client.

(4) Reporting requirements. The professional employer shall report and pay all contributions under its state employer account number, using its contribution rate. The professional employer shall keep separate records and submit separate quarterly wage reports for each of its clients.

(5) Interested party. As between a professional employer and its client, the professional employer company shall be deemed to be the interested party for purposes of section 72-1323, Idaho Code, and all proceedings to determine rights to benefits under the provisions of this act.

(6) Temporary workers. The provisions of this section do not apply to an entity that provides temporary workers on a temporary help basis, provided that the entity is liable as the employer for payment of contributions on wages paid to those temporary workers.

(7) Rebuttable presumption. When a professional employer assigns workers to only one (1) client and its affiliates, there is a rebuttable presumption that the client entered into a professional employer arrangement to avoid calculation of the proper contribution rate for payment of unemployment insurance contributions. If the professional employer fails to rebut this presumption, the director, pursuant to section 72-1353, Idaho Code, shall issue an administrative determination of coverage holding the client to be the covered employer for purposes of this act.

(8) A client ceasing to pay wages. Whenever a client ceases to pay wages, such client shall be subject to termination of its employer account and experience rating records in the same manner as any other employer, in accordance with the provisions of sections 72-1351 and 72-1352, Idaho Code. If a client which has ceased to pay wages subsequently becomes subject to this act because it resumes paying wages, it will be assigned the appropriate experience rate in accordance with the provisions of section 72-1351, Idaho Code.

Approved March 21, 1994.

CHAPTER 130
(S.B. No. 1366)

AN ACT

RELATING TO PROSTITUTION; AMENDING SECTIONS 18-5601, 18-5602, 18-5603, 18-5604, 18-5605 AND 18-5606, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO INCREASE THE MAXIMUM FINE FOR TRAFFICKING IN PROSTITUTION, PROCUREMENT, RECEIVING PAY FOR PROCUREMENT, PAYING FOR PROCUREMENT, DETENTION FOR PROSTITUTION AND ACCEPTING THE EARNINGS OF A PROSTITUTE TO FIFTY THOUSAND DOLLARS; REPEALING SECTION

18-5607, IDAHO CODE; AMENDING SECTION 18-5608, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO INCREASE THE MAXIMUM FINE FOR HARBORING A PROSTITUTE TO FIFTY THOUSAND DOLLARS; AMENDING SECTION 18-5609, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO PROVIDE FOR A MINIMUM IMPRISONMENT OF TWO YEARS, A MAXIMUM OF LIFE IMPRISONMENT AND A MAXIMUM FINE OF FIFTY THOUSAND DOLLARS FOR INDUCING A PERSON UNDER EIGHTEEN YEARS OF AGE INTO PROSTITUTION; REPEALING SECTION 18-5610, IDAHO CODE; AMENDING SECTION 18-5611, IDAHO CODE, TO PROVIDE THAT INDUCING A PERSON UNDER EIGHTEEN YEARS OF AGE TO PATRONIZE A PROSTITUTE SHALL BE A FELONY; REPEALING SECTION 18-5612, IDAHO CODE; AND AMENDING SECTION 18-5614, IDAHO CODE, TO PROVIDE THAT A THIRD OR SUBSEQUENT CONVICTION FOR PATRONIZING A PROSTITUTE SHALL BE A FELONY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-5601, Idaho Code, be, and the same is hereby amended to read as follows:

18-5601. INTERSTATE WHITE-SLAVE-TRAFFIC TRAFFICKING IN PROSTITUTION. ~~The importation of Any person who imports persons of either sex, either juvenile or adult, into this state, or the exportation of who exports persons of either sex, either juvenile or adult, from this state, for immoral purposes is prohibited, and whoever shall the purpose of prostitution, or any person who induces, entices or procures such activity, or attempt to induce, entice or procure, to come into this state or to go from the state any such person for the purpose of prostitution or concubinage, or for any other immoral purpose, or to enter any house of prostitution in this state, or anyone who shall aid any such person in obtaining transportation to or within this state, shall be deemed guilty of a felony, and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two (2) years nor more than twenty (20) years, or by a fine of not less than one thousand dollars (\$1,000), nor more than five fifty thousand dollars (\$50,000), or by both such fine and imprisonment.~~

SECTION 2. That Section 18-5602, Idaho Code, be, and the same is hereby amended to read as follows:

18-5602. PROCUREMENT -- DEFINITION AND PENALTY. ~~Anyone who shall place any person in the charge or custody of any other person for immoral purposes or in a house of prostitution or elsewhere with intent that he or she shall live a life of prostitution, or anyone who shall compel or shall Any person who induces, compels, entices, or procures, or attempt to induce, entice or procure or compel any another person to reside or with any other person for immoral purposes, or for the purposes of prostitution, or shall compel or attempt to induce, entice, procure or compel any such person to reside in a house of prostitution, or compel or attempt to induce, entice, procure or compel him or her to live a life of prostitution, engage in acts as a prostitute shall be guilty of a felony, and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period~~

of not less than two (2) years nor more than twenty (20) years, or by a fine of not less than one thousand dollars (\$1,000) nor more than five fifty thousand dollars (\$50,000), or by both such fine and imprisonment.

~~Anyone who shall induce, entice or procure, or attempt to induce, entice or procure any other person for the purpose of prostitution or concubinage, or for any other immoral purpose, or to enter any house of prostitution in this state, shall be deemed guilty of a felony, and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two (2) years nor more than twenty (20) years, or by a fine of not less than one thousand dollars (\$1000) nor more than five thousand dollars (\$5000), or by both such fine and imprisonment.~~

SECTION 3. That Section 18-5603, Idaho Code, be, and the same is hereby amended to read as follows:

18-5603. RECEIVING PAY FOR PROCUREMENT. Anyone Any person who shall knowingly receives any money or other valuable thing for or on account of placing in a house of prostitution or elsewhere any other person for the purpose of causing him or her to cohabit with any person or persons to whom he or she is not married any object of value to procure a prostitute shall be guilty of a felony, and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two (2) years nor more than twenty (20) years, or by a fine of not less than one thousand dollars (\$1,000) nor more than five fifty thousand dollars (\$50,000), or by both such fine and imprisonment.

~~Anyone who shall knowingly receive any money or other valuable thing for or on account of procurement and placing in the custody of another person for immoral purposes any male or female, whether juvenile or adult, with or without his or her consent, shall be guilty of a felony, and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two (2) years nor more than twenty (20) years, or by a fine of not less than one thousand dollars (\$1000) nor more than five thousand dollars (\$5000), or by both such fine and imprisonment.~~

SECTION 4. That Section 18-5604, Idaho Code, be, and the same is hereby amended to read as follows:

18-5604. PAYING FOR PROCUREMENT. Anyone Any person who shall pays another any money or other valuable thing any object of value to procure any other person for the purpose of placing him or her for immoral purposes in any house of a third person to engage in prostitution or elsewhere, with or without his or her consent, shall be guilty of a felony, and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two (2) years nor more than twenty (20) years, or by a fine of not less than one thousand dollars (\$1,000) nor more than five fifty thousand dollars (\$50,000), or by both such fine and imprisonment.

SECTION 5. That Section 18-5605, Idaho Code, be, and the same is

hereby amended to read as follows:

18-5605. PEONAGE DETENTION FOR PROSTITUTION. Anyone who shall hold, detains, or restrains, or who attempts to hold, detain or restrain in any house of prostitution or other place, any another person for the purpose of compelling such person, directly or indirectly, by his or her voluntary or involuntary service of labor to pay, liquidate or cancel any debt, dues or obligations incurred or said to have been incurred in such house of to engage in prostitution or in any other place, shall be deemed guilty of a felony, and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two (2) years nor more than twenty (20) years, or by a fine of not less than one thousand dollars (\$1,000) nor more than five fifty thousand dollars (\$50,000), or by both such fine and imprisonment.

SECTION 6. That Section 18-5606, Idaho Code, be, and the same is hereby amended to read as follows:

18-5606. ACCEPTING EARNINGS OF PROSTITUTE. (1) Any person engaged in a joint venture who shall knowingly accept, receive, levy, or appropriate any money or other valuable thing, item of value from the proceeds or earnings of any person engaged in prostitution as part of a joint venture with such person, shall be deemed guilty of a felony, and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two (2) years nor more than twenty (20) years, or by a fine of not less than one thousand dollars (\$1,000) nor more than five fifty thousand dollars (\$50,000), or by both such fine and imprisonment.

(2) As defined in this section "joint venture" is an undertaking by two (2) or more persons jointly to carry out a single business enterprise involving one or more transactions for profit. Such joint venture can be created by oral agreement or may be inferred from acts or conduct.

SECTION 7. That Section 18-5607, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Section 18-5608, Idaho Code, be, and the same is hereby amended to read as follows:

18-5608. HARBORING PROSTITUTES. Anyone who shall keep, Any person maintaining, controlling or supporting a or harbor in any house or other place, or aids or abets in the same, for the purpose of prostitution, or for any other immoral purpose, any male or female, whether juvenile or adult, within three (3) years after he or she shall have entered the state, as defined in this chapter, shall be deemed guilty of a felony, and, upon conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two (2) years nor more than twenty (20) years, or by a fine of not less than one thousand dollars (\$1,000) nor more than five fifty thousand dollars (\$50,000), or by both such fine and imprisonment.

SECTION 9. That Section 18-5609, Idaho Code, be, and the same is hereby amended to read as follows:

18-5609. ENTICING--UNMARRIED--PERSON-OF-CHASTE-CHARACTER INDUCING PERSON UNDER EIGHTEEN YEARS OF AGE INTO PROSTITUTION OR-ILLEGIT-SEXUAL CONNECTION -- PENALTIES. Every person who ~~inveigles--or--entices--any unmarried--person-of-previous-chaste-character,~~ induces or attempts to induce a person under the age of eighteen (18) years, ~~into--any--house of--ill--fame,--or--of--assignation,--or--elsewhere,--for--the--purpose--of--to engage in prostitution,--or--to--have--illicit--carnal--connection--with--any other---person,---and--every--person--who--aids--or--assists--in--such inveiglement--or--enticement,~~ is shall be guilty of a felony punishable by imprisonment in the state prison ~~not--exceeding--five--(5)~~ penitentiary for a period of not less than two (2) years, ~~or--by--imprisonment in--a--county--jail--not--exceeding--one--(1)--year,~~ which may be extended to life imprisonment, or by a fine not exceeding one fifty thousand dollars (\$150,000), or by both such fine and imprisonment.

SECTION 10. That Section 18-5610, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Section 18-5611, Idaho Code, be, and the same is hereby amended to read as follows:

18-5611. ADMISSION-OF-MINORS-INTO-HOUSES-OF-PROSTITUTION INDUCING PERSON UNDER EIGHTEEN YEARS OF AGE TO PATRONIZE A PROSTITUTE -- PENALTIES. Any ~~proprietor,--keeper,--manager,--conductor,--or person having the control of any house of prostitution,--or any house or room resorted to for--the--purpose--of--prostitution,--who--shall--admit--or--keep--any--minor--of either--sex--therein,--or--any--parent--or--guardian--of--any--such--minor--who shall--admit--or--keep--such--minor,--or--sanction,--or--connive--at--the--admission--or--keeping--thereof,--into--or--in--any--such--house--or--room,~~ who induces or attempts to induce a person under the age of eighteen (18) years to patronize a prostitute shall be guilty of a misdemeanor felony.

SECTION 12. That Section 18-5612, Idaho Code, be, and the same is hereby repealed.

SECTION 13. That Section 18-5614, Idaho Code, be, and the same is hereby amended to read as follows:

18-5614. PATRONIZING A PROSTITUTE. (1) A person is guilty of patronizing a prostitute when he or she:

- (a) ~~p~~Pays or offers or agrees to pay another person a fee for the purpose of engaging in an act of sexual conduct or sexual contact;
- (b) ~~e~~Enters or remains in a house of prostitution for the purpose of engaging in sexual conduct or sexual contact.

(2) Patronizing a prostitute is a misdemeanor, provided that a third or subsequent conviction therefor shall be a felony.

CHAPTER 131
(S.B. No. 1368)

AN ACT

RELATING TO CRIME AND PUNISHMENT; AMENDING SECTION 18-115, IDAHO CODE, TO CLARIFY THAT CRIMINAL INTENT IS MANIFESTED BY THE COMMISSION OF THE ACTS AND SURROUNDING CIRCUMSTANCES AND TO REMOVE REFERENCES TO THE SOUND MIND OF THE ACCUSED; AMENDING SECTION 18-204, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE AND TO PROVIDE CORRECT LEGAL TERMINOLOGY; AMENDING SECTION 18-205, IDAHO CODE, TO PROVIDE CORRECT LEGAL TERMINOLOGY AND TO INCLUDE WITHIN THE DEFINITION OF ACCESSORY ANY PERSON WILLFULLY WITHHOLDING KNOWLEDGE THAT A FELONY HAS BEEN COMMITTED FROM A JUDGE, MAGISTRATE, GRAND JURY OR PETIT JURY; AMENDING SECTION 18-206, IDAHO CODE, TO PROVIDE THAT AN ACCESSORY IS PUNISHABLE BY IMPRISONMENT FOR UP TO FIVE YEARS, BY A FINE OF UP TO FIFTY THOUSAND DOLLARS OR BOTH; AMENDING SECTION 18-216, IDAHO CODE, TO CLARIFY THAT THE LIMITATION OF CRIMINAL JURISDICTION OVER JUVENILES APPLIES TO PERSONS LESS THAN EIGHTEEN BUT NOT LESS THAN FOURTEEN YEARS OF AGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-306, IDAHO CODE, TO PROVIDE THAT IF AN OFFENSE ATTEMPTED IS PUNISHABLE BY IMPRISONMENT FOR LIFE, OR BY DEATH, THE PERSON GUILTY OF THE ATTEMPT IS PUNISHABLE BY IMPRISONMENT IN THE STATE PRISON FOR UP TO FIFTEEN YEARS AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTIONS 18-316, 18-702 AND 18-1105, IDAHO CODE; AMENDING SECTION 18-1801, IDAHO CODE, TO ELIMINATE PUBLICATION OF A FALSE OR INACCURATE REPORT OF COURT PROCEEDINGS AS A CRIMINAL CONTEMPT; AMENDING SECTION 18-2109, IDAHO CODE, TO AUTHORIZE PEACE OFFICERS TO MAKE OTHER PROVISION FOR ABANDONED ANIMALS AS AN OPTION TO KILLING SUCH ANIMALS; AMENDING SECTION 18-2111, IDAHO CODE, TO REQUIRE PROBABLE CAUSE FOR THE ISSUANCE OF SEARCH AND ARREST WARRANTS FOR OFFENSES RELATING TO ANIMALS, TO DELETE ARCHAIC LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-2112, IDAHO CODE, TO DEFINE ANIMAL; REPEALING SECTION 18-2115, IDAHO CODE; AMENDING SECTION 18-3205, IDAHO CODE, TO PROVIDE FOR GENERAL MISDEMEANOR PENALTIES FOR THE DESTRUCTION OF LEGAL NOTICES; AMENDING SECTION 18-3308, IDAHO CODE, TO PROVIDE FOR GENERAL MISDEMEANOR PENALTIES FOR SELLING EXPLOSIVES TO MINORS; AND REPEALING SECTION 18-3402, IDAHO CODE.

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

SECTION 1. That Section 18-115, Idaho Code, be, and the same is hereby amended to read as follows:

18-115. MANIFESTATION OF INTENT. The intent or intention is manifested by the commission of the acts and surrounding circumstances connected with the offense; ~~and the sound mind and discretion of the accused. All persons are of sound mind who are neither idiots or lunatics, nor affected with insanity.~~

SECTION 2. That Section 18-204, Idaho Code, be, and the same is hereby amended to read as follows:

18-204. PRINCIPALS DEFINED. All persons concerned in the commission of a crime, whether it be felony or misdemeanor, and whether they directly commit the act constituting the offense or aid and abet in its commission, or, not being present, have advised and encouraged its commission, ~~and all persons counseling, advising, or encouraging children under the age of fourteen (14) years, lunatics, or idiots, to commit any crime,~~ or who, by fraud, contrivance, or force, occasion the drunkenness intoxication of another for the purpose of causing him to commit any crime, or who, by threats, menaces, command or coercion, compel another to commit any crime, are principals in any crime so committed.

SECTION 3. That Section 18-205, Idaho Code, be, and the same is hereby amended to read as follows:

18-205. ACCESSORIES DEFINED. All persons who, having knowledge that a felony has been committed, unlawfully willfully withhold or conceal it from a peace officer, judge, magistrate, grand jury or petit jury, or harbor and protect the person charged with or convicted thereof, are accessories.

SECTION 4. That Section 18-206, Idaho Code, be, and the same is hereby amended to read as follows:

18-206. PUNISHMENT OF ACCESSORIES. Except in cases where a different punishment is prescribed, an accessory is punishable by imprisonment in the state prison not exceeding two five (25) years, or by fine not exceeding \$5,000 fifty thousand dollars (\$50,000), or by both such fine and imprisonment.

SECTION 5. That Section 18-216, Idaho Code, be, and the same is hereby amended to read as follows:

18-216. CRIMINAL TRIAL OF JUVENILES BARRED -- EXCEPTIONS -- JURISDICTIONAL HEARING -- TRANSFER OF DEFENDANT TO DISTRICT COURT. (1)

A person shall not be tried for or convicted of an offense if:

(a) ~~a~~At the time of the conduct charged to constitute the offense he was less than fourteen (14) years of age; or

(b) ~~a~~At the time of the conduct charged to constitute the offense he was not less than fourteen eighteen (148) nor more but not less than seventeen fourteen (174) years of age, unless:

1. ~~a~~A court of this state has no jurisdiction over him pursuant to chapter 18, title 16, Idaho Code, or

2. ~~t~~The court having jurisdiction pursuant to chapter 18, title 16, Idaho Code, has entered an order waiving jurisdiction and consenting to the institution of criminal proceedings against him.

(2) No court shall have jurisdiction to try or convict a person of an offense if criminal proceedings against him are barred by subsection (1) of this section. When it appears that a person charged with the commission of an offense may be of such an age that criminal proceedings may be barred under subsection (1) of this section, the court shall hold a hearing thereon, and the burden shall be on the

prosecution to establish to the satisfaction of the court that the criminal proceeding is not barred upon such grounds. If the court determines that the proceeding is barred, custody of the person charged shall be surrendered to the court having jurisdiction pursuant to chapter 18, title 16, Idaho Code, and the case, including all papers and processes relating thereto, shall be transferred.

SECTION 6. That Section 18-306, Idaho Code, be, and the same is hereby amended to read as follows:

18-306. PUNISHMENT FOR ATTEMPTS. Every person who attempts to commit any crime, but fails, or is prevented or intercepted in the perpetration thereof, is punishable, where no provision is made by law for the punishment of such attempts, as follows:

(1) If the offense so attempted is punishable by imprisonment in the state prison for life, or by death, the person guilty of such attempt is punishable by imprisonment in the state prison for a term not exceeding fifteen (15) years.

(2) If the offense so attempted is punishable by imprisonment in the state prison for five (5) years or more but for less than life imprisonment, or by imprisonment in the county jail, the person guilty of such attempt is punishable by imprisonment in the state prison, or in the county jail, as the case may be, for a term not exceeding one-half (1/2) the longest term of imprisonment prescribed upon a conviction of the offense so attempted.

2-(3) If the offense so attempted is punishable by imprisonment in the state prison for any term less than five (5) years, the person guilty of such attempt is punishable by imprisonment in the county jail for not more than one (1) year.

3-(4) If the offense so attempted is punishable by a fine, the offender convicted of such attempt is punishable by a fine not exceeding one-half (1/2) the largest fine which may be imposed upon a conviction of the offense so attempted.

4-(5) If the offense so attempted is punishable by imprisonment and by a fine, the offender convicted of such attempt may be punished by both imprisonment and fine, not exceeding one-half (1/2) the longest term of imprisonment and one-half (1/2) the largest fine which may be imposed upon a conviction for the offense so attempted.

SECTION 7. That Sections 18-316, 18-702 and 18-1105, Idaho Code, be, and the same are hereby repealed.

SECTION 8. That Section 18-1801, Idaho Code, be, and the same is hereby amended to read as follows:

18-1801. CRIMINAL CONTEMPTS. Every person guilty of any contempt of court, of either of the following kinds, is guilty of a misdemeanor:

1. Disorderly, contemptuous or insolent behavior committed during the sitting of any court of justice, in immediate view and presence of the court and directly tending to interrupt its proceedings or to impair the respect due to its authority.

2. Behavior of the like character committed in the presence of

any referee, while actually engaged in any trial or hearing, pursuant to the order of any court, or in the presence of any jury, while actually sitting for the trial of a cause, or upon any inquest or other proceeding authorized by law.

3. Any breach of the peace, noise or other disturbance directly tending to interrupt the proceedings of any court.

4. Wilful disobedience of any process or order lawfully issued by any court.

5. Resistance wilfully offered by any person to the lawful order or process of any court.

6. The contumacious and unlawful refusal of any person to be sworn as a witness; or, when so sworn, the like refusal to answer any material question.

~~7. The publication of a false or grossly inaccurate report of the proceedings of any court.~~

SECTION 9. That Section 18-2109, Idaho Code, be, and the same is hereby amended to read as follows:

18-2109. PERMITTING ANIMALS TO GO WITHOUT CARE -- ABANDONED ANIMALS ~~TO BE KILLED~~. Every owner, driver or possessor of any animal, who shall permit the same to be in any building, inclosure, lane, street, square or lot of any city, county or precinct, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor. And it shall be the duty of any peace officer, or officer of any incorporated association qualified as provided by law, to take possession of the animal so abandoned or neglected, and care for the same until it is redeemed by the owner or claimant, and the cost of caring for such animal shall be a lien on the same until the charges are paid. Every sick, disabled, infirm or crippled animal which shall be abandoned in any city, county or precinct, may if after due search no owner can be found therefor, be killed, or other provision made for the animal by such officer; and it shall be the duty of all peace officers, or by an officer of said incorporated association, to cause the same to be killed, or other provision made therefor, on information of such abandonment. Such officer may likewise take charge of any animal that by reason of lameness, sickness, feebleness or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if such animal is not then in custody of its owner, such officer shall give notice thereof to such owner, if known, and may provide suitable care for such animal until it is deemed to be in a suitable condition to be delivered to such owner, and any necessary expenses which may be incurred for taking care of and keeping the same shall be a lien thereon, to be paid before the same can be lawfully recovered.

SECTION 10. That Section 18-2111, Idaho Code, be, and the same is hereby amended to read as follows:

18-2111. PROSECUTIONS. When complaint is made on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant there is probable cause believes that any provision of law relating to or in any way affecting ~~dumb animals or--birds~~, is

being, or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, ~~constable~~, police or peace officer, or officer of any incorporated association qualified as provided by law, authorizing him to enter and search such building or place, and to arrest any person there present violating or attempting to violate any law relating thereto, or in any way affecting ~~dumb animals or-birds~~, and to bring such person before some court or magistrate of competent jurisdiction, within the city, or county, ~~or-precinct~~ within which such offense has been committed or attempted, to be dealt with according to law, and such attempt must be held to be a violation of section 18-2102, Idaho Code.

SECTION 11. That Section 18-2112, Idaho Code, be, and the same is hereby amended to read as follows:

18-2112. TERMS DEFINED. In this chapter the word "animal" means any vertebrate member of the animal kingdom other than man and includes every--dumb--creature birds, fish and reptiles; the words "torment," "torture" and "cruelty" include every act, omission or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted; and the words "owner" and "person" include corporations as well as individuals; and the knowledge and acts of agents of, or persons employed by a corporation in regard to animals transported, owned, or employed by, or in custody of, such corporation must be held to be the act and knowledge of such corporation as well as such agent or employee.

SECTION 12. That Section 18-2115, Idaho Code, be, and the same is hereby repealed.

SECTION 13. That Section 18-3205, Idaho Code, be, and the same is hereby amended to read as follows:

18-3205. DESTROYING LEGAL NOTICES. Every person who intentionally defaces, obliterates, tears down or destroys any copy or transcript, or extract from or of any law of the United States or of this state, or any proclamation, advertisement or notification set up at any place in this state, by authority of any law of the United States or of this state, or by order of any court, before the expiration of the time for which the same was to remain set up, is punishable-by-fine-of-not-less-than--\$20-00--nor--more-than-\$100-00,-or-by-imprisonment-in-the-county jail--not-more-than-one-(1)-month guilty of a misdemeanor.

SECTION 14. That Section 18-3308, Idaho Code, be, and the same is hereby amended to read as follows:

18-3308. SELLING EXPLOSIVES, AMMUNITION OR FIREARMS TO MINORS. No person, firm, association or corporation shall sell or give to any minor under the age of sixteen (16) years any powder, commonly called gunpowder, of any description, or any dynamite or other explosive, or any shells or fixed ammunition of any kind, except shells loaded for use in shotguns and for use in rifles of twenty-two (22) caliber or

smaller, or any firearms of any description, without the written consent of the parents or guardian of such minor first had and obtained. Any person, firm, association or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty-five dollars--(\$25.00) nor more than \$100; or be imprisoned in the county jail not less than ten--(10) days nor more than thirty--(30) days; or be punished by both such fine and imprisonment in the discretion of the court.

SECTION 15. That Section 18-3402, Idaho Code, be, and the same is hereby repealed.

Approved March 21, 1994.

CHAPTER 132
(S.B. No. 1369)

AN ACT

RELATING TO THEFT; AMENDING SECTION 18-2402, IDAHO CODE, TO PROVIDE THAT WHEN THE VALUE OF STOLEN PROPERTY CANNOT BE ASCERTAINED, IT SHALL BE DEEMED TO BE THREE HUNDRED DOLLARS OR LESS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-2407, IDAHO CODE, TO PROVIDE THAT A PERSON COMMITS GRAND THEFT WHEN THE VALUE OF PROPERTY TAKEN EXCEEDS THREE HUNDRED DOLLARS, TO PROVIDE THAT TAKING OR DELIBERATELY KILLING LIVESTOCK OR ANY OTHER ANIMAL EXCEEDING THREE HUNDRED DOLLARS IN VALUE IS GRAND THEFT AND TO PROVIDE FOR AGGREGATION OF VALUES WHEN A SERIES OF THEFTS WHICH INDIVIDUALLY ARE THREE HUNDRED DOLLARS OR LESS COMPRISE PART OF A COMMON SCHEME OR PLAN; AND AMENDING SECTION 18-3127, IDAHO CODE, TO PROVIDE FOR FELONY PENALTIES WHEN THE VALUE OF PROPERTY OBTAINED THROUGH FRAUDULENT USE OF A FINANCIAL TRANSACTION CARD EXCEEDS THREE HUNDRED DOLLARS.

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

SECTION 1. That Section 18-2402, Idaho Code, be, and the same is hereby amended to read as follows:

18-2402. DEFINITIONS. The following definitions are applicable to this chapter:

(1) "Appropriate." To "appropriate" property of another to oneself or a third person means:

(a) To exercise control over it, or to aid a third person to exercise control over it, permanently or for so extended a period or under such circumstances as to acquire the major portion of its economic value or benefit; or

(b) To dispose of the property for the benefit of oneself or a third person.

(2) "Deception" means knowingly to:

(a) Create or confirm another's impression which is false and

which the offender does not believe to be true; or

(b) Fail to correct a false impression which the offender previously has created or confirmed; or

(c) Prevent another from acquiring information pertinent to the disposition of the property involved; or

(d) Sell or otherwise transfer or encumber property, failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property whether such impediment is or is not valid, or is or is not a matter of official record; or

(e) Promise performance which the offender does not intend to perform or knows will not be performed. Failure to perform, standing alone, is not evidence that the offender did not intend to perform.

(3) "Deprive." To "deprive" another of property means:

(a) To withhold it or cause it to be withheld from him permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to him; or

(b) To dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.

(4) "Obtain" means:

(a) In relation to property, to bring about a transfer of interest or possession, whether to the offender or to another; and

(b) In relation to labor or services, to secure the performance thereof.

(5) "Obtains or exerts control" over property, includes, but is not limited to, the taking, carrying away, or the sale, conveyance, or transfer of title to, or interest in, or possession of property.

(6) "Owner." When property is taken, obtained or withheld by one (1) person from another person, an owner thereof means any person who has a right to possession thereof superior to that of the taker, obtainer or withholder.

(7) "Person" means an individual, corporation, association, public or private corporation, city or other municipality, county, state agency or the state of Idaho.

(8) "Property" means anything of value. Property includes real estate, money, commercial instruments, admission or transportation tickets, written instruments representing or embodying rights concerning anything of value, labor or services, or otherwise of value to the owner; things growing on, affixed to, or found on land, or part of or affixed to any building; electricity, gas, steam, and water; birds, animals and fish, which ordinarily are kept in a state of confinement; food and drink; samples, cultures, microorganisms, specimens, records, recordings, documents, blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, prototypes or models thereof, or any other articles, materials, devices, substances and whole or partial copies, descriptions, photographs, prototypes or models thereof which constitute, represent, evidence, reflect or record a secret scientific, technical, merchandising, production or management information, design, process, procedure, formula, invention, or improvement.

(9) "Service" includes, but is not limited to, labor, profes-

sional service, transportation service, the supplying of hotel accommodations, restaurant services, entertainment, (a communication system) the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water. A ticket or equivalent instrument which evidences a right to receive a service is not in itself service but constitutes property within the meaning of subsection (78) of this section.

(10) "Stolen property" means property over which control has been obtained by theft.

(11) "Value." The value of property shall be ascertained as follows:

(a) Except as otherwise specified in this section, value means the market value of the property at the time and place of the crime, or if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the crime.

(b) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities, shall be evaluated as follows:

1. The value of an instrument constituting an evidence of debt, such as a check, draft or promissory note, shall be deemed the amount due or collectible thereon or thereby, such figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied.

2. The value of a ticket or equivalent instrument which evidences a right to receive a transportation, entertainment or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon the value shall be deemed the price of such ticket or equivalent instrument which the issuer charges the general public.

3. The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) When the value of property cannot be satisfactorily ascertained pursuant to the standards set forth in paragraphs (a) and (b) of this subsection, its value shall be deemed to be ~~an amount less than one~~ three hundred fifty dollars (\$15300) or less.

(d) For the purpose of establishing value of any written instrument, the interest of any owner or owners entitled to part or all of the property represented by such instrument, by reason of such instrument, may be shown, even if another owner may be named in the complaint, information or indictment.

SECTION 2. That Section 18-2407, Idaho Code, be, and the same is hereby amended to read as follows:

18-2407. GRADING OF THEFT. Theft is divided into two (2) degrees, grand theft and petit theft.

(1) Grand theft.

(a) A person is guilty of grand theft when he commits a theft as defined in this chapter and when the property, regardless of its nature and value, is obtained by extortion committed by instilling in the victim a fear that the actor or another person will:

1. Cause physical injury to some person in the future; or
2. Cause damage to property; or
3. Use or abuse his position as a public servant by engaging in conduct within or related to his official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.

(b) A person is guilty of grand theft when he commits a theft as defined in this chapter and when:

1. The value of the property taken exceeds one three hundred fifty dollars (\$15300); or
2. The property consists of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant; or
3. The property consists of a credit card; or
4. The property, regardless of its nature or value, is taken from the person of another; or
5. The property, regardless of its nature and value, is obtained by extortion; or
6. The property consists of one or more firearms, rifles or shotguns; or

7. The property taken or deliberately killed is livestock or any other animal exceeding one three hundred fifty dollars (\$15300) in value including-but-not--limited--to--any--horse, mare,--gelding,--cow,--steer,--bull,--calf,--mule,--jack,--goat, jenny,--sheep,--hog,--or--domestic--fur-bearing--animal--of--any breed--or--cross--thereof--except--a--dog--or--cat, when in captivity and--owned--or--held--for--the--purpose--of--breeding--or--of--fur--production,--or--in--the--case--of--cattle,--sheep,--or--hogs,--the--butchering--and--taking--of--the--meat--products--thereof.

8. When any series of thefts, comprised of individual thefts having a value of three hundred dollars (\$300) or less, are part of a common scheme or plan, the thefts may be aggregated in one (1) count and the sum of the value of all of the thefts shall be the value considered in determining whether the value exceeds three hundred dollars (\$300).

(2) Petit theft. A person is guilty of petit theft when he commits a theft as defined in this chapter and his actions do not constitute grand theft.

SECTION 3. That Section 18-3127, Idaho Code, be, and the same is hereby amended to read as follows:

18-3127. PENALTY FOR VIOLATION. (1) Any person found guilty of a violation of section 18-3124, 18-3125, 18-3125A or 18-3126, Idaho Code, is guilty of a misdemeanor. In the event that the retail value of the goods obtained or attempted to be obtained through any violation of the provisions of section 18-3124, 18-3125A or 18-3126, Idaho Code, amounts-to-the-sum-of-one exceeds three hundred fifty dollars (\$15300) or--more, any such violation will constitute a felony, and

will be punished as provided in this section.

(2) For purposes of this section, the punishment for a misdemeanor shall be a fine of up to one thousand dollars (\$1,000) or up to one (1) year in the county jail, or by both such fine and imprisonment.

(3) For purposes of this section, the punishment for a felony shall be a fine of up to five fifty thousand dollars (\$50,000) or by imprisonment in the state prison not exceeding five (5) years, or by both such fine and imprisonment.

Approved March 21, 1994.

CHAPTER 133
(S.B. No. 1370)

AN ACT

RELATING TO TOBACCO OFFENSES AND ALCOHOL AGE VIOLATIONS; AMENDING SECTION 18-1502, IDAHO CODE, TO INCREASE THE PENALTIES FOR VIOLATIONS OF THE STATUTE, TO INCREASE THE AGE TO TWENTY-ONE FOR LICENSE SUSPENSIONS FOR UNDERAGE DRINKING AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 18-1502A, IDAHO CODE, TO PROVIDE GENERAL MISDEMEANOR PENALTIES FOR THE ILLEGAL POSSESSION OR SALE OF TOBACCO.

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

SECTION 1. That Section 18-1502, Idaho Code, be, and the same is hereby amended to read as follows:

18-1502. BEER, WINE OR OTHER ALCOHOL ~~AND TOBACCO~~ AGE VIOLATIONS -- FINES. (a) Whenever a person is in violation, on the basis of his age, of any federal, state, or municipal law or ordinance pertaining to the use, possession, procurement, or attempted procurement, or dispensing of any beer, wine or other alcoholic beverage ~~or tobacco~~ product, the violation shall constitute a misdemeanor.

(b) Every person convicted of a misdemeanor under this section shall be punished by a fine of not more than one hundred thousand dollars (\$1,000). The second conviction under this section shall be punished by a fine of not more than two hundred thousand dollars (\$2,000), or up to thirty (30) days in jail or both. The third and subsequent convictions under this section shall be punished by a fine of not more than three hundred thousand dollars (\$3,000), or up to thirty sixty (360) days in jail or both.

(c) A conviction under this section shall not be used as a factor or considered in any manner for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer, nor shall such conviction be grounds for nonrenewal of any insurance policy as provided in section 41-2507, Idaho Code.

(d) Whenever a person pleads guilty or is found guilty of violating any law pertaining to the possession, use, procurement, attempted procurement or dispensing of any beer, wine, or other alcoholic beverage, and such person was under ~~eighteen-(18)~~ twenty-one (21) years of

age at the time of such violation, then in addition to the penalty provided in subsection (b) of this section:

(1) The court shall suspend the person's driving privileges for a period of not more than one (1) year. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(2) If the person's driving privileges have been previously suspended under this section, the court shall suspend the person's driving privileges for a period of not more than two (2) years. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(3) The person shall surrender his license or permit to the court.

(4) The court shall notify the motor vehicle division of the Idaho transportation department of all orders of suspension it issues pursuant to this section.

(5) The court, in its discretion, may also order the person to undergo and complete an alcohol evaluation and to complete an alcohol treatment or education program in the same manner that persons sentenced pursuant to section 18-8005, Idaho Code, are required to undergo and complete.

SECTION 2. That Section 18-1502A, Idaho Code, be, and the same is hereby amended to read as follows:

18-1502A. SALE OF TOBACCO TO A MINOR -- POSSESSION BY A MINOR -- FINES. (1) Every minor person under eighteen (18) years of age who shall buy, accept or have in his possession any cigarette, cigar or tobacco in any form, or who shall buy, accept or have in his possession any cigarette paper or other paper or wrapper intended for the wrapping of tobacco in the form of a cigarette, or compounds of tobacco used in the filling or makeup of cigarettes, shall be guilty of a misdemeanor ~~and shall be subject to punishment as prescribed by section 18-1502, Idaho Code.~~

(2) Every person who shall give, sell or furnish, directly or indirectly, any cigarettes, cigars or tobacco in any form, or any cigarette paper or other paper or wrapper intended for the wrapping of tobacco in the form of a cigarette, or any compound of tobacco used in the filling or makeup of cigarettes, to such minor persons, or shall permit such minor persons to frequent any premises owned, held or managed by him for the purpose of indulging in the use of cigarettes, cigars or tobacco in any form, shall be guilty of a misdemeanor, ~~and upon conviction thereof shall be punished for the first offense by a fine of not more than one hundred dollars (\$100) and for the second offense by a fine of not more than three hundred dollars (\$300), or by imprisonment in the county jail for a period not to exceed six (6) months.~~

CHAPTER 134
(S.B. No. 1371)

AN ACT
RELATING TO PUNISHMENT FOR FELONIES; AMENDING SECTIONS 18-112 AND 18-112A, IDAHO CODE, TO PROVIDE THAT UNLESS OTHERWISE PRESCRIBED, THE MAXIMUM FINE WHICH MAY BE IMPOSED FOR A FELONY SHALL BE FIFTY THOUSAND DOLLARS.

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

SECTION 1. That Section 18-112, Idaho Code, be, and the same is hereby amended to read as follows:

18-112. PUNISHMENT FOR FELONY. Except in cases where a different punishment is prescribed by this code, every offense declared to be a felony, is punishable by imprisonment in the state prison not exceeding five (5) years, or by fine not exceeding \$5,000 fifty thousand dollars (\$50,000), or by both such fine and imprisonment.

SECTION 2. That Section 18-112A, Idaho Code, be, and the same is hereby amended to read as follows:

18-112A. FINE AUTHORIZED. In addition to any other punishment prescribed for felonies in specific statutes of the Idaho Code, the court may also impose a fine of up to five fifty thousand dollars (\$50,000). This section shall not apply if the specific felony statute provides for the imposition of a fine.

Approved March 21, 1994.

CHAPTER 135
(S.B. No. 1373)

AN ACT
RELATING TO RAPE; AMENDING SECTION 18-6101, IDAHO CODE, TO REMOVE A REFERENCE TO "LUNACY" AND TO INSERT NECESSARY PUNCTUATION; AND AMENDING SECTION 18-6108, IDAHO CODE, TO REMOVE A REFERENCE TO "LUNACY".

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

SECTION 1. That Section 18-6101, Idaho Code, be, and the same is hereby amended to read as follows:

18-6101. RAPE DEFINED. Rape is an act of sexual intercourse accomplished with a female under either of the following circumstances:

1. Where the female is under the age of eighteen (18) years.
2. Where she is incapable, through ~~lunacy~~---or any other

unsoundness of mind, whether temporary or permanent, of giving legal consent.

3. Where she resists but her resistance is overcome by force or violence.

4. Where she is prevented from resistance by threats of immediate and great bodily harm, accompanied by apparent power of execution; or by any intoxicating, narcotic, or anaesthetic substance administered by or with the privity of the accused.

5. Where she is at the time unconscious of the nature of the act, and this is known to the accused.

6. Where she submits under the belief that the person committing the act is her husband, and the belief is induced by artifice, pretense or concealment practiced by the accused, with intent to induce such belief.

SECTION 2. That Section 18-6108, Idaho Code, be, and the same is hereby amended to read as follows:

18-6108. MALE RAPE. Male rape is defined as the penetration, however slight, of the oral or anal opening of another male, with the perpetrator's penis, for the purpose of sexual arousal, gratification or abuse, under any of the following circumstances:

1. Where the victim is incapable, through ~~lunacy~~ or any other unsoundness of mind, whether temporary or permanent, of giving consent.

2. Where the victim resists but his resistance is overcome by force or violence.

3. Where the victim is prevented from resistance by threats of immediate and great bodily harm, accompanied by apparent power of execution.

4. Where the victim is prevented from resistance by the use of any intoxicating, narcotic, or anaesthetic substance administered by or with the privity of the accused.

5. Where the victim is at the time unconscious of the nature of the act, and this is known to the accused.

Approved March 21, 1994.

CHAPTER 136
(S.B. No. 1374, As Amended)

AN ACT

RELATING TO VULNERABLE ADULTS; AMENDING THE CHAPTER HEADING OF CHAPTER 15, TITLE 18, IDAHO CODE; REPEALING SECTION 18-1505, IDAHO CODE; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-1505, IDAHO CODE, TO PROVIDE THAT THE ABUSE, EXPLOITATION OR NEGLECT OF A VULNERABLE ADULT SHALL BE A MISDEMEANOR, TO PROVIDE DEFINITIONS AND TO PROVIDE FOR CERTAIN EXCEPTIONS FROM THE APPLICATION OF THE STATUTE; AND AMENDING SECTION 18-1505A, IDAHO CODE, TO PROVIDE CODE REFERENCES.

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

SECTION 1. That the heading of Chapter 15, Title 18, Idaho Code, be, and the same is hereby amended to read as follows:

CHILDREN AND ~~LUNATICS~~ VULNERABLE ADULTS

SECTION 2. That Section 18-1505, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 15, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-1505, Idaho Code, and to read as follows:

18-1505. ABUSE, EXPLOITATION OR NEGLECT OF A VULNERABLE ADULT.

(1) Any person who abuses, exploits or neglects a vulnerable adult is guilty of a misdemeanor.

(2) As used in this section:

(a) "Abuse" means the intentional or negligent infliction of physical pain, injury or mental injury.

(b) "Caretaker" means any individual or institution that is responsible by relationship, contract or court order to provide food, shelter or clothing, medical or other life-sustaining necessities to a vulnerable adult.

(c) "Exploitation" means an action which may include, but is not limited to, the misuse of a vulnerable adult's funds, property or resources by another person for profit or advantage.

(d) "Neglect" means failure of a caretaker to provide food, clothing, shelter or medical care to a vulnerable adult, in such a manner as to jeopardize the life, health and safety of the vulnerable adult.

(e) "Vulnerable adult" means a person eighteen (18) years of age or older who is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment which affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make or communicate or implement decisions regarding his person.

(3) Nothing in this section shall be construed to mean a person is abused, neglected or exploited for the sole reason he is relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination; nor shall the provisions of this section be construed to require any medical care or treatment in contravention of the stated or implied objection of such a person.

SECTION 4. That Section 18-1505A, Idaho Code, be, and the same is hereby amended to read as follows:

18-1505A. ABANDONING A VULNERABLE ADULT. Any person who abandons a vulnerable adult, as that term is defined in section 39-5302 18-1505, Idaho Code, in deliberate disregard of the vulnerable adult's safety or welfare, regardless of whether the vulnerable adult suffered

physical harm from the act of abandonment, shall be guilty of a felony and shall be imprisoned in the state prison for a period not in excess of five (5) years, or by a fine not exceeding five thousand dollars (\$5,000), or by both such fine and imprisonment. It shall not be a defense to prosecution under the provisions of this section that the perpetrator lacked the financial ability or means to provide food, clothing, shelter or medical care reasonably necessary to sustain the life and health of a vulnerable adult.

As used in this section "abandon" means the desertion or willful forsaking of a vulnerable adult by any individual, caretaker as defined by subsection (2)(b) of section ~~39-5302~~ 18-1505, Idaho Code, or entity which has assumed responsibility for the care of the vulnerable adult by contract, receipt of payment of care, any relationship arising from blood or marriage wherein the vulnerable adult has become the dependent of another or by order of a court of competent jurisdiction; provided that abandon shall not mean the termination of services to a vulnerable adult by a physician licensed under chapter 18, title 54, Idaho Code, or anyone under his direct supervision, where the physician determines, in the exercise of his professional judgment, that termination of such services is in the best interests of the patient.

Approved March 21, 1994.

CHAPTER 137
(S.B. No. 1375)

AN ACT

RELATING TO ADVERTISING CURES FOR SEXUAL DISORDERS; REPEALING CHAPTER 7, TITLE 39, IDAHO CODE.

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

SECTION 1. That Chapter 7, Title 39, Idaho Code, be, and the same is hereby repealed.

Approved March 21, 1994.

CHAPTER 138
(S.B. No. 1376)

AN ACT

RELATING TO THE DEFINITION OF FOOD ESTABLISHMENTS; AMENDING SECTION 39-1602, IDAHO CODE, TO FURTHER DEFINE FOOD ESTABLISHMENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-1602, Idaho Code, be, and the same is hereby amended to read as follows:

39-1602. DEFINITIONS. As used in this chapter:

(1) "Food establishment" means those operations in the food business such as, but not limited to, food processing establishments, canning factories, salvage processing facilities, food service establishments, cold storage plants, commissaries, warehouses, food vending machine operations and location, caterers, mobile food units and retail food stores. Such operations include all activities under the control of the license holder including preparation, processing, storage, service, transportation vehicles, satellite locations and remote feeding sites. The term includes operations which are conducted in permanent, temporary or mobile facilities or locations. It includes any food operation regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term "food establishment" does not include:

- (a) Private homes where food is prepared or served for individual family consumption;
 - (b) Fraternal, benevolent or nonprofit charitable organizations which do not prepare or serve food on a regular basis. Food shall not be considered to be served on a regular basis if the food is served for a period not to exceed three (3) consecutive days on no more than two-~~(2)~~ three (3) occasions per year for foods which are not potentially hazardous, or if the food is served no more than one (1) meal a week for all other foods;
 - (c) Bed and breakfast establishments with ten (10) or fewer beds;
 - (d) Establishments which offer only factory-sealed nonpotentially hazardous foods; and
 - (e) Agricultural markets.
- (2) "Regulatory authority" means the director of the Idaho department of health and welfare or the director's designee.

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

Approved March 21, 1994.

CHAPTER 139
(S.B. No. 1382)

AN ACT

RELATING TO SOCIAL WORK LICENSING; AMENDING SECTION 54-3204, IDAHO CODE, TO AUTHORIZE THE BOARD OF SOCIAL WORK EXAMINERS TO PRESCRIBE CONTINUING EDUCATION REQUIREMENTS FOR LICENSE RENEWAL AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-3204, Idaho Code, be, and the same is hereby amended to read as follows:

54-3204. BOARD -- POWERS AND DUTIES. The board shall have the

following powers and duties:

(1) Adopt and amend rules ~~and regulations~~ to administer and carry out the provisions of this act and for the conduct of its affairs, provided that such rules ~~and regulations~~ shall be promulgated in accordance with the provisions of chapters 26 and 52, title 67, Idaho Code;

(2) Annually publish a list of the names and addresses of all persons licensed under this act;

(3) At its discretion, contract with the bureau of occupational licenses for such clerical and administrative help as deemed necessary for the proper administration of this act;

(4) To prescribe by rule the minimum amount and kind of continuing education to be required of each social worker seeking to renew a license in the state of Idaho.

Approved March 21, 1994.

CHAPTER 140
(S.B. No. 1390)

AN ACT

RELATING TO TUITION AT STATE COLLEGES AND UNIVERSITIES; AMENDING SECTION 33-3717, IDAHO CODE, TO PROVIDE THAT RESIDENCY STATUS FOR CERTAIN NATIVE AMERICAN MEMBER STUDENTS SHALL BE DEFINED AS RESIDENT STUDENTS, REGARDLESS OF CURRENT DOMICILE.

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

SECTION 1. That Section 33-3717, Idaho Code, be, and the same is hereby amended to read as follows:

33-3717. TUITION AT STATE COLLEGES AND UNIVERSITIES NOT REQUIRED -- EXCEPTIONS. (1) Any student who shall be a full time regularly enrolled resident student in any degree granting program at a state college or university now or hereafter established shall not be required to pay tuition in said college or university, excepting in a professional college, school, or department, or for extra studies or for part-time enrollment. The state board of education and board of regents for the University of Idaho may prescribe rates of tuition for nonresident students, and shall adopt uniform regulations, including a standard definition of a full time regularly enrolled student, applicable to all said colleges and universities.

(a) Tuition shall be defined as the cost of instruction at the colleges and universities. The cost of instruction shall not include those costs associated with said colleges and universities, such as maintenance and operation of physical plant, student services and institutional support, which are complementary to, but not a part of the instructional program.

(b) Matriculation fees shall be defined as the fee charged to students for educational costs excluding the cost of instruction. The state board of education and board of regents for the Univer-

sity of Idaho may prescribe matriculation fees for resident students.

(c) Terms used in this subsection shall be defined as they are defined in the Idaho College and Universities Statewide Cost Study: General Education Funds (Final Costs Analysis).

(2) For purposes of this section, a resident student is:

(a) Any student who has one (1) or more parent or parents or court-appointed guardians who are domiciled in the state of Idaho. Domicile, in the case of a parent or guardian, means that individual's true, fixed and permanent home and place of habitation. It is the place where that individual intends to remain, and to which that individual expects to return when that individual leaves without intending to establish a new domicile elsewhere. To qualify under this section, the parent, parents or guardian must have maintained a bona fide domicile in the state of Idaho for at least one (1) year prior to the opening day of the term for which the student matriculates.

(b) Any student, who receives less than fifty percent (50%) of the student's support from a parent, parents or legal guardians who are not residents of this state for voting purposes, but which student has continuously resided in the state of Idaho for twelve (12) months next preceding the opening day of the term during which the student proposes to attend the college or university and who has in fact established a bona fide domicile in this state primarily for purposes other than educational.

(c) Subject to subsection (3) of this section, any student who is a graduate of an accredited secondary school in the state of Idaho, and who matriculates at a college or university in the state of Idaho during the term immediately following such graduation regardless of the residence of the student's parent or guardian.

(d) The spouse of a person who is classified, or is eligible for classification, as a resident of the state of Idaho for the purposes of attending a college or university.

(e) A member of the armed forces of the United States, stationed in the state of Idaho on military orders.

(f) A student whose parent or guardian is a member of the armed forces and stationed in the state of Idaho on military orders and who receives fifty percent (50%) or more of support from parents or legal guardians. The student, while in continuous attendance, shall not lose that residence when the student's parent or guardian is transferred on military orders.

(g) A person separated, under honorable conditions, from the United States armed forces after at least two (2) years of service, who at the time of separation designates the state of Idaho as his intended domicile or who has Idaho as the home of record in service and enters a college or university in the state of Idaho within one (1) year of the date of separation.

(h) Any individual who has been domiciled in the state of Idaho, has qualified and would otherwise be qualified under the provisions of this statute and who is away from the state for a period of less than one (1) calendar year and has not established legal residence elsewhere provided a twelve (12) month period of contin-

uous residence has been established immediately prior to departure.

(i) A student who is a member of any of the following Idaho Native American Indian tribes, regardless of current domicile, shall be considered an Idaho state resident for purposes of tuition at institutions of higher education: Members of the following Idaho Native American Indian tribes, whose traditional and customary tribal boundaries included portions of the state of Idaho, or whose Indian tribe was granted reserved lands within the state of Idaho: (i) Coeur d'Alene tribe; (ii) Shoshone-Paiute tribes; (iii) Nez Perce tribe; (iv) Shoshone-Bannock tribes; (v) Kootenai tribe.

(3) A "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of subsection (2) of this section, and shall include:

(a) A student attending an institution in this state with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one (1) year after the completion of the semester for which such assistance is last provided.

(b) A person who is not a citizen of the United States of America, who does not have permanent or temporary resident status or does not hold "refugee-parolee" or "conditional entrant" status with the United States immigration and naturalization service or is not otherwise permanently residing in the United States under color of the law and who does not also meet and comply with all applicable requirements of this section.

(4) The establishment of a new domicile in Idaho by a person formerly domiciled in another state has occurred if such person is physically present in Idaho primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to such other state or to acquire a domicile at some other place outside of Idaho. Institutions determining whether a student is domiciled in the state of Idaho primarily for purposes other than educational shall consider, but shall not be limited to the following factors:

(a) Registration and payment of Idaho taxes or fees on a motor vehicle, mobile home, travel trailer, or other item of personal property for which state registration and the payment of a state tax or fee is required.

(b) Filing of Idaho state income tax returns.

(c) Permanent full-time employment or the hourly equivalent thereof in the state of Idaho.

(d) Registration to vote for state elected officials in Idaho at a general election.

(5) The state board of education and board of regents of the University of Idaho shall adopt uniform and standard rules and regulations applicable to all state colleges and universities now or hereafter established to determine residence status of any student and to establish procedures for review of that status.

(6) Appeal from a final determination denying resident status may be initiated by the filing of an action in the district court of the county in which the affected college or university is located; an

appeal from the district court shall lie as in all civil actions.

(7) Nothing contained herein shall prevent the state board of education and board of regents of the University of Idaho from waiving tuition to be paid by nonresident students.

(8) Nothing contained in this act shall apply to junior colleges now or hereafter established, or to post-secondary vocational-technical schools now or hereafter established not connected to or a part of a state college or university.

(9) Nothing contained herein shall prevent the state board of education and board of regents of the University of Idaho from establishing quotas, standards for admission, standards for readmission, or other terms and requirements governing persons who are not residents for purposes of higher education.

(10) For students who apply for special graduate and professional programs including, but not limited to the WAMI (Washington, Alaska, Montana, Idaho) Regional Medical Program, the WICHE Student Exchange Programs, Creighton University School of Dental Science, the University of Utah College of Medicine, and the Washington, Oregon, Idaho (WOI) Regional Program in Veterinary Medical Education, no applicant shall be certified or otherwise designated as a beneficiary of such special program who has not been a resident of the state of Idaho for at least one (1) calendar year previous to the application date.

Approved March 21, 1994.

CHAPTER 141
(S.B. No. 1409)

AN ACT

RELATING TO PUNISHMENT FOR MISDEMEANORS; AMENDING SECTION 18-113, IDAHO CODE, TO PROVIDE THAT UNLESS A SPECIFIC MISDEMEANOR STATUTE PROVIDES FOR IMPOSITION OF A FINE, THE COURT MAY IMPOSE A FINE OF UP TO THREE HUNDRED DOLLARS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-113, Idaho Code, be, and the same is hereby amended to read as follows:

18-113. PUNISHMENT FOR MISDEMEANOR. (1) Except in cases where a different punishment is prescribed by in this code, every offense declared to be a misdemeanor, is punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding three hundred dollars (\$300), or by both.

(2) In addition to any other punishment prescribed for misdemeanors in specific statutes of the Idaho Code, the court may also impose a fine of up to three hundred dollars (\$300). This paragraph shall not apply if the specific misdemeanor statute provides for the imposition of a fine.

Approved March 21, 1994.

CHAPTER 142
(S.B. No. 1410)

AN ACT

RELATING TO THE CREDIT GIVEN UPON IMPRISONMENT FOR NONPAYMENT OF A CRIMINAL FINE; REPEALING SECTION 19-2517, IDAHO CODE, AND SECTION 19-3922, IDAHO CODE.

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

SECTION 1. That Section 19-2517, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 19-3922, Idaho Code, be, and the same is hereby repealed.

Approved March 21, 1994.

CHAPTER 143
(S.B. No. 1414)

AN ACT

RELATING TO BEING INTOXICATED IN A PUBLIC PLACE; REPEALING SECTION 23-604, IDAHO CODE.

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

SECTION 1. That Section 23-604, Idaho Code, be, and the same is hereby repealed.

Approved March 21, 1994.

CHAPTER 144
(S.B. No. 1430)

AN ACT

RELATING TO ISSUANCE OF TAX DEEDS AND DELINQUENT ASSESSMENTS; AMENDING CHAPTER 7, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-714A, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING SECTION 43-715, IDAHO CODE, TO REVISE PROCEDURES REGARDING DELINQUENCY ENTRIES; AMENDING SECTION 43-716, IDAHO CODE, TO PROVIDE THAT A DISTRICT SHALL NOT BE ENTITLED TO A TAX DEED FOR PROPERTY UNTIL NOTICE IS ISSUED AND AN AFFIDAVIT OF COMPLIANCE IS FILED; REPEALING SECTIONS 43-717, 43-718 AND 43-719, IDAHO CODE; AMENDING CHAPTER 7, TITLE 43, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 43-717, 43-718 AND 43-719, IDAHO CODE, TO PROVIDE FOR DELINQUENCY ENTRIES AND TO PROVIDE FOR SERVICE OF NOTICE OF PENDING ISSUANCE OF TAX DEED, TO PROVIDE FOR ISSUANCE OF AN AFFIDAVIT OF COMPLI-

ANCE, TO PROVIDE FOR DELINQUENT ASSESSMENTS AND TO PROVIDE FOR A HEARING AND ISSUANCE OF TAX DEED; AMENDING SECTION 43-720, IDAHO CODE, TO PROVIDE FOR TAX DEEDS AND THE EFFECT OF TAX DEEDS AS EVIDENCE, TO PROVIDE A PROCEDURE FOR TAX DEEDS TO TRANSFER TITLE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 43-726, IDAHO CODE, TO REVISE PROCEDURES TO DETERMINE THE VALIDITY OF A TAX DEED AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Chapter 7, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as section 43-714A, Idaho Code, and to read as follows:

43-714A. DEFINITIONS. Words and terms used in this chapter, unless the context otherwise requires, are defined as follows:

(1) "District" means an irrigation district organized under the provisions of title 43, Idaho Code.

(2) "Board" means the board of directors of a district.

(3) "Treasurer" means the duly appointed officer of an irrigation district, and his or her deputies or employees. Such treasurer acts as ex officio tax collector for the purposes of this chapter.

(4) The term "delinquent assessments" as herein used shall be deemed and construed to include all general and special assessments and charges for operation and maintenance, bond or loan contract payments, or other authorized expenditures, entered in irrigation district assessment rolls, not paid when due, and collectible in the manner provided in chapter 7, title 43, Idaho Code.

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

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

(7) "Record owner or owners" means the person or entity in whose name or names the property stands upon the records in the county recorder's office. Where the record owners are husband and wife at the time the notice described in section 43-717, Idaho Code, shall issue, notice to one (1) spouse shall be deemed and imputed as notice to the other spouse.

(8) "Tax certificate" means a written assignment of a district's right to a tax deed as provided in section 43-715, Idaho Code.

SECTION 2. That Section 43-715, Idaho Code, be, and the same is hereby amended to read as follows:

43-715. DELINQUENT ASSESSMENTS -- SALE OF RIGHTS TO TAX DEED -- PURCHASER'S RIGHTS AFTER REDEMPTION PERIOD. (1) After the delinquency list has been filed with the county recorder and prior to the expiration of the period of redemption, the board of directors of the district may by written assignment convey its right to tax deed on any

delinquency entry to any person paying to the district treasurer the amount of such delinquency entry, together with the penalty and interest to the date of assignment as required in case of redemption. Whereupon, the treasurer shall note such assignment opposite the entry on his list of delinquency entries and in case of subsequent redemption thereof, he shall pay the amount so received in redemption to the assignee upon surrender of the written assignment tax certificate reassigned to the district: provided, however, that no assignment shall be made unless all prior assessments against the lands covered by such delinquency entry be first fully paid.

(2) During such time, any person shall be entitled to become a purchaser of the rights of the district in any unredeemed delinquency entry and the board of directors shall make to the purchaser a proper assignment tax certificate therefor upon receipt of said sums in cash; ~~or in matured and unpaid bonds of the district which have been duly certified under the provisions of chapter 218, laws of 1921, of the state of Idaho; or coupons detached from such bonds.~~

(3) After the expiration of the period of redemption, the ~~assignee of any delinquency entry~~ owner of any tax certificate shall be entitled to tax deed thereon upon delivering to the treasurer his ~~assignment by tax certificate from the district, or by a former assignee of the district; as the case may be with proper assignments from any previous owner;~~ or, in case of the loss thereof of the tax certificate, of satisfactory proof that he is the owner by ~~assignment of such delinquent entry~~ the tax certificate: provided, that notice of such the delinquency entry pending issuance of tax deed has been served published and a copy of such published notice has been mailed to the record owner as required by section 43-717, Idaho Code, and that, after compliance with section 43-719(1) or (2), the board has directed the treasurer to issue the tax deed. Any delinquency entry tax certificate upon which tax deed has not been claimed by an assignee the owner of the tax certificate within two (2) years from the expiration of the period of redemption shall become null and void; provided, further, ~~any assignee of a delinquency entry may at his option, not less than three (3) months and not more than five (5) months before the expiration of the period of redemption, serve upon the record owner of the land described in such delinquency entry a notice setting forth the matters required to be included in the published notice of delinquency entries as provided in section 43-717; or in the event that such record owner cannot be found, then such assignee may publish such notice in a newspaper published in the county in which such land is situated, or if no newspaper be published in said county, then in the newspaper published nearest to such land, and mail a copy of such published notice to the record owner of said land at his last known place of address. On proof of such service being made by the assignee, or upon proof that the record owner could not be found and of the publication and mailing of the published notice as herein provided for, such assignee shall be entitled to receive a tax deed for the premises at the expiration of the period of redemption if redemption be not made.~~

SECTION 3. That Section 43-716, Idaho Code, be, and the same is hereby amended to read as follows:

43-716. DELINQUENT ASSESSMENTS -- TAX DEED TO DISTRICT ISSUANCE OF TAX DEED -- GENERAL PROVISIONS. If the property is not redeemed within three (3) years from the date of delinquency entry, the treasurer of the district or his successor in office must make to the district or to the owner of the tax certificate, a tax deed to the property. Provided, that as to assessments levied in the year 1929 for which delinquency entries were made as of the first day of January, 1930, whether for maintenance and operation, for payment of bond interest and principal, or for drainage, the period of redemption shall be four (4) years; in all cases where, prior to the taking effect of this act, the treasurer of an irrigation district has made to the district a deed to any property on account of unredeemed assessments levied in said year 1929, such deed shall forthwith be canceled and the title to the land affected shall be deemed to remain in the treasurer of the district as grantee in trust for the district, and said property shall be subject to redemption as in this act provided. The district shall not be entitled to a tax deed for the land or lots described in such delinquency entry until the following sections have been complied with: Provided, that as to assessments levied in the year 1929 for which delinquency entries were made as of the first day of January, 1930, in all cases where the treasurer of the district has heretofore complied with the provisions of section 42-717 by publishing and mailing the notice therein required, such notice need not again be published or mailed. However, the district or the owner of the tax certificate shall not be entitled to a tax deed for such property until; (1) a notice of pending issuance of tax deed be served, as required in section 43-717, Idaho Code; and (2) an affidavit of compliance be filed, as required in section 43-718, Idaho Code.

SECTION 4. That Sections 43-717, 43-718 and 43-719, Idaho Code, be, and the same are hereby repealed.

SECTION 5. That Chapter 7, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as sections 43-717, 43-718 and 43-719, Idaho code, and to read as follows:

43-717. DELINQUENCY ENTRIES -- SERVICE OF NOTICE OF PENDING ISSUANCE OF TAX DEED -- EXCLUSIVE PROCEDURE FOR JUDICIAL REVIEW. (1) The treasurer of the district wherein the property for which a tax deed may issue, or the owner of the tax certificate, shall serve or cause to be served written notice of pending issuance of tax deed upon the record owner or owners and parties in interest of record in the following exclusive manner:

(a) By serving or causing to be served a copy of such notice by certified mail with return receipt demanded upon the record owner or owners and parties in interest of record at their last known address, such service of notice to be made no more than five (5) months nor less than two (2) months before the time set for the tax deed to issue;

(b) In the event that such notice is served as above described and returned undelivered and after reasonable and diligent search

and inquiry in attempting to locate and serve the record owner or owners and parties in interest of record, then by publishing a summary of such notice in a newspaper having general circulation in the county wherein the property is situated. Such publication must be made at least once a week for four (4) consecutive weeks, the last publication of which is to be no more than two (2) months nor less than fourteen (14) days before the time set for the tax deed to issue.

(c) For purposes of paragraph (b) of this section, an examination of the taxpayer's index prepared by the assessor of the county in which the property is located in accordance with section 63-314, Idaho Code, and an examination of the current telephone directory for the area where the property is located, shall be deemed a reasonable and diligent search and inquiry in attempting to locate and serve the record owner or owners and parties in interest of record.

(2) The record owner or owners and parties in interest of record shall be liable for and shall pay to the treasurer or to the owner of the tax certificate all reasonable costs and fees in the preparation, service and publication of such notice and such reasonable costs shall become a lien upon the property in favor of the district or the owner of the tax certificate and shall be added to the delinquent assessment.

(3) Such notice and summary thereof must contain the following items:

(a) The name and last known address of the record owner or owners;

(b) An accurate description of the property for which the delinquency entry has been made, or, in lieu thereof, the irrigation district assessment number assigned to the property in the assessment roll of the district, and either:

i. A street address or other information which would be of assistance to the public in ascertaining the location of the property; or

ii. The name and telephone number of a person, firm or business office from whom information concerning the location of the property may be obtained;

(c) The year for which the assessment was levied and for which the assessment is delinquent;

(d) An itemized statement showing assessment, penalty, interest and all costs and fees incident to the delinquency entry and such notice up to and including the date of the making of such notice;

(e) The date the delinquency entry was made;

(f) The time, date, place at which, and by whom the tax deed will issue; and

(g) A statement that the record owner or owners or any party in interest shall have adequate opportunity to be heard by the board, to confront and cross-examine any evidence or witness against the record owner or owners, and obtain and present evidence on behalf of the record owner or owners or any party in interest. Such statement shall also contain notice of to whom written inquiries and objections shall be directed concerning the notice and information contained therein and by what date such inquiries and

objections must be received. Verbal inquiries and objections shall not be considered for any purpose.

(h) A statement that a hearing before the board and judicial review of the board's decision are the exclusive remedies for challenging the issuance of the tax deed and that no other action can be taken to determine the validity of a properly executed tax deed and that the tax deed conveys complete title to the described land to the grantee named in the tax deed.

(4) Judicial review of a decision of the board as provided in section 43-719(2), Idaho Code, shall be the exclusive method for judicial determination of the regularity of all proceedings from the assessment by the board, inclusive, up to the execution of the tax deed, and no separate or independent action shall lie for the determination of the regularity of those proceedings.

(5) Any party in interest may file a written request for such notice in the office of the treasurer of the district wherein the property for which the delinquency entry has been made is situated. Such request shall contain the following items:

(a) The name and address of the record owner or owners;

(b) An accurate description of the property covered by the interest, or, in lieu thereof, the irrigation district assessment number used in assessing the same;

(c) The name and address of the party in interest;

(d) An accurate description of the interest held; and

(e) The date of termination of the interest held.

(6) If a record owner or owners or a party in interest shall have actual knowledge of the notice of pending issuance of a tax deed or that issuance of a tax deed is pending, it shall be deemed sufficient notice under this section.

(7) Service shall be deemed completed upon depositing the certified mailing containing the original or a copy of the notice of pending issuance of tax deed with return receipt demanded in any United States post office mail box, or upon physical delivery of such notice or copy thereof by the treasurer or by the owner of the tax certificate or by appointed agent of either, to the record owner or owners or party in interest, or upon the date of last publication.

43-718. AFFIDAVIT OF COMPLIANCE. (1) At least five (5) days before the tax deed is to be issued, the treasurer or the owner of the tax certificate shall make an affidavit of compliance stating that he or she has complied with the conditions of issuance of notice of pending issuance of tax deed described in section 43-717, Idaho Code, and stating particularly the facts relied on as constituting such compliance.

(2) Such affidavit shall be delivered to the secretary of the district to be by such officer entered on the records of his or her office and carefully preserved among the files of such office. The treasurer or the owner of the tax certificate shall also cause to be filed with the secretary of the district an affidavit by the publisher of each newspaper in which notice of the pending issuance of the tax deed was printed and published, which affidavits of publication shall be filed and preserved among the files of the office of such secretary. Such record or affidavit shall be prima facie evidence that

such notice has been given.

(3) Any person who knowingly and intentionally swears falsely to facts averred in such affidavit shall be guilty of perjury and be punished by fine of not more than three hundred dollars (\$300).

43-719. DELINQUENT ASSESSMENTS -- HEARING AND ISSUANCE OF TAX DEED. (1) When a record owner or owners or any party in interest upon whom a notice of pending issuance of tax deed is served or who has actual knowledge of such notice or its contents fails to appear or otherwise defend and answer at the time set for hearing in such notice and it is made to appear to the board that the owner of the tax certificate or the treasurer has fulfilled the requirements of sections 43-717 and 43-718, Idaho Code, the board shall, without further notice to the record owner or owners or any party in interest upon whom such notice has been served or who has actual knowledge of such notice and its contents, immediately direct that the treasurer shall issue a tax deed in favor of the district or the owner of the tax certificate, as the case may be.

(2) When a record owner or owners or any party in interest upon whom such notice is served or who has actual knowledge of such notice or its contents appears or answers at the date specified in such notice, the board shall consider documentary evidence and hear testimony and make a final decision in writing. Such final decision shall be mailed by certified mail, return receipt demanded, to all parties shown by the record of the proceedings to be affected by the board's action. If the board shall find that the owner of the tax certificate or the treasurer has conformed to the requirements of sections 43-717 and 43-718, Idaho Code, and that a delinquent assessment was owing on the property described and that such delinquency has not been paid, the board shall immediately direct that the treasurer issue a tax deed in favor of the district or the owner of the tax certificate, as the case may be. Such final decision shall include findings of fact and conclusions of law.

(3) A record of the proceeding shall be kept and entered into the district's minute book.

(4) Any person who is aggrieved by a final decision of the board concerning the issuance of a tax deed is entitled to have that decision reviewed by the district court of the judicial district wherein the property described is located by filing a petition in the district court within thirty (30) days after receipt of the final decision of the board. Such filing does not itself stay enforcement of the board's decision; however, the board may grant, or the reviewing court may order, a stay upon appropriate terms. Review shall be conducted by the court without a jury and shall be confined to the record in the district's minute book. The court may reverse or modify the decision of the board if substantial rights of the appellant have been prejudiced because the board's finding, conclusions or decisions are:

- (a) Made upon unlawful procedure;
 - (b) Clearly erroneous in view of reliable, probative, and substantial evidence on the whole record;
 - (c) In violation of constitutional or statutory provisions; or
 - (d) In excess of the statutory authority of the district.
- (5) All costs and fees of any hearing or proceeding shall be

awarded to the prevailing party; provided however, the costs and fees shall not be ordered paid by any district or its officials in absence of a showing of gross negligence, gross nonfeasance, or gross malfeasance by the district or its officers and a showing of substantial and definite injury to the petitioning party.

SECTION 6. That Section 43-720, Idaho Code, be, and the same is hereby amended to read as follows:

43-720. TAX DEED -- RECITALS -- EFFECT AS EVIDENCE -- TITLE CONVEYED. The matters recited in the delinquency entry must be recited in the deed, and such deed duly acknowledged or proved is prima facie evidence that:

(1-) Benefits were apportioned to the property was--assessed as required by law or water rights were properly allocated to the property.

~~2--The property was equalized as required by law.~~

~~3-(2) The assessments were~~ levied in accordance with law.

(3) The assessment was equalized as required by law.

(4-) The assessments were, together with statutory penalties, interest and any other charges, was unpaid.

(5-) That--aAt the proper time the delinquency entry was made as prescribed by law and by the proper officer.

(6-) The property was unredeemed within the time allowed by the first paragraph of section 43-712, Idaho Code.

(7-) The person who executed the tax deed was the proper officer. Such deed duly acknowledged and proved is prima facie evidence of the regularity of all other proceedings for the assessment, inclusive, up to the execution of the deed. The deed conveys to the grantee the absolute title to the lands described therein, free of all encumbrances except mortgages of record to the holders of which notice as has not been sent as in this chapter provided, and except any lien for assessments which have attached subsequent to the assessment resulting in the sale issuance of the tax deed and except any lien for state and county taxes.

Any number of descriptions of land in the same district may be included in one (1) deed where the certificates are held by one (1) person, or the district.

SECTION 7. That Section 43-726, Idaho Code, be, and the same is hereby amended to read as follows:

43-726. SALE FOR ASSESSMENTS -- LIMITATION OF ACTIONS TO DETERMINE VALIDITY -- TENDER. Every action, suit of or proceeding which may be commenced for the purpose of determining the validity of ~~the--sale of--land--for--district--assessments~~ a tax deed, brought by the original owner thereof of the land or his assigns against the purchaser ~~at such sale~~ grantee named in the tax deed or his assigns, or to quiet title against ~~the--same~~ him or them, or to remove the cloud thereof of the tax deed, or to recover the possession from the purchaser tax deed grantee in possession, ~~of--lands--so--sold--its--or--his--successors--or--assigns--shall--be--commenced--within--two--(2) years--from--the--date--of--the--expiration--of--the--period--of--redemption--allowed--by--law--in--the--case--of~~

~~any such sale, and not otherwise, except~~ in cases where the assessment for which the land was sold had been paid before the sale issuance of the tax deed or the land redeemed after the sale issuance of the tax deed, or the lands were not subject to taxation at the time of assessment shall be commenced within two (2) years from the date of the issuance of the tax deed; and in every such action, suit or proceeding, whether before or after the issuance of tax deed, the party claiming to be the owner as against the district or against a party claiming under said the tax sale certificate or under the tax deed shall tender with the first pleading in such action, suit or proceeding, (and) pay into court at the time of filing the same, the amount of the purchase price for which such lands were sold, or the amount of the assessment, penalties and interest for which a tax deed was issued to the district, together with all taxes and assessments which have been paid by the purchaser or paid or assessed by the district on said land after the tax sale issuance of the tax deed, together with interest thereon at the rate of ten per cent (10%) per annum from the respective time of payment of such sums up to the time of filing of such pleading, the same, or such portion thereof as the court shall find to be just, to be paid to the district or said purchaser, his heirs or assigns, in case the right or title of the district or said purchaser shall fail in such suit, action or proceeding.

Approved March 21, 1994.

CHAPTER 145
(S.B. No. 1432)

AN ACT

RELATING TO NOTARIES PUBLIC; AMENDING SECTION 51-105, IDAHO CODE, TO PROVIDE THAT THE STATE OF IDAHO MAY BE THE BONDING AGENT FOR STATE EMPLOYEES AND TO CORRECT PUNCTUATION; AMENDING SECTION 51-112, IDAHO CODE, TO FURTHER DEFINE OFFICIAL MISCONDUCT; AMENDING SECTION 51-113, IDAHO CODE, TO PROVIDE FOR REMOVAL FROM OFFICE UPON CANCELLATION OF THE STATE'S BOND FOLLOWING TERMINATION OF EMPLOYMENT WITH THE STATE; AND AMENDING SECTION 51-114, IDAHO CODE, TO REQUIRE THE BUREAU OF RISK MANAGEMENT TO NOTIFY THE SECRETARY OF STATE OF ANY CANCELLATION OF A BOND.

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

SECTION 1. That Section 51-105, Idaho Code, be, and the same is hereby amended to read as follows:

51-105. APPOINTMENT PROCEDURE -- OATH. (1) Each person to be appointed a notary public shall submit an application to the secretary of state on a form prescribed by the secretary of state. The application shall include such information as the secretary of state shall deem proper and shall include that the applicant:

- (a) Is at least eighteen (18) years of age;
- (b) Is a resident of the state of Idaho or a nonresident who is

employed in or doing business in the state of Idaho;

(c) Is able to read and write the English language; and

(d) Has not been convicted of a serious crime nor removed from office for official misconduct during the immediately preceding ten (10) year period.

The applicant shall also take the following oath, which shall appear on the application form:

"I,, solemnly swear (or affirm) that the answers to all questions in this application are true, complete and correct; that I have carefully read the notary laws of this State and I am familiar with their provisions; that I will uphold the Constitution of the United States and the Constitution and laws of the State of Idaho; and that I will faithfully perform, to the best of my ability, the duties of the office of notary public, and I do hereby voluntarily submit myself to the continuing jurisdiction of the courts of the state of Idaho and to the processes thereof."

The oath shall be signed and sworn to (or affirmed) by the applicant in the presence of a notary public or other person authorized to administer oaths in this state.

(2) Each person to be appointed a notary public shall execute and append to the application a bond to the state of Idaho in the amount of ten thousand dollars (\$10,000). The surety which provides the bond shall be a:

(a) A bonding or surety company authorized to do business in this state; or

(b) The bureau of risk management for the state of Idaho if the applicant is regularly employed by the state and the commission is required in the scope of that employment.

SECTION 2. That Section 51-112, Idaho Code, be, and the same is hereby amended to read as follows:

51-112. OFFICIAL MISCONDUCT. Official misconduct is the wrongful exercise of a power or the wrongful performance of a duty. In this context, wrongful shall mean unauthorized, unlawful, abusive, negligent, or reckless. Official misconduct by a notary public shall include, but not be limited to:

(a) Engaging in any fraudulent or deceptive conduct which is related in any way to his capacity as a notary public;

(b) Failure to exercise the required degree of care in identifying a person whose identity is an essential element of a notarial act;

(c) Representing or implying by the use of his title that he has qualifications, powers, duties, rights, or privileges that by the law he does not possess;

(d) Engaging in the unauthorized practice of law; or

(e) Charging a fee for a notarial act which is in excess of that provided by section 51-110, Idaho Code; or

(f) Endorsing or promoting any product, service, contest or other offering if the notary public's title or seal is used in the endorsement or promotional statement.

SECTION 3. That Section 51-113, Idaho Code, be, and the same is hereby amended to read as follows:

51-113. GROUNDS FOR REMOVAL. A notary public may be removed from the office upon any of the following grounds:

- (a) Conviction of a serious crime within the immediately preceding ten (10) year period;
- (b) Any action which constitutes official misconduct;
- (c) Any material misstatement of fact in his application for appointment as a notary public;
- (d) Failure of a conservator or guardian to submit a timely resignation after a notary public becomes incompetent;
- (e) Failure of a notary public to submit a timely resignation when he becomes disqualified by virtue of no longer: (1) being a citizen of the United States; or (2) being a resident of Idaho; or
- (f) Cancellation of the notary bond by the bonding or surety company; or
- (g) Cancellation of the notary bond by the state of Idaho when the notary public's bond has been provided by the bureau of risk management of the state of Idaho and the notary's employment with the state is terminated.

SECTION 4. That Section 51-114, Idaho Code, be, and the same is hereby amended to read as follows:

51-114. REMOVAL PROCEDURE. (1) If a notary public is convicted of a serious crime in any court of this state, the clerk of the court, if he knows that the convict is a notary public or upon the request of any person, shall forward to the secretary of state a certified copy of the judgment of conviction. If a notary public is convicted of a serious crime in a federal court or a court of another state, any person may obtain a certified copy of the judgment of conviction and forward it to the secretary of state. Upon receipt of a certified copy of a judgment of conviction of a serious crime in the preceding ten (10) year period, the secretary of state shall forthwith cancel the commission of the notary public.

(2) If in any civil or criminal case the court finds that a notary public has committed any act which constitutes official misconduct under section 51-112, Idaho Code, the clerk of the court, upon the request of any person, shall forward a certified copy of the findings of fact, or relevant extract therefrom, to the secretary of state. Upon receipt of the certified copy of the findings of fact or extract therefrom the secretary of state shall, if he finds that the act of the notary public as found by the court constitutes official misconduct, forthwith cancel the commission of the notary public.

(3) Upon receipt of proof on the public record of a material misstatement of fact in the application of a notary public, certified by the custodian of such record, the secretary of state shall forthwith cancel the commission of the notary public.

(4) If the conservator or guardian of a notary public who has been adjudged incompetent fails to submit a timely resignation as required by subsection (3) of section 51-115, Idaho Code, the clerk of the court which found the notary public to be incompetent shall, upon

the request of any person, forward to the secretary of state a certified copy of the order adjudging the notary to be incompetent. Upon receipt of such order, the secretary of state shall forthwith cancel the commission of the notary public.

(5) If the secretary of state receives credible information that a notary public is no longer a resident of Idaho or employed in or doing business in the state of Idaho, the secretary of state shall send to the notary public at his last known address by certified return receipt mail a statement setting forth such information and a notice of opportunity to rebut. If the statement and notice cannot be delivered or if no rebuttal is received within forty-five (45) days after mailing the notice, the secretary of state shall cancel the commission of the notary public. If the statement is rebutted by statements which indicate that the notary public is not disqualified on residency business, or employment grounds, the secretary of state shall take no further action.

(6) A bonding or surety company, or in the case of a state employee, the bureau of risk management, shall file prompt written notice of cancellation of a notary's bond with the secretary of state who shall forthwith cancel the commission of the notary public. The cancellation of the bond shall be effective only upon receipt by the secretary of state of notice of cancellation.

Approved March 21, 1994.

CHAPTER 146
(S.B. No. 1557)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 1994; AMENDING SECTION 2, CHAPTER 384, LAWS OF 1993; EXPRESSING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 384, Laws of 1993, be, and the same is hereby amended to read as follows:

SECTION 2. There is hereby appropriated to the Department of Health and Welfare the following amounts to be expended for the designated programs according to the designated expense classes from the various funds listed for the period July 1, 1993, through June 30, 1994:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|-----------------|-------------------|
| I. INDIRECT SUPPORT SERVICES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 4,497,100 | \$ 3,949,300 | \$ 376,600 | | | \$ 8,823,000 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | | 122,300 | | | | 122,300 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | <u>4,527,700</u> | <u>3,481,900</u> | <u>352,500</u> | | | <u>8,362,100</u> |
| TOTAL | \$ 9,024,800 | \$ 7,553,500 | \$ 729,100 | | | \$ 17,307,400 |
| II. DIVISION OF HEALTH SERVICES: | | | | | | |
| A. PHYSICAL HEALTH SERVICES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 659,700 | \$ 1,321,300 | | \$ 1,234,700 | | \$ 3,215,700 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | 450,800 | 372,300 | | 354,100 | | 1,177,200 |
| Cancer Control | | | | | | |
| Fund | 19,700 | 355,600 | | | | 375,300 |
| Central Tumor | | | | | | |
| Registry Fund | | | | 125,000 | | 125,000 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | <u>1,701,000</u> | <u>1,190,500</u> | | <u>19,187,600</u> | | <u>22,079,100</u> |
| TOTAL | \$ 2,831,200 | \$ 3,239,700 | | \$ 20,901,400 | | \$ 26,972,300 |
| B. EMERGENCY MEDICAL SERVICES: | | | | | | |
| FROM: | | | | | | |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | | \$ 101,000 | | \$ 23,000 | | \$ 124,000 |
| Emergency | | | | | | |
| Medical Services | | | | | | |
| Funds | | | | | | |
| I & II | \$ 669,900 | 651,500 | \$ 100,000 | 632,400 | | 2,053,800 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | <u>45,600</u> | <u>268,700</u> | | | | <u>314,300</u> |
| TOTAL | \$ 715,500 | \$ 1,021,200 | \$ 100,000 | \$ 655,400 | | \$ 2,492,100 |
| C. LABORATORY SERVICES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 1,238,300 | \$ 313,300 | | \$ 166,700 | | \$ 1,718,300 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | 594,200 | 220,200 | \$ 8,000 | 26,200 | | 848,600 |
| Water Pollution | | | | | | |
| Control | | | | | | |
| Fund | 94,400 | 15,500 | | | | 109,900 |
| Hazardous Waste | | | | | | |
| Monitoring | | | | | | |
| Fund | 69,800 | 42,300 | | | | 112,100 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|-----------------|---------------|
| Cooperative Welfare Fund (Federal) | 253,400 | 208,900 | | 10,900 | | 473,200 |
| TOTAL | \$ 2,250,100 | \$ 800,200 | \$ 8,000 | \$ 203,800 | | \$ 3,262,100 |
| DIVISION | | | | | | |
| TOTAL | \$ 5,796,800 | \$ 5,061,100 | \$ 108,000 | \$ 21,760,600 | | \$ 32,726,500 |
| III. DIVISION OF WELFARE: | | | | | | |
| A. ELIGIBILITY SERVICES: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 7,435,800 | \$ 2,718,400 | | | | \$ 10,154,200 |
| Cooperative Welfare Fund (Other) | 58,400 | 14,700 | | | | 73,100 |
| Cooperative Welfare Fund (Federal) | 7,612,700 | 2,569,100 | | | | 10,181,800 |
| TOTAL | \$15,106,900 | \$ 5,302,200 | | | | \$ 20,409,100 |
| B. MEDICAL ASSISTANCE PAYMENTS: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 2,453,400 | \$ 2,227,300 | \$ 88,500 | \$ 87,733,900 | | \$ 92,503,100 |
| Cooperative Welfare Fund (Other) | 250,900 | 122,800 | | 12,952,500 | | 13,326,200 |
| Medical Assistance Fund | | | | 15,000 | | 15,000 |
| Liquor Fund | | | | 650,000 | | 650,000 |
| Cooperative Welfare Fund (Federal) | 3,384,600 | 6,397,300 | 112,300 | 216,050,700 | | 225,944,900 |
| TOTAL | \$ 6,088,900 | \$ 8,747,400 | \$ 200,800 | \$317,402,100 | | \$332,439,200 |
| C. ADULT AND ADC ASSISTANCE PAYMENTS: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 130,500 | \$ 563,600 | \$ 35,000 | \$12,854,800 | | \$13,583,900 |
| Cooperative Welfare Fund (Other) | | | | 16,143,800 | | 16,143,800 |
| Cooperative Welfare Fund (Federal) | 197,500 | 1,108,100 | 53,600 | 11,537,400 | | 12,896,600 |
| TOTAL | \$ 328,000 | \$ 1,671,700 | \$ 88,600 | \$ 40,536,000 | | \$ 42,624,300 |
| D. CHILD SUPPORT ENFORCEMENT: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 390,400 | \$ 343,700 | \$ 2,400 | | | \$ 736,500 |
| Cooperative Welfare Fund (Other) | 853,400 | 322,100 | | | | 1,175,500 |
| Cooperative Welfare Fund (Federal) | 2,727,200 | 5,954,200 | 21,600 | | | 8,703,000 |
| TOTAL | \$ 3,971,000 | \$ 6,620,000 | \$ 24,000 | | | \$ 10,615,000 |

| DIVISION | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|-----------------|---------------|
| TOTAL | \$25,494,800 | \$22,341,300 | \$ 313,400 | \$357,938,100 | | \$406,087,600 |
| IV. DIVISION OF FAMILY AND CHILDREN'S SERVICES: | | | | | | |
| A. SOCIAL SERVICES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 6,324,500 | \$ 1,176,900 | | \$ 2,614,400 | | \$ 10,115,800 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | 392,600 | 580,900 | | 1,769,000 | | 2,742,500 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | 7,699,300 | 2,459,100 | | 53,100 | | 10,211,500 |
| TOTAL | \$14,416,400 | \$ 4,216,900 | | \$ 4,436,500 | | \$ 23,069,800 |
| B. SUBSTANCE ABUSE: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 29,500 | \$ 22,600 | | \$ 935,400 | | \$ 987,500 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | | 9,000 | | | | 9,000 |
| Alcoholism | | | | | | |
| Treatment | | | | | | |
| Fund | 146,800 | 49,000 | | 1,513,100 | | 1,708,900 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | 292,700 | 821,900 | | 1,650,200 | | 2,764,800 |
| TOTAL | \$ 469,000 | \$ 902,500 | | \$ 4,098,700 | | \$ 5,470,200 |
| C. STATE YOUTH SERVICES CENTER: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | | | | | \$ 4,699,400 | \$ 4,699,400 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | | | | | 462,100 | 462,100 |
| State Youth | | | | | | |
| Training Center | | | | | | |
| Income | | | | | | |
| Fund | | | | | 564,000 | 564,000 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | | | | | 195,900 | 195,900 |
| TOTAL | | | | | \$ 5,921,400 | \$ 5,921,400 |
| D. JUVENILE JUSTICE: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 1,340,100 | \$ 1,511,800 | | \$ 2,627,900 | | \$ 5,479,800 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | | 133,200 | | | | 133,200 |
| Idaho Youth | | | | | | |
| Corrections | | | | | | |
| Fund | | 140,000 | | | | 140,000 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|-----------------|---------------|
| Cooperative Welfare Fund (Federal) | | 65,500 | | 2,173,700 | | 2,239,200 |
| TOTAL | \$ 1,340,100 | \$ 1,850,500 | | \$ 4,801,600 | | \$ 7,992,200 |
| E. DETENTION AND ASSESSMENT: | | | | | | |
| FROM: | | | | | | |
| Cooperative Welfare Fund (Other) | \$ 404,600 | \$ 84,300 | \$ 1,600 | | | \$ 490,500 |
| F. FAMILY SELF-SUPPORT: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 748,900 | \$ 668,400 | | \$ 1,805,700 | | \$ 3,223,000 |
| Cooperative Welfare Fund (Federal) | 1,184,500 | 1,681,800 | 200 | 5,652,800 | | 8,519,300 |
| TOTAL | \$ 1,933,400 | \$ 2,350,200 | \$ 200 | \$ 7,458,500 | | \$ 11,742,300 |
| DIVISION | | | | | | |
| TOTAL | \$18,563,500 | \$ 9,404,400 | \$ 1,800 | \$ 20,795,300 | \$ 5,921,400 | \$ 54,686,400 |
| V. DIVISION OF ENVIRONMENT: | | | | | | |
| A. INEL OVERSIGHT: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 111,900 | \$ 51,900 | | | | \$ 163,800 |
| Hazardous Waste Monitoring Fund | 197,700 | 18,000 | | | | 215,700 |
| Cooperative Welfare Fund (Federal) | 1,235,100 | 661,300 | 40,000 | \$ 796,400 | | 2,732,800 |
| TOTAL | \$ 1,544,700 | \$ 731,200 | \$ 40,000 | \$ 796,400 | | \$ 3,112,300 |
| B. PLANNING AND SUPPORT SERVICES: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 124,800 | \$ 78,400 | | | | \$ 203,200 |
| Cooperative Welfare Fund (Other) | | 17,400 | \$ 500 | | | 17,900 |
| Water Pollution Control Fund | 463,300 | 245,400 | 68,100 | | | 776,800 |
| Hazardous Waste Monitoring Fund | 307,500 | 375,400 | 7,600 | | | 690,500 |
| Cooperative Welfare Fund (Federal) | 842,100 | 545,400 | | | | 1,387,500 |
| TOTAL | \$ 1,737,700 | \$ 1,262,000 | \$ 76,200 | | | \$ 3,075,900 |
| C. PERMITS AND ENFORCEMENT: | | | | | | |
| FROM: | | | | | | |
| General Fund | \$ 265,300 | \$ 24,600 | | | | \$ 289,900 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|------------------------|---------------------------|----------------------------------|--------------------------|---|-----------------|------------------|
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | <u>1,441,000</u> | <u>517,000</u> | <u>315,500</u> | | | <u>2,273,500</u> |
| | <u>1,113,600</u> | <u>140,200</u> | <u>\$ 142,300</u> | | | <u>1,396,100</u> |
| Water | | | | | | |
| Pollution | | | | | | |
| Control | | | | | | |
| Fund | 388,800 | 56,100 | | | | 444,900 |
| Hazardous | | | | | | |
| Waste | | | | | | |
| Monitoring | | | | | | |
| Fund | 426,800 | 107,500 | 270,400 | | | 804,700 |
| <u>Air Quality</u> | | | | | | |
| <u>Permitting</u> | | | | | | |
| <u>Fund</u> | <u>327,400</u> | <u>376,800</u> | <u>173,200</u> | | | <u>877,400</u> |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | 426,600 | 104,500 | 43,100 | | | 574,200 |
| TOTAL | \$ 2,948,500 | \$ 809,700 | \$ 629,000 | | | \$ 4,387,200 |
| D. COMMUNITY PROGRAMS: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 184,500 | \$ 49,300 | | | | \$ 233,800 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Other) | <u>933,400</u> | <u>189,700</u> | <u>\$ 124,000</u> | <u>\$ 200,000</u> | | <u>1,447,100</u> |
| | <u>920,900</u> | <u>173,100</u> | <u>113,500</u> | <u>11,000</u> | | <u>1,218,500</u> |
| Water | | | | | | |
| Pollution | | | | | | |
| Control | | | | | | |
| Fund | 1,978,000 | 1,446,900 | \$ 180,500 | \$11,085,600 | | 14,691,000 |
| Hazardous Waste | | | | | | |
| Monitoring | | | | | | |
| Fund | 252,000 | 44,400 | | | | 296,400 |
| State Agricultural | | | | | | |
| Smoke Management | | | | | | |
| Fund | | 30,000 | | | | 30,000 |
| <u>Air Quality</u> | | | | | | |
| <u>Permitting</u> | | | | | | |
| <u>Fund</u> | <u>12,500</u> | <u>16,600</u> | <u>10,500</u> | <u>189,000</u> | | <u>228,600</u> |
| Cooperative | | | | | | |
| Welfare Fund | | | | | | |
| (Federal) | 3,839,100 | 684,400 | 34,300 | 1,003,700 | | 5,561,500 |
| TOTAL | \$ 7,187,000 | \$ 2,444,700 | \$ 338,800 | \$ 12,289,300 | | \$ 22,259,800 |
| DIVISION | | | | | | |
| TOTAL | \$13,417,900 | \$ 5,247,600 | \$1,084,000 | \$ 13,085,700 | | \$ 32,835,200 |
| VI. VETERANS SERVICES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | | | | | \$ 1,914,900 | \$ 1,914,900 |
| Cooperative | | | | | | |
| Welfare Fund | | | | | 4,289,600 | 4,289,600 |
| (Other) | | | | | | |
| Idaho Veterans Home | | | | | | |
| Income Fund | | | | | 331,100 | 331,100 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|-------------------|-------------------|
| Cooperative | | | | | | |
| Welfare Fund (Federal) | | | | | <u>2,156,700</u> | <u>2,156,700</u> |
| TOTAL | | | | | \$ 8,692,300 | \$ 8,692,300 |
| VII. DIVISION OF COMMUNITY REHABILITATION: | | | | | | |
| A. COMMUNITY DEVELOPMENTAL DISABILITIES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 5,712,100 | \$ 1,234,700 | | \$ 1,379,700 | | \$ 8,326,500 |
| Cooperative | | | | | | |
| Welfare Fund (Other) | 1,858,700 | 24,900 | | 31,400 | | 1,915,000 |
| Cooperative | | | | | | |
| Welfare Fund (Federal) | <u>816,600</u> | <u>523,900</u> | | <u>1,561,400</u> | | <u>2,901,900</u> |
| TOTAL | \$ 8,387,400 | \$ 1,783,500 | | \$ 2,972,500 | | \$ 13,143,400 |
| B. IDAHO STATE SCHOOL AND HOSPITAL: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | | | | | \$ 5,455,600 | \$ 5,455,600 |
| Cooperative | | | | | | |
| Welfare Fund (Other) | | | | | 487,700 | 487,700 |
| Medical Assistance | | | | | | |
| Fund | | | | | 3,500 | 3,500 |
| Cooperative | | | | | | |
| Welfare Fund (Federal) | | | | | <u>13,555,500</u> | <u>13,555,500</u> |
| TOTAL | | | | | \$19,502,300 | \$ 19,502,300 |
| C. COMMUNITY MENTAL HEALTH SERVICES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 5,887,000 | \$ 958,100 | | \$ 718,700 | \$ 71,200 | \$ 7,635,000 |
| Cooperative | | | | | | |
| Welfare Fund (Other) | 3,882,900 | 534,800 | | 7,400 | | 4,425,100 |
| Cooperative | | | | | | |
| Welfare Fund (Federal) | <u>129,300</u> | <u>800,400</u> | | <u>93,400</u> | | <u>1,023,100</u> |
| TOTAL | \$ 9,899,200 | \$ 2,293,300 | | \$ 819,500 | \$ 71,200 | \$ 13,083,200 |
| D. STATE HOSPITAL NORTH: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | | | | | \$ 3,465,500 | \$ 3,465,500 |
| Cooperative | | | | | | |
| Welfare Fund (Other) | | | | | 282,300 | 282,300 |
| Alcoholism Treatment | | | | | | |
| Fund | | | | | 319,900 | 319,900 |
| State Hospital North Income | | | | | | |
| Fund | | | | | 571,500 | 571,500 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|-----------------|-------------------|
| Cooperative Welfare Fund (Federal) TOTAL | | | | | <u>74,600</u> | <u>74,600</u> |
| E. STATE HOSPITAL SOUTH: FROM: General Fund | | | | | \$ 8,004,800 | \$ 8,004,800 |
| Cooperative Welfare Fund (Other) | | | | | 1,831,800 | 1,831,800 |
| State Hospital South Income Fund TOTAL | | | | | <u>905,100</u> | <u>905,100</u> |
| | | | | | \$10,741,700 | \$ 10,741,700 |
| F. STATE ECONOMIC OPPORTUNITY OFFICE: FROM: General Fund | \$ 41,800 | \$ 4,900 | | | | \$ 46,700 |
| Cooperative Welfare Fund (Federal) TOTAL | <u>441,900</u> | <u>152,300</u> | | <u>\$ 12,821,900</u> | | <u>13,416,100</u> |
| | \$ 483,700 | \$ 157,200 | | \$ 12,821,900 | | \$ 13,462,800 |
| G. ADULT SERVICES: FROM: General Fund | \$ 1,129,500 | \$ 156,000 | | \$ 53,900 | | \$ 1,339,400 |
| Cooperative Welfare Fund (Other) TOTAL | <u>190,900</u> | <u>27,500</u> | | | | <u>218,400</u> |
| | \$ 1,320,400 | \$ 183,500 | | \$ 53,900 | | \$ 1,557,800 |
| DIVISION TOTAL | \$20,090,700 | \$ 4,417,500 | | \$ 16,667,800 | \$35,029,000 | \$ 76,205,000 |
| VIII. INDEPENDENT COMMISSIONS AND COUNCILS: A. DOMESTIC VIOLENCE COUNCIL: FROM: Domestic Violence Fund | \$ 73,600 | \$ 80,300 | \$ 200 | \$ 267,100 | | \$ 421,200 |
| Cooperative Welfare Fund (Federal) TOTAL | <u>8,000</u> | | | <u>610,600</u> | | <u>618,600</u> |
| | \$ 81,600 | \$ 80,300 | \$ 200 | \$ 877,700 | | \$ 1,039,800 |
| B. DEVELOPMENTAL DISABILITIES COUNCIL: FROM: General Fund | \$ 17,500 | \$ 18,500 | | \$ 8,600 | | \$ 44,600 |
| Cooperative Welfare Fund (Federal) TOTAL | <u>213,200</u> | <u>86,600</u> | | <u>111,700</u> | | <u>411,500</u> |
| | \$ 230,700 | \$ 105,100 | | \$ 120,300 | | \$ 456,100 |
| C. COMMISSION ON ALCOHOL AND DRUG ABUSE: FROM: General Fund | \$ 60,200 | \$ 38,200 | | | | \$ 98,400 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|-----------------|---------------|
| D. COUNCIL FOR THE DEAF AND HEARING IMPAIRED: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 50,100 | | | | | \$ 50,100 |
| DIVISION | | | | | | |
| TOTAL | \$ 422,600 | \$ 223,600 | \$ 200 | \$ 998,000 | | \$ 1,644,400 |
| GRAND | | | | | | |
| TOTAL | \$92,811,100 | \$54,249,000 | \$2,236,500 | \$431,245,500 | \$49,642,700 | \$630,184,800 |

SECTION 2. It is legislative intent that this act is not in conflict with other acts that may be passed by the Second Regular Session of the Fifty-second Idaho Legislature amending Section 2, Chapter 384, Laws of 1993, with regard to the total funds appropriated to the Department of Health and Welfare.

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

Approved March 21, 1994.

CHAPTER 147
(S.B. No. 1329)

AN ACT

RELATING TO DAY CARE CENTERS; AMENDING SECTION 39-1110, IDAHO CODE, TO PROVIDE ADDITIONAL HEALTH STANDARDS FOR DAY CARE CENTERS.

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

SECTION 1. That Section 39-1110, Idaho Code, be, and the same is hereby amended to read as follows:

39-1110. HEALTH STANDARDS. Day care centers shall comply with the following health standards:

(1) Food for use in day care centers shall be prepared and served in a sanitary manner with sanitized utensils and on surfaces that have been cleaned, rinsed and sanitized prior to use to prevent contamination;

(2) All food that is to be served in day care centers shall be stored in such a manner that it is protected from potential contamination;

(3) Diaper changing shall be conducted in such a manner as to prevent the spread of communicable diseases;

(4) Sleeping and play areas, restrooms and fixtures shall be maintained in a sanitary condition;

(5) Children and facility personnel shall be provided with individual or disposable towels for handwashing and the handwashing area shall be equipped with soap and hot and cold running water;

(6) The water supply, where the source is other than a public water system, must be approved by the district board of health;

(47) Medicines, cleaning supplies and other hazardous substances must be stored out of reach of children;

(58) A telephone or some type of emergency communication system is required; and

(69) Representatives of the district health department shall not be denied access to a day care center for purposes of control of communicable disease.

Approved March 22, 1994.

CHAPTER 148
(S.B. No. 1351)

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE AND DRIVING WITHOUT PRIVILEGES; AMENDING SECTIONS 18-8001 AND 18-8005, IDAHO CODE, TO PROVIDE THAT A PRISONER SERVING A MANDATORY MINIMUM SENTENCE MAY BE AUTHORIZED BY THE SENTENCING JUDGE TO BE ASSIGNED TO A WORK DETAIL PROGRAM WITHIN THE CUSTODY OF THE COUNTY SHERIFF.

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

SECTION 1. That Section 18-8001, Idaho Code, be, and the same is hereby amended to read as follows:

18-8001. DRIVING WITHOUT PRIVILEGES. (1) Any person who drives or is in actual physical control of any motor vehicle upon the highways of this state with knowledge that his driver's license, driving privileges or permit to drive is revoked, disqualified or suspended in this state or any other jurisdiction is guilty of a misdemeanor.

(2) A person has knowledge that his license, driving privileges or permit to drive is revoked, disqualified or suspended when:

(a) He has actual knowledge of the revocation, disqualification or suspension of his license, driving privileges or permit to drive; or

(b) He has received oral or written notice from a verified, authorized source, that his license, driving privileges or permit to drive was revoked, disqualified or suspended; or

(c) Notice of the suspension, disqualification or revocation of his license, driving privileges or permit to drive was mailed by certified mail to his address as shown on the citation which resulted in the suspension, disqualification or revocation, and if such notice was returned it was remailed to his address as shown in the department records, and he failed to receive the notice or learn of its contents as a result of his own unreasonable, intentional or negligent conduct; or

(d) He has knowledge of, or a reasonable person in his situation exercising reasonable diligence would have knowledge of, the existence of facts or circumstances which, under Idaho law, might have caused the revocation, disqualification or suspension of his license, driving privileges or permit to drive.

(3) Any person who pleads guilty to or is found guilty of a violation of subsection (1) for the first time:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than two (2) days, and may be sentenced to not more than six (6) months, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work detail program within the custody of the county sheriff during the period of incarceration;

(b) May be fined an amount not to exceed five hundred dollars (\$500); and

(c) Shall have his driving privileges suspended by the court for an additional six (6) months following the end of any period of suspension, disqualification or revocation existing at the time of the violation; the defendant may request restricted driving privileges during the period of the suspension or disqualification, which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs.

(4) Any person who pleads guilty to or is found guilty of a violation of subsection (1) for a second time within five (5) years, irrespective of the form of the judgment(s) or withheld judgment(s):

(a) Shall be sentenced to jail for a mandatory minimum period of not less than twenty (20) days, and may be sentenced to not more than one (1) year, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work detail program within the custody of the county sheriff during the period of incarceration;

(b) May be fined an amount not to exceed one thousand dollars (\$1,000); and

(c) Shall have his driving privileges suspended by the court for an additional one (1) year following the end of any period of suspension, disqualification or revocation existing at the time of the second violation, during which time he shall have absolutely no driving privileges of any kind.

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

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

(b) May be fined an amount not to exceed three thousand dollars

(\$3,000); and

(c) Shall have his driving privileges suspended by the court for an additional three (3) years following the end of any period of suspension, disqualification or revocation existing at the time of the violation, during which time he shall have absolutely no driving privileges of any kind.

(6) A minor may be prosecuted for a violation of subsection (1) of this section under title 16, Idaho Code.

(7) If a person is convicted for a violation of section 18-8004 or 18-8006, Idaho Code, and at the time of arrest had no driving privileges, the penalties imposed by this section shall be in addition to any penalties imposed under the provisions of section 18-8005 or 18-8006, Idaho Code, and not in lieu thereof.

SECTION 2. That Section 18-8005, Idaho Code, be, and the same is hereby amended to read as follows:

18-8005. PENALTIES. (1) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a) or (5), Idaho Code, for the first time is guilty of a misdemeanor; and

(a) May be sentenced to jail for not to exceed six (6) months;

(b) May be fined an amount not to exceed one thousand dollars (\$1,000);

(c) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney; and

(d) Shall have his driving privileges suspended by the court for a period of thirty (30) days which shall not be reduced and during which thirty (30) day period absolutely no driving privileges of any kind may be granted. After the thirty (30) day period of absolute suspension of driving privileges has passed, the defendant shall have driving privileges suspended by the court for an additional period of at least sixty (60) days, not to exceed one hundred fifty (150) days during which the defendant may request restricted driving privileges which the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs.

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

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

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

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

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

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

(4) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, Idaho Code, who previ-

ously has been found guilty of or has pled guilty to a violation of the provisions of section 18-8004, Idaho Code, or any substantially conforming foreign criminal violation within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), is guilty of a misdemeanor; and

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days the first forty-eight (48) hours of which must be consecutive, and may be sentenced to not more than one (1) year, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work detail program within the custody of the county sheriff during the period of incarceration;

(b) May be fined an amount not to exceed two thousand dollars (\$2,000);

(c) Shall be advised by the court in writing at the time of sentencing, of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his driver's license or permit to the court;

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted; and

(f) If the person has pled guilty or was found guilty for the second time within five (5) years of a violation of the provisions of section 18-8004(1)(b) or (c), Idaho Code, then the provisions of section 49-335, Idaho Code, shall apply.

(5) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, Idaho Code, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of section 18-8004, Idaho Code, or any substantially conforming foreign criminal violation, or any combination thereof, within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony; and

(a) Shall be sentenced to the custody of the state board of correction for not to exceed five (5) years; provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars (\$5,000);

(c) Shall surrender his driver's license or permit to the court; and

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving

privileges of any kind.

(6) For the purpose of computation of the enhancement period in subsections (4), (5) and (7) of this section, the time that elapses between the date of commission of the offense and the date the defendant pleads guilty or is found guilty for the pending offense shall be excluded. If the determination of guilt against the defendant is reversed upon appeal, the time that elapsed between the date of the commission of the offense and the date the defendant pleads guilty or is found guilty following the appeal shall also be excluded.

(7) Notwithstanding the provisions of subsections (4) and (5) of this section, any person who has pled guilty or has been found guilty of a felony violation of the provisions of section 18-8004, Idaho Code, a violation of the provisions of section 18-8006, Idaho Code, or a violation of the provisions of section 18-4006 3.(b), Idaho Code, and within ten (10) years pleads guilty or is found guilty of a further violation of the provisions of section 18-8004, Idaho Code, shall be guilty of a felony and shall be sentenced pursuant to subsection (5) of this section.

(8) For the purpose of subsections (4) and (5) of this section, a substantially conforming foreign criminal violation exists when a person has pled guilty to or has been found guilty of a violation of any federal law or law of another state, or any valid county, city, or town ordinance of another state substantially conforming to the provisions of section 18-8004, Idaho Code. The determination of whether a foreign criminal violation is substantially conforming is a question of law to be determined by the court.

(9) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004 or 18-8006, Idaho Code, shall undergo, at his own expense, (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code,) and prior to the sentencing date, an alcohol evaluation by an alcohol evaluation facility approved by the Idaho department of health and welfare. In the event the alcohol evaluation indicates the need for alcohol treatment, the evaluation shall contain a recommendation by the evaluator as to the most appropriate treatment program, together with the estimated cost thereof, and recommendations for other suitable alternative treatment programs, together with the estimated costs thereof. The person shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that alcohol treatment is required unless the defendant makes a showing by a preponderance of evidence that treatment is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, in no event shall the person or facility doing the evaluation be the person or facility that provides the treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are

appropriate and available. Nothing herein contained shall preclude the use of funds authorized pursuant to the provisions of chapter 3, title 39, Idaho Code, for court-ordered alcohol treatment for indigent defendants.

(10) At the time of sentencing, the court shall be provided with the following information:

(a) The results, if administered, of any evidentiary test for alcohol and/or drugs;

(b) A computer or teletype or other acceptable copy of the person's driving record;

(c) Information as to whether the defendant has pled guilty to or been found guilty of violation of the provisions of section 18-8004 or 18-8006, Idaho Code, or a similar offense within the past five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s); and

(d) The alcohol evaluation required in subsection (9) of this section, if any.

(11) A minor may be prosecuted for a violation of the provisions of section 18-8004, Idaho Code, under title 16, Idaho Code. In addition to any other penalty, if a minor pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, Idaho Code, he shall have his driving privileges suspended or denied for an additional one (1) year following the end of any period of suspension or revocation existing at the time of the violation, or until he reaches the age of eighteen (18) years, whichever period is greater. During the period of additional suspension or denial, absolutely no driving privileges shall be allowed.

(12) In the event that the alcohol evaluation required in subsection (9) of this section recommends alcohol treatment, the court shall order the person to complete a treatment program in addition to any other sentence which may be imposed, unless the court determines that alcohol treatment would be inappropriate or undesirable, in which event, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation, or a comparable program. Such treatment shall, to the greatest extent possible, be at the expense of the defendant. In the event that funding is provided for or on behalf of the defendant by an entity of state government, restitution shall be ordered to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code. Nothing contained herein shall be construed as requiring a court to order that a governmental entity shall provide alcohol treatment at government expense unless otherwise required by law.

(13) Any person who is disqualified shall not be granted restricted driving privileges to operate a commercial motor vehicle.

CHAPTER 149
(S.B. No. 1416)

AN ACT

RELATING TO PROCESSING FEES IMPOSED ON VIOLATORS; AMENDING CHAPTER 14, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-1407, IDAHO CODE, TO PROVIDE A PROCESSING FEE ON VIOLATORS WHICH MONEY SHALL BE USED TO PROCESS MEAT FROM GAME ANIMALS WHICH HAVE BEEN KILLED BY SUCH VIOLATORS AND RECEIVED BY THE DEPARTMENT FROM OTHER SOURCES; AND AMENDING SECTION 36-111, IDAHO CODE, TO PROVIDE THAT MONEY DERIVED FROM ASSESSMENT OF PROCESSING FEES SHALL BE USED AS PROVIDED IN SECTION 36-1407, IDAHO CODE.

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

SECTION 1. That Chapter 14, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a **NEW SECTION**, to be known and designated as Section 36-1407, Idaho Code, and to read as follows:

36-1407. PROCESSING FEE IMPOSED ON VIOLATORS. (a) In addition to the penalties provided for violating any of the provisions of title 36, Idaho Code, any person who pleads guilty, is found guilty, or is convicted of or received a withheld judgment for the illegal killing or the illegal possession or illegal waste of game animals shall be assessed a processing fee as follows:

(1) Moose or elk, one hundred seventy-five dollars (\$175) per animal killed, possessed or wasted.

(2) Deer, pronghorn antelope, fifty dollars (\$50.00) per animal killed, possessed or wasted.

(3) Bighorn sheep, caribou, mountain goat and black bear, seventy-five dollars (\$75.00) per animal killed, possessed or wasted.

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

(c) The judgment shall fix the manner and the time of payment. A defaulted judgment or any installment payment thereof may be collected by any means authorized for the enforcement of a judgment under the provisions of the Idaho Code.

(d) All courts ordering such judgments of processing fees shall order such payments to be made to the department which shall deposit them with the state treasurer, and the treasurer shall place them in the state fish and game set-aside account. These fees shall be available for the processing of the meat of moose, elk, deer, pronghorn antelope, bighorn sheep, caribou, mountain goat and black bear which have been illegally taken, accidentally killed, taken as a result of

depredation problems or donated by sportsmen. The processed meat thereof shall be distributed by charitable organizations free to needy Idaho residents or utilized by charitable organizations.

SECTION 2. That Section 36-111, Idaho Code, be, and the same is hereby amended to read as follows:

36-111. FISH AND GAME SET-ASIDE ACCOUNT. (1) There is hereby established the fish and game set-aside account in the dedicated fund. The account shall have paid into it moneys as follows:

(a) Three dollars (\$3.00) of each steelhead trout or anadromous salmon permit sold. Moneys from this source shall be used for the acquisition, development and maintenance of parking areas, access sites, boat ramps and sanitation facilities in salmon and steelhead fishing areas, for management of and research on steelhead trout and anadromous salmon problems, and for technical assistance with litigation concerning steelhead and anadromous salmon originating in Idaho.

(b) Two dollars (\$2.00) from each combination hunting and fishing license, or each hunting license sold, as provided in sections 36-406 and 36-407, Idaho Code, except that class 4 licenses shall be exempt from this provision. Moneys from this source shall be used for the purposes of acquiring access to and acquiring and rehabilitating big game ranges and upland bird and waterfowl habitats. Unless it is inconsistent with the goals of the commission, it is the intent of the legislature that the commission negotiate lease arrangements as compared with outright purchase of private property.

(c) One dollar and fifty cents (\$1.50) from each antelope, elk and deer tag sold as provided in section 36-409, Idaho Code. Moneys from this source shall be used for the purposes of winter feeding of antelope, elk and deer, control of depredation of private property by antelope, elk and deer, control of predators affecting antelope, elk and deer, and rehabilitation of winter range for antelope, elk and deer.

(d) Those amounts designated by individuals in accordance with section 63-3067A(c)(i), Idaho Code, and from fees paid under the provisions of section 49-417, Idaho Code. Moneys from these sources shall be used for a nongame management and protection program under the direction of the fish and game commission.

(e) All moneys received from the sale of upland game permits. Moneys from this source shall be used as provided by section 36-409(h), Idaho Code.

(f) Moneys received from the sale of migratory waterfowl stamps. Moneys received from this source shall be used as provided by section 36-414, Idaho Code.

(g) Money derived from the assessment of processing fees. Moneys derived from this source shall be used as provided in section 36-1407, Idaho Code.

(2) Moneys in the fish and game set-aside account are subject to appropriation, and the provisions of section 67-3516, Idaho Code. Moneys in the account shall be invested by the state treasurer in the

manner provided for investment of idle state moneys in the state treasury by section 67-1210, Idaho Code. Interest earned on all such investments shall be paid into the fish and game set-aside account.

Approved March 22, 1994.

CHAPTER 150
(S.B. No. 1417)

AN ACT

RELATING TO THE YOUTH REHABILITATION ACT; AMENDING SECTION 16-1803, IDAHO CODE, TO PROVIDE THAT THE YOUTH REHABILITATION ACT SHALL NOT APPLY TO JUVENILE VIOLATORS OF SECTION 18-3302D, IDAHO CODE, PERTAINING TO CARRYING A CONCEALED WEAPON ON SCHOOL PROPERTY.

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

SECTION 1. That Section 16-1803, Idaho Code, be, and the same is hereby amended to read as follows:

16-1803. JURISDICTION. Subject to the prior jurisdiction of the United States, the court shall have exclusive, original jurisdiction over any child and over any adult who was a child at the time of any act, omission or status, in the county in which the minor resides, or in the county in which the act, omission or status allegedly took place, in the following cases:

1. Where the act, omission or status is prohibited by federal, state, local or municipal law or ordinance by reason of minority only, regardless of where the same occurred;
2. Where the act or omission is a violation of any federal, state, local or municipal law or ordinance which would be a crime if committed by an adult, regardless of where the same occurred, except traffic, watercraft, fish and game, failure to obey a misdemeanor citation and criminal contempt violations. A juvenile violator under the age of fourteen (14) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter;
3. Concerning any child where the child comes under the purview of the interstate compact on juveniles as set forth in chapter 19, title 16, Idaho Code;
4. This chapter shall not apply to juvenile violators of beer, wine or other alcohol and tobacco laws; except that a juvenile violator under the age of fourteen (14) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter;
5. This chapter shall not apply to the violent juvenile offender, as defined in this chapter;
6. This chapter shall not apply to juvenile violators of the provisions of section 18-1502B, Idaho Code, pertaining to the possession and usage of inhalants unless the court so orders the juvenile violator to come under the purview of this chapter;

7. This chapter shall not apply to juvenile violators of the provisions of section 18-3302D, Idaho Code, pertaining to the carrying of a concealed weapon on school property.

Approved March 22, 1994.

CHAPTER 151
(S.B. No. 1474)

AN ACT

RELATING TO MAINTENANCE AND REPAIR OF DITCHES; AMENDING SECTION 42-1207, IDAHO CODE, TO ALLOW A LANDOWNER TO BURY AS WELL AS MOVE A LATERAL DITCH OR BURIED IRRIGATION CONDUIT OF ANOTHER ON HIS OWN PROPERTY, TO REQUIRE CONSTRUCTION BE AT STANDARD SPECIFICATIONS AND THAT THE LANDOWNER ASSUME INCREASED OPERATION AND MAINTENANCE COSTS, TO PROVIDE THAT WRITTEN PERMISSION MUST FIRST BE OBTAINED FROM AN ORGANIZED IRRIGATION ENTITY; AND AMENDING SECTION 18-4308, IDAHO CODE, TO ALLOW A DITCH OWNER TO BURY HIS DITCH ON THE PROPERTY OF A LANDOWNER SERVIENT TO SUCH DITCH EASEMENT SO LONG AS THE CONSTRUCTION IS AT STANDARD SPECIFICATIONS AND THE PIPELINE IS ROUTED UNDERNEATH THE EXISTING DITCH, TO PROVIDE THAT THE LANDOWNER CAN REQUEST A REROUTING IF HE WILL AGREE IN WRITING TO PAY FOR ANY ADDITIONAL CONSTRUCTION AND INCREASED FUTURE MAINTENANCE COSTS, TO PROVIDE FOR RECORDING OF BURYING LOCATION AND SPECIFICATIONS, TO REQUIRE THAT THE LANDOWNER OR DITCH OWNER PROVIDE A COPY OF RECORDS TO THE SUPPLYING IRRIGATION ENTITY, AND TO REQUIRE IRRIGATION ENTITIES TO KEEP AND MAINTAIN SUCH RECORDS AND HAVE THEM AVAILABLE FOR THE PUBLIC.

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

SECTION 1. That Section 42-1207, Idaho Code, be, and the same is hereby amended to read as follows:

42-1207. CHANGE OF LATERAL DITCH OR BURIED IRRIGATION CONDUIT. Where any lateral ditch or buried irrigation conduit has heretofore been, or may hereafter be, constructed across or beneath the lands of another, the person or persons owning or controlling the said land shall have the right at their own expense to change said lateral ditch or buried irrigation conduit to any other part of said land, but such change must be made in such a manner as not to impede the flow of the water therein, or to otherwise injure any person or persons using or interested in such lateral ditch or buried irrigation conduit. Any increased operation and maintenance shall be the responsibility of the landowner who makes the change.

A landowner shall also have the right to bury the ditch of another in pipe on the landowner's property, provided that the pipe, installation and backfill reasonably meet standard specifications for such materials and construction, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done. The right and responsibil-

ity for operation and maintenance shall remain with the ditch owner, but the landowner shall be responsible for any increased operation and maintenance costs, including rehabilitation and replacement, unless otherwise agreed in writing with the ditch owner.

In the event that the ditch, lateral, buried irrigation conduit, or canal is owned by an organized irrigation district, canal company, ditch association, or other irrigation entity, the written permission of the entity must first be obtained before a ditch, lateral, buried irrigation conduit, or canal is changed or placed in buried pipe by the landowner.

While a ditch owner shall have no right to relocate his ditch on the property of another without permission, a ditch owner shall have the right to place his ditch in a buried conduit within the easement or right-of-way on the property of another in accordance with standard specifications for pipe, materials, installation and backfill, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done, and so long as the pipe and the construction is accomplished in a manner that the surface of the owner's property and the owner's use thereof is not disrupted and is restored to the condition of adjacent property as expeditiously as possible, but not to exceed five (5) days after the start of construction. A landowner shall have the right to direct that the conduit be relocated to a different route than the route of the ditch, provided that the landowner shall agree in writing to be responsible for any increased construction or future maintenance costs necessitated by said relocation. Maintenance of the buried conduit shall be the responsibility of the ditch owner.

No more than five (5) days after the start of construction, a landowner or ditch owner who buries a ditch in pipe shall record the location and specifications of the buried irrigation conduit, including primary and secondary easements, in the county in which the burying is done, and shall provide the irrigation entity that supplies water to the ditch, with a copy of such location and specifications and the construction plans utilized. The irrigation entity shall keep and maintain such records and have them available for the public.

SECTION 2. That Section 18-4308, Idaho Code, be, and the same is hereby amended to read as follows:

18-4308. CHANGE OF LATERAL DITCH OR BURIED IRRIGATION CONDUIT. Where any lateral ditch has heretofore been, or may hereafter be, constructed across or beneath the lands of another, the person or persons owning or controlling the said land, shall have the right at his own expense to change said lateral ditch or buried irrigation conduit to any other part of said land, but such change must be made in such a manner as not to impede the flow of the water therein, or to otherwise injure any person or persons using or interested in such lateral ditch or buried irrigation conduit. Any increased operation and maintenance shall be the responsibility of the landowner who makes the change.

A landowner shall also have the right to bury the ditch of another in pipe on the landowner's property, provided that the pipe, installation and backfill reasonably meet standard specifications for such materials and construction, as set forth in the Idaho standards for

public works construction or other standards recognized by the city or county in which the burying is to be done. The right and responsibility for operation and maintenance shall remain with the ditch owner, but the landowner shall be responsible for any increased operation and maintenance costs, including rehabilitation and replacement, unless otherwise agreed in writing with the ditch owner.

In the event that the ditch, lateral, buried irrigation conduit, or canal is owned by an organized irrigation district, canal company, ditch association, or other irrigation entity, the written permission of the entity must first be obtained before a ditch, lateral, buried irrigation conduit, or canal is changed or placed in buried pipe by the landowner.

While a ditch owner shall have no right to relocate his ditch on the property of another without permission, a ditch owner shall have the right to place his ditch in a buried conduit within the easement or right-of-way on the property of another in accordance with standard specifications for pipe, materials, installation and backfill, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done, and so long as the pipe and the construction is accomplished in a manner that the surface of the owner's property and the owner's use thereof is not disrupted and is restored to the condition of adjacent property as expeditiously as possible, but not to exceed five (5) days after the start of construction. A landowner shall have the right to direct that the conduit be relocated to a different route than the route of the ditch, provided that the landowner shall agree in writing to be responsible for any increased construction or future maintenance costs necessitated by said relocation. Maintenance of the buried conduit shall be the responsibility of the ditch owner.

No more than five (5) days after the start of construction, a landowner or ditch owner who buries a ditch in pipe shall record the location and specifications of the buried irrigation conduit, including primary and secondary easements, in the county in which the burying is done, and shall provide the irrigation entity that supplies water to the ditch, with a copy of such location and specifications and the construction plans utilized. The irrigation entity shall keep and maintain such records and have them available for the public.

Approved March 22, 1994.

CHAPTER 152
(S.B. No. 1508, As Amended)

AN ACT

RELATING TO FUNDING FOR THE ADMINISTRATION OF THE FOREST PRACTICES ACT; AMENDING SECTION 38-122, IDAHO CODE, TO PROVIDE FOR A DEDUCTION FROM THE SLASH HAZARD BOND TO FUND FOREST PRACTICES ACT ADMINISTRATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 38-122, Idaho Code, be, and the same is hereby amended to read as follows:

38-122. PROTECTION BY LOGGING OUTFITS -- FIRE SUPPRESSION ACCOUNT -- LIABILITY FOR FIRE SUPPRESSION COSTS -- PENALTY. (1) Everyone engaged, or about to engage, in the cutting of any forest product or potential forest product upon lands within the state of Idaho shall provide for the management and reduction of the fire hazard thus created or to be created by first securing a certificate of compliance from the director of the department of lands or his agent, said compliance to provide the option of entering into a fire hazard reduction agreement as provided in sections 38-401 through 38-410, Idaho Code, inclusive, or by posting a cash bond to the state of Idaho in such form and for such amount as may be prescribed by the director of the department of lands: provided, however, that the amount of the bond so prescribed shall not be in excess of the amount which such person would be required to pay under said sections 38-401 through 38-410, Idaho Code, inclusive, and that the bond shall be conditioned upon full and faithful compliance with all requirements under said sections 38-401 through 38-410, Idaho Code, inclusive, and the faithful reduction of such fire hazards in the manner prescribed by law. Provided further that the initial purchaser of ties, logs, posts, cordwood, pulpwood and other similar forest products which have been cut from lands within the state of Idaho shall make no such purchase from anyone not having a proper compliance under this section and formal acceptance of notification under subsection (2) of section 38-1306, Idaho Code. When a person elects to have hazard reduction money withheld in lieu of posting a cash bond, the purchaser of forest products shall withhold the money and said money so withheld in any one (1) calendar month shall be paid to the director of the department of lands or his agent on or before the last day of the next calendar month. After sending such moneys to the director of the department of lands the purchaser shall not be further liable to the state of Idaho or to the person from whom the money was withheld. The director of the department of lands, upon receipt of the cash bond or transmittal of withheld money, shall promptly deposit the same with the state treasurer to be held in trust until the hazard has been reduced as required by law. Such hazard reduction shall be accomplished by the responsible party within the terms set forth in the certificate of compliance or such additional time as may be granted by the director of the department of lands, and upon completion thereof, the director of the department of lands or his agent shall issue a certificate of clearance, stating that all the terms of this section have been complied with, ~~and~~ such clearance shall constitute reason for the release of said hazard reduction money and payment to the person entitled thereto or release of the cash bond posted, except that: (a) three percent (3%) of the hazard reduction money or bond shall be deposited in a special account to be known as the fire suppression account, which is hereby created in the dedicated fund of the state treasury, and which shall be used by the department of lands to help pay the cost of suppressing forest fires; and (b) as determined by the state board of land commissioners, for harvest from private land, an additional amount, not to exceed three percent (3%) of the hazard

reduction money or bond shall be deposited in the forest practices administration account established in section 38-135, Idaho Code, for the purpose of carrying out the provisions of the forest practices act, section 38-1301 et seq., Idaho Code. In the event the hazard reduction shall not be accomplished within said period of time, the money shall be released by the state treasurer on direction from the director of the department of lands less the three percent (3%) deduction specified for the fire suppression account and for harvest from private land, the deduction specified by the state board of land commissioners for the forest practices administration account, and credited to the "forest management account" for the management and reduction of any fire hazard and for the protection of forest resources as provided by section 38-408, Idaho Code.

(2) With the exception of cases of negligence on the part of the landowner, operator or their agents, liability for the cost of suppressing fires that originate on or pass through a slashing area shall remain with the state forester if one of the following alternatives is executed by the landowner or operator: (a) the slashing area is covered by a certificate of compliance and all hazard money payments are current or a proper bond is in place; (b) the landowner or operator treats the slash in accordance with rules and regulations adopted by the state board of land commissioners that are in effect during the period covered by the certificate of compliance or approved extensions; or (c) the landowner or operator elects to enter into a contract with the state forester for the management of the slash and liability of fire suppression costs in accordance with section 38-404, Idaho Code.

Should the landowner or operator choose not to treat the slash or not enter into a contract with the state forester in accordance with section 38-404, Idaho Code, the landowner or operator shall, in addition to forfeiting the bond provided for in section 38-122, Idaho Code, be subject to the provisions of section 38-123, Idaho Code, and his liability, if any, for fire suppression costs up to the limits set by the state forester, shall exist for a period of five (5) years following completion of the operation for all fires that originate in or pass through the landowner's or operator's slashing area, except that the landowner or operator may choose to pay an additional fee, to be determined by the director, upon payment of which the director will assume the liability for the cost of suppressing fires that originate in or pass through the slashing area.

(3) A violation of any of the provisions of this section shall be deemed a petty misdemeanor.

Approved March 22, 1994.

CHAPTER 153
(S.B. No. 1570)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE PUBLIC

UTILITIES COMMISSION FOR FISCAL YEAR 1995; AND TRANSFERRING MONEYS TO THE GENERAL FUND.

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

SECTION 1. It is legislative intent that the expenditures for the Public Utilities Commission not exceed the following amount for the period July 1, 1994, through June 30, 1995:

FOR:

| | |
|------------------------|----------------|
| Personnel Costs | \$2,578,000 |
| Operating Expenditures | 1,162,800 |
| Capital Outlay | <u>127,900</u> |
| TOTAL | \$3,868,700 |

FROM:

| | |
|-----------------------|------------------|
| General Fund | \$ 247,800 |
| State Regulatory Fund | <u>3,620,900</u> |
| TOTAL | \$3,868,700 |

SECTION 2. There is hereby appropriated to the Public Utilities Commission the following amount, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|---------------------------------|---------------------------|----------------------------------|--------------------------|----------------|
| A. ADMINISTRATION: | | | | |
| FROM: | | | | |
| General Fund | \$ 247,800 | | | \$ 247,800 |
| State Regulatory Fund | <u>609,900</u> | \$ 163,300 | \$ 75,400 | <u>848,600</u> |
| TOTAL | \$ 857,700 | \$ 163,300 | \$ 75,400 | \$1,096,400 |
| B. UTILITIES REGULATION: | | | | |
| FROM: | | | | |
| State Regulatory Fund | \$1,331,300 | \$ 780,500 | \$ 15,800 | \$2,127,600 |
| C. REGULATED CARRIERS: | | | | |
| FROM: | | | | |
| State Regulatory Fund | \$ 389,000 | \$ 219,000 | \$ 36,700 | \$ 644,700 |
| GRAND TOTAL | \$2,578,000 | \$1,162,800 | \$127,900 | \$3,868,700 |

SECTION 3. Notwithstanding any other provisions of law, there is hereby appropriated from the State Regulatory Fund and transferred to the General Fund an amount equal to the General Fund expenditures of the Public Utilities Commission for the period July 1, 1994, through June 30, 1995.

Approved March 22, 1994.

CHAPTER 154
(S.B. No. 1571)

AN ACT

APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1995; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Office of the State Board of Education the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 1994, through June 30, 1995:

| | |
|------------------------|--------------|
| FOR: | |
| Personnel Costs | \$698,200 |
| Operating Expenditures | 218,500 |
| Capital Outlay | <u>3,300</u> |
| TOTAL | \$920,000 |
| FROM: | |
| General Fund | \$920,000 |

SECTION 2. There is hereby reappropriated to the Office of the State Board of Education, one-half of the unexpended and unencumbered balance of any General Fund appropriation made to the Office of the State Board of Education for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

Approved March 22, 1994.

CHAPTER 155
(S.B. No. 1572)

AN ACT

APPROPRIATING MONEYS FOR THE HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 1995; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|----------------|
| A. WOI VETERINARY EDUCATION: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 367,800 | \$800,600 | | | \$1,168,400 |
| B. WAMI MEDICAL EDUCATION: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 521,800 | \$ 64,400 | \$13,300 | \$1,708,000 | \$2,307,500 |
| Unrestricted | | | | | |
| Current | | | | | |
| Fund | <u>31,600</u> | <u>2,000</u> | | <u>74,100</u> | <u>107,700</u> |
| TOTAL | \$ 553,400 | \$ 66,400 | \$13,300 | \$1,782,100 | \$2,415,200 |
| C. IDEP DENTAL EDUCATION: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 132,300 | \$ 12,400 | | \$ 326,200 | \$ 470,900 |
| Unrestricted | | | | | |
| Current | | | | | |
| Fund | <u>53,000</u> | <u>12,400</u> | | | <u>53,000</u> |
| TOTAL | \$ 185,300 | \$ 12,400 | | \$ 326,200 | \$ 523,900 |
| D. WICHE/UNIVERSITY OF UTAH: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | | | | \$ 572,000 | \$ 572,000 |
| E. FAMILY PRACTICE RESIDENCIES: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 263,900 | \$ 16,000 | \$ 7,600 | \$ 287,500 | \$ 575,000 |
| GRAND | | | | | |
| TOTAL | \$1,370,400 | \$895,400 | \$20,900 | \$2,967,800 | \$5,254,500 |

SECTION 2. There is hereby reappropriated to the Board of Regents of the University of Idaho for the WOI Veterinary Education Program, subject to the provisions of Section 6 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the WOI Veterinary Education Program for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 3. There is hereby reappropriated to the Board of Regents of the University of Idaho for the WAMI Medical Education Program, subject to the provisions of Section 6 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the WAMI Medical Education Program for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 4. There is hereby reappropriated to the State Board of

Education for the IDEP Dental Education Program, subject to the provisions of Section 6 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the IDEP Dental Education Program for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 5. There is hereby reappropriated to the State Board of Education for the Family Practice Residency Program, subject to the provisions of Section 6 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the Family Practice Residency Program for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 6. The reappropriation granted in Sections 2 through 5 of this act shall be subject to the following conditions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is zero, the reappropriations in Sections 2 through 5 are hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is greater than zero but less than the total reappropriation authority granted to all state agencies, the amounts reappropriated in Sections 2 through 5 shall be in the proportion that the reappropriation for each program bears to the total reappropriation authority granted to all state agencies.

Approved March 22, 1994.

CHAPTER 156
(S.B. No. 1573)

AN ACT

APPROPRIATING MONEYS TO THE REGULATORY BOARDS FOR FISCAL YEAR 1995; APPROPRIATING MONEYS IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 228, LAWS OF 1993; AND DECLARING AN EMERGENCY FOR SECTION 2 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the regulatory boards in the Department of Self-Governing Agencies the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|------------|
| A. STATE ATHLETIC COMMISSION: | | | | | |
| FROM: | | | | | |
| General Fund | | \$ 4,900 | | | \$ 4,900 |
| State Regulatory Fund | | 9,600 | | | 9,600 |
| TOTAL | | \$ 14,500 | | | \$ 14,500 |
| B. BOARD OF PHARMACY: | | | | | |
| FROM: | | | | | |
| General Fund | \$ 42,800 | \$ 100 | | | \$ 42,900 |
| State Regulatory Fund | 265,900 | 142,000 | \$ 7,700 | | 415,600 |
| TOTAL | \$ 308,700 | \$ 142,100 | \$ 7,700 | | \$ 458,500 |
| C. BOARD OF ACCOUNTANCY: | | | | | |
| FROM: | | | | | |
| State Regulatory Fund | \$ 184,300 | \$ 191,300 | \$ 5,000 | | \$ 380,600 |
| D. BOARD OF DENTISTRY: | | | | | |
| FROM: | | | | | |
| State Regulatory Fund | \$ 105,900 | \$ 74,700 | \$ 3,500 | | \$ 184,100 |
| E. BOARD OF ENGINEERING EXAMINERS: | | | | | |
| FROM: | | | | | |
| State Regulatory Fund | \$ 143,900 | \$ 114,500 | \$ 5,000 | | \$ 263,400 |
| F. BOARD OF MEDICINE: | | | | | |
| FROM: | | | | | |
| State Regulatory Fund | \$ 299,800 | \$ 186,400 | \$ 9,300 | | \$ 495,500 |
| G. BOARD OF NURSING: | | | | | |
| FROM: | | | | | |
| State Regulatory Fund | \$ 270,000 | \$ 146,400 | \$ 11,600 | | \$ 428,000 |
| H. BUREAU OF OCCUPATIONAL LICENSES: | | | | | |
| FROM: | | | | | |
| State Regulatory Fund | \$ 514,500 | \$ 442,600 | | \$ 35,000 | \$ 992,100 |
| I. PUBLIC WORKS CONTRACTORS STATE LICENSE BOARD: | | | | | |
| FROM: | | | | | |
| State Regulatory Fund | \$ 195,600 | \$ 88,300 | \$ 3,000 | | \$ 286,900 |
| J. IDAHO REAL ESTATE COMMISSION: | | | | | |
| FROM: | | | | | |
| State Regulatory Fund | \$ 613,800 | \$ 265,700 | \$ 39,800 | | \$ 919,300 |
| K. PROFESSIONAL GEOLOGISTS BOARD: | | | | | |
| FROM: | | | | | |
| State Regulatory Fund | \$ 20,400 | \$ 14,600 | | | \$ 35,000 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|-------------|
| L. BOARD OF OPTOMETRY: | | | | | |
| FROM: | | | | | |
| State Regulatory | | | | | |
| Fund | \$ 2,500 | \$ 13,900 | | | \$ 16,400 |
| M. IDAHO CERTIFIED SHORTHAND REPORTERS BOARD: | | | | | |
| FROM: | | | | | |
| State Regulatory | | | | | |
| Fund | \$ 13,000 | \$ 12,800 | | | \$ 25,800 |
| N. OUTFITTERS AND GUIDES BOARD: | | | | | |
| FROM: | | | | | |
| State Regulatory | | | | | |
| Fund | \$ 174,400 | \$ 158,900 | \$ 28,000 | | \$ 361,300 |
| Federal | | | | | |
| Fund | | 6,400 | | | 6,400 |
| TOTAL | \$ 174,400 | \$ 165,300 | \$ 28,000 | | \$ 367,700 |
| O. BOARD OF VETERINARY MEDICINE: | | | | | |
| FROM: | | | | | |
| State Regulatory | | | | | |
| Fund | \$ 46,500 | \$ 90,700 | | | \$ 137,200 |
| P. COMMISSION ON HISPANIC AFFAIRS: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 67,000 | \$ 33,200 | \$ 3,300 | | \$ 103,500 |
| Federal | | | | | |
| Fund | 158,100 | 93,500 | | | 251,600 |
| Miscellaneous | | | | | |
| Revenue | | | | | |
| Fund | 71,900 | 63,300 | | | 135,200 |
| TOTAL | \$ 297,000 | \$ 190,000 | \$ 3,300 | | \$ 490,300 |
| GRAND | | | | | |
| TOTAL | \$3,190,300 | \$2,153,800 | \$116,200 | \$35,000 | \$5,495,300 |

SECTION 2. In addition to the appropriations made in Section 1, Chapter 228, Laws of 1993, there is hereby appropriated to the regulatory boards in the Department of Self-Governing Agencies the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 1993, through June 30, 1994:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | TOTAL |
|--------------------------------|---------------------------|----------------------------------|----------|
| A. ATHLETIC COMMISSION: | | | |
| FROM: | | | |
| State Regulatory | | | |
| Fund | | \$ 5,000 | \$ 5,000 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | TOTAL |
|---|---------------------------|----------------------------------|---------------|
| B. BOARD OF ACCOUNTANCY: | | | |
| FROM: | | | |
| State Regulatory | | | |
| Fund | | \$20,000 | \$ 20,000 |
| C. BOARD OF ENGINEERING EXAMINERS: | | | |
| FROM: | | | |
| State Regulatory | | | |
| Fund | \$ 9,700 | | \$ 9,700 |
| D. IDAHO REAL ESTATE COMMISSION: | | | |
| FROM: | | | |
| State Regulatory | | | |
| Fund | | \$ 6,000 | \$ 6,000 |
| E. BOARD OF VETERINARY MEDICINE: | | | |
| FROM: | | | |
| State Regulatory | | | |
| Fund | \$ 1,000 | \$12,700 | \$ 13,700 |
| F. COMMISSION ON HISPANIC AFFAIRS: | | | |
| FROM: | | | |
| Federal | | | |
| Fund | \$30,900 | \$29,100 | \$ 60,000 |
| GRAND TOTAL | \$41,600 | \$72,800 | \$114,400 |

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

Approved March 22, 1994.

CHAPTER 157
(S.B. No. 1422, As Amended)

AN ACT

RELATING TO KILLING AND OTHERWISE MISTREATING POLICE DOGS, POLICE HORSES, ACCELERANT DETECTION DOGS AND SEARCH AND RESCUE DOGS; AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7039, IDAHO CODE, TO PROVIDE A DEFINITION OF "POLICE DOG," "POLICE HORSE," "SEARCH AND RESCUE DOG," AND "ACCELERANT DETECTION DOG," TO IMPOSE A CRIMINAL FELONY SENTENCE AND/OR FINE PENALTY FOR INTENTIONALLY AND WITHOUT JUSTIFICATION CAUSING TORTURE, INJURY, KILLING OR ADMINISTERING POISON TO A POLICE DOG, POLICE HORSE, ACCELERANT DETECTION DOG OR SEARCH AND RESCUE DOG, TO IMPOSE A CRIMINAL MISDEMEANOR SENTENCE AND/OR FINE PENALTY ON PERSONS WHO TORMENT, STRIKE, KICK OR TAMPER WITH A POLICE DOG, POLICE HORSE, ACCELERANT DETECTION DOG OR SEARCH AND RESCUE DOG, TO PROVIDE RESTITUTION, AND TO PROVIDE EXCEPTIONS.

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

SECTION 1. That Chapter 70, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-7039, Idaho Code, and to read as follows:

18-7039. KILLING AND OTHERWISE MISTREATING POLICE DOGS, POLICE HORSES, SEARCH AND RESCUE DOGS AND ACCELERANT DETECTION DOGS. (1) Definitions:

- (a) "Police dog" shall include:
 - (i) "Bomb detection dog" means a dog trained to locate bombs or explosives by scent;
 - (ii) "Narcotic detection dog" means a dog trained to locate narcotics by scent;
 - (iii) "Patrol dog" means a dog trained to protect a peace officer and to apprehend a person;
 - (iv) "Tracking dog" means a dog trained to track and find a missing person, escaped inmate or fleeing felon.
- (b) "Police horse" means any horse which is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in detection of criminal activity, enforcement of laws and apprehension of offenders.
- (c) "Search and rescue dog" means a dog which is trained to locate lost or missing persons, victims of natural or man-made disasters, and human bodies.
- (d) "Accelerant detection dog" means a dog which is used exclusively for accelerant detection, commonly referred to as arson canines.

(2) The provisions of this section shall apply to police dogs and police horses used by peace officers, including any used by a corrections officer in the performance of the officer's duties, and to search and rescue dogs and accelerant detection dogs used by peace officers or certified handlers under the supervision of a peace officer. The provisions of this section shall apply when the animals are on duty and when not on duty.

(3) Any person who willfully and maliciously and with no legal justification, and with intent to inflict such injury or death, personally causes the death, destruction, or serious physical injury including bone fracture, loss or impairment of function of any bodily organ, wounds requiring extensive suturing, or serious crippling, of any police dog, police horse, search and rescue dog or accelerant detection dog, shall be guilty of a felony under this section and shall be punished by imprisonment in the state penitentiary for a period not to exceed five (5) years, or by a fine not to exceed ten thousand dollars (\$10,000), or by both such fine and imprisonment.

(4) Any person who willfully, maliciously and with no legal justification, throws, hurls or projects at a police dog, police horse or search and rescue dog, any rock, object or other substance which is used in such a manner as to be capable of producing injury and likely to produce injury or kicks, strikes, beats, or torments any police dog, police horse or search and rescue dog is guilty of a misdemeanor and shall be punished by imprisonment for not more than one (1) year

or by a fine not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment.

(5) Any person who willfully and maliciously and with no legal justification, interferes with or obstructs any police dog, police horse or search and rescue dog being used by any peace officer in the discharge of the officer's duties by teasing, agitating, harassing such animals, or who causes another person or persons, animal or animals, to do likewise, is guilty of a misdemeanor and shall be punished by imprisonment for not more than one (1) year or by a fine not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment.

(6) In any case in which a defendant is convicted of a violation of the provisions of this section, the defendant shall be ordered to make restitution to the agency owning the animal and employing the peace officer for any veterinary bills, replacement costs of the animal if it is disabled or killed, and the salary of the peace officer for the period of time his or her services are lost to the agency.

(7) The provisions of this subsection do not apply to peace officers or veterinarians who terminate the life of such a police dog, police horse or search and rescue dog for the purpose of relieving the police dog, police horse or search and rescue dog of undue pain or suffering.

Approved March 23, 1994.

CHAPTER 158
(H.B. No. 746)

AN ACT

RELATING TO LEASE OF COUNTY PROPERTY; AMENDING SECTION 31-836, IDAHO CODE, TO EXTEND THE PERIOD OF TIME ALLOWED FOR THE LEASE OF COUNTY OWNED PROPERTY FOR USE AS AN INDUSTRIAL PARK.

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

SECTION 1. That Section 31-836, Idaho Code, be, and the same is hereby amended to read as follows:

31-836. LEASE OF COUNTY PROPERTY. Except as otherwise provided by law, the board of county commissioners may lease any property belonging to the county:

(1) Without public auction for a term not exceeding five (5) years at such rental as may be determined upon by the unanimous vote of such board, or at public auction to the highest bidder for a term not exceeding thirty (30) years. Rents shall be paid annually in advance provided, however, that the provision requiring the payment of rent in advance shall not apply to a lease to the federal or state government, a municipal corporation of this state, or any governmental agency or department.

(2) Any hospital or hospital grounds or portions thereof to be used in conjunction with hospital operations or hospital equipment

belonging to the county may be leased by the board without public auction for a term not exceeding twenty (20) years; and, provided further, that the county, either as lessor or lessee, may enter into any lease or other transaction concerning any property with the Idaho health facilities authority for any term not to exceed ninety-nine (99) years.

(3) Any property belonging to the county may be leased by the board without public auction for a term not to exceed thirty (30) years, to be used for an industrial park in conjunction with economic development purposes. An industrial park for purposes of this section means facilities for manufacturing, processing, production, assembly warehousing or activities associated therewith.

(4) Without public auction the board of county commissioners may lease any property belonging to the county and not necessary for its use to the state of Idaho or any political subdivision thereof for any public purpose, to any nonprofit corporation or association organized for the purpose of erecting and maintaining thereon any play field, recreation park or stadium to serve as a memorial to the deceased soldiers, sailors and marines of an armed conflict entered into by the United States, or to any hospital district organized under title 39, chapter 13, Idaho Code, for use in furthering the purposes of said district or to any nonprofit corporation or association organized for the purpose of erecting and maintaining an animal shelter. Such lease may be for any term not to exceed ninety-nine (99) years, may provide for only a nominal rental to the county and shall, by its provisions, terminate when the property so leased ceases to be used for any public purpose, as an animal shelter, as a play field, recreation park or stadium serving as a memorial, or by the hospital district for its purposes.

Approved March 23, 1994.

CHAPTER 159
(H.B. No. 852)

AN ACT

RELATING TO THE COMMISSION FOR THE BLIND; AMENDING SECTIONS 18-5812B, 56-701A AND 56-704A, IDAHO CODE, TO PROVIDE A CHANGE IN NAME FROM COMMISSION FOR THE BLIND TO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED; AMENDING SECTION 67-5309, IDAHO CODE, TO PROVIDE A CHANGE IN NAME FROM COMMISSION FOR THE BLIND TO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5402, IDAHO CODE, TO PROVIDE A CHANGE IN NAME FROM COMMISSION FOR THE BLIND TO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED, TO DEFINE BLIND OR VISUALLY IMPAIRED; AMENDING SECTION 67-5403, IDAHO CODE, TO PROVIDE A NAME CHANGE, TO INCREASE THE NUMBER OF COMMISSION MEMBERS FROM THREE MEMBERS TO FIVE MEMBERS AND TO PROVIDE THAT THE COMMISSION SHALL CONSIST OF AT LEAST THREE OF WHOM SHALL BE BLIND OR VISUALLY IMPAIRED, AND NOT MORE THAN THREE OF WHOM SHALL BELONG TO THE SAME POLITICAL PARTY; AMENDING SECTION 67-5413, IDAHO CODE, TO PROVIDE A CHANGE IN NAME

FROM COMMISSION FOR THE BLIND TO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED; AMENDING SECTIONS 67-6902 AND 67-6903, IDAHO CODE, TO PROVIDE A CHANGE IN NAME FROM COMMISSION FOR THE BLIND TO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED; AND AMENDING THE CHAPTER HEADING FOR CHAPTER 54, TITLE 67, IDAHO CODE, TO PROVIDE A CHANGE IN HEADING NAME FROM COMMISSION FOR THE BLIND TO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED.

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

SECTION 1. That Section 18-5812B, Idaho Code, be, and the same is hereby amended to read as follows:

18-5812B. PERSON MAY BE ACCOMPANIED BY A DOG BEING TRAINED TO BECOME A GUIDE DOG FOR THE BLIND, PHYSICALLY DISABLED OR HEARING IMPAIRED. (1) A person shall not be denied the use of any common carrier or public transportation facility or admittance to any hotel, motel, cafe, elevator, or any other public place within the state of Idaho by reason of being accompanied by a dog which is being specially trained and socialized for the purpose of being a guide dog for the blind, physically disabled or hearing impaired. Any dog being trained and socialized to become a guide dog for the blind, physically disabled or hearing impaired shall be properly harnessed or leashed so that the person may maintain control of the dog and the dog shall have attached to its collar a special and brightly colored fluorescent tag issued by the commission for the blind and visually impaired under the provisions of subsection (i) of section 67-5407, Idaho Code. Additionally, the dog shall be accompanying the person as part of its training to become a guide dog for the blind, physically disabled or hearing impaired.

(2) Any person, firm, association, partnership or corporation violating the provisions of this section shall be guilty of a misdemeanor.

SECTION 2. That Section 56-701A, Idaho Code, be, and the same is hereby amended to read as follows:

56-701A. DEFINITIONS. As used in this chapter:

(1) "Guide dog" means a dog that has been properly identified as being from a recognized school for seeing eye, hearing ear or guide dogs, and the dog is properly harnessed or leashed so that the blind, physically disabled or hearing impaired person may maintain control of the dog, and the dog has attached to its harness or collar a special and brightly colored fluorescent tag issued by the commission for the blind and visually impaired under the provisions of section 67-5407(i), Idaho Code. A "guide dog for the physically disabled" means any dog individually trained to the physically disabled participant's requirements including, but not limited to, minimal protection work, rescue work, pulling a wheelchair or fetching dropped items.

(2) "Hearing impaired" means a person who has a hearing impairment manifested by a speech discrimination score of forty percent (40%) or more in the better ear with appropriate correction as certi-

fied by a licensed otologist, licensed audiologist, or the Idaho division of vocational rehabilitation.

SECTION 3. That Section 56-704A, Idaho Code, be, and the same is hereby amended to read as follows:

56-704A. PERSONS TRAINING DOGS TO BECOME GUIDE DOGS FOR THE BLIND, PHYSICALLY DISABLED OR HEARING IMPAIRED -- RIGHTS -- LIABILITY. Every person who is specially training or socializing a dog for the purpose of being a guide dog for the blind, physically disabled or hearing impaired shall have the right to be accompanied by the dog in any of the places listed in section 56-703, Idaho Code, without being required to pay an extra charge for the dog if the accompaniment is part of the dog's training or socialization to become a guide dog and the dog has attached to its collar the special and brightly colored fluorescent tag issued by the commission for the blind and visually impaired under the provisions of subsection (i) of section 67-5407, Idaho Code. The person shall be fully liable for any damages done to the premises or facilities by the dog and no liability to other persons shall be attached to the owner, lessor or manager of the property, arising out of activities permitted by this act.

SECTION 4. That Section 67-5309, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309. RULES OF THE PERSONNEL COMMISSION. The commission shall have the power and authority to adopt, amend, or rescind such rules ~~and regulations~~ as may be necessary for proper administration of this act. Such rules shall include:

(a) A rule requiring the personnel commission, after consulting with each department to develop, adopt, and make effective, a classification plan for positions covered by this act, based upon an analysis of the duties and responsibilities of the position. The classification plan will include an appropriate title for each class, and a description of duties and responsibilities of positions in the classes and requirements of minimum training, experience and other qualifications, suitable for the performance of duties of the position.

(b) A rule requiring the personnel commission, after consulting with each department to develop, and adopt a comprehensive compensation plan for all classes of positions covered under this act. The compensation plan shall include salary schedules with the salary of each position consistent with the responsibility and difficulty of the work as outlined in the job specifications.

(c) A rule requiring that all classes of positions which are common to the departments concerned shall have the same titles, minimum requirements and compensation.

(d) A rule providing for review by the commission of the personnel system including classification and compensation plans, policies and procedures.

(e) A rule that, notwithstanding the procedure for examination and ranking of eligibles on a register provided in subsection (f) of this section, an agency may appoint an individual directly into an entrance or promotional probation if the division of vocational reha-

bilitation, Idaho commission for the blind and visually impaired or the industrial commission certifies, with the concurrence of personnel commission staff, that the individual (1) has a disability or handicap as defined under state or federal law; (2) is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3) lacks competitiveness in the examination process due to the disability or handicap. The probationary period as provided in subsection (j) of this section shall be the sole examination for such individuals.

(f) A rule requiring fair and impartial selection of appointees to all positions other than those defined as nonclassified in this act, on the basis of open competitive merit examinations. An application for an examination will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing hospitalization of no more than one (1) year following discharge, during any period in which the examination was open; the application must be submitted within one hundred twenty (120) days of separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of the examination. A disabled veteran may file an application at any time for any position for which the commission maintains a register or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. Examinations may be assembled or unassembled and may include various examining techniques such as rating of training and experience, written tests, oral interviews, recognition of professional licensing, performance tests, investigations and any other measure of ability to perform the duties of the position. Examinations shall be scored objectively. Five (5) points shall be added to the earned rating of any war veteran and the widow of any war veteran as long as she remains unmarried. Ten (10) points shall be added to the earned rating of any disabled war veteran, the widow of any disabled war veteran as long as she remains unmarried or the spouse of any disabled veteran who is physically unable to perform the work in the position to which the spouse seeks to apply the preference. Employment registers shall be established in order of final score except that the names of all five (5) point preference eligibles resulting from any merit system or civil service examination shall be placed on the register in accordance with their augmented rating, and the names of all ten (10) point preference eligibles shall be placed at the top of the register above the names of all nonpreference eligibles. Certification of eligibility for appointment to vacancies shall be in accordance with a formula which limits selection by the hiring department from among the five (5) top ranking available eligibles plus the names of all individuals with scores identical to the fifth ranking eligible on the register; however, selective certification shall be permitted when justified by the hiring department, under rules to be made by the commission defining adequate justification based on the duties and requirements of the positions. Such examinations need not be held until after the rules have been adopted, the service classified and a pay plan established, but shall be held not later than one (1) year

after departments commence participation in the personnel system.

(g) A rule that, whenever practicable, a vacancy in a classified position shall be filled by the promotion of a qualified permanent employee of the agency in which the vacancy occurs. An inter-agency promotion shall be made through competitive examination and all qualified state employees shall have the opportunity to compete for such promotions. If an employee's name appears within certifiable range on a current register for a higher class of position, he shall be eligible for a transfer and promotion.

(h) A rule for development and maintenance of a system of service ratings and the use of such ratings by all departments in connection with promotions, demotions, retentions, separations and reassignments. The rule shall require that an evaluation of each classified employee shall be made after each two thousand eighty (2,080) hour period of credited state service, and that a copy of the evaluation shall be filed with the commission.

(i) A rule prohibiting disqualification of any person from taking an examination, from appointment to a position, from promotion, or from holding a position because of race or national origin, color, sex, age, political or religious opinions or affiliations, or other nonmerit factors, and providing for right of appeal.

(j) A rule establishing a probation period not to exceed six (6) months for all appointments and promotions, except that peace officers as defined in section 19-5101, Idaho Code, shall be subject to a probation period of one (1) year, and for the appointing authority to provide the employee and the commission a performance evaluation indicating satisfactory or unsatisfactory performance not later than thirty (30) days after the expiration of the probationary period. The rule shall provide that if the appointing authority fails to provide a performance evaluation within thirty (30) days after the expiration of the probationary period, the employee shall be deemed to have satisfactorily completed the probation unless the appointing authority receives approval from the state personnel director to extend the probationary period for good cause for an additional specified period not to exceed six (6) months. If an employee is performing in an unsatisfactory manner during the entrance probationary period, the appointing authority shall ask the employee to resign, and if no resignation is submitted, shall terminate the employment of such employee without the right of grievance or appeal.

(k) A rule concerning provisional appointments.

(l) A rule concerning temporary appointments.

(m) A rule governing the employment of consultants and persons retained under independent contract.

(n) A rule for the disciplinary dismissal, demotion, suspension or other discipline of employees only for cause with reasons given in writing. Such rule shall provide that any of the following reasons shall be proper cause for the disciplinary dismissal, demotion or suspension of any employee in the state classified service:

1. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, rules and regulations of the employee's department, or rules and regulations of the personnel commission.
2. Inefficiency, incompetency, or negligence in the performance

of duties.

3. Physical or mental incapability for performing assigned duties.

4. Refusal to accept a reasonable and proper assignment from an authorized supervisor.

5. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the employee's department.

6. Intoxication on duty.

7. Careless, negligent, or improper use or unlawful conversion of state property, equipment or funds.

8. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.

9. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude.

10. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity.

11. Habitual pattern of failure to report for duty at the assigned place and time.

12. Habitual improper use of sick leave privileges.

13. Unauthorized disclosure of confidential information from official records.

14. Absence without leave.

15. Misstatement or deception in the application for the position.

16. Failure to obtain or maintain a current license or certificate lawfully required as a condition for performing the duties of the job.

17. Prohibited participation in political activities.

(o) A rule to establish procedures for maintenance of a record of the employment history and appropriate information relating to performance of all employees under the personnel system.

(p) Rules to provide for recruitment programs in cooperation with department heads and the employment security agency in keeping with current employment conditions and labor market trends.

(q) Rules to establish procedures for examinations as necessary for the purpose of maintaining current registers from which to fill employment vacancies.

(r) Other rules not inconsistent with the foregoing provisions of this section as may be necessary and proper for the administration and enforcement of this act.

(s) A rule concerning "project exempt" appointments.

(t) Rules relating to leave for state employees from official duties, including, but not limited to, sick leave, military leave, jury duty, leaves of absence without compensation and such other forms of absence from performance of duties in the course of state employment as may be necessary.

(u) A rule providing for shift differential pay. Beginning the first full pay period in fiscal year 1992, the rate of such differential pay shall be one and one-half percent (1 1/2%) of the employee's hourly rate; beginning the first full pay period in fiscal year 1993, the differential pay rate shall be three percent (3%); and beginning

the first full pay period of fiscal year 1994 and each fiscal year thereafter, the rate of differential pay shall be five percent (5%).

SECTION 5. That Section 67-5402, Idaho Code, be, and the same is hereby amended to read as follows:

67-5402. DEFINITIONS. As used in this act, unless the context otherwise requires:

(1) "Commission" means the Idaho commission for the blind and visually impaired.

(2) "Blind" person or "visually impaired" means any person whose visual acuity with correcting lenses ~~does not exceed~~ is not better than 20/200 in the better eye; or a person whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20 degrees; or a person for whom there exists the medically documented opinion that an individual the person is functionally blind; or a person who is without any sight.

(3) "Prevention of blindness and sight restoration" means treatment or operations to prevent blindness or restore vision to applicants or recipients of services to the blind without financial resources to procure such services for themselves, who request and make written application for such treatment or operation.

SECTION 6. That Section 67-5403, Idaho Code, be, and the same is hereby amended to read as follows:

67-5403. COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED -- CREATION -- COMPOSITION -- APPOINTMENT -- TRANSFER OF POWERS FROM DEPARTMENT OF PUBLIC ASSISTANCE. (1) There is hereby created in the office of the governor the Idaho commission for the blind and visually impaired. The commission shall consist of three five (35) members, at least one three (13) of whom shall be blind or visually impaired, and not more than two three (23) of whom shall belong to the same political party.

The governor shall appoint members of the commission subject to ratification by the senate at the next regular or special session of the legislature.

~~Of the first three (3) members of the commission to be appointed, one (1) member shall be appointed for a term of two (2) years, one (1) member for a term of three (3) years and one (1) member for a term of four (4) years, beginning on July 1, 1967. Thereafter, all appointments shall be made for terms of three (3) years, beginning on July 1st. If for any reason a member should leave the commission before his term expires, the governor shall appoint another member to fill out the unexpired term.~~

(2) All powers and duties of the department of public assistance relating to services to the blind and sight conservation as herein defined, are transferred to and shall be assumed by the commission on October 1, 1967.

SECTION 7. That Section 67-5413, Idaho Code, be, and the same is hereby amended to read as follows:

67-5413. ACCEPTANCE OF FEDERAL ACTS. The state of Idaho and the commission for the blind and visually impaired hereby affirm their acceptance of the provisions and benefits of the act of Congress entitled, "The Randolph-Sheppard Act," P.L. 93-516, 93rd Congress, and "The Rehabilitation Act of 1973," as amended, P.L. 98-221, 98th Congress, and will observe and comply with all requirements of such acts, limited only by approved state plan and funding restrictions.

SECTION 8. That Section 67-6902, Idaho Code, be, and the same is hereby amended to read as follows:

67-6902. DEFINITIONS. As used in this chapter:

(1) "Public buildings" means the state capitol, all county courthouses, and all city halls and buildings used primarily as governmental offices of the state or any county or city. It does not include public schools or buildings or institutions of higher education or vocational-technical training, buildings of the department of health and welfare, or facilities of the state board of correction.

(2) "Food service facilities" include restaurants, cafeterias, snack bars, and goods and services customarily offered in connection with any of the foregoing, and also includes vending machines dispensing foods when operated independently or in conjunction with such facilities.

(3) "Handicapped" means:

(a) A person who has a physical or mental impairment which substantially limits one or more major life activities (e.g. communication, ambulation, self-care, socialization, education, vocational training, transportation or employment);

(b) A person who has a record of such an impairment and the impairment is expected to continue indefinitely;

(c) A person who is regarded or treated by others as having such an impairment;

(d) Persons including, but not limited to, persons who are blind, deaf, epileptic, autistic, mentally retarded or mentally ill or who have orthopedic disorders or cerebral palsy.

(4) "Nonprofit organization representing the handicapped" means tax exempt organizations as defined under section 501(c)(3) of the internal revenue code and includes the Idaho commission for the blind and visually impaired.

SECTION 9. That Section 67-6903, Idaho Code, be, and the same is hereby amended to read as follows:

67-6903. FOOD SERVICE FACILITIES IN PUBLIC BUILDINGS. Any governmental agency which proposes to allow, to operate or to continue a food service facility in a public building shall first attempt, in good faith, to notify nonprofit organizations representing handicapped persons of the opportunity to operate a food service. If more than one (1) organization responds, the governmental agency shall establish reasonable criteria and shall select on the basis of that criteria from the proposals submitted. Criteria adopted by a governmental agency pursuant to this section, and used as a basis for selection among proposals submitted, shall include the requirement that propos-

als submitted by the Idaho commission for the blind and visually impaired shall have priority over all other proposals submitted. Proposals submitted by nonprofit organizations representing the handicapped, other than the Idaho commission for the blind and visually impaired, shall receive priority over all other proposals except proposals submitted by the Idaho commission for the blind and visually impaired. A food service facility shall be operated without payment of rent. The governmental agency shall not offer or grant any other party a contract or concession to operate such food service facility unless the governmental agency determines in good faith that no nonprofit organization representing handicapped persons is willing or able to provide satisfactory food service.

SECTION 10. That the Chapter Heading for Chapter 54, Title 67, Idaho Code, be, and the same is hereby amended to read as follows:

COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

Approved March 23, 1994.

CHAPTER 160
(H.B. No. 697)

AN ACT

RELATING TO SCHOOL DISTRICT TRUSTEES; AMENDING SECTION 33-502B, IDAHO CODE, TO CLARIFY THAT NO ELECTION FOR SCHOOL DISTRICT BOARD OF TRUSTEES SHALL BE HELD IF ONLY ONE CANDIDATE HAS BEEN NOMINATED OR IF ONLY ONE CANDIDATE HAS FILED A DECLARATION OF INTENT AS A WRITE-IN CANDIDATE.

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

SECTION 1. That Section 33-502B, Idaho Code, be, and the same is hereby amended to read as follows:

33-502B. BOARD OF TRUSTEES -- ONE NOMINATION -- NO ELECTION. In any election for trustees, if, after the expiration of the date for filing written nominations for the office of trustee, it appears that only one (1) qualified candidate has been nominated for a position to be filled and-if-no or if only one (1) candidate has filed a write-in declaration of intent has-been-filed as provided by section 33-502A, Idaho Code, no election shall be held for that position, and the board of trustees or the school district clerk with the written permission of the board, shall within four (4) days before the scheduled date of the election declare such candidate elected as a trustee, and the school district clerk shall immediately prepare and deliver to the person a certificate of election signed by him and bearing the seal of the district. The procedure set forth in this section shall not apply to any other school district election.

Approved March 23, 1994.

CHAPTER 161
(H.B. No. 699)

AN ACT

RELATING TO SCHOOL ELECTIONS; AMENDING SECTION 33-406, IDAHO CODE, TO PROVIDE FOR VOTING BY ABSENTEE BALLOT NOT MORE THAN TWENTY-EIGHT DAYS PRIOR TO THE DAY OF ELECTION.

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

SECTION 1. That Section 33-406, Idaho Code, be, and the same is hereby amended to read as follows:

33-406. 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 application for an absent elector's ballot shall be filed with the clerk not later than one (1) hour prior to the opening of the polls.

The clerk receiving such application shall, not more than thirty twenty-eight (3028) days prior to the day of the election, deliver to said applicant elector personally or by mail to the mailing address given in the application, 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 inclose his ballot or ballots 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, together with the form of oath of qualification executed by him, and address and mail, or deliver, the same to the clerk. The absentee ballot must be received by the clerk, not later than 8:00 p.m. on the day of the election, before such ballot may be counted.

Any elector physically unable to mark his own ballot may receive assistance in marking his ballot from the officer delivering same or an available person of his own choosing. In the event the officer is requested to render assistance in marking an absent elector's ballot, the officer shall ascertain the desires of the elector and shall vote the applicant's ballot accordingly. No election officer or any other

person assisting a disabled voter shall attempt to influence the vote of such elector in any manner.

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 March 23, 1994.

CHAPTER 162
(H.B. No. 706)

AN ACT

RELATING TO PUBLIC HEALTH AND ENVIRONMENTAL PROTECTION REQUIREMENTS OF CITIES; PROVIDING A STATEMENT OF LEGISLATIVE FINDINGS; AMENDING CHAPTER 1, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-129, IDAHO CODE, TO AUTHORIZE THE DEPARTMENT OF HEALTH AND WELFARE TO ENTER INTO LONG-TERM AGREEMENTS WITH LOCAL GOVERNMENTS, TO AUTHORIZE THE BOARD OF HEALTH AND WELFARE TO PROMULGATE RULES, TO SET FORTH MAXIMUM LENGTH OF AGREEMENTS, TO SET FORTH CONSIDERATIONS TO BE INCLUDED IN AGREEMENT SCHEDULES AND TO PROVIDE FOR A REPORT AND RECOMMENDATIONS.

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

SECTION 1. (1) The Legislature of the state of Idaho finds that:

(a) Maintaining the public health and the environment of the state of Idaho is a paramount concern and responsibility of the Legislature.

(b) Idaho cities and counties share a vital and important responsibility in protecting human health and environment throughout the state.

(c) Idaho cities and counties, acting in response to local concerns, are uniquely able to provide insight on local public health and environmental problems and issues.

(d) Federal public health and environmental mandates have placed an increasing financial burden upon local governments, requiring them to meet sometimes costly and complex requirements not necessarily reflecting the most urgent public health and environmental needs of the community.

(e) Where necessary for financial reasons, in order to best protect human health and the environment, cities and counties should be able to enter into agreements with the state to accomplish

those actions required as a result of mandates in an ordered and efficient manner based on public health, environmental and fiscal considerations.

(2) Therefore, it is hereby declared that the purposes of this act are:

(a) To authorize the department, where practicable and prudent, to enter into binding and enforceable long-term agreements with local government setting forth the requirements and obligations of local government necessary to comply with environmental and public health statutes and rules.

(b) To direct the department to seek approvals and assurances from the federal government that such agreements are an acceptable mechanism to achieve compliance with federal mandates.

(c) To direct the department to investigate the effects of mandates on local government financial, public health, and environmental protection activities, and to make a report and recommendations to the legislature.

SECTION 2. That Chapter 1, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-129, Idaho Code, and to read as follows:

39-129. APPLICABILITY -- DEFINITION OF LOCAL GOVERNMENT AND MANDATES -- AUTHORIZATION FOR LOCAL GOVERNMENT AGREEMENTS -- ADOPTION OF RULES -- ESTABLISHMENT OF SCHEDULES -- PRIORITY OF CONSIDERATIONS -- REPORT AND RECOMMENDATIONS. (1) The provisions of this section shall apply to local governments providing drinking water, municipal waste disposal, municipal sewage or waste water disposal or treatment, or air pollution abatement, which can demonstrate to the satisfaction of the department that increasing and cumulative regulatory requirements applicable to such services cannot be met in a timely and reasonable manner. The provisions of the section do not apply where prohibited by federal or state laws or regulations for the protection of human health and the environment.

(2) For purposes of this section the term "local government" means the government of a county or incorporated city, and the term "federal mandates" means those requirements arising from federal statutes or subsequent regulations administered by the United States environmental protection agency.

(3) The department is hereby authorized to enter into agreements with local governments. The agreement may include a binding schedule enforceable under this chapter for the improvement, modification, construction, or other actions, necessary in order for the local government to come into compliance as expeditiously as practicable with human health and environmental protection statutes and rules stemming from federal mandates.

(4) The department may propose, and the board adopt, rules necessary for the implementation of this section.

(5) In establishing any local government agreement schedule, the term of the agreement shall not exceed fifteen (15) years, although successive agreements may be entered into. All agreements must be signed by the director or his designee and the mayor of the city or

county commissioners of the county, as appropriate. All agreements are enforceable as orders under the provisions of this chapter.

(6) Agreements and schedules entered into under this act shall take into account, in descending priority the:

- (a) Protection of public health;
- (b) Protection of the environment;
- (c) Current tax structure and rates as compared to other local governments;
- (d) Ability of the local government to pay for costs of compliance;
- (e) Current fiscal obligations of the local government;
- (f) Other factors as determined by the department or the board.

(7) The department is directed to conduct a study in cooperation with local governments, with emphasis on smaller cities, of cumulative public health and environmental mandates imposed by the United States environmental protection agency. The department shall provide a written and oral report to the 1995 regular session of the legislature describing methods and results of the study, along with recommendations as to how cumulative public health and environmental mandates may be implemented so as to most efficiently and practically protect human health and the environment within the capabilities of local government. The emphasis of the study shall be to investigate and report on:

- (a) The fiscal impacts of cumulative mandates;
- (b) The relative public health and environmental protection priorities;
- (c) The optimum content and structure of local government agreements;
- (d) The methods, current and proposed, available to local government for meeting the requirements of federal mandates most efficiently taking into account local public health, environmental and fiscal considerations.

Approved March 23, 1994.

CHAPTER 163
(H.B. No. 718)

AN ACT

RELATING TO COMMERCIAL DRIVER SCHOOLS; AMENDING SECTION 49-2106, IDAHO CODE, TO PROVIDE THAT PERSONS CONDUCTING DRIVER TRAINING LESSONS TO STUDENTS ENROLLED IN COLLEGES, UNIVERSITIES AND HIGH SCHOOLS ARE EXCLUDED FROM THE PROVISIONS OF THIS CHAPTER.

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

SECTION 1. That Section 49-2106, Idaho Code, be, and the same is hereby amended to read as follows:

49-2106. EXCLUSIONS -- FREE INSTRUCTION -- COLLEGES, UNIVERSITIES AND HIGH SCHOOLS. The provisions of this chapter do not apply to any

person giving driver training lessons without charge, to employers maintaining driver training schools without charge for their employees only, nor to schools or classes conducted by colleges, universities and high schools for regularly enrolled full-time students as a part of a normal program for those institutions.

Approved March 23, 1994.

CHAPTER 164
(H.B. No. 719)

AN ACT

RELATING TO SCHOOL DISTRICT TRUSTEES; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-502C, IDAHO CODE, TO PROVIDE FOR THE WITHDRAWAL OF A CANDIDATE FOR SCHOOL DISTRICT BOARD OF TRUSTEES AT ANY TIME PRIOR TO THE ELECTION; AND AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-502D, IDAHO CODE, TO PROVIDE A PROCEDURE FOR CORRECTION OF BALLOTS WHEN A CANDIDATE WITHDRAWS AFTER BALLOTS HAVE BEEN PRINTED.

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

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

33-502C. WITHDRAWAL OF CANDIDACY. A person who filed a declaration of candidacy in accordance with the provisions of section 33-502, Idaho Code, may withdraw from the election by filing a notarized statement of withdrawal with the clerk of the board of trustees of the school district. The statement shall contain all information necessary to identify the person and the office sought. A person may withdraw at any time prior to the day of the election.

SECTION 2. That Chapter 5, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-502D, Idaho Code, and to read as follows:

33-502D. PROCEDURE FOR CORRECTION OF BALLOTS WHEN A WITHDRAWAL OCCURS AFTER PRINTING -- NOTICE. Whenever a person withdraws from the election by filing a withdrawal of candidacy as provided in section 33-502C, Idaho Code, the clerk of the board of trustees of the school district shall cross the name of the person off the ballot and no votes shall be counted for that person. The clerk of the board of trustees shall also inform the election board at each polling place that the person has withdrawn from the election.

Approved March 23, 1994.

CHAPTER 165
(H.B. No. 731)

AN ACT

RELATED TO FLEEING OR ATTEMPTING TO ELUDE A PEACE OFFICER; AMENDING SECTION 49-1404, IDAHO CODE, TO REQUIRE THAT A PENALTY FOR FLEEING OR ATTEMPTING TO ELUDE A PEACE OFFICER SHALL INCLUDE SUSPENSION OF ALL DRIVING PRIVILEGES OF ANY KIND NOTWITHSTANDING THE FORM OF THE JUDGMENT OR WITHHELD JUDGMENT.

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

SECTION 1. That Section 49-1404, Idaho Code, be, and the same is hereby amended to read as follows:

49-1404. FLEEING OR ATTEMPTING TO ELUDE A PEACE OFFICER -- PENALTY. (1) Any driver of a motor vehicle who wilfully flees or attempts to elude a pursuing police vehicle when given a visual or audible signal to bring the vehicle to a stop, shall be guilty of a misdemeanor. The signal given by a peace officer may be by emergency lights or siren.

(2) An operator who violates the provisions of subsection (1) and while so doing:

- (a) Travels in excess of thirty (30) miles per hour above the posted speed limit;
- (b) Causes damage to the property of another or bodily injury to another;
- (c) Drives his vehicle in a manner as to endanger or likely to endanger the property of another or the person of another; or
- (d) Leaves the state;

is guilty of a felony.

(3) The department shall suspend the driver's license or privileges of a person convicted for who has pled guilty or is found guilty of a misdemeanor violation of the provisions of this section, notwithstanding the form of the judgment or withheld judgment, as provided in section 49-326, Idaho Code. Any person who has pled guilty or is found guilty of a felony violation of the provisions of this section, notwithstanding the form of the judgment or withheld judgment, shall have his driving privileges suspended by the court for a minimum of one (1) year, which may extend to three (3) years, at the discretion of the court, during which time he shall have absolutely no driving privileges of any kind.

Approved March 23, 1994.

CHAPTER 166
(H.B. No. 627, As Amended)

AN ACT

RELATING TO THE TAXATION OF GASOLINE AND SPECIAL FUELS; AMENDING SEC-

TION 63-2405, IDAHO CODE, TO DELETE OBSOLETE REFERENCES AND TO PROVIDE A REDUCTION IN THE RATE OF TAXATION FOR SPECIAL FUELS.

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

SECTION 1. That Section 63-2405, Idaho Code, be, and the same is hereby amended to read as follows:

63-2405. IMPOSITION OF TAX. (1) An excise tax is hereby imposed on all gasoline and/or aircraft engine fuel received. The tax is to be paid by the licensed distributor, and measured by the total number of gallons of gasoline and/or aircraft engine fuel received by him, at the rate of eighteen cents (~~18¢~~) per gallon. ~~Beginning April 1, 1991, the rate of excise tax shall be twenty-one cents (21c) per gallon. From May 1, 1981, to April 30, 1992, the rate of the excise tax to be imposed on gasohol, shall be four cents (4¢) per gallon less than the amount of the excise tax that is imposed on gasoline and/or aircraft engine fuel by this section. On and after May 1, 1992, the same amount of excise tax shall be imposed on gasohol as is imposed on gasoline and/or aircraft engine fuels.~~ That tax, together with any penalty and/or interest due, shall be remitted with the monthly distributor's report required in section 63-2406, Idaho Code.

(2) The excise tax rate set forth in this section shall, when applied to gasohol or to special fuels designed for use in diesel engines, be reduced by the same percentage that the quantity of denatured anhydrous ethanol contained in the gasoline or, in the case of special fuels the quantity of such special fuel which is derived from agricultural products or the wastes of such products, bears to the total fuel subject to tax. Provided however, in no event shall the rate set forth in this section be reduced more than ten percent (10%).

Governor vetoed.

Veto overridden by House on March 21, 1994.

Veto overridden by Senate on March 22, 1994.

CHAPTER 167

(S.B. No. 1367, As Amended)

AN ACT

RELATING TO THE CRIMINAL CODE; REPEALING SECTIONS 18-108, 18-3804, 18-3805, 18-3806, 18-3807, 18-3902, 18-5802, 18-5805, 18-5806, 18-5813, 18-5815, 18-6201, 18-6202, 18-6204, 18-6406, 18-6407, 18-6604, 18-6724 AND 18-7030, IDAHO CODE; AMENDING CHAPTER 54, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5412, IDAHO CODE, TO PROVIDE THAT A DEFENDANT'S TESTIMONY MAY BE USED TO PROVE PERJURY; AMENDING SECTION 18-6405, IDAHO CODE, TO DELETE REFERENCES TO "ROUT" IN CONNECTION WITH UNLAWFUL ASSEMBLY; AMENDING SECTION 18-6409, IDAHO CODE, TO PROVIDE THAT THE USE OF VULGAR OR INDECENT LANGUAGE WITHIN THE PRESENCE OR HEARING OF WOMEN SHALL NOT CONSTITUTE DISTURBING THE PEACE; AMENDING SECTION 18-6710, IDAHO CODE, TO ADD A DEFINITION OF "TELEPHONE" FOR PURPOSES OF THE

OFFENSE OF USING A TELEPHONE TO HARASS, THREATEN, INTIMIDATE OR OFFEND; AMENDING SECTION 18-6711, IDAHO CODE, TO PROVIDE GENERAL MISDEMEANOR AND FELONY PENALTIES AND TO ADD A DEFINITION OF "TELEPHONE" FOR PURPOSES OF THE OFFENSE OF USING A TELEPHONE TO INTIMIDATE OR HARASS BY FALSE STATEMENTS; AMENDING SECTION 18-6718, IDAHO CODE, TO PROVIDE THAT IT SHALL BE UNLAWFUL TO OPEN SEALED MAIL OR PACKAGES RATHER THAN LETTERS ONLY AND TO ADD A DEFINITION OF "MAIL"; AMENDING SECTION 18-7029, IDAHO CODE, TO PROVIDE THAT IT IS UNLAWFUL TO ERECT, INSTALL OR ATTACH ANY ELECTION POSTERS OR SIGNS UPON PUBLIC OR PRIVATE PROPERTY WITHOUT PERMISSION FROM THE OWNER OR OCCUPANT OF THE PROPERTY AND TO PROVIDE THAT IT SHALL BE UNLAWFUL FOR ANY PERSON TO PLACE LITERATURE, POLITICAL, PROMOTIONAL OR SALES MATERIALS ON PUBLIC OR PRIVATE PROPERTY IF THE OWNER OR OCCUPANT HAS BY POSTING A SIGN OR BY OTHER WRITTEN OR AUDIO COMMUNICATION FORBIDDEN THE PLACEMENT OF SUCH MATERIALS ON THAT PROPERTY AND TO PROVIDE MISDEMEANOR PENALTIES FOR VIOLATION OF THE SECTION.

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

SECTION 1. That Sections 18-108, 18-3804, 18-3805, 18-3806, 18-3807, 18-3902, 18-5802, 18-5805, 18-5806, 18-5813, 18-5815, 18-6201, 18-6202, 18-6204, 18-6406, 18-6407, 18-6604, 18-6724 and 18-7030, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 54, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-5412, Idaho Code, and to read as follows:

18-5412. DEFENDANT'S TESTIMONY MAY BE USED TO PROVE PERJURY. The various sections of this code which declare that evidence obtained upon the examination of a person as a witness cannot be received against him in any criminal proceeding, do not forbid such evidence being proved against such person upon any proceedings founded upon a charge of perjury committed in such examination.

SECTION 3. That Section 18-6405, Idaho Code, be, and the same is hereby amended to read as follows:

18-6405. PUNISHMENT FOR ~~ROU~~ AND UNLAWFUL ASSEMBLY. Every person who participates in any ~~rou~~ or unlawful assembly is guilty of a misdemeanor.

SECTION 4. That Section 18-6409, Idaho Code, be, and the same is hereby amended to read as follows:

18-6409. DISTURBING THE PEACE. Every person who maliciously and wilfully disturbs the peace or quiet of any neighborhood, family or person, by loud or unusual noise, or by tumultuous or offensive conduct, or by threatening, traducing, quarreling, challenging to fight or fighting, or fires any gun or pistol, or uses any vulgar, profane or indecent language within the presence or hearing of ~~women~~ or chil-

dren, in a loud and boisterous manner, is guilty of a misdemeanor.

SECTION 5. That Section 18-6710, Idaho Code, be, and the same is hereby amended to read as follows:

18-6710. USE OF TELEPHONE TO ANNOY, TERRIFY, THREATEN, INTIMIDATE, HARASS OR OFFEND BY LEWD OR PROFANE LANGUAGE, REQUESTS, SUGGESTIONS OR PROPOSALS -- THREATS OF PHYSICAL HARM -- DISTURBING THE PEACE BY REPEATED CALLS -- PENALTIES. (1) Every person who, with intent to annoy, terrify, threaten, intimidate, harass or offend, telephones another and (a) addresses to or about such person any obscene, lewd or profane language, or makes any request, suggestion or proposal which is obscene, lewd, lascivious or indecent; or (b) addresses to such other person any threat to inflict injury or physical harm to the person or property of the person addressed or any member of his family, or any other person; or (c) by repeated anonymous or identified telephone calls whether or not conversation ensues, disturbs the peace or attempts to disturb the peace, quiet, or right of privacy of any person at the place where the telephone call or calls are received, is guilty of a misdemeanor and upon conviction thereof, shall be sentenced to a term of not to exceed one (1) year in the county jail. Upon a second or subsequent conviction, the defendant shall be guilty of a felony and shall be sentenced to a term of not to exceed five (5) years in the state penitentiary.

(2) The use of obscene, lewd or profane language or the making of a threat or obscene proposal, or the making of repeated anonymous telephone calls as set forth in this section may be prima facie evidence of intent to annoy, terrify, threaten, intimidate, harass or offend.

(3) For the purposes of this section, the term "telephone" shall mean any device which provides transmission of messages, signals, facsimiles, video images or other communication between persons who are physically separated from each other by means of telephone, telegraph, cable, wire or the projection of energy without physical connection.

SECTION 6. That Section 18-6711, Idaho Code, be, and the same is hereby amended to read as follows:

18-6711. USE OF TELEPHONE TO TERRIFY, INTIMIDATE, HARASS OR ANNOY BY FALSE STATEMENTS -- PENALTIES. (1) Every person who telephones another and knowingly makes any false statements concerning injury, death, disfigurement, indecent conduct or criminal conduct of the person telephoned or any member of his family, with intent to terrify, intimidate, harass or annoy the called person, is guilty of a misdemeanor ~~and upon conviction thereof shall be sentenced to a term of not to exceed one (1) year in the county jail.~~ Upon a second or subsequent conviction of the violation of the provisions of this section, the defendant shall be guilty of a felony ~~and upon conviction thereof, shall be sentenced to a term of not to exceed five (5) years in the state penitentiary.~~

(2) The making of a false statement as herein set out may be prima facie evidence of intent to terrify, intimidate, harass or annoy.

(3) For the purposes of this section, the term "telephone" shall mean any device which provides transmission of messages, signals, facsimiles, video images or other communication between persons who are physically separated from each other by means of telephone, telegraph, cable, wire or the projection of energy without physical connection.

SECTION 7. That Section 18-6718, Idaho Code, be, and the same is hereby amended to read as follows:

18-6718. OPENING SEALED LETTERS MAIL OR PACKAGES. (1) Every person who willfully opens or breaks the seal, or reads, or causes to be read, any sealed letter mail not addressed to himself such person without being authorized to do so either by the writer of ~~such letter~~ or by the person to whom it is addressed, and every person who, without the like authority, publishes any of the contents of such letter mail knowing the same to have been unlawfully opened, is guilty of a misdemeanor.

(2) For the purposes of this section, "mail" means any written communication or package that is designed to be carried by the United States postal service or any other federally regulated carrier of packages, parcels or letters.

SECTION 8. That Section 18-7029, Idaho Code, be, and the same is hereby amended to read as follows:

18-7029. PLACING POSTERS OR PROMOTIONAL MATERIAL ON PUBLIC OR PRIVATE PROPERTY WITHOUT PERMISSION. It shall be unlawful for any person to place, erect, install, attach or paint, or cause to be placed erected, installed, attached or painted, election posters or literature or other promotional or sales materials signs upon public or private property, real or personal, in the state of Idaho, unless--such person has first obtained without permission in writing from the owner or owners occupant of such property, and it shall be unlawful for any person to place or leave any literature or other political, promotional or sales materials upon public or private property, real or personal, in the state of Idaho when the owner or occupant of such property, by a sign conspicuously posted on the property, or by other written or audio communication to such person, has forbidden the placing or leaving of literature or other political, promotional or sales material upon that property. Provided, however, that the granting of such permission by any public utility company on behalf of any candidate for public office shall constitute the granting of like permission by such public utility company to all other candidates for the same public office. Any violation of this section shall be a misdemeanor.

Approved March 24, 1994.

CHAPTER 168
(S.B. No. 1576)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1995; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED GENERAL FUND BALANCES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE TRIUMPH MINE REMEDIATION PROJECT; AND REAPPROPRIATING ONE-HALF OF CERTAIN REMAINING GENERAL FUND BALANCES.

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

SECTION 1. There is hereby appropriated to the Department of Lands the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|-----------------|----------------------|
| A. SUPPORTING SERVICES: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 1,081,100 | \$ 483,700 | \$ 61,900 | | | \$ 1,626,700 |
| Department of Lands | | | | | | |
| Fund | 219,900 | 129,800 | | | | 349,700 |
| Federal Grant | | | | | | |
| Fund | 6,400 | 55,200 | | | | 61,600 |
| Land Improvement | | | | | | |
| Fund | 58,900 | 3,900 | | | | 62,800 |
| TOTAL | <u>\$ 1,366,300</u> | <u>\$ 672,600</u> | <u>\$ 61,900</u> | | | <u>\$ 2,100,800</u> |
| B. FOREST RESOURCES MANAGEMENT: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 2,741,100 | \$ 355,400 | \$ 222,900 | | | \$ 3,319,400 |
| Department of Lands | | | | | | |
| Fund | 1,476,600 | 712,100 | 57,000 | | | 2,245,700 |
| Water Pollution Control | | | | | | |
| Fund | 125,600 | 13,900 | 19,000 | | | 158,500 |
| Land Improvement | | | | | | |
| Fund | 1,832,600 | 1,803,600 | 10,000 | | | 3,646,200 |
| Community Forestry | | | | | | |
| Fund | | | | \$ 76,500 | | 76,500 |
| Federal Grant | | | | | | |
| Fund | 468,900 | 294,900 | | 102,000 | | 865,800 |
| TOTAL | <u>\$ 6,644,800</u> | <u>\$ 3,179,900</u> | <u>\$ 308,900</u> | <u>\$ 178,500</u> | | <u>\$ 10,312,100</u> |
| C. LAND, RANGE AND MINERAL RESOURCE MANAGEMENT: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 1,758,900 | \$ 189,800 | \$ 55,000 | | | \$ 2,003,700 |
| Department of Lands | | | | | | |
| Fund | | 131,000 | | \$ 500,000 | | 631,000 |
| Hazardous Waste Training, Emergency and Monitoring | | | | | | |
| Fund | | | | 500,000 | | 500,000 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | FOR LUMP SUM | TOTAL |
|--------------------------------------|---------------------------|----------------------------------|--------------------------|---|-----------------|----------------|
| Land | | | | | | |
| Improvement | | | | | | |
| Fund | 182,500 | 205,400 | | | | 387,900 |
| Land and Building | | | | | | |
| Rental | | | | | | |
| Fund | <u>1,000</u> | <u>30,300</u> | | | | <u>31,300</u> |
| TOTAL | \$ 1,942,400 | \$ 556,500 | \$ 55,000 | \$ 1,000,000 | | \$ 3,553,900 |
| D. FOREST AND RANGE FIRE PROTECTION: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | | | | | \$ 2,303,300 | \$ 2,303,300 |
| Department of Lands | | | | | | |
| Fund | | | | | 3,349,900 | 3,349,900 |
| Fire Suppression | | | | | | |
| Fund | | | | | 104,800 | 104,800 |
| Federal Grant | | | | | | |
| Fund | | | | | <u>274,900</u> | <u>274,900</u> |
| TOTAL | | | | | \$ 6,032,900 | \$ 6,032,900 |
| E. SOIL AND WATER CONSERVATION: | | | | | | |
| FROM: | | | | | | |
| General | | | | | | |
| Fund | \$ 496,200 | \$ 61,900 | | \$ 257,100 | | \$ 815,200 |
| Department of Lands | | | | | | |
| Fund | 403,000 | 75,700 | | | | 478,700 |
| Federal Grants | | | | | | |
| Fund | 193,700 | 114,500 | | | | 308,200 |
| Water Pollution | | | | | | |
| Control | | | | | | |
| Fund | | 1,500 | | 266,600 | | 268,100 |
| Resource Conservation | | | | | | |
| Fund | <u>13,000</u> | <u>167,000</u> | | | | <u>180,000</u> |
| TOTAL | \$ 1,105,900 | \$ 420,600 | | \$ 523,700 | | \$ 2,050,200 |
| F. SCALING PRACTICES: | | | | | | |
| FROM: | | | | | | |
| Department of Lands | | | | | | |
| Fund | \$ 227,300 | \$ 34,800 | \$ 39,900 | | | \$ 302,000 |
| GRAND | | | | | | |
| TOTAL | \$ 11,286,700 | \$ 4,864,400 | \$ 465,700 | \$ 1,702,200 | \$ 6,032,900 | \$ 24,351,900 |

SECTION 2. There is hereby reappropriated to the Department of Lands the unexpended and unencumbered balance of the \$150,000 in General Funds appropriated for the Triumph Mine Remediation Project for the period July 1, 1993, through June 30, 1994, to be used for the same purpose for the period July 1, 1994, through June 30, 1995.

SECTION 3. It is legislative intent that of the \$1,150,000 combined total appropriated to the Department of Lands for fiscal year 1994 and fiscal year 1995 for the Triumph Mine Site Remediation Project, expenditures for the engineering study portion of the project shall be limited to \$250,000. This limitation may be exceeded only by majority approval of the Idaho Board of Land Commissioners if it is deemed in the best interest of the State in pursuing the state defer-

ral process to maintain control of the Triumph Mine Remediation Project.

SECTION 4. After allowance for the reappropriation in Section 2 of this act, there is hereby reappropriated to the Department of Lands, one-half of any remaining unexpended and unencumbered balance of any General Fund appropriation made to the Department of Lands for the period July 1, 1993, through June 30, 1994, to be used for non-recurring expenditures for the period July 1, 1994, through June 30, 1995.

Approved March 24, 1994.

CHAPTER 169
(S.B. No. 1577)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the Department of Water Resources the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|--------------|
| I. MANAGEMENT AND SUPPORT SERVICES: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 681,100 | \$ 323,000 | \$ 66,000 | \$ 211,100 | \$ 1,281,200 |
| Indirect Cost | | | | | |
| Recovery | | | | | |
| Fund | 233,100 | 65,600 | 31,000 | | 329,700 |
| TOTAL | \$ 914,200 | \$ 388,600 | \$ 97,000 | \$ 211,100 | \$ 1,610,900 |
| II. PLANNING AND POLICY DIVISION: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$1,353,400 | \$ 255,400 | \$101,800 | \$ 464,600 | \$ 2,175,200 |
| Federal Grants | | | | | |
| Fund | 119,700 | 37,600 | | | 157,300 |
| Professional Services | | | | | |
| Fund | 232,300 | 192,700 | | | 425,000 |
| Water Pollution Control | | | | | |
| Fund | 153,000 | 40,700 | 8,700 | 350,000 | 552,400 |
| Indirect Cost Recovery | | | | | |
| Fund | 61,600 | 4,100 | | | 65,700 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|--------------------------------------|---------------------------|----------------------------------|--------------------------|---|--------------|
| Resource Conservation Fund | 175,000 | | | | 175,000 |
| TOTAL | \$2,095,000 | \$ 530,500 | \$110,500 | \$ 814,600 | \$ 3,550,600 |
| III. ENERGY RESOURCES DIVISION: | | | | | |
| FROM: | | | | | |
| General Fund | \$ 126,200 | \$ 26,000 | | | \$ 152,200 |
| Indirect Cost Recovery Fund | 73,300 | 130,000 | | | 203,300 |
| Federal Grants Fund | 833,300 | 519,300 | | | 1,352,600 |
| Petroleum Violation Escrow Fund | 236,200 | 1,562,600 | | | 1,798,800 |
| Professional Services Fund | 53,100 | 104,100 | | | 157,200 |
| TOTAL | \$1,322,100 | \$2,342,000 | | | \$ 3,664,100 |
| IV. WATER MANAGEMENT DIVISION: | | | | | |
| A. SNAKE BASIN ADJUDICATIONS: | | | | | |
| FROM: | | | | | |
| Water Claims Adjudication Fund | \$1,783,000 | \$ 623,800 | \$138,200 | \$1,041,100 | \$ 3,586,100 |
| B. WATER MANAGEMENT: | | | | | |
| FROM: | | | | | |
| General Fund | \$2,233,600 | \$ 439,100 | \$274,400 | | \$ 2,947,100 |
| Professional Services Fund | 231,800 | 33,900 | | | 265,700 |
| Indirect Cost Recovery Fund | 37,200 | 3,100 | | | 40,300 |
| Federal Grants Fund | 137,600 | 32,300 | | | 169,900 |
| TOTAL | \$2,640,200 | \$ 508,400 | \$274,400 | | \$ 3,423,000 |
| GRAND TOTAL | \$8,754,500 | \$4,393,300 | \$620,100 | \$2,066,800 | \$15,834,700 |

Approved March 24, 1994.

CHAPTER 170
(S.B. No. 1578)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR
1995.

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

SECTION 1. There is hereby appropriated to the Department of Commerce the following amounts from the listed funds to be expended according to designated expense classes for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|---------------|---------------------------|----------------------------------|--------------------------|---|--------------|
| FROM: | | | | | |
| General | | | | | |
| Fund | \$1,475,600 | \$1,070,000 | \$87,700 | | \$2,633,300 |
| Tourism | | | | | |
| Promotion | | | | | |
| Fund | 391,400 | 1,852,600 | | \$1,577,000 | 3,821,000 |
| Seminars and | | | | | |
| Publications | | | | | |
| Fund | | 356,000 | | | 356,000 |
| Miscellaneous | | | | | |
| Revenue | | | | | |
| Fund | | 86,400 | | | 86,400 |
| Federal Grant | | | | | |
| Fund | 395,300 | 138,000 | | 8,797,400 | 9,330,700 |
| TOTAL | \$2,262,300 | \$3,503,000 | \$87,700 | \$10,374,400 | \$16,227,400 |

Approved March 24, 1994.

CHAPTER 171
(H.B. No. 683)

AN ACT

RELATING TO THE COMMISSION OF PARDONS AND PAROLE; AMENDING SECTION 20-210, IDAHO CODE, TO REVISE PROCEDURES FOR CALLING MEETINGS, TO INCREASE COMPENSATION FOR MEMBERS AT CERTAIN MEETINGS, TO PROVIDE FOR AN EXECUTIVE DIRECTOR APPOINTED BY THE BOARD OF CORRECTION AND TO PROVIDE DUTIES OF THE EXECUTIVE DIRECTOR; AMENDING SECTION 20-213A, IDAHO CODE, TO PROVIDE FOR UNLAWFUL DISTRIBUTION OF REPORTS BY THE EXECUTIVE DIRECTOR OR EMPLOYEE OF THE BOARD OF CORRECTION AND TO AUTHORIZE THE EXECUTIVE DIRECTOR OR DESIGNATED STAFF TO ATTEND EXECUTIVE SESSIONS OF THE COMMISSION OF PARDONS AND PAROLE; AMENDING SECTION 20-228, IDAHO CODE, TO REVISE PROCEDURES FOR SUSPENSION AND ARREST OF A PAROLEE; AMENDING SECTION 20-229, IDAHO CODE, TO REVISE PROCEDURES FOR A PAROLE REVOCATION HEARING AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-229A, IDAHO CODE, TO REVISE PROCEDURES FOR NOTICE, SERVICE AND WAIVER CONCERNING PAROLE REVOCATION HEARINGS; AND AMENDING SECTION 20-229B, IDAHO CODE, TO PROVIDE FOR HEARING OFFICERS AND TO PROVIDE FOR A DISPOSITIONAL HEARING OF THE COMMISSION TO EXECUTE AN ORDER OF PAROLE REVOCATION AND DETERMINE THE PERIOD OF TIME THE PAROLE VIOLATOR SHALL BE RETURNED TO STATE CUSTODY.

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

SECTION 1. That Section 20-210, Idaho Code, be, and the same is hereby amended to read as follows:

20-210. COMMISSION OF PARDONS AND PAROLE -- APPOINTMENT -- QUALIFICATIONS -- TERMS -- SALARY -- STAFF. The board shall appoint a state commission of pardons and parole, each member of which shall be subject to the advice and consent of the senate, in this chapter referred to as the commission, which shall succeed to and have all rights, powers and authority of said board of pardons as are granted and provided by the provisions of the constitution of the state of Idaho.

The commission shall be composed of five (5) members, with due regard for their experience, knowledge and interest in sociology, psychology, rehabilitative services and similar pertinent disciplines. The members shall serve at the pleasure of the board and not more than three (3) members shall be from any one (1) political party.

~~The members of the commission, each year, shall select a chairman and vice-chairman;~~

The members of the commission shall be appointed for the purposes of organization as follows: One (1) member is to be appointed for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years and one (1) for five (5) years, with each succeeding vacancy to be filled by the board for terms of five (5) years; vacancies in the commission for unexpired terms shall be by appointment by the board for the remainder of the term and all appointees may be reappointed.

The commission shall also act as the advisory commission to the board on matters of adult probation and parole and may exercise such powers and duties in this respect as are delegated to it by the board.

The commission shall meet at such times and places as ~~a~~ majority of the members request determined to be necessary and convenient, or at the call of the chairman executive director and in any event no less than quarterly.

The members shall be compensated as provided by section 59-509(i), Idaho Code, when attending quarterly meetings conducted at a date and time separate from a hearing session or other meetings approved by the executive director. The members shall receive compensation of one hundred fifty dollars (\$150) per member per day when conducting parole, commutation, pardon, revocation or other hearings, and shall be reimbursed for actual and necessary expenses subject to the limitations provided in section 67-2008, Idaho Code.

~~They may hire such staff and employees as are approved by the board and in addition to~~ The board will liberally allow the reasonable payment for services of such technical and professional advice and consultation as the commission may require. The board shall appoint the executive director for the commission. The executive director shall be the full-time employee who shall report to, serve at the pleasure of, and be compensated as determined by the board. The executive director shall be the official representative for the commission, shall be responsible for the managing and administration of daily commission business and shall schedule hearing sessions at times convenient to the members of the commission. For each scheduled session,

the executive director shall designate one (1) of the members of the commission as the presiding officer for conducting the hearings. The executive director may hire such staff and employees as are approved by the board. The executive director shall also have such other duties and responsibilities as the board shall assign.

SECTION 2. That Section 20-213A, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

(5) Nothing contained herein shall prevent the governor and chairman of the senate judiciary and rules committee and the chairman of the house of representatives judiciary, rules and administration committee from attending any meeting including an executive session of the commission of pardons and parole.

SECTION 3. That Section 20-228, Idaho Code, be, and the same is hereby amended to read as follows:

20-228. CONDITIONS OF PAROLE TO BE SPECIFIED IN WRITING -- WARRANT FOR ARREST OF SUSPECTED VIOLATORS -- EFFECT OF SUSPENSION AND

ARREST. The commission for pardons and parole, in releasing a person on parole, shall specify in writing the conditions of his parole, and a copy of such conditions shall be given to the person paroled. Whenever the commission finds that a prisoner parolee may have violated the conditions of his parole, the written order of the commission, signed by a member or members of the commission or the executive director, shall be sufficient warrant for any law enforcement officer to take into custody such person, and it is hereby made the duty of all sheriffs, police, constables, parole and probation officers, prison officials and other peace officers, to execute such order. Such warrant shall serve to suspend the person's parole until a determination on the merits of the allegations of the violation has been made after pursuant to a revocation hearing. From and after the issuance of the warrant and suspension of the parole of any convicted person and until his arrest, he the parolee shall be considered a fugitive from justice. Such person so recommitted must serve out his the sentence, and the time during which such prisoner was out on parole shall not be deemed a part thereof, but nothing herein contained shall prevent the commission from again paroling such prisoners at its discretion.

SECTION 4. That Section 20-229, Idaho Code, be, and the same is hereby amended to read as follows:

20-229. PAROLE REVOCATION HEARING. Whenever a paroled prisoner is accused of a violation of his parole, other than by absconding supervision or the commission of, and conviction for, a felony or misdemeanor offense under the laws of this state, or any other state, or any federal laws, he the parolee shall be entitled to a fair and impartial hearing of such charges within thirty (30) days from the ~~time that he~~ date the accused is served with the charges of the violation of conditions of his parole after his subsequent to arrest and detention. The hearing shall be held before one (1) or more members of the commission for pardons and parole, or before an impartial hearing officer selected by ~~a majority of the commission~~, the executive director. Such hearing shall be held at a place or places, within this state, reasonably near the site of the alleged violation or violations of parole. If the parolee has been supervised outside of the state of Idaho and such violations occurred outside of Idaho, the executive director or hearing officer shall determine the location of the hearing.

Whenever a paroled prisoner is accused of a violation of parole by absconding supervision or the commission of, and conviction for, a felony or misdemeanor offense under the laws of this state, or any other state, or any federal laws, the parolee shall be entitled to a fair and impartial hearing within a reasonable time from the date the accused is served with such charges. The location of such hearing shall be determined by the executive director or hearing officer.

SECTION 5. That Section 20-229A, Idaho Code, be, and the same is hereby amended to read as follows:

20-229A. NOTICE -- SERVICE -- WAIVER. Within fifteen (15) calendar days following arrest and detention on a warrant issued by the

Idaho commission for pardons and parole, the alleged parole violator shall be personally served with a copy of the factual allegations of the violation of the conditions of parole by a state probation and parole officer, or a law enforcement official, ~~and, at the same time~~ or other as designated by the executive director. When accused of a violation of his parole, other than by absconding supervision or the commission of, and conviction for, a felony or misdemeanor, the alleged parole violator shall be advised of his the right to an on-site parole revocation hearing and of his procedural rights and privileges as provided by this act. The alleged parole violator, after service of the allegation of violations of the conditions of parole and the advice notification of rights may waive the on-site parole revocation hearing as provided by section 20-229, Idaho Code. If the alleged parole violator shall waives his the right to an on-site hearing, he shall, in the alternative, be given the right to have such hearing held at a penitentiary facility. The alleged parole violator may waive the right to any hearing, and at that time may admit one or more of the alleged violations of the conditions of parole. If the commission for pardons and parole accepts the waiver it shall, (1) reinstate the parolee under the same or modified conditions, or (2) revoke the parole of the parolee and enter an order of parole revocation and return to state custody the commission, executive director or hearing officer shall designate the facility where the hearing will be conducted.

Whenever a paroled prisoner is accused of a violation of his parole by absconding supervision or the commission of, and conviction for, a felony or misdemeanor under the laws of this state, or any other state, or any federal laws, and following arrest and detention on a warrant issued by the Idaho commission for pardons and parole, the alleged parole violator shall be personally served with a copy of the factual allegations of the violation of the conditions of parole within a reasonable time. The alleged parole violator shall be advised of the right to a hearing and all other rights and privileges as provided by this act. The executive director or hearing officer shall designate the facility where the hearing will be conducted. A fair and impartial hearing of the charges will be conducted within a reasonable time.

The alleged parole violator may waive the right to any hearing, and at that time may admit one (1) or more of the alleged violations of the conditions of parole. If the waiver is accepted by the commission or hearing officer: (i) the parolee may be reinstated under the same or modified conditions, or (ii) the parole shall be revoked and the parolee remanded to custody. If all waivers made by the parolee are rejected by the commission, it shall hold or designated hearing officer, a parole revocation hearing shall be held either on-site or at a penitentiary facility.

SECTION 6. That Section 20-229B, Idaho Code, be, and the same is hereby amended to read as follows:

20-229B. COMMISSION RULINGS. After a factual parole revocation hearing has been concluded, the member or members of the commission for pardons and parole or the designated hearing officer, having heard

the matter, shall enter their a decision within twenty (20) days. If the member or members or hearing officer, having heard the matter, should conclude that the allegations of violation of the conditions of parole have not been proven by a preponderance of the evidence, or those which have been proven by a preponderance of the evidence are not sufficient cause for the revocation of parole, then the parolee shall be reinstated on parole on the same or modified conditions of parole. If the member or members or hearing officer, having heard the matter, should conclude that the allegations of violation of the conditions of parole have been proven by a preponderance of the evidence and constitute sufficient cause for the revocation of parole, then such members or members a dispositional hearing shall enter be convened during a regular session of the commission to execute an order of parole revocation and return determine the period of time the parole violator shall be returned to state custody.

Approved March 24, 1994.

CHAPTER 172
(H.B. No. 826)

AN ACT

RELATING TO TECHNICAL CORRECTIONS TO THE TAXPAYER'S BILL OF RIGHTS; AMENDING SECTION 63-3044, IDAHO CODE, RELATING TO DEFICIENCIES AND ASSESSMENTS TO CLARIFY THE MANNER OF MAKING A RECORD OF ASSESSMENT, CLARIFYING ASSESSMENT OF TAX BY THE SIGNATURE OF THE TAXPAYER OR THE TAXPAYER'S REPRESENTATIVE, PERMITTING THE STATE TAX COMMISSION TO PRESUME THE VALIDITY OF A SIGNATURE ABSENT EVIDENCE TO THE CONTRARY AND SPECIFYING CERTAIN ACTIONS THE COMMISSION MAY TAKE PRIOR TO RECORDING AN ASSESSMENT; AMENDING SECTION 63-3045, IDAHO CODE, RELATING TO NOTICES OF DEFICIENCY DETERMINATION TO CLARIFY THE REQUIREMENT TO MAIL A NOTICE OF DEFICIENCY DETERMINATION TO A TAXPAYER'S LAST KNOWN ADDRESS, TO CLARIFY A TAXPAYER'S RIGHT TO A HEARING BEFORE A TAX COMMISSIONER OR HIS DESIGNEE, TO CLARIFY THE MANNER OF DESIGNATING A TAXPAYER'S REPRESENTATIVE AND TO RESOLVE A TIMING CONFLICT WITH SECTION 63-4208, IDAHO CODE, RELATING TO ASSESSMENT OF ILLEGAL DRUG TAXES; AMENDING SECTION 63-3045B, IDAHO CODE, RELATING TO ADMINISTRATIVE DECISIONS OF THE STATE TAX COMMISSION, CLARIFYING THE TIME WITHIN WHICH A DECISION OR OTHER RESOLUTION OF A PROTEST MUST BE MADE, AND TO PROVIDE THAT A DECISION FROM WHICH RELEVANT INFORMATION HAS BEEN EXCISED MAY NOT BE BINDING PRECEDENT AND TO CHANGE REFERENCE FROM REGULATIONS TO RULES; AMENDING SECTION 63-3055, IDAHO CODE, RELATING TO THE RELEASE OR SUBORDINATION OF STATE TAX LIENS TO PROVIDE THAT A LIEN IS NOT AN ERRONEOUS LIEN IF IT IS ACCURATE AT THE TIME THE LIEN IS FILED AND TO PROVIDE THAT AN ACTION AGAINST THE STATE TAX COMMISSION FOR FAILURE TO PROPERLY RELEASE A LIEN IS AN ACTION UNDER SECTION 63-3074, IDAHO CODE; AMENDING SECTION 63-3065, IDAHO CODE, RELATING TO JEOPARDY ASSESSMENTS TO PROVIDE THAT THE RESTRICTIONS ON THE TIME FOR COMMUNICATING WITH TAXPAYERS DO NOT APPLY TO JEOPARDY ASSESSMENTS AND EXTENDING THE TIME TO PROTEST A JEOPARDY

ASSESSMENT TO SIXTY-THREE DAYS; AMENDING SECTION 63-4001, IDAHO CODE, RELATING TO DEFINITIONS APPLICABLE TO THE TAXPAYER'S BILL OF RIGHTS TO CLARIFY DEFINITIONS OF "COMMUNICATION," "REVENUE OFFICER," "TAX OBLIGATION" AND TO ADD A DEFINITION OF "DISPUTED TAX LIABILITY"; AMENDING SECTION 63-4002, IDAHO CODE, RELATING TO ACQUISITION OF LOCATION INFORMATION BY A REVENUE OFFICER TO PROVIDE THAT A REVENUE OFFICER SEEKING LOCATION INFORMATION SHALL DISCLOSE NO INFORMATION BEYOND THAT NECESSARY TO IDENTIFY HIMSELF AS A REVENUE OFFICER OF THE STATE AND TO STATE THAT HE IS CONFIRMING OR CORRECTING LOCATION INFORMATION CONCERNING THE TAXPAYER AND TO PROVIDE THAT THE STATE TAX COMMISSION SHALL COMMUNICATE WITH A TAXPAYER'S REPRESENTATIVE WITH REGARD TO THE TAX OBLIGATION THAT IS THE SUBJECT MATTER OF THE REPRESENTATIVE'S DESIGNATION AS A REPRESENTATIVE; AMENDING SECTION 63-4003, IDAHO CODE, RELATING TO COMMUNICATIONS IN CONNECTION WITH TAX COLLECTION, TO PROVIDE THAT THE TAX COMMISSION MAY COMMUNICATE WITH A TAXPAYER REPRESENTED BY A REPRESENTATIVE IN REGARD TO MATTERS NOT WITHIN THE SCOPE OF THE REPRESENTATIVE'S APPOINTMENT; AMENDING SECTION 63-4004, IDAHO CODE, RELATING TO PROHIBITING HARASSMENT OR ABUSE BY A REVENUE OFFICER, TO PROVIDE THAT MAILING OR SERVICE OF ANY NOTICE OR OTHER DOCUMENT REQUIRED OR AUTHORIZED BY LAW AS A PART OF THE ADMINISTRATION AND COLLECTION OF A TAX IS NOT PROHIBITED; AMENDING SECTION 63-4006, IDAHO CODE, RELATING TO CERTAIN UNFAIR PRACTICES IN REGARD TO POSTDATED CHECKS; AMENDING SECTION 63-4007, IDAHO CODE, RELATING TO APPLICATION OF PAYMENTS WHEN A TAXPAYER HAS MULTIPLE TAX OBLIGATIONS TO PROVIDE THAT PAYMENTS REMITTED TOGETHER WITH A TAX RETURN SHALL BE APPLIED TO THE TAX OBLIGATION ON THAT RETURN; AMENDING SECTION 63-4010, IDAHO CODE, TO CLARIFY THAT THE PROHIBITIONS ON USE OF QUOTAS AND MONETARY COLLECTIONS APPLIES TO THE CONDUCT OF EVALUATIONS OF INDIVIDUAL EMPLOYEES OF STATE TAX COMMISSION EMPLOYEES; AMENDING SECTION 63-4011, IDAHO CODE, RELATING TO CIVIL ACTIONS FOR VIOLATIONS OF THE TAXPAYER'S BILL OF RIGHTS TO CLARIFY THAT ACTIONS ARE AGAINST THE STATE TAX COMMISSION RATHER THAN REVENUE OFFICERS AND PROVIDING THAT ANY JUDGMENTS RESULTING FROM SUCH ACTIONS SHALL BE PAID FROM THE STATE REFUND ACCOUNT; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE EFFECTIVE DATE FOR SPECIFIC SECTIONS OF THE BILL AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-3044, Idaho Code, be, and the same is hereby amended to read as follows:

63-3044. DEFICIENCY IN TAX. (1) As used in this act in respect of a tax imposed by this act the term "deficiency" means:

- (a) The amount by which the tax imposed by this act exceeds the amount shown as the tax by the taxpayer upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or,
- (b) If no amount is shown as the tax by the taxpayer upon his

return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or,

(c) Any amount of tax which is due and unpaid.

(2) A tax assessment shall be made by recording the liability of the taxpayer along with an identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. The assessment shall be kept and maintained in a record in the office of the state tax commission in accordance with rules prescribed by the tax commission. Upon request of the taxpayer, the tax commission shall furnish the taxpayer a copy of the record of assessment. No tax commission activities to enforce collection of tax may be conducted, nor may a proceeding to collect a tax be instituted, until assessment of the tax has been made in accordance with the provisions of this section. Taxes and related interest may be assessed immediately upon receipt of a tax return, amended return or other consent signed by the taxpayer or the taxpayer's authorized representative showing the taxes due. The tax commission may presume that the signature is the signature of the taxpayer or the taxpayer's authorized representative until the contrary is established by a preponderance of the evidence.

(3) The making of an assessment is not required before the tax commission may conduct audits and investigations or make inquiries of taxpayers or other persons relating to matters within the tax commission's jurisdiction. The making of an assessment is not required before the tax commission may file a judicial action under section 63-3030A or 63-3064, Idaho Code, or actions for injunctive or declaratory relief.

SECTION 2. That Section 63-3045, Idaho Code, be, and the same is hereby amended to read as follows:

63-3045. NOTICE OF REDETERMINATION OR DEFICIENCY -- INTEREST. (1)

(a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

(b) If the taxpayer files a protest with the tax commission within the period set forth in paragraph (1)(a) of this subsection, and such protest does not comply with the regulations of the tax commission and is therefore inadequate to perfect the

taxpayer's right to a redetermination of the deficiency determination, then, the tax commission shall notify the taxpayer, in the same manner as set forth in paragraph (1)(a) of this subsection, of such inadequacies, setting forth in said notice the corrective action to be taken by the taxpayer to perfect his protest. The taxpayer shall thereafter have twenty-eight (28) days from the date of said notice to perfect his protest.

(c) No assessment of a deficiency in respect of the tax imposed by this title, 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 time periods, nor, if a protest has been filed, until the decision of the state tax commission becomes final, as provided in section 63-3045B, Idaho Code. ~~if the present address of the taxpayer is not known, the notice shall be mailed to his last known address.~~

(2) Following a protest, the taxpayer has the right to request a hearing. The purpose of the hearing is to discuss the deficiency determination and the taxpayer's protest with a hearing officer commissioner or duly authorized representative of the commission. The meeting shall be held informally and evidence shall be freely admitted regardless of the rules of evidence.

(3) Any hearing conducted under the provisions of this section may be conducted, in whole or in part, by telephone, television, or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place.

(4) A taxpayer has the right to be represented by, or be accompanied by, any person of his choice in any proceeding before the tax commission. If the taxpayer is not present at a proceeding, the representative of that taxpayer must be designated in writing by the taxpayer as shall be prescribed in administrative rules or in a any manner acceptable to the tax commission.

(5) If the taxpayer does not file a protest with the state tax commission within the time prescribed in subsection (1)(a) of this section, the deficiency shall be assessed and shall become due and payable upon notice and demand from the state tax commission.

(6) (a) Interest upon any deficiency shall be assessed at the same time as the deficiency, shall be due and payable upon notice and demand from the state tax commission and shall be collected as a part of the tax at the rate per annum determined under the provisions of paragraph (b) of this subsection from the date prescribed for the payment of the tax. In the event any of the deficiency is reduced by reason of a carry back of a net operating loss, such reduction in deficiency shall not affect the computation of interest under this subsection for the period ending with the last day of the taxable year in which the net operating loss arises.

(b) By November 1 of each year, the tax commission shall fix the rate of interest due for the succeeding calendar year, or portion thereof, upon any deficiency, or payable upon an overpayment or refund. The rate of interest, rounded to the nearest whole number, shall be two percent (2%) plus the rate determined under section 1274(d), Internal Revenue Code, by the secretary of the treasury

of the United States as the mid-term federal rate as it applies on October 15 of that year.

(7) When the time provisions contained in this section conflict with the provisions of section 63-4208, Idaho Code, relating to the assessment of taxes on illegal possession of controlled substances, the provisions of section 63-4208, Idaho Code, shall prevail.

SECTION 3. That Section 63-3045B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3045B. FINAL DECISIONS OF THE COMMISSION. (1) If a taxpayer does not file a protest within the sixty-three (63) day period allowed, the notice of deficiency of the tax commission becomes final on the day following the end of the protest period.

(2) If a taxpayer files a protest, but does not perfect the protest, request a hearing, or does not submit additional evidence or documentation, or does not request additional time in which to respond, the notice of deficiency of the tax commission becomes final on the twenty-ninth day following the date the tax commission notified the taxpayer that the protest was not perfected, except that the tax commission may reduce the amount of the deficiency during the twenty-nine (29) day period.

~~(3) If the provisions of subsection (1) or (2) of this section are not applicable~~ When a perfected protest has been filed, the state tax commission shall, within fourteen (14) days thereof, provide the taxpayer with a written acknowledgement of the protest. After the acknowledgement, a final decision of the tax commission must be rendered within one hundred eighty (180) days from either:

~~(a) After a~~ request in writing, in a form prescribed by rules of the tax commission, from the taxpayer for a final decision on that issue; if the taxpayer requests such a decision, the tax commission may refuse to accept additional evidence or documentation or refuse to allow an appearance at any proceeding with the commission or any representative of the commission during such one hundred eighty (180) day period.

~~(b) Following the~~ conclusion of any proceeding before one (1) or more tax commissioners or any representative of the commission hearing pursuant to section 63-3045(2), Idaho Code, and the taxpayer has not requested or received any extension of time to present additional evidence or testimony.

(4) A final decision may be held in abeyance, notwithstanding the requirements of subsection (3) of this section, with the prior approval in writing of the taxpayer.

(5) If a final decision of the tax commission is not rendered or the protest is not resolved by compromise, consent or withdrawal of the notice of deficiency determination within the time limits established by subsection (3) of this section, the notice of deficiency shall be null and void ab initio, with prejudice.

(6) A final decision of the tax commission shall be issued in writing and mailed or served upon the taxpayer within the time limits set forth herein. The final written decision of the tax commission shall, one hundred twenty (120) days after the date of the final written decision, be available for public inspection and copying pursuant

to the provisions of section 9-338, Idaho Code, except:

- (a) The taxpayer's name, address, taxpayer identification number, social security number, permit number, or other identifying information shall be removed from the final written decision of the tax commission that is made available to the public; and
- (b) Any proprietary or other identifying information contained in the written decision that the taxpayer requests be excised shall be excised by the tax commission in the final written decision made available to the public. The taxpayer must make such request in writing before ninety-one (91) days have elapsed after the date of the final decision.
- (7) The tax commission shall label each written decision with a unique identification number and shall keep a list containing each decision number and the date of issuance, as excised in accordance with the provisions of this section. A decision shall serve as precedent for the tax commission in future protest determinations unless information excised, court decisions, changes in the Idaho Code, or changes in applicable regulations administrative rules overrule, supersede, modify, distinguish, or otherwise make inapplicable the written decision of the tax commission.

SECTION 4. That Section 63-3055, Idaho Code, be, and the same is hereby amended to read as follows:

63-3055. RELEASE OR SUBORDINATION OF INCOME TAX LIEN. (1) The state tax commission may at any time release all or any portion of the property subject to the lien from the lien, or it may subordinate the lien to other liens if it determines:

- (a) That the taxes, penalties or interests are sufficiently secured by a lien on other property of the taxpayer; or
- (b) That the release or subordination of the lien will not endanger or jeopardize the collection of such taxes, penalties or interest; or
- (c) That a surety bond or securities satisfactory to secure deposits of public funds have been posted, deposited or pledged with the state tax commission in an amount sufficient to secure the payment of such taxes, penalties, or interest; or
- (d) All or a part of such taxes, penalties or interest have been paid.

A certificate by the state tax commission to the effect that any property has been released from the lien herein provided for, or that such lien has been subordinated to other liens, shall be conclusive evidence that the property has been released or that the lien has been subordinated, as provided in the certificate.

(2) If the tax commission determines that the filing of the notice of any lien was erroneous, the tax commission shall expeditiously, and, to the extent practicable, within fourteen (14) days after such determination, issue a certificate of release of such lien and shall include in such certificate a statement that such filing was erroneous. A lien is not an erroneous lien if it is accurate at the time the lien is filed.

(3) Where an officer or employee of the tax commission knowingly or negligently fails to release a notice of lien, a taxpayer may bring

an action against the tax commission pursuant to section 63-3074, Idaho Code, in district court seeking direct economic damages and costs. A taxpayer must first notify the tax commission that a release was not issued timely.

SECTION 5. 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 commission 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 commission shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such findings and declaration to be given the taxpayer, 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 allowed by law for filing returns and paying the tax has expired; and such taxes shall thereupon become immediately due and payable. The provisions of section 63-4003(1)(a), Idaho Code, shall not apply to a notice under this section and communications related thereto. 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 commission, 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 immediately; however, any taxpayer deeming himself aggrieved by any act of the tax commission pursuant to the provisions of this section may, within ~~twenty-eight~~ sixty-three (2863) days of receipt of said notice, petition the tax commission for a redetermination or commence action for refund or redetermination upon payment of the tax together with interest and penalty or upon filing a bond in the amount of the assessment.

(c) A taxpayer who is not in default in making any return or paying any taxes assessed under this chapter may furnish to the state of Idaho under regulations to be prescribed by the tax commission, security approved by the tax commission 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 commission 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.

(d) 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 commission 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.

(e) In the case of a bona fide resident of the state of Idaho about to depart from the state of Idaho the tax commission may, at its

discretion, waive any or all of the requirements placed upon the taxpayer by this section.

(f) 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 per cent (25%) of the total amount of the tax or deficiency in the tax.

(g) If the taxpayer owing tax is not within this state or has departed from the state, or has property or is employed outside of the state and ignores all demands for payment, the tax commission is authorized to employ the services of any qualified collection agency or attorney and to pay fees for such services out of moneys recovered.

SECTION 6. That Section 63-4001, Idaho Code, be, and the same is hereby amended to read as follows:

63-4001. DEFINITIONS. As used in this chapter:

(1) "Commission" means the state tax commission.

(2) "Communication" means the conveying of information regarding a specific taxpayer's state tax obligation directly or indirectly to any person through any medium.

(3) "Location information" means a taxpayer's place of abode and his telephone number at such place, or his place of employment.

(4) "Revenue officer" means any agent, officer or employee of the state tax commission assigned to:

(a) State tax collection or enforcement activities; or

(b) Auditing books and records relating to any return filed or required to be filed or to investigating failures to file a return.

(5) "Tax obligation" means any legally owed tax liability, including tax, fees, penalty and interest, or any tax form required to be filed.

(6) "Disputed tax liability" is any liability asserted by the tax commission to be due but in regard to which the taxpayer has exercised his right to any legally available administrative or judicial review procedure when such procedure and review therefrom is not fully exhausted.

SECTION 7. That Section 63-4002, Idaho Code, be, and the same is hereby amended to read as follows:

63-4002. ACQUISITION OF LOCATION INFORMATION. Any revenue officer communicating with any person other than the taxpayer for the purpose of acquiring location information about the taxpayer shall:

(1) Disclose no information beyond that necessary to identify himself as a revenue officer of the state and to state that he is confirming or correcting location information concerning the taxpayer.

(2) Not state or declare that the taxpayer owes any taxes.

(3) Not communicate with any such person more than once unless requested to do so by such person or unless the revenue officer reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information.

(4) Not communicate by postcard except for postal locators sent

to the U.S. postal service.

(5) After the tax commission is notified in writing that the taxpayer is represented with regard to the subject tax obligation and has knowledge of, or can readily ascertain, such representative's name and address, not communicate with any person other than that representative with regard to the subject tax obligation, unless the representative fails to respond within seven (7) days to communication from the revenue officer. Nothing shall prohibit the tax commission from copying to the taxpayer all written communications with the taxpayer's representative.

(6) Nothing in this section prohibits the tax commission from communication with the U.S. government, other states, or other state or local government agencies regarding location information.

SECTION 8. That Section 63-4003, Idaho Code, be, and the same is hereby amended to read as follows:

63-4003. COMMUNICATION IN CONNECTION WITH TAX COLLECTION. (1) Without the prior consent of the taxpayer or the express permission of a court of competent jurisdiction, a revenue officer may not communicate with a taxpayer in connection with the collection of any tax obligation:

(a) At any unusual time or place or a time or place known or which should be known to be inconvenient to the taxpayer. In the absence of knowledge of circumstances to the contrary, a revenue officer shall presume that the convenient time for communicating with a taxpayer is after 8 o'clock antemeridian and before 9 o'clock postmeridian, local time at the taxpayer's location;

(b) If the tax commission has been notified in writing that the taxpayer is represented with respect to such tax obligation and has knowledge of, or can readily ascertain such representative's name and address, unless the representative fails to respond within seven (7) days to a communication with the taxpayer, except:

(i) To advise the taxpayer that the revenue officer's further efforts are being terminated;

(ii) To notify the taxpayer as required by law that the revenue officer may invoke specified remedies which are ordinarily invoked by such revenue officer; or

(iii) Where applicable, to notify the taxpayer that the revenue office intends to invoke a specified remedy;

(iv) In regard to matters not within the scope of the notice of the representative's capacity;

but nothing shall prohibit the tax commission from copying to the taxpayer all written communications with the taxpayer's representative; or

(c) At the taxpayer's place of employment if the revenue officer knows or has reason to know that the taxpayer's employer prohibits the taxpayer from receiving such communication.

(2) Except as provided in chapter 30, title 63, Idaho Code, or section 63-4002, Idaho Code, without the prior consent of the taxpayer, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a postjudgment judicial

remedy, a revenue officer may not communicate, in connection with the collection of any tax obligation, with any person other than the taxpayer, or his representative.

(3) If a taxpayer notifies a revenue officer in writing that the taxpayer refuses to pay a tax obligation or that the taxpayer wishes the revenue officer to cease further communication with the taxpayer, the revenue officer shall not communicate further with the taxpayer with respect to such tax obligation, except:

(a) To advise the taxpayer that the revenue officer's further efforts are being terminated;

(b) To notify the taxpayer as required by law that the revenue officer may invoke specified remedies which are ordinarily invoked by such revenue officer; or

(c) Where applicable, to notify the taxpayer that the revenue officer intends to invoke a specified remedy.

If such notice from the taxpayer is made by mail, notification shall be complete upon receipt.

SECTION 9. That Section 63-4004, Idaho Code, be, and the same is hereby amended to read as follows:

63-4004. HARASSMENT OR ABUSE. (1) A revenue officer may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a tax obligation. Without limiting the general application of the foregoing, the following conduct is a violation of the provisions of this section:

(1a) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

(2b) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

(3c) The publication of a list of persons who allegedly refuse to pay tax obligations.

(4d) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

(5e) The placement of telephone calls without meaningful disclosure of the caller's identity except in connection with a criminal investigation.

(2) The mailing or service of any notice or other document required or authorized by law as a part of the administration and collection of a tax is not prohibited in this section.

SECTION 10. That Section 63-4006, Idaho Code, be, and the same is hereby amended to read as follows:

63-4006. UNFAIR PRACTICES. A revenue officer may not use unfair or unconscionable means to collect or attempt to collect any tax obligation. Without limiting the general application of the foregoing, the following conduct is a violation of the provisions of this section:

(1) The collection of any amount, including interest, penalty, fee, charge, or expense incidental to the principal obligation, unless

such amount is permitted by law.

(2) The solicitation and acceptance by a revenue officer from any person of a check or other payment instrument postdated by more than five (5) days unless such person is notified in writing of the revenue officer's intent to deposit such check or instrument not more than ten (10) nor less than three (3) business days prior to such deposit.

(3) The solicitation by a revenue officer of any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution.

(4) ~~Depositing or~~ Threatening to deposit any postdated check or other postdated payment instrument prior to the date on such check or instrument.

(5) Causing charges to be made to any person for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone and telegram fees.

(6) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if:

(a) There is no present right to possession of the property claimed as collateral through an enforceable security interest;

(b) There is no present intention to take possession of the property; or

(c) The property is exempt by law from such dispossession or disablement.

(7) Communicating with a taxpayer regarding a tax obligation by postcard.

SECTION 11. That Section 63-4007, Idaho Code, be, and the same is hereby amended to read as follows:

63-4007. MULTIPLE TAX OBLIGATIONS. If any taxpayer owes multiple tax obligations and makes any single payment to any revenue officer with respect to such obligations, such revenue officer may not apply such payment to any obligation which is disputed by the taxpayer and, where applicable, shall apply such payment in accordance with the taxpayer's directions. Payments remitted together with a tax return shall be applied to the tax obligation on that return.

SECTION 12. That Section 63-4010, Idaho Code, be, and the same is hereby amended to read as follows:

63-4010. QUOTAS PROHIBITED. In conducting evaluations of individual employees, t~~he~~ tax commission may not use monetary quotas or base the evaluation ~~of a revenue officer~~ on monetary collections.

SECTION 13. That Section 63-4011, Idaho Code, be, and the same is hereby amended to read as follows:

63-4011. CIVIL LIABILITY. (1) Except as otherwise provided in this section, if any revenue officer fails to comply with any provision of this chapter with respect to any person, the tax commission is liable to that person in an amount equal to the sum of:

(a) Any actual damage sustained by that person as a result of such failure;

- (b) (i) In the case of any action by an individual, such additional damages as the court may allow, but not exceeding one thousand dollars (\$1,000); or
- (ii) In the case of a class action, such amount for each named plaintiff as could be recovered under subsection (1)(a) of this section, and such amount as the court may allow for all other class members, without regard to a minimum individual recovery, not to exceed five hundred thousand dollars (\$500,000); and
- (c) In the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court. On a finding by the court that an action under this section was brought in bad faith and for the purpose of harassment, the court may award to the defendant attorney's fees reasonable in relation to the work expended and costs.
- (2) In determining the amount of liability in any action under subsection (1) of this section, the court shall consider, among other relevant factors:
- (a) In an individual action, the frequency and persistence of noncompliance by the revenue officer, the nature of such noncompliance, and the extent to which such noncompliance was intentional; or
- (b) In any class action, the frequency and persistence of noncompliance by the revenue officer, the nature of such noncompliance, the number of persons adversely affected, and the extent to which the revenue officer's noncompliance was intentional.
- (3) ~~A--revenue--officer~~ The commission may not be held liable in any action brought pursuant to this chapter if the ~~revenue--officer~~ commission shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.
- (4) An action to enforce any liability created in this chapter may be brought in any court of competent jurisdiction within one (1) year from the date on which the violation occurs.
- (5) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any advisory opinion of the commission, notwithstanding that after such act or omission has occurred, such opinion is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.
- (6) The entire amount of any judgment entered under this section shall be paid from the state refund account established in section 63-3067, Idaho Code.

SECTION 14. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 1994, except Section 5 which shall be in full force and effect on and after July 1, 1994.

CHAPTER 173
(H.B. No. 829)

AN ACT

RELATING TO JUDICIAL CONFIRMATION OF ACTIONS OF POLITICAL SUBDIVISIONS; AMENDING SECTION 7-1304, IDAHO CODE, TO REQUIRE THE GOVERNING BODY TO CONDUCT A PUBLIC HEARING AND TO AUTHORIZE THE FILING OF THE PETITION ONLY AFTER ADOPTING A RESOLUTION OR ORDINANCE; AMENDING SECTION 7-1306, IDAHO CODE, TO REQUIRE CERTAIN PUBLICATION REQUIREMENTS; AMENDING SECTION 7-1308, IDAHO CODE, TO REQUIRE A JUDGE TO MAKE SPECIFIC FINDINGS; AND AMENDING CHAPTER 13, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 7-1313, IDAHO CODE, TO ALLOW FOR THE AWARD OF ATTORNEY FEES.

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

SECTION 1. That Section 7-1304, Idaho Code, be, and the same is hereby amended to read as follows:

7-1304. PETITION FOR JUDICIAL EXAMINATION AND DETERMINATION OF VALIDITY OF BOND, OBLIGATION, AGREEMENT, OR SECURITY INSTRUMENT -- FACTS -- VERIFICATION -- PUBLIC HEARING. (1) In its discretion the governing body of a political subdivision may file or cause to be filed a petition at any time in the judicial district court in and for the district in which the political subdivision is located wholly or in part, praying a judicial examination and determination of the validity of any bond or obligation or of any agreement or security instrument related thereto, of the political subdivision, whether or not such bond or obligation agreement has been validly exercised, or executed. The filing of the petition shall have been authorized by the governing body having adopted a resolution or ordinance authorizing such filing after conducting a public hearing as defined in subsection (3) of this section.

(2) Such petition shall set forth the facts on which the validity of such bond or obligation is founded and shall be verified by the executive officer of the political subdivision.

(3) Prior to the filing of the petition described in subsection (1) above, the governing body of a political subdivision shall hold a public hearing to consider whether it should adopt a resolution or ordinance authorizing the filing of the petition. At least fifteen (15) days prior to the date set for the public hearing, notice of the time, place and summary of the matter shall be published in the official newspaper, or papers of general circulation within the jurisdiction. The notice shall be in the form and content described in subsection (2) of section 7-1306, Idaho Code, but need be published only once.

SECTION 2. That Section 7-1306, Idaho Code, be, and the same is hereby amended to read as follows:

7-1306. NOTICE OF FILING OF PETITION -- CONTENTS -- SERVICE BY PUBLICATION AND POSTING. (1) Notice of the filing of the petition

shall be given by the clerk of the court, under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any instrument therein mentioned may be examined.

(2) The notice shall be served:

(a) By publication at least once a week for five three (53) consecutive weeks by five three (53) weekly insertions, in a newspaper of general circulation in the political subdivision the official newspaper or papers of general circulation within the jurisdiction; the publication shall meet the following requirements: The notice shall be of a format and in such size and type that distinguishes it from legal notices. The notice shall be requested to run in the newspaper's main news section, far forward, and the rate to be paid for advertising placed under this section shall be no more than the current rate card posted by the newspaper for similar forms of advertising in volume and frequency to that which is ordered, in order to meet the requirements of this section; provided, the rates and type requirements provided in section 60-105, Idaho Code, for public agency advertisements shall not apply to advertisements published under the requirements of this section; and

(b) By posting the same in a prominent place at or near the main door of the administrative office of the political subdivision at least thirty (30) days prior to the date fixed in the notice for the hearing on the petition.

(3) Jurisdiction shall be complete after such publication and posting.

SECTION 3. That Section 7-1308, Idaho Code, be, and the same is hereby amended to read as follows:

7-1308. HEARING -- FINDINGS -- JUDGMENT AND DECREE -- COSTS -- ENTITLEMENT TO RELIEF. (1) The filing of the petition and publication and posting of the notice as provided in section 7-1306, Idaho Code, shall be sufficient to give the court jurisdiction, and upon hearing the court shall examine into and determine all matters and things affecting each question submitted, shall make such findings with reference thereto and render such judgment and decree thereon as the case warrants.

(2) Costs may be divided or apportioned among any contesting parties in the discretion of the district court. In making the findings set forth in subsection (1) of this section, the court shall determine if the political subdivision is entitled to the relief sought. If in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to establish the truth of any averment by evidence or make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and proper.

SECTION 4. That Chapter 13, Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 7-1313, Idaho Code, and to read as follows:

7-1313. ATTORNEY FEES. Whenever a court shall determine that a political subdivision is not entitled to the relief sought and enters a judgment denying the petition on the grounds that the bond or obligation agreement has not been validly exercised or executed, the court shall award reasonable attorney fees to any owner of property, taxpayer, qualified elector or rate payor or any other interested person who has appeared and moved to dismiss or answer the petition. In determining the final amount of attorney fees awarded, the court shall consider the position advanced by the political subdivision, the novelty and difficulty of the questions presented, the reasons why the relief sought had not been granted and any other factor the court deems appropriate in the particular case.

Approved March 24, 1994.

CHAPTER 174
(H.B. No. 844)

AN ACT

RELATING TO SCHOOLS; AMENDING CHAPTER 2, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-209, IDAHO CODE, TO PROVIDE THAT WHEN SCHOOL RECORDS ARE TRANSFERRED, IF DISCIPLINARY ACTION IS RECORDED, IT SHALL BE REPORTED.

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

SECTION 1. That Chapter 2, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-209, Idaho Code, and to read as follows:

33-209. TRANSFER OF STUDENT RECORDS -- DUTIES. Whenever a student transfers from one (1) school to another, within the district, within the state, or elsewhere, and the sending school is requested to forward student records, the sending school shall respond by forwarding a certified copy of the transferred student's record within ten (10) days, except as provided in section 18-4511, Idaho Code. When the school record contains information concerning violent or disruptive behavior or disciplinary action involving the student, this information shall be included in the transfer of records but shall be contained in a sealed envelope, marked to indicate the confidential nature of the contents, and addressed to the principal or other administrative officer of the school.

Approved March 24, 1994.

CHAPTER 175
(S.B. No. 1290, As Amended)

AN ACT

RELATING TO REPORTING BY SCHOOL DISTRICTS; AMENDING SECTION 33-120, IDAHO CODE, TO REQUIRE CONSISTENT AND UNIFORM REPORTING BY SCHOOL DISTRICTS.

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

SECTION 1. That Section 33-120, Idaho Code, be, and the same is hereby amended to read as follows:

33-120. UNIFORM REPORTING. The state superintendent of public instruction shall prescribe forms and format for uniform accounting for financial and statistical reports of and performance measurements to provide consistent and uniform reporting by school districts; for inventories; and for revenue estimates and preliminary budgets; to the end that there shall be uniformity in the manner of keeping of accounts by the several school districts; and uniformity in the reporting thereof.

Approved March 25, 1994.

CHAPTER 176
(S.B. No. 1311, As Amended)

AN ACT

RELATING TO THE DEPARTMENT OF ADMINISTRATION; AMENDING SECTION 67-5708, IDAHO CODE, TO PROVIDE CORRECT NOMENCLATURE AND TO PROVIDE THAT VIOLATIONS OF PARKING RULES ARE NOT SUBJECT TO CHAPTER 52, TITLE 67, IDAHO CODE; AMENDING SECTIONS 67-5717 AND 67-5720, IDAHO CODE, TO PROVIDE CORRECT NOMENCLATURE; AMENDING SECTION 67-5729, IDAHO CODE, TO PROVIDE FOR APPLICATION OF CHAPTER 52, TITLE 67, IDAHO CODE, TO THE ADOPTION OF RULES BY THE DIVISION OF PURCHASING AND PURCHASE APPEALS CONDUCTED PURSUANT TO SECTION 67-5733(1)(c)(iii), IDAHO CODE, AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-5730, IDAHO CODE, TO CLARIFY THAT ALL VENDORS ARE QUALIFIED UNLESS DISQUALIFIED; AMENDING SECTION 67-5732, IDAHO CODE, TO PROVIDE CORRECT NOMENCLATURE; AMENDING SECTION 67-5733, IDAHO CODE, TO SPECIFY THE PURCHASE APPEAL PROCEEDINGS SUBJECT TO THE CONTESTED CASE AND JUDICIAL REVIEW PROCEDURES OF CHAPTER 52, TITLE 67, IDAHO CODE, AND TO PROVIDE CORRECT NOMENCLATURE; AMENDING SECTION 67-5740, IDAHO CODE, TO PROVIDE CORRECT NOMENCLATURE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5744, IDAHO CODE, TO CORRECT CODE REFERENCES; AMENDING SECTION 67-5747, IDAHO CODE, TO PROVIDE CORRECT NOMENCLATURE; AMENDING SECTION 67-5751, IDAHO CODE, TO PROVIDE FOR PERMISSIVE

ADOPTION OF RULES REGARDING RECORDS MANAGEMENT AND TO PROVIDE FOR ESTABLISHMENT OF GUIDELINES IN THE ABSENCE OF RULES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-5708, Idaho Code, be, and the same is hereby amended to read as follows:

67-5708. LEASING OF OFFICE SPACE FOR STATE USE -- MANAGEMENT OF STATE CAPITOL MALL -- CONTROL OF PARKING. The department of administration shall negotiate for, approve, and make any and all lease or rental agreements for office space to be used by the various state departments, agencies and institutions in the state of Idaho.

The department of administration shall manage multi-agency office space constructed through the state building authority as established in chapter 64, title 67, Idaho Code, and shall sublease such office space to various state departments, agencies, and institutions in the state of Idaho. The department of administration is directed to operate any property acquired for the state capitol mall and to enter into rental contracts and lease agreements not inconsistent with the use of such capitol mall real estate for state building purposes when so authorized.

The director may authorize and enter into leases of state capitol mall real estate and multi-agency office space constructed through the state building authority, not needed for state building purposes, to other governmental entities or to nonprofit organizations upon such terms as are just and equitable.

The administrator of the division of public works shall promulgate rules and regulations for the control of the parking of motor vehicles in the state capitol mall. Any person who shall violate any of the provisions of the regulations rules shall be subject to a fine of not less than two dollars (\$2.00) nor more than twenty-five dollars (\$25.00); provided however, that any person who shall violate any of the provisions of the regulations rules concerning the altering, counterfeiting or misuse of parking permits shall be subject to a fine of not more than fifty dollars (\$50.00).

Every magistrate and every court having jurisdiction of criminal offenses and the violation of public laws committed in the county of Ada shall have jurisdiction to hear and determine violations of the provisions of the regulations rules and to fix, impose and enforce payment of fines therefor. Alleged violations of the parking rules are not subject to the provisions of chapter 52, title 67, Idaho Code. The department of administration may pay costs incurred in the operation and management of those properties from rents received therefrom.

When a state building or facility of the state of Idaho is authorized by statute, and a maximum cost for such building or facility has been set by statute, the administrator of the division of public works may enter into lease-purchase or other time-purchase agreements with the Idaho state building authority or other party for such building or facility.

SECTION 2. That Section 67-5717, Idaho Code, be, and the same is

hereby amended to read as follows:

67-5717. POWERS AND DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF PURCHASING. The administrator of the division of purchasing:

(1) Shall acquire, according to the provisions of this chapter, all property for state agencies;

(2) Shall acquire all property, unless excepted, by competitive bid, and shall specifically require competitive bids for property to be rented, leased or purchased through a deferred payment plan;

(3) Shall determine, based upon the requirements contained in the specification and matter relating to responsibility, the lowest responsible bidder in all competitively bid acquisition contracts;

(4) Shall enter into all contracts and agreements, and any modifications thereto, for the acquisition of any and all property in behalf of and in the name of the state;

(5) Shall, when economically feasible and practical, consolidate requisitions and acquire property in amounts as large as can be efficiently managed and controlled;

(6) May appoint a deputy, who shall have power to act for him and in his place while absent, which deputy shall be bonded to the state of Idaho as prescribed by chapter 8, title 59, Idaho Code;

(7) May require from any contractor the submission of a performance bond for such sum as will, in the opinion of the administrator, guarantee the faithful performance of such contract, and the amount and requirement therefor shall be set out in the specifications;

(8) May enter into open contracts for the acquisition of property commonly used by the various agencies, based upon actual or estimated requirements;

Unless an acquiring agency can show a substantial difference between the required capabilities and the capabilities provided by such property available on open contract, all agencies must utilize such property available on such contracts and failure to comply with this provision will subject the officers responsible for the acquisition to the penalties set forth in this chapter;

(9) May enter into contracts, including leases and rentals, for periods of time exceeding one (1) year provided that such contracts contain no penalty to or restriction upon the state in the event cancellation is necessitated by a lack of financing for any such contract or contracts;

(10) Is authorized and empowered to formulate rules and--regulations in the conduct of the office of the division of purchasing, subject to the approval of the director of the department of administration;

(11) May accept proposals and enter into negotiations, only for services which need not be bid;

(12) May inspect property delivered by a contractor to determine whether it meets minimum bid specifications;

(13) May classify, after review with the various agencies, the requirements of the state for all property which may be acquired and adopt standards of quality for property, and establish standard specifications for acquisition. Each standard specification shall, until revised or rescinded, apply alike in terms and effect to each future acquisition of the classified property.

SECTION 3. That Section 67-5720, Idaho Code, be, and the same is hereby amended to read as follows:

67-5720. ACQUISITION OF MINOR ITEMS -- EMERGENCY PURCHASES. The administrator may allow, under rules and regulations prescribed, the purchase of minor items of property in the open market, provided such items are not available from the maintenance of stocks authorized by section 67-5727, Idaho Code. When immediate delivery of property is required by the public exigencies and the administrator of the division of purchasing has declared that an emergency exists, the property required may be acquired by open purchase, but at all times such purchases shall be made under the direction of the administrator. The administrator may, in his discretion, declare an emergency when he finds that particular savings to the state may be had through the use of educational discounts, acquisition of federal surplus or excess property, when there is only one (1) vendor for the property to be acquired, or under other circumstances approved by the director of the department of administration. When there is only one (1) vendor for the property to be acquired, unless the property is required for a life-threatening situation or a situation that is immediately detrimental to the public welfare or property, notice of a sole source procurement shall be published in a public, statewide publication at least ten (10) working days prior to the award of the contract. Payment vouchers for emergency acquisitions must contain upon their faces the justification for such purchases.

SECTION 4. That Section 67-5729, Idaho Code, be, and the same is hereby amended to read as follows:

67-5729. APPLICATION OF ADMINISTRATIVE PROCEDURES ACT ~~---STANDING TO---CONTEST---DETERMINATIONS~~. All ~~procedures--and-policies-concerning acquisitions-and-the-determinations-of-the-administrator-and-determinations-officer,-unless-specifically-exempt-in-this-chapter,-are-subject-to~~ rules of the division of purchasing shall be adopted in accordance with the provisions of chapter 52, title 67, Idaho Code. Only purchase appeals conducted as contested cases pursuant to section 67-5733(1)(c)(iii), Idaho Code, shall be subject to the judicial review provisions of chapter 52, title 67, Idaho Code. This section shall not impair any contract right or contract remedy which may exist between the state and a properly licensed or registered contractor or vendor.

The determinations officer provided by ~~this act~~ in section 67-5733, Idaho Code, may subpoena witnesses and evidence and administer oaths.

In the event that a determinations officer is appointed pursuant to the provisions of section 67-5733, Idaho Code, any registered vendor who has submitted a bid in the process under review shall, notwithstanding any other disability, have standing to intervene in the proceeding as a party and such intervenor may ~~prosecute an action participate in the purchase appeal~~ or appeal from any final agency decision order entered in a contested case conducted under this chapter and pursuant to chapter 52, title 67 section 67-5733(1)(c)(iii), Idaho Code.

SECTION 5. That Section 67-5730, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

- (a) Failure to perform according to the terms of any agreement;
- (b) Attempts by whatever means to cause acquisition specifications to be drawn so as to favor a specific vendor;
- (c) Use of the provisions of this chapter to obstruct or unreasonably delay acquisitions by the state. Obstruction is hereby defined as a lack of success in more than fifty per cent (50%) of the specification challenges made in each of three (3) different acquisitions during any twenty-four (24) month period;
- (d) Perjury in a vendor disqualification hearing;
- (e) To knowingly violate the provisions of this chapter.

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

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

(5) Disqualification or conditions may be imposed for a period of

not less than six (6) months or not more than five (5) years.

SECTION 6. That Section 67-5732, Idaho Code, be, and the same is hereby amended to read as follows:

67-5732. ~~RULES AND--REGULATIONS~~. In addition to any other rules ~~and-regulations~~ promulgated by the administrator, he shall ~~draw--regulations~~ adopt rules which shall serve to enhance the intent of this chapter. Among the subjects addressed shall be:

(1) Regulations Rules requiring specifications to be in writing, to contain all requirements including alternatives, to set forth all methods and procedures to be used in the submission and evaluation of bids, and such other matters as are necessary to facilitate the bidding process;

(2) A regulation rule providing a means for interested vendors to cause alteration of any specification issued if such alteration will improve the competitiveness of bidding;

(3) Regulations Rules establishing the procedures for performance tests, where practical and advisable, and requiring equipment tested during the bidding procedure to substantially meet or exceed those test results prior to acceptance by the state;

(4) Regulations Rules controlling acquisition of components which shall prevent substantial changes in the performance of equipment through multiple ~~successive~~ acquisitions;

(5) Regulations Rules requiring, when practical, specifications to describe the function sought, the end results desired and the effect to be achieved by the property to be acquired;

(6) Special regulations rules for specific categories of property, that because of the nature of the property and its distinguishability from other types of property, require specialized treatment to insure a more effective bidding process.

SECTION 7. That Section 67-5733, Idaho Code, be, and the same is hereby amended to read as follows:

67-5733. ~~ADMINISTRATIVE DIVISION OF PURCHASING~~ -- APPEALS. (1) (a) There shall be, beginning with the day of receipt of notice, a period of not more than ten (10) working days in which any vendor, registered as able to sell or supply the items to be acquired, may notify in writing the administrator of the division of purchasing of his intention to challenge the specifications and shall specifically state the exact nature of his challenge. The specific challenge shall describe the location of the challenged portion or clause in the specification document, unless the challenge concerns an omission, explain why any provision should be struck, added or altered, and contain suggested corrections.

Upon receipt of the challenge, the administrator of the division of purchasing shall either deny the challenge, and such denial shall be considered the final agency decision, or he shall present the matter to the director of the department of administration for appointment of a determinations officer. If the director of the department of administration appoints a determinations officer, then all registered vendors who are invited to bid on the property sought to be acquired,

shall be sent a copy of both the notice to challenge and the appointment of determinations officer and may indicate in writing their agreement or disagreement with the challenge within five (5) days. Any registered vendor may note his agreement or disagreement with the challenge. The determinations officer may, on his own motion, refer the challenge portion and any related portions of the challenge to the author of the specification to be rewritten with the advice and comments of the registered vendors capable of supplying the property; rewrite the specification himself and/or reject all or any part of any challenge. If specifications are to be rewritten, the matter shall be continued until the determinations officer makes a final determination of the acceptability of the revised specifications.

The administrator shall reset the bid opening no later than fifteen (15) days after final determination of challenges or the amendment of the specifications. If the administrator denies the challenge, then the bid opening date shall not be reset.

The final decision of the determinations officer or administrator on the challenge to specifications shall not be considered a contested case within the meaning of the administrative procedure act; provided that a vendor disagreeing with specifications may include such disagreement as a reason for asking for appointment of a determinations officer pursuant to section 67-5733(1)(c), Idaho Code.

(b) There shall be, beginning with the day of following receipt of notice of rejection, a period of five (5) working days in which a bidder whose bid was rejected found nonresponsive may appeal such rejection decision to the director of the department of administration. A rejected-bidder nonresponsive bid, within the meaning of this act chapter, is a bidder-whose bid is-not-considered-for-any-reason which does not comply with the bid invitation and specifications and shall not apply to a vendor whose bid is considered but who is determined not to be the lowest responsible bidder as defined in this act chapter. The director shall: either appoint a determinations officer to hear the appeal and

(i) Deny the application; or

(ii) Appoint a determinations officer to review the record and submit a recommended order to the director to affirm or reverse the administrator's decision of bid nonresponsiveness.

The director shall, upon receipt of a written recommendation from the determinations officer, sustain, modify or reverse the administrator's decision not to consider a bid; or deny the appeal and such denial shall be the final agency nonresponsive bid decision. An appeal conducted under the provisions of this subsection shall not be considered a contested case and shall not be subject to judicial review under the provisions of chapter 52, title 67, Idaho Code.

(c) A vendor whose bid is considered may, within five (5) working days following receipt of notice that he is not the lowest responsible bidder, apply to the director of the department of administration for appointment of a determinations officer. The application shall set forth in specific terms the reasons why the administrator's decision is thought to be erroneous. Upon receipt of the application, the director shall within three (3) working days:

(i) Deny the application, and such denial shall be considered the final agency decision; or

- (ii) Appoint a determinations officer to review the record to determine whether the administrator's selection of the lowest responsible bidder is correct; or
- (iii) Appoint a determinations officer with authority to conduct an adversary a contested case hearing within the context of the administrative procedure act in accordance with the provisions of chapter 52, title 67, Idaho Code.

A determinations officer appointed pursuant to section 67-5733(1)(c)(ii), Idaho Code, shall inform the director by written recommendation whether, in his opinion, the administrator's selection of the lowest responsible bidder is correct. The determinations officer in making this recommendation may rely on the documents of record, statements of employees of the state of Idaho participating in any phase of the selection process, and statements of any vendor submitting a bid. An adversary a contested case hearing shall not be allowed and the determinations officer shall not be required to solicit statements from any person. Upon receipt of the recommendation from the determinations officer, the director shall sustain, modify or reverse the decision of the administrator on the selection of the lowest responsible bidder or the director may appoint a determinations officer pursuant to section 67-5733(1)(c)(iii), Idaho Code.

A determinations officer appointed pursuant to section 67-5733(1)(c)(iii), Idaho Code, shall conduct a contested case hearing and upon conclusion of the hearing shall prepare findings of fact, and conclusions of law and a recommended order for the director of the department of administration. Upon receipt of the findings of fact, and conclusions of law and recommended order, the director shall enter a final order sustaining, modifying or reverse reversing the decision of the administrator on the selection of the lowest responsible bidder.

(d) In the case of a sole source procurement, there shall be a period of not more than five (5) working days from the last date of public notice in which any vendor, able to sell or supply the item(s) to be acquired, may notify the administrator of the division of purchasing, in writing, of his intention to challenge the sole source procurement and briefly explain the nature of the challenge.

Upon receipt of the challenge, the director shall appoint a determinations officer to hear the challenge and, upon receipt of the written recommendation of the determinations officer, sustain, modify or reverse the approval for the sole source procurement. If unregistered, the vendor issuing the challenge shall be required to register as a vendor to the state.

(e) The administrator of the division of purchasing may, on his own initiative, file a complaint with the director for a hearing before a determinations officer. The director shall appoint a determinations officer who shall make written recommendations to the director and the director shall render whatever decision is necessary to resolve the complaint.

(2) The director of the department of administration is hereby authorized and directed to appoint a determinations officer whenever one is required by this act chapter. The officer shall meet and render whatever determination is called for. When a complaint is filed pursuant to section 67-5733(1)(b), Idaho Code, no bid may be awarded until

the final decision is rendered by the director of the department of administration; provided that in all other cases where a determinations officer is appointed by the director, the director shall have the power to allow the acquisition contract to be awarded to the successful bidder prior to or after the decision of the determinations officer if he determines such award to be in the best interest of the state. Any determinations officer appointed pursuant to this act chapter shall exist only for the duration of unresolved complaints on an acquisition and shall be dismissed upon resolution of all such complaints. The determinations officer shall be guided in his determination by the best economic interests of the state for both the near future and more extended periods of time. In addition to the powers conferred on the determinations officer, the director of the department of administration may: impose the penalty prescribed by section 67-5734(3), Idaho Code; enjoin any activity which violates this act chapter; direct that bids be rejected, or sustained; direct that specifications be rejected, sustained or modified; and direct further legal action.

(3) ~~A--cChallenges or appeals~~ filed pursuant to section 67-5733(1)(a), 1(b), 1(c)(i) or 1(c)(ii), Idaho Code, shall not be considered to be a contested case as that term is defined in the administrative procedure act, ~~provided that all other final decisions rendered by the director of the department of administration pursuant to section 67-5733, Idaho Code, shall be considered to be~~ An appeal filed pursuant to section 67-5733(1)(c)(iii), Idaho Code, shall be conducted as a contested cases ~~as that term is defined in the administrative procedure act~~ according to the provisions of chapter 52, title 67, Idaho Code.

SECTION 8. That Section 67-5740, Idaho Code, be, and the same is hereby amended to read as follows:

67-5740. ADDITIONAL AUTHORITY AND DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF PURCHASING. (a) The administrator of the division of purchasing is authorized and empowered (1) to acquire from the United States of America under and in conformance with the provisions of section 203(j) [40 U.S.C. sec. 484(j)] of the Federal Property and Administrative Services Act of 1949, as amended, hereinafter referred to as the "Act," such property, including equipment, materials, books, or other supplies under the control of any department or agency of the United States of America as may be usable and necessary for purposes of education, public health or civil defense, including research for any such purpose, and for such other purposes as may now or hereafter be authorized by federal law; (2) to warehouse such property; and (3) to distribute such property within the state to tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, and universities within the state, to other non-profit medical institutions, hospitals, clinics, health centers, schools, colleges and universities which have been held exempt from taxation under section 501(c)(3) [26 U.S.C. sec. 501(c)(3)] of the United States Internal Revenue Code of 1954, to civil defense organizations of the state, or political subdivisions and instrumentalities thereof, which are established pursuant to state law, and to such

other types of institutions or activities as may now be or hereafter become eligible under federal law to acquire such property.

(b) The administrator is hereby authorized to receive applications from eligible institutions for the acquisition of federal surplus real property, investigate the same, obtain expression of views respecting such applications from the appropriate health or educational authorities of the state, make recommendations regarding the need of such applicant for the property, the merits of its proposed program of utilization, the suitability of the property for such purposes, and otherwise assist in the processing of such applications for acquisition of real and related personal property of the United States under section 203(k) [40 U.S.C. sec. 484(k)] of this the act.

(c) For the purpose of executing its authority under this act chapter, the administrator is authorized and empowered to adopt, amend, or rescind such rules ~~and regulations~~ and prescribe such requirements as may be deemed necessary and take such other action as is deemed necessary and suitable, in the administration of this act chapter, to assure maximum utilization by and benefit to health, educational and civil defense and other eligible institutions and organizations within the state from property distributed under this act chapter.

(d) The administrator, subject to approval of the director of administration, is authorized and empowered to appoint advisory boards or committees, who shall be compensated as provided by section 59-509(b), Idaho Code, and to employ such personnel and to fix their compensation and prescribe their duties, as are deemed necessary and suitable for the administration of this act chapter. Expenditures incurred hereunder shall be paid as are other claims against the state.

(e) The administrator is authorized and empowered to make such certifications, take such action, make such expenditures and enter into such contracts, agreements and undertakings for and in the name of the state (including cooperative agreements with any federal agencies providing for utilization by and exchange between them of the property, facilities, personnel and services of each by the other), require such reports and make such investigations as may be required by law or regulation of the United States of America in connection with the disposal of real property and the receipt, warehousing, and distribution of personal property received by him from the United States of America; provided, that all expenditures, contracts, agreements and undertakings for and in the name of the state shall have the approval of the state board of examiners.

(f) The administrator is authorized and empowered to act as a clearing house of information for the public and private nonprofit institutions, organizations and agencies referred to in subparagraph (a), and other institutions eligible to acquire federal surplus real property, to locate both real and personal property available for acquisition from the United States of America, to ascertain the terms and conditions under which such property may be obtained, to receive requests from the above mentioned institutions, organizations and agencies and to transmit to them all available information in reference to such property, and to aid and assist such institutions, organizations and agencies in every way possible in the consummation of

acquisitions or transactions hereunder.

(g) The administrator, in the administration of this ~~act~~ chapter, shall cooperate to the fullest extent consistent with the provisions of the act, with the departments or agencies of the United States of America and shall file a state plan of operation, operate in accordance therewith, and take such action as may be necessary to meet the minimum standard prescribed in accordance with the act, and make such reports in such form and containing such information as the United States of America or any of its departments or agencies may from time to time require, and it shall comply with the laws of the United States of America and the rules and regulations of any of the departments or agencies of the United States of America governing the allocation, transfer, use or accounting for, property donable or donated to the state.

(h) The administrator, with approval of the board of examiners, is authorized to contract with agencies of other states responsible for the handling of surplus property for:

(1) The acquisition, warehousing, and distribution of surplus property on behalf of the state of Idaho and the delivery of surplus property within the state of Idaho; and

(2) The acquisition, warehousing, and distribution of surplus property on behalf of other states and the delivery of surplus property in other states; provided, that any contract negotiated under the authority of this subparagraph (2) shall obligate the other states to pay the cost of the surplus property and the administrative costs incurred in the acquisition, warehousing, and distribution of the surplus property; and

(3) The furnishing of any services to the state of Idaho concerning the acquisition, warehousing, and distribution of surplus property, and the sorting, dividing into lots, crating, preparing for shipment, and any other handling of surplus property for the state of Idaho.

SECTION 9. That Section 67-5744, Idaho Code, be, and the same is hereby amended to read as follows:

67-5744. SURPLUS PROPERTY FUND MAINTAINED -- CHARGES AND FEES, DEPOSITION. The surplus property revolving fund, as created by chapter 161, laws of 1957, is hereby maintained and continued to carry out the provisions of sections 67-5740--67-5744, Idaho Code. The charges or fees received by the division of purchasing for acquisition, warehousing, distribution or transfer of surplus property shall be deposited and credited to the said surplus property revolving fund, which fund shall be available for expenditure in administering the provisions of sections 67-5740--67-5744, Idaho Code, including payment of the actual expenses of current operations and the purchase of necessary equipment, and the acquisition and maintenance of a working capital reserve within the surplus property revolving fund. Any prior appropriation made to the revolving fund is hereby declared to be exempt from the provisions of the Standard Appropriations Act of 1945.

The amount of the working capital reserve in any fiscal year shall be determined by the director of the department of administration and shall not exceed an amount equivalent to the estimated cost of opera-

tion of the surplus property function of the division for the next succeeding fiscal year; provided, however, that accounts receivable which are uncollectible and all liabilities incurred in the performance of sections 67-5740--67-57454, Idaho Code, including the unrepaid balance of the amount heretofore appropriated to the surplus property revolving fund from the general fund of the state of Idaho, shall be deducted from current assets in determining, as of the end of any fiscal year, the amount of working capital reserve for the next succeeding fiscal year.

In any fiscal year the director of administration may transfer from the surplus property revolving fund to the general fund of the state of Idaho any sum not exceeding the unrepaid balance of the amount heretofore appropriated to the surplus property revolving fund. Upon termination or repeal of sections 67-573940--67-5744, Idaho Code, any balance remaining in said revolving fund not exceeding the unrepaid balance of the amount heretofore appropriated to the surplus property revolving fund is hereby transferred to and made a part of the general fund of the state, and any balance remaining in the said revolving fund in excess of the said unrepaid balance shall be disposed for the benefit of qualified public health, educational, civil defense, and other organizations or institutions within the state of Idaho in accordance with the requirements of federal law.

SECTION 10. That Section 67-5747, Idaho Code, be, and the same is hereby amended to read as follows:

67-5747. POWERS AND DUTIES. (1) The department of administration is hereby authorized and directed:

- (a) (i) To control and approve the acquisition and installation of all communications equipment and facilities for all departments and institutions of state government, except as provided in subparagraphs (ii) and (iii) of this subsection;
- (ii) To coordinate the acquisition and installation of all communications equipment and facilities for the institutions of higher education and the elected officers in the executive department;
- (iii) To coordinate the acquisition and installation of all communications equipment and facilities for the legislative and judicial departments.

In approving or coordinating the acquisition or installation of communications equipment or facilities, the department shall first consult with and consider the recommendations and advice of the directors or executive heads of the various departments or institutions. Any acquisition or installation of any communications equipment or facilities that is contrary to the department's recommendation, or is not in harmony with the state's overall plan for communications and information sharing, shall be reported in writing to the governor and the legislature.

(b) To receive and hold, upon order of the board of examiners, physical custody and control of such existing communications equipment and facilities utilized by or in the possession of any department or institution, as may be necessary to carry out the purposes of this act chapter.

(c) To provide a system of communications for all departments and institutions of state government. The department ~~shall~~ may prescribe adequate rules ~~and regulations~~ for the use of any communications equipment and facilities now in use or hereafter made available. Funds received pursuant to this subsection shall be appropriated for payment of communication and telephone charges incurred by the various agencies and institutions of state government.

(d) To provide a means whereby political subdivisions of the state may utilize the state communications system, upon such terms and under such conditions as the department may establish.

(e) To accept federal funds granted by congress or by executive order for all or any of the purposes of this ~~act~~ chapter, as well as gifts and donations from individuals and private organizations or foundations.

SECTION 11. That Section 67-5751, Idaho Code, be, and the same is hereby amended to read as follows:

67-5751. RECORDS MANAGEMENT. The director of administration ~~shall~~ may develop subject to the provisions of chapter 52, title 67, Idaho Code, rules and procedures pertaining to the management of all state records. "Records" shall mean; any document, book, paper, photograph, sound recording, or other material, regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official state business. Library and archive material made, acquired, or preserved solely for reference, exhibition, or historical purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in this section.

~~The following r~~Rules, or if rules are not adopted, guidelines and procedures shall be established:

(a) ~~A r~~ule pertaining to retention periods for all state records.

(b) ~~A r~~ule establishing a standard filing system for all state agencies.

(c) ~~A r~~ule prescribing conditions and procedures for destruction of state records.

(d) ~~Procedures to ensure~~ Ensuring efficient utilization of manpower, building space, and supplies with regard to paper flow and forms usage.

(e) ~~A r~~ule pertaining to proper and efficient utilization of microfilming services.

SECTION 12. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 25, 1994.

CHAPTER 177
(S.B. No. 1322)

AN ACT

RELATING TO INVOLUNTARY STERILIZATION; AMENDING SECTION 39-3901, IDAHO CODE, TO DEFINE AN EVALUATION COMMITTEE; AND AMENDING SECTION 39-3903, IDAHO CODE, TO PROVIDE FOR EVALUATION BY THE EVALUATION COMMITTEE, TO STRIKE REFERENCES TO THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE AND TO THE IDAHO STATE SCHOOL AND HOSPITAL AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 39-3901, Idaho Code, be, and the same is hereby amended to read as follows:

39-3901. DEFINITIONS. For the purpose of this act the following words and terms shall have the meanings hereinafter stated:

(a) "Persons subject to this act" shall mean a person, whether male or female, past his or her age of puberty, who, because of mental retardation, organical retardation, or both, is irreversibly and incurably mentally incompetent to the degree that such person, with or without economic aid (charitable or otherwise) from others, could not provide care and support for one (1) or more children procreated by such person in such a way that such children could reasonably be expected to survive to majority without suffering or sustaining serious mental or physical harm, and who, free from the obligations of parenthood, could be released from the total care within an institution, or remain in a community program and could reasonably benefit from a more independent, normal life, whose condition is, according to the procedures hereinafter stated, irreversible and incurable.

(b) "Physician" shall mean a person duly licensed in the state of Idaho to practice medicine and surgery without restriction pursuant to the laws of the state of Idaho.

(c) "Evaluation committee" means an interdisciplinary team of at least three (3) individuals qualified by education and training to evaluate an individual as required by the provisions of this chapter. Each committee must include two (2) social workers, at least one (1) of whom must be a master's level, and a clinical psychologist.

(d) "Counsel" shall mean an attorney duly licensed by the state of Idaho to practice law in the state of Idaho.

(de) "Reasonable compensation for professional services" shall mean, when applied to indigent persons coming within the purview of this act, that compensation which such professional person rendering such service would receive and would be willing to accept from a like person having the private financial ability to pay for such services.

(ef) "Hospital" shall mean a hospital licensed by the Idaho state department of health and welfare.

(fg) "Sterilization procedure" shall mean any procedure or operation performed by a physician which is designed or intended to prevent conception and which is not designed or intended to unsex the patient by removing the ovaries or testicles.

SECTION 2. That Section 39-3903, Idaho Code, be, and the same is hereby amended to read as follows:

39-3903. STERILIZATION PROCEDURE -- CONTENTS OF PETITION -- LEGAL COUNSEL AND COMPENSATION FOR INDIGENTS -- PROTECTION OF CIVIL RIGHTS -- INVESTIGATION BY PHYSICIANS -- HEARING RULES OF EVIDENCE -- ENTRY OF COURT ORDER. (a) A petition shall be filed upon the request of one or more of the parents or legal guardians or next of kin of the person alleged to be subject to this act or by the director of the state department of health and welfare by the prosecuting attorney in the district court in the county of residence of such person alleged to be subject to this act. The petition shall contain the written consent of the parent or parents, if such parents are surviving and can be found after reasonable effort, and are mentally competent, or by a legally appointed guardian, ~~and if no such parent or parents survive or can be found after reasonable effort, or if such parent or parents are mentally incompetent, or if there is no legally appointed guardian, it shall contain the written consent of the director of the department of health and welfare.~~ The petition shall further set forth clearly and concisely the reason such person is alleged to be subject to the provisions of this act. ~~The petition shall further contain~~ a written, comprehensive evaluation by the diagnostic staff of the Idaho state school and hospital of the person named in the petition an evaluation committee shall be filed with the petition or filed no later than five (5) days prior to the hearing.

(b) Counsel. The person alleged to be subject to the provisions of this act shall have counsel at all stages of the proceedings provided for herein. This counsel shall be appointed by the district court which shall also conduct an investigation to determine whether or not the person has funds in trust or otherwise to pay reasonable compensation to counsel and if such investigation discloses that such a person is without such funds in trust or otherwise, to order that such counsel be paid reasonable compensation at public expense.

(c) Civil rights. In the conduct of all proceedings under this act, the proceedings, pleadings and notices shall be so conducted as to assure the protection of civil rights of such person alleged to be subject to this act in the same manner as in criminal cases.

(d) Physician investigation. The district court shall appoint two (2) physicians, neither of whom is the physician who proposed to perform the sterilization procedures on the person alleged to be subject to this act, who shall receive reasonable compensation for professional services whatever their findings or conclusions, and who shall make an investigation of the person named in the petition to determine if they find such person to be a person subject to this act and if the condition of such person in their opinion is irreversible and incurable.

(e) Hearing. A hearing shall be held in district court with the right of cross-examination preserved at all stages. The allegations of the petition shall be proved by a preponderance of the evidence, provided that it must be proved beyond a reasonable doubt that the person who may be subject to this act is irreversibly and incurably organically mentally retarded. The two (2) physicians and the members of the ~~diagnostic staff of the Idaho state school and hospital~~ evalua-

tion committee who made the evaluation of the person named in the petition shall testify in person or by deposition and the counsel for such person named in the petition must be present. However such testimony is taken, the counsel for such person may submit separate medical evidence and may procure at public expense not more than two (2) physicians to evaluate the person alleged to be subject to this act and to testify on behalf of such person.

(f) Findings of fact and conclusions of law. The court must enter its findings of fact and conclusions of law as well as its order directing sterilization of such person, or its order dismissing such petition for insufficiency of evidence or any other reason.

Approved March 25, 1994.

CHAPTER 178

(S.B. No. 1343, As Amended in the House)

AN ACT

RELATING TO MAILING WORKER'S COMPENSATION INSURANCE CANCELLATION NOTICES; AMENDING SECTION 72-311, IDAHO CODE, TO PROVIDE FOR DETERMINATION OF DATE ON WHICH NOTICE OF CANCELLATION IS DEEMED TO HAVE BEEN SERVED.

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

SECTION 1. That Section 72-311, Idaho Code, be, and the same is hereby amended to read as follows:

72-311. NOTICE OF SECURITY -- CANCELLATION OF SURETY CONTRACT.

(1) The employer shall forthwith file with the commission in form prescribed by it, a notice of his security.

(2) No policy of insurance or guaranty contract or surety bond issued against liability arising under this act, where the policy, contract, or bond is intended to provide coverage of greater than one hundred and eighty (180) days, shall be cancelled or not renewed until at least sixty (60) days after notice of cancellation has been filed with the industrial commission, and also served on the other contracting party either personally or by certified mail to the last known address of the other contracting party. If cancellation is due to failure to pay premiums, material misrepresentations by the insured, substantial and unforeseen changes in the risk assumed, substantial breaches of contractual duties, conditions of warranties, or the policy is being cancelled or not renewed at the request of the policyholder, then at least ten (10) days' notice of cancellation is required and the notice shall be filed as required in this section. For purposes of this section, service by certified mail is complete either on acknowledgement of receipt or refusal of the notice by the contracting party or the 15th day after the date the postal authority first attempts to deliver the certified mail as evidenced by P.S. form

3849 or other similar document.

(3) A contracting party may, by its own representations or actions, be estopped by the commission from relying on the time limitations set out herein.

Approved March 25, 1994.

CHAPTER 179
(S.B. No. 1350)

AN ACT

RELATING TO TUITION AT COMMUNITY COLLEGES; AMENDING SECTION 33-2110, IDAHO CODE, TO INCREASE THE AMOUNT THAT RESIDENT TUITION MAY BE INCREASED ANNUALLY AND TO INCREASE THE MAXIMUM ANNUAL TUITION THAT MAY BE CHARGED TO SUCH STUDENTS.

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

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

33-2110. TUITION. (1) All students of a community college shall pay tuition that shall be fixed annually by the board of trustees not later than the 1st day of August of each year. The tuition for full-time students taking normal academic courses provided by the college, who are residents of the district, shall be fixed at not less than three hundred fifty dollars (\$350) per annum, and may be increased by ~~annual~~ increments of not more than twenty fifty dollars (\$250.00) per annum to a maximum tuition of ~~four nine~~ hundred fifty dollars (\$4950) per annum. For all other students taking such courses the tuition shall be, as nearly as is practicable, the annual costs of all elements of providing the courses of instruction, including interest on general obligation bonds, teaching, administration, maintenance, operation and depreciation of equipment and buildings, supplies and fuel, and other ordinary and necessary expenses of operation incurred in providing courses by the community college, provided that the tuition of students residing outside the district but within the county or counties wherein the district is located shall be fixed after taking into account moneys received by the community college district from any funds allocated to the community college from the educational funds of the state of Idaho, other than allocations for vocational education; and provided that the tuition of students residing outside the district and the county but within the state of Idaho shall be fixed after taking into account moneys received from educational funds other than vocational moneys, as referred to in this chapter, from the state of Idaho. Receipt of moneys, as hereinbefore provided in this section, shall be based upon the receipts from the sources referred to during the fiscal year preceding the fixing of the tuition. A student in a community college shall not be deemed a resident of the district or of the county or of the state of Idaho, unless that student is deemed a resident as defined by section 33-2110B, Idaho Code, for the

district, county or state prior to the date of his first enrollment in the community college, and no student who was not a resident of the district, county or state shall gain residence while attending and enrolled in the community college. The residence of a minor shall be deemed to be the residence of his parents or parent or guardian. Tuition shall be payable in advance, but the board may, in its discretion, permit tuition to be paid in instalments.

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

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

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

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

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

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

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

CHAPTER 180
(S.B. No. 1387)

AN ACT

RELATING TO THE STATE AUDITOR AND THE OFFICE OF THE STATE AUDITOR TO CHANGE THE NAME TO STATE CONTROLLER AND THE OFFICE OF STATE CONTROLLER; AMENDING SECTION 1-210, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE OBSOLETE PROVISIONS; AMENDING SECTIONS 1-505, 1-2004, 1-2005, 1-2008, 1-2221, 4-105, 11-202, 12-118 AND 18-3601, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 20-102, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 20-235, 22-105 AND 22-107, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 22-1207, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE A REFERENCE TO AN OBSOLETE PROVISION; AMENDING SECTION 22-1209, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 22-2105, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 22-2404, 22-2714 AND 22-2809, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 22-2917, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO STRIKE REFERENCE TO AN OBSOLETE PROVISION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2919, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 22-3005, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE REFERENCE TO OBSOLETE PROVISIONS; AMENDING SECTION 22-3105, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO STRIKE REFERENCE TO OBSOLETE PROVISIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-3309, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE REFERENCE TO OBSOLETE PROVISIONS; AMENDING SECTION 22-3319, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTIONS 22-3510 AND 22-3605, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE REFERENCE TO OBSOLETE PROVISIONS; AMENDING SECTION 22-3607, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 22-3705, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO STRIKE REFERENCE TO AN OBSOLETE PROVISION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-3707, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 22-3805, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-4009, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE REFERENCE TO OBSOLETE PROVISIONS; AMENDING SECTION 22-4010, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 22-4207, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE REFERENCE TO OBSOLETE PROVISIONS; AMENDING SECTION 23-217, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO STRIKE REFERENCE TO OBSOLETE PROVISIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-404, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 25-1129, 25-1174 AND 25-1728, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 25-3111, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, TO STRIKE REFERENCE TO AN OBSOLETE PROVISION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 25-3112 AND 26-1023, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 31-2307, IDAHO CODE, TO PROVIDE PROPER NOMENCLA-

TURE AND TO STRIKE OBSOLETE REQUIREMENTS; AMENDING SECTION 33-905, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTION 33-1707, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 33-2513, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTIONS 33-2909, 33-2911, 33-2913, 33-3301 AND 33-3710, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 33-3719, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTION 34-2502, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 34-2505, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 36-107, 36-110, 36-112, 36-114, 36-115, 36-301, 36-308, 36-309, 38-114, 38-131 AND 38-131A, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 38-408, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO CORRECT A CODE REFERENCE; AMENDING SECTION 38-1209, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 38-1508, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTIONS 38-1517, 39-253 AND 39-414, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTIONS 39-422 AND 39-4417, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTIONS 39-7110 AND 40-615, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 40-701, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTIONS 40-707, 40-708, 40-709, 40-715 AND 41-406, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTIONS 42-202 AND 42-2018, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 42-2024 AND 42-2807, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 46-719, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 46-1005A, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTION 49-450A, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 49-2205, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTIONS 50-1012, 50-1047, 50-1049, 50-2611, 54-217, 54-910, 54-1209, 54-1405, 54-1506, 54-1720, 54-1809 AND 54-2037, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 54-2120, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTION 54-2809, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-3605, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE OBSOLETE REFERENCES; AMENDING SECTIONS 55-1809, 56-233, 56-404 AND 56-406, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 57-302, IDAHO CODE, TO STRIKE AN OBSOLETE REFERENCE, TO ASSIGN DUTIES TO COUNTY OFFICERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 57-304 AND 57-305, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES AND TO ASSIGN DUTIES TO COUNTY OFFICERS; AMENDING SECTIONS 57-726 AND 57-812, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTIONS 57-813 AND 57-818, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTIONS 57-1307, 58-101, 58-116, 58-123, 58-129, 58-304A, 58-308, 58-323, 59-103 AND 59-204, IDAHO CODE, TO PROVIDE

PROPER NOMENCLATURE; AMENDING SECTION 59-307, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 59-501, 59-503 AND 59-506, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 59-513, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 59-804, 59-904, 59-1105, 59-1106A AND 59-1107, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 59-1107A, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE AN OBSOLETE REQUIREMENT; AMENDING SECTION 59-1108, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 59-1110, 59-1325, 59-1333, 59-1334, 59-1404, 59-1603, 59-1604, 59-1605 AND 59-1606, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 61-1007, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 61-1008, 63-513, 63-2301, 63-2302, 63-2303, 63-2306, 63-2520, 63-3067, 63-3202 AND 63-3404, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTIONS 65-102, 65-205 AND 66-118, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 66-503, 66-1101, 66-1107, 66-1108, 67-406b AND 67-429, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 67-435, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 67-451, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE OBSOLETE REFERENCES; AMENDING SECTIONS 67-461, 67-463, 67-801, 67-814, 67-916, 67-1201 AND 67-1206, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 67-1209, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-1212, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 67-1213, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 67-1216, 67-1401, 67-1505, 67-1918, 67-2001, 67-2003, 67-2005 AND 67-2012, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 67-2013, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTIONS 67-2014, 67-2016, 67-2018, 67-2020, 67-2021, 67-2022, 67-2023, 67-2402, 67-2511, 67-2606, 67-2702, 67-2724, 67-2726, 67-2744 AND 67-3508, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 67-3510, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 67-3512A, 67-3516, 67-3517, 67-3518, 67-3520, 67-3524, 67-3603 AND 67-3604, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 67-3608, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-3610, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE OBSOLETE REQUIREMENTS; AMENDING SECTIONS 67-3611 AND 67-3801, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 67-4917C, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 67-5202, 67-5303 AND 67-5314, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 67-5716, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 67-5735, 67-5750, 67-5772, 67-5776, 67-5778, 67-6203 AND 67-6305, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 67-6610, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-7013,

IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO STRIKE AN OBSOLETE REFERENCE; AMENDING SECTIONS 67-7409, 67-7450, 70-208, 72-327 AND 72-328, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 72-910, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 72-912, 72-1346, 73-218 AND 73-219, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AND PROVIDING AN EFFECTIVE DATE.

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

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

1-210. BAILIFF, CRIER AND MESSENGER -- APPOINTMENT AND COMPENSATION. The court shall have power to appoint a bailiff, crier and messenger when such officers are necessary whose duties shall be fixed by the court, and whose compensation for all services rendered to the state of Idaho shall be fixed by the court and certified to the state auditor controller as of the first day of July of each year, and payable in monthly instalments out of the general fund as provided by law.

SECTION 2. That Section 1-505, Idaho Code, be, and the same is hereby amended to read as follows:

1-505. DISTRIBUTION OF REPORTS. The reporter shall have no pecuniary interest in the reports. The decisions of the said Supreme Court shall be prepared for publication, by the reporter, as rapidly as possible, and as soon as a sufficient number of decisions are prepared to fill a volume, such a volume shall be printed, and as many copies thereof as directed by the administrative director of the courts, shall be delivered to the state law librarian, who shall distribute them as follows: To the Librarian of Congress, three (3) copies; to the Idaho State Law Library, five (5) copies; to the University of Idaho, general library, two (2) copies; to the Idaho State University Library, one (1) copy; to Boise State University Library, one (1) copy; to the College of Law of the University of Idaho, twelve (12) copies; to the Lewis-Clark State College, one (1) copy; to the library at the state penitentiary, one (1) copy; to each county prosecuting attorney, one (1) copy; to each magistrate, one (1) copy; to each district judge, one (1) copy; to each justice of the Supreme Court, one (1) copy; to the clerk of the Supreme Court, one (1) copy; to the attorney general five (5) copies; one (1) copy to the Department of Lands of Idaho; one (1) copy to the Public Utilities Commission of Idaho; one (1) copy to the Industrial Commission; one (1) copy to the Division of Public Works; one (1) copy to the Department of Insurance; one (1) copy to the Judiciary Committee of the Senate during sessions of the Legislature; one (1) copy to the Judiciary Committee of the House of Representatives during sessions of the Legislature; to each state and territory in the United States sending to this state copies of its printed court reports, one (1) copy for the use of the state library or law library thereof; to each foreign state or country, sending to this state copies of its printed court reports, one (1)

copy; to the governor, secretary of state, state treasurer, state auditor controller, superintendent of public instruction, each one (1) copy; and to other officers and institutions as directed by the administrative director of the courts; provided, that each public officer receiving a copy of any volume or volumes of said reports under the provisions of this section, shall take good care of the same, and shall upon retiring from office, turn the same over to his successor in office, provided further, that copies of any volume of such reports may be again issued to any of said officers, institutions, states or territories upon good and sufficient proof of loss of the copies sought to be replaced, presented to the administrative director of the courts, who may direct the librarian to furnish another copy of the volume so lost, in place thereof.

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 -- CONTRIBUTIONS TO FUND. The state auditor controller shall deduct from the monthly compensation of each justice and judge now holding office, and from the monthly compensation 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 six per cent (6%) of his monthly compensation, and shall issue to such justice or judge a salary warrant in such reduced amount, and shall pay the withheld sums into the judges' retirement fund; provided, however, that after twenty (20) years of service no deductions shall be taken from a judge's compensation for payment to the judges' retirement fund. Between the first and twentieth day of each month, the Supreme Court shall, from appropriations made for that purpose as part of the employer's contribution, remit to the judges' retirement fund an amount equal to seven per cent (7%) of salaries paid during the previous month to justices and judges who are making contributions to the judges' retirement fund.

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, COURT OF APPEALS JUDGES AND DISTRICT JUDGES. Any retired justice or judge, while he remains capable, upon compliance with title 59, chapter 4, Idaho Code, may sit as a judge of the district court or as a magistrate in any county upon the request and order 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 title 59, chapter 4, Idaho Code, 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.

During the period that any such retired Supreme Court justice, court of appeals judge or district judge is serving and holding court

pursuant to this section, he shall be entitled to receive all of his retirement benefits under the judges' retirement fund together with an additional sum as compensation for his services sufficient to amount to an aggregate sum of retirement benefits and additional compensation so as to be equal to the current salary of the judicial office from which such Supreme Court justice, court of appeals judge or district judge has retired. Such additional compensation, above the retirement benefits accruing to such retired justice or judge, shall be paid from the general fund as provided by the legislature.

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 anyway be computed for additional retirement benefits, and the state auditor controller 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.

Any justice or judge who voluntarily leaves full-time judicial employment prior to eligibility for retirement under section 1-2001, Idaho Code, may, while he remains capable, upon compliance with chapter 4, title 59, Idaho Code, sit with the Supreme Court and exercise the authority of a member thereof in any cause in which he is requested by that court to do so or sit as a judge of the court of appeals, district court or as a magistrate in any county upon the request and order of the chief justice. When so serving, any justice or judge not eligible for retirement under section 1-2001, Idaho Code, shall receive and have paid to him such compensation and expenses as may be authorized by the Supreme Court; provided, however, that such compensation shall not exceed the current salary of the judicial office vacated by such Supreme Court justice, court of appeals judge or district judge. Any period of service so rendered by any justice or judge not eligible for retirement under section 1-2001, Idaho Code, shall not in anyway be computed for additional retirement benefits, and the state auditor controller shall not receive or deduct any sum from the salary of any such justice or judge for such services, for transfer to the judges' retirement fund.

SECTION 5. That Section 1-2008, Idaho Code, be, and the same is hereby amended to read as follows:

1-2008. INVESTMENT OF JUDGES' RETIREMENT FUND. The investment board shall at the direction of the supreme court select and contract with a minimum of one (1) investment manager to manage the investment of the judges' retirement fund. The investment manager(s) shall, subject to the direction of the board, exert control over the funds as though the investment manager(s) were the owner thereof, subject to the limitation hereinafter provided. The investment manager(s) is hereby authorized to invest the judges' retirement fund in the following manner and in the following investments or securities and none others:

(1) Bonds, notes or other obligations of the United States or any agency or instrumentality thereof.

(2) Money market mutual funds.

(3) Bonds, notes, or other obligations of the state of Idaho and its political subdivisions, or bonds, notes, or other obligations of other states and their political subdivisions, provided such bonds, notes, or other obligations or the issuing agency for other than the state of Idaho and its political subdivisions have, at the time of their purchase, an AAA rating by a commonly known rating service.

(4) Bonds, debentures or notes of any corporation organized, controlled, and operating within the United States which have, at the time of their purchase, an A rating or higher by a commonly known rating service.

(5) Corporate obligations designated as corporate convertible debt securities.

(6) Obligations secured by mortgages constituting a first lien upon real property of the state of Idaho which are fully insured or guaranteed as to the payment of the principal by the government of the United States or any agency thereof.

(7) Time certificates of deposit and savings accounts.

(8) Common or preferred stocks of corporations.

(9) Commercial paper, which at the time of purchase, is rated prime 1 by moody's investors service incorporated or is rated A-1 or higher by standard and poor's corporation.

In acquiring, investing, reinvesting, exchanging, retaining, selling and managing the moneys and securities of the fund, the investment manager(s) shall be governed by the prudent man investment act, sections 68-501 through 68-506, Idaho Code; provided, however, that the supreme court may in its sole discretion, limit the types, kinds and amounts of such investments. The investment board shall be responsible for assuring that the investment manager(s) complies with this act. The investment board, subject to the approval of the supreme court, is hereby authorized to select and contract with a bank or trust company located in the state of Idaho, to act as custodian of the judges' retirement fund, who shall hold all securities and moneys of the judges' retirement fund and shall collect the principal, dividends and interest thereof when due and pay the same into the judges' retirement fund. The state treasurer shall pay all warrants drawn on the judges' retirement fund for making such investments when issued pursuant to vouchers signed by the chief justice of the supreme court and by the state ~~auditor~~ controller.

SECTION 6. That Section 1-2221, Idaho Code, be, and the same is hereby amended to read as follows:

1-2221. SERVICES OF RETIRED MAGISTRATES. Any retired magistrate, while he remains capable, upon compliance with chapter 4, title 59, Idaho Code, may hold court in the magistrates division of any district court of any county at the request of the administrative judge of the judicial district in which such court is located and upon the approval by the chief justice of the Supreme Court, and upon such request and approval, such retired magistrate may serve and hold court as requested.

During the period that any such retired magistrate is serving and holding court pursuant to this section, he shall be entitled to receive all of his regular retirement benefits under the public

employee retirement system of Idaho together with an additional sum as compensation for his services sufficient to amount to an aggregate sum of retirement benefits and additional compensation so as to be equal to the current salary of the judicial office from which such magistrate has retired. Such additional compensation, above the retirement benefits accruing to such retired magistrate, shall be paid out of and from the appropriation for the magistrates division.

Any magistrate who voluntarily leaves full-time judicial employment prior to eligibility for retirement under the provisions of chapter 13, title 59, Idaho Code, may, while he remains capable, upon compliance with the provisions of chapter 4, title 59, Idaho Code, sit as a judge of the magistrates division of the district court in any county upon the request and order of the chief justice. When so serving, any magistrate judge not eligible for retirement under the public employee retirement system of the state of Idaho shall receive such compensation and expenses as may be authorized by the Supreme Court; provided, however, that such compensation shall not exceed the current salary of the judicial office vacated by such magistrate judge. Any period of service so rendered by a magistrate judge not eligible for retirement under the public employee retirement system of the state of Idaho shall not in any way be computed for additional retirement benefits, and the state ~~auditor~~ controller shall not receive or deduct any sum from the salary of any such magistrate judge for such services, for transfer to the public employee retirement fund.

SECTION 7. That Section 4-105, Idaho Code, be, and the same is hereby amended to read as follows:

4-105. DISBURSEMENT OF FUNDS. The justices of the Supreme Court shall have the management of all funds belonging to or appropriated for the use of the state law library, and expend and disburse the same for the benefit thereof, as, in their judgment may be best; and upon demand of said justices or any three (3) of them, the state ~~auditor~~ controller shall draw his warrants upon the state treasurer to the extent of such sums as there may be in the treasurer's hands belonging to or appropriated for the use of said state law library.

SECTION 8. That Section 11-202, Idaho Code, be, and the same is hereby amended to read as follows:

11-202. DEBTS OWING BY STATE OF IDAHO SUBJECT TO EXECUTION OR GARNISHMENT AFTER JUDGMENT. Debts, moneys and credits due or owing by the state of Idaho to any person whomsoever, except an elective official of the state of Idaho, shall be subject to execution and garnishment after final judgment against such person for the satisfaction of such judgment by service by the sheriff of Ada County, Idaho, upon the state ~~auditor-of-the-state-of-idaho~~ controller of a copy of the writ of execution and a notice of garnishment signed by such officer in duplicate, and the state ~~auditor-of--the--state--of--idaho~~ controller shall at the time of the service of such writ and notice collect a fee of ten dollars (\$10.00) therefor from said officer and the state ~~auditor-of-the-state-of-idaho~~ controller shall thereafter have a period of thirty (30) days in which to answer said notice of garnishment and he

shall immediately after such service notify the board of examiners of the state of Idaho thereof, and upon the claim of such person being allowed by the state board of examiners, the amount thereof so levied upon or garnisheed, or so much thereof as is necessary for the satisfaction of the writ of execution and judgment upon which the same was issued, and not subject to exemption as provided for by law and claimed by said person, shall be paid by the state ~~auditor~~ controller in the usual manner provided by law to the officer serving said writ and notice, and said officer's receipt therefor shall be a sufficient release of the state of Idaho and the state ~~auditor-of-the-state-of Idaho~~ controller, of said claim of such person.

SECTION 9. That Section 12-118, Idaho Code, be, and the same is hereby amended to read as follows:

12-118. COSTS AGAINST THE STATE -- HOW PAID. When the state is a party and costs are awarded against it, they must be paid out of the state treasury, and the state ~~auditor~~ controller shall draw his warrant therefor on the general fund.

SECTION 10. That Section 18-3601, Idaho Code, be, and the same is hereby amended to read as follows:

18-3601. FORGERY DEFINED. Every person who, with intent to defraud another, falsely makes, alters, forges or counterfeits, any charter, letters, patent, deed lease, indenture, writing obligatory, will, testament, codicil, annuity, bond, covenant, bank bill or note, post note, check, draft, bill of exchange, contract, promissory note, due bill for the payment of money or property, receipt for money or property, passage ticket, power of attorney, or any certificate of any share, right, or interest in the stock of any corporation or association, or any state ~~auditor's~~ controller's warrant for the payment of money at the treasury, county order or warrant, or request for the payment of money, or the delivery of goods or chattels of any kind, or for the delivery of any instrument of writing or acquittance, release, or receipt for money or goods, or any acquittance, release, or discharge for any debt, account, suit action demand, or other thing, real or personal, or any transfer or assurance of money, certificates of shares of stock, goods, chattels, or other property whatever, or any letter of attorney, or other power to receive money, or to receive or transfer certificates of shares of stock or annuities, or to let, lease, dispose of, alien, or convey any goods, chattels, lands or tenements, or other estate, real or personal, or any acceptance or endorsement of any bill of exchange, promissory note, draft, order, or assignment of any bond, writing obligatory, or promissory note for money or other property, or counterfeits or forges the seal or handwriting of another; or utters, publishes, passes, or attempts to pass, as true and genuine any of the above named false, altered, forged or counterfeited matters, as above specified and described, knowing the same to be false, altered, forged, or counterfeited, with intent to prejudice, damage, or defraud any person; or who, with intent to defraud, alters, corrupts or falsifies any record of any will, codicil, conveyance, or other instrument, the record of which is bylaw

evidence, or any record of any judgment of a court, or the return of any officer to any process of any court, is guilty of forgery.

SECTION 11. That Section 20-102, Idaho Code, be, and the same is hereby amended to read as follows:

20-102. PENITENTIARY FUND -- SOURCES -- APPROPRIATIONS. A fund which shall be known as the penitentiary fund is hereby created and established. All moneys now in, or credited to, that certain fund designated on the books in the offices of the state auditor controller and the state treasurer as the penitentiary fund and all moneys which may accrue from the investment of the proceeds of the sale of any of the fifty thousand (50,000) acres of land granted to the state of Idaho under the provisions of the act of congress of July 3, 1890, entitled "An act to provide for the admission of the state of Idaho into the Union" for the support and maintenance of the penitentiary located at Boise City or from the investment of the proceeds of the sale of timber growing upon any of the lands, and also any and all moneys which may be received on account of rentals charged for the use of any such lands and all moneys which may be received by the state treasurer on account of interest charged upon deferred payments on such of the said lands as may have been sold by the state shall be credited to, placed in, and constitute the penitentiary fund.

No moneys shall ever be appropriated out of the said penitentiary fund for any purpose other than the support and maintenance of the penitentiary located at Boise City, nor shall any moneys properly belonging to the said fund ever be diverted therefrom or used for any other purpose whatsoever.

SECTION 12. That Section 20-235, Idaho Code, be, and the same is hereby amended to read as follows:

20-235. CERTIFICATION AND WARRANTS FOR EXPENSES. The chairman of the state board of correction, or his designee, is hereby authorized to certify all sums to be expended by said board in carrying out the purpose of this act to the state board of examiners, and the state board of examiners, upon the approval of said sums, shall cause the state auditor controller to draw warrants for the amount of the same.

SECTION 13. That Section 22-105, Idaho Code, be, and the same is hereby amended to read as follows:

22-105. AGRICULTURAL DEPARTMENT INSPECTION FUND -- CONTINUING APPROPRIATION. All moneys coming into the said agricultural department inspection fund from whatever source are hereby appropriated and set aside for the uses and purposes of the department of agriculture, including administrative expenses of the department, salaries and/or wages of the director and of subordinates and employees, expenses of travel, communication, supplies, equipment, fixed charges, inspection, and all other necessary expenses of the department of agriculture in carrying out its functions and the duties enjoined on it by law, not otherwise provided for, and this appropriation is intended as a continuing appropriation of said fund for the uses and purposes herein

mentioned; and all claims against the said agricultural department inspection fund shall be examined by said department of agriculture and certified to the state ~~auditor~~ controller, who shall, upon the approval of the board of examiners, draw his warrant against said agricultural department inspection fund for all bills and claims so allowed by said department of agriculture.

SECTION 14. That Section 22-107, Idaho Code, be, and the same is hereby amended to read as follows:

22-107. VOLUNTARY SERVICES FOR PUBLIC -- FEES -- APPROPRIATION OF MONEYS. The department of agriculture may after notice and hearing provide by regulation for voluntary services to be performed by it at the request of the public, such as laboratory analyses and testing, inspecting, grading, sampling and all similar things. It may also provide for reasonable fees for performing such voluntary services; the moneys derived from this activity shall be received and handled as provided for by sections 67-3609 and 67-3611, Idaho Code. The department of agriculture may also receive and use as directed any donations, grants or federal funds available for such purposes to be accounted for as prescribed by the state ~~auditor~~ controller and any such moneys the department receives are hereby appropriated for the purpose for which they are received only, and may be spent for such purposes by the department of agriculture.

SECTION 15. 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~~ controller 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 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 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 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 for Idaho potatoes and to prevent the misrepresentation or the misbranding of Idaho potatoes 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, including study and research dealing with the industrial and other uses of potatoes 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.

12. To require all persons with their principal place of business located in the state of Idaho to pay a one hundred dollar (\$100) annual license fee for use of any Idaho potato trade or certification mark and to require all persons with their principal place of business located outside of the state of Idaho to pay a three hundred dollar (\$300) annual license fee for use of any Idaho potato trade or certification mark.

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 an amount equal to twelve and one-half per cent (12 1/2%) of the tax collected on potatoes levied and imposed pursuant to section 22-1211, Idaho Code.

Provided, further, that none of the powers specified in subsection 11 of this section shall be exercised, and no expenditure of revenue as provided in subsection 11 of this section shall be authorized except upon the affirmative vote of six (6) or more of the members of the commission.

13. The commission, in furtherance of its duties under this act and under its rules, shall have the power to administer oaths, certify to official acts and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony. The commission may, if a witness refuses to attend or testify, or to produce any papers required by such subpoenas, report to the district court in and for the county in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witnesses, or the production

of said papers, that the witness has been properly summoned, and that the witness has failed and refused to attend or produce the papers required by this subpoena before the commission, or has refused to answer questions propounded to him in the course of said proceedings, and ask an order of said court compelling the witness to attend and testify and produce said papers before the commission. The court, upon the petition of the commission, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten (10) days from the date of the order, and then and there shall show cause why he had not attended and testified or produced said papers before the commission. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission and regularly served, the court shall thereupon order that said witness appear before the commission at the time and place fixed in said order, and testify or produce the required papers. Upon failure to obey said order, said witness shall be dealt with for contempt of court.

SECTION 16. That Section 22-1209, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

SECTION 17. That Section 22-2105, Idaho Code, be, and the same is hereby amended to read as follows:

22-2105. OFFICE AND MEETINGS -- EXPENDITURE OF FUNDS. The commission shall have its office in the office of the governor, but may meet at any time or place. The commission may act by a majority thereof; and upon its filing of a certified copy of its declaration of an emergency requiring immediate expenditure of funds appropriated to it, in the office of the state auditor controller, such appropriation shall, to the extent only of the amount declared immediately necessary in the declaration of emergency, be deemed exempted and excepted from the operation of sections 67-3516--67-3523, Idaho Code, and available for disbursement.

SECTION 18. That Section 22-2404, Idaho Code, be, and the same is hereby amended to read as follows:

22-2404. STATE POWERS. (1) The director is authorized to:

- (a) Investigate the subject of noxious weeds; and
- (b) Require information, annual work plans and reports from each county and from each state agency as to the presence of noxious weeds and other information relative to noxious weeds and the control thereof; and
- (c) To cooperate with agencies and persons in carrying out the director's duties under this chapter, and to conduct matters outside this state in the interest of state noxious weed control; and
- (d) Advise and confer as to the extent of noxious weed infestations and the methods of control; and
- (e) Establish minimum requirements and proficiency training of county weed superintendents; and
- (f) Call and attend meetings and conferences dealing with the subject of noxious weeds; and
- (g) Disseminate information and conduct educational campaigns independently or in cooperation with others; and
- (h) Procure materials and equipment; and
- (i) Inspect and certify Idaho crops and imports and exports to verify freedom from noxious weeds, and authorize others to conduct such inspections and certification; and
- (j) Enter on any public or private land at reasonable times for the purpose of carrying out the provisions of this chapter; and
- (k) Apply to any court of competent jurisdiction for a search warrant authorizing access to any land where access was denied and sought for the purposes set forth in this chapter. The court may, upon such application, issue the search warrant for the purposes requested; and
- (l) Perform such other acts as may be necessary or appropriate to the administration of the provisions of this chapter; and
- (m) Cooperate with the federal government or any established agency thereof in any program of noxious weed control which shall be deemed advisable for the welfare of the people of the state of

Idaho, accept any advisable program and make any necessary regulations which are not in contradiction to the purposes of this chapter; and

(n) Accept any funds or grants in aid from the federal government for noxious weed control purposes and account for such moneys as prescribed by the state ~~auditor~~ controller, and all such federal funds are hereby appropriated to the purpose for which they are received; and

(o) Initiate agreements with federal agencies in accordance with applicable federal laws; and

(p) Control noxious weeds on federal land within the state, with or without reimbursement, and with the consent of the federal agency involved; and

(q) Take any appropriate action necessary to control or quarantine noxious weed infestations whenever an actual or potential emergency situation exists concerning noxious weed infestations anywhere in the state; and

(r) Permit modification of specific noxious weed control requirements in certain areas, after consulting with the county control authority and designating the area as a special management zone; and

(s) Temporarily designate a weed as noxious for up to fifteen (15) months, after publication in a newspaper of general circulation serving the area of infestation; and

(t) Authorize the issuance of deficiency warrants for the purposes of defraying excess costs for the control of noxious weeds for emergency situations, in the event the actual cost for the control of noxious weeds in any one (1) year exceeds the appropriations made for that purpose. When so authorized the state ~~auditor~~ controller shall draw deficiency warrants against the general account.

(2) If at any time the director determines that the county commissioners have failed to cooperate or carry out their duties and responsibilities as a control authority, the director shall notify them of the deficiency, and suggest corrective action. If the situation is not satisfactorily corrected within seven (7) days after the time outlined in the director's corrective action plan, the director shall initiate appropriate action and charge to the county all expenses including the hiring of necessary labor and equipment. Quarantine of specific crops or potential noxious weed propagating activities may be a part of the control program.

SECTION 19. That Section 22-2714, Idaho Code, be, and the same is hereby amended to read as follows:

22-2714. PAYMENTS OF FEDERAL AID TO VARIOUS COUNTIES BY STATE ~~AUDITOR~~ CONTROLLER. The state ~~auditor~~ controller is hereby authorized and directed to draw his warrant in favor of the counties to whom payment should be made pursuant to the Act of Congress of July 24, 1946 (60 Stat. 642, 33 U.S.C.A. 701-C-3) and forward the same to the treasurer of the county to which such funds are allocated under the terms of the aforementioned federal statute, to be by the treasurer of said county deposited in the public school fund of said county.

SECTION 20. That Section 22-2809, Idaho Code, be, and the same is hereby amended to read as follows:

22-2809. PAYMENT OF EXPENSES AND COSTS. All expenses and costs incurred in the administration of this act shall be paid out of the Idaho Honey Advertising Fund. The commission shall keep an accurate record of all costs and expenditures and will report the same by publication on October 1st of each year. All expenses and costs incurred and contracted for by the commission in performing its duties under this act shall be paid out of such Idaho Honey Advertising Fund in the following manner: Vouchers shall be submitted by the commission chairman, to the state auditor controller, who shall, upon approval by the state board of examiners, forthwith submit such vouchers to the state treasurer for issue of warrants therefor.

SECTION 21. That Section 22-2917, Idaho Code, be, and the same is hereby amended to read as follows:

22-2917. 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 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.
3. To make in the name of the commission such advertising contracts and other agreements as may be necessary.
4. 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 controller at all times.
5. 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 properly carrying out the provisions of this act.
6. To define and describe such grade or grades of beans as may be advertised in accordance with the provisions of this act.
7. Whenever and wherever it deems it necessary the commission shall use its offices to prevent any substitution of other beans for Idaho beans and to prevent the misrepresentation or misbranding of Idaho beans at any and all times at any and all points where it discovers the same is being done.
8. To cooperate with the United States department of agriculture and other growers or shippers organizations on a national basis to improve the total consumption of dry beans.
9. To make, conduct or carry on studies and research in connection with the raising and production of "dry edible beans for human consumption" and of "snap bean seed" and for conducting necessary measures for the control of insects known to be detrimental to the production of such beans, bean seed, and their by-products; to disseminate information with respect to such study and research as a part of

the commission's publicity and sales promotion activities authorized by this act and to assist, aid and educate growers, dealers and handlers in the raising, production, marketing, and processing of beans and bean seed.

For the accomplishment of such ends with reference to snap bean seed a minimum of twenty percent (20%) of the tax collected shall be placed in a reserve fund to be used for these purposes as required.

The above twenty percent (20%) figure is the amount of tax which is the average accrued from snap bean seed production.

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 voluntarily, 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.

SECTION 22. That Section 22-2919, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

SECTION 23. That Section 22-3005, Idaho Code, be, and the same is hereby amended to read as follows:

22-3005. POWERS AND DUTIES OF COMMISSION. 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 widespread 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~~ controller.

(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 24. 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~~ controller 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 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 director of the department of agriculture in and to pay all or any portion of the costs incurred in the creation, administration and enforcement of any quarantine 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 trademarks 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 trademarks 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 trademarks 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 25. That Section 22-3309, Idaho Code, be, and the same is hereby amended to read as follows:

22-3309. DUTIES AND POWERS OF COMMISSION. (1) Consistent with the general purposes of this chapter, the commission shall establish the policies to be followed in the accomplishments of such purposes.

(2) In the administration of this act, the commission shall, in conjunction with the Idaho State Wheat Growers' Association, have the following duties, authorities and powers:

(a) To conduct a campaign of research, education and publicity.

(b) To find new markets for wheat and wheat products.

(c) To give, publicize and promulgate reliable information showing the value of wheat and wheat products for any purpose for which it is found useful and profitable.

(d) To make public and encourage the widespread national and international use of the special kinds of wheat and wheat products produced from all varieties of wheat grown in Idaho.

(e) To investigate and participate in studies of the problems

peculiar to the producers of wheat in Idaho.

(3) The commission shall have the duty, power and authority:

(a) To take such action as the commission deems necessary or advisable in order to stabilize and protect the wheat industry of the state and the health and welfare of the public.

(b) To sue and be sued.

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

(d) To appoint and employ officers, agents and other personnel, including experts in agriculture and the publicizing of the products thereof, and to prescribe their duties and fix their compensation.

(e) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state.

(f) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and publicity and reciprocal enforcement.

(g) To lease, purchase or own the real or personal property deemed necessary in the administration of this act.

(h) To prosecute in the name of the state of Idaho any suit or action for collection of the tax or assessment provided for in this act.

(i) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of its duties.

(j) To incur indebtedness and carry on all business activities.

(k) To keep books and records and accounts of all its doings, which books, records and accounts shall be open to the inspection and audit by the state auditor controller and public at all times.

SECTION 26. That Section 22-3319, Idaho Code, be, and the same is hereby amended to read as follows:

22-3319. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all moneys received by the commission shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

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

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

(4) On or before January 15 of each year, the commission shall file with the senate agricultural affairs committee, the house agri-

cultural affairs committee, the legislative council, the state auditor controller, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current and next fiscal year and a projection of anticipated expenses by category for the current and next fiscal year. From and after January 15, 1989, the report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.

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

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

SECTION 27. That Section 22-3510, Idaho Code, be, and the same is hereby amended to read as follows:

22-3510. DUTIES AND POWERS OF COMMISSION. (1) Consistent with the general purposes of this chapter, the commission shall establish the policies to be followed in the accomplishments of such purposes.

(2) In the administration of the act, the commission shall have the following duties, authorities and powers:

(a) To conduct a campaign of research, education and publicity.

(b) To find new markets for pea and lentil products.

(c) To give, publicize and promulgate reliable information showing the value of peas and lentils for any purpose for which they are found useful and profitable.

(d) To make public and encourage the widespread national and international use of the special kinds of pea and lentil products produced from all varieties of peas and lentils grown in Idaho.

(e) To investigate and participate in studies of the problems peculiar to the producers of peas and lentils in Idaho.

(f) To take such action as the commission deems necessary or advisable in order to stabilize and protect the pea and lentil industry of the state.

(g) To sue and be sued.

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

(i) To appoint and employ all necessary officers, agents and other personnel, including experts in agriculture and the publicizing of the products thereof, and to prescribe their duties and fix their compensation.

(j) 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.

(k) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work

and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and publicity and reciprocal enforcement.

(l) To lease, purchase or own the real or personal property deemed necessary in the administration of this act.

(m) To prosecute in the name of the state of Idaho any suit or action for collection of the assessment provided for in this act.

(n) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of its duties.

(o) To incur indebtedness and repay the same, and carry on all business activities.

(p) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited subject to lawful, sound procedures and methods of accounting at least annually and a copy of such audit shall be delivered within thirty (30) days after completion thereof to the governor, commissioner of agriculture, state ~~auditor~~ controller and the commission. The books, records and accounts shall be open to inspection ~~and audit~~ by the state ~~auditor~~ controller and public at all times. Make a full and complete report available to all Idaho pea and lentil producers annually, and once every five (5) years, commencing May 1, 1970, poll each grower as to the advisability of continuing the commission. If a majority of the growers representative of a majority of the pounds produced request a repeal of this act, the commission shall at the next session of the legislature request a repeal.

SECTION 28. That Section 22-3605, Idaho Code, be, and the same is hereby amended to read as follows:

22-3605. 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 widespread 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~~ controller.

(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 29. That Section 22-3607, Idaho Code, be, and the same is hereby amended to read as follows:

22-3607. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all moneys received by the commission shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

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

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

(4) On or before January 15 of each year, the commission shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative council, the state ~~auditor~~ controller, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission during the preceding fiscal year. The report shall also

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

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

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

SECTION 30. That Section 22-3705, Idaho Code, be, and the same is hereby amended to read as follows:

22-3705. POWERS AND DUTIES. 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 expenses 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 widespread 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 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~~ controller.

(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 31. That Section 22-3707, Idaho Code, be, and the same is hereby amended to read as follows:

22-3707. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all moneys received by the commission shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

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

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

(4) On or before January 15 of each year, the commission shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative council, the state ~~auditor~~ controller, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current and next fiscal year and a projection of anticipated expenses by category for the current and next fiscal year. From and after January 15, 1990, the report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.

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

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

SECTION 32. That Section 22-3805, Idaho Code, be, and the same is hereby amended to read as follows:

22-3805. POWERS AND DUTIES -- ADMINISTRATION AND ENFORCEMENT. 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 research director, research staff, a secretary, advertising manager, advertising agents, agents, 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~~ controller at all times.
- (5) To purchase or authorize the purchase of all office equipment or 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 a research program to improve the quality of mint, to develop and improve control measures for disease and pests which attack mint and to improve mint growing culture and to disseminate such information among the growers and to make such research contracts and other agreements as may be necessary.
- (8) To plan and conduct an advertising, publicity and sales promotion campaign to increase the sale and use of mint and to make such advertising, publicity and sales promotion contracts and other agreements as may be necessary.
- (9) To prohibit the distillation of any mint not actually grown in the state of Idaho.
- (10) To establish and maintain the executive offices of the commission at any place within the state of Idaho which designated place may be changed at the discretion of the commission.
- (11) 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 power and the performance of its duties under this act.
- (12) To cooperate with the director of the department of agriculture in and to pay all or any portion of the costs incurred in the creation, administration and enforcement of any quarantine and inspection affecting mint and mint rootstock established pursuant to the laws of the state of Idaho.
- (13) To plan and conduct a research program for improving old varieties and developing new varieties of mint; to propagate any such improved old varieties or such new varieties of mint; to patent any such improved old varieties or such new varieties ~~or of~~ of mint and to license the propagation, growing and sale thereof; to adopt such trade names or trademarks in relation to any such improved old varieties or such new varieties of mint and to patent, copyright, or otherwise protect such names; 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 mint including the rootstock thereof and the

mint 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 mint, including the rootstock thereof and the mint produced therefrom; to advertise and promote the commercial use of such improved old varieties and new varieties of mint; 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 mint including the rootstock thereof, including but not limited to conditions and restrictions limiting, restricting, prohibiting or affecting the use, distribution, acreage, production, geographical areas of planting, ~~cultural~~ cultural practices used in propagation, leasing, assigning, selling, sale price, and the use of trade names and trademarks relating to such improved old varieties or such new varieties of mint including the rootstock thereof and the increase thereof and the use of trade names and trademarks to designate mint produced from any such improved old varieties or such new varieties of mint including the rootstock thereof and the mint 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 mint, including the rootstock thereof and the mint produced therefrom; to advertise and promote the commercial use of such improved old varieties and new varieties of mint; 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 mint including the rootstock 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 trademarks relating to such improved old varieties or such new varieties of mint including the rootstock thereof and the increase thereof and the use of trade names and trademarks to designate mint produced from any such improved old varieties or such new varieties of mint. Nothing in this section is intended to interfere with, restrict or in any way discourage the development of improved old varieties or new varieties by dealers, growers or other private parties and such powers and duties as are conferred upon the commission hereby are restricted to such improvement of old varieties or development of new varieties which are improved or developed by the commission and such improved old varieties as are developed by dealers, growers or other private parties are not subject to the provision provisions of this section.

(14) 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 33. That Section 22-4009, Idaho Code, be, and the same is hereby amended to read as follows:

22-4009. DUTIES AND POWERS OF COMMISSION. (1) Consistent with the general purposes of this chapter, the commission shall establish the policies to be followed in the accomplishments of such purposes.

(2) In the administration of the provisions of this chapter, the

commission shall, in conjunction with the Idaho grain producers association, inc., have the following duties, authorities and powers:

- (a) To conduct a campaign of research, education and publicity.
- (b) To find new markets for barley and barley products.
- (c) To give, publicize and promulgate reliable information showing the value of barley and barley products for any purpose for which it is found useful and profitable.
- (d) To make public and encourage the widespread national and international use of the special kinds of barley and barley products produced from all varieties of barley grown in Idaho.
- (e) To investigate and participate in studies of the problems peculiar to the producers of barley in Idaho.
- (3) The commission shall have the duty, power and authority:
 - (a) To take such action as the commission deems necessary or advisable in order to stabilize and protect the barley industry of the state and the health and welfare of the public.
 - (b) To sue and be sued.
 - (c) To enter into such contracts as may be necessary or advisable.
 - (d) To appoint and employ officers, agents and other personnel, including experts in agriculture and the publicizing of the products thereof, and to prescribe their duties and fix their compensation.
 - (e) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state.
 - (f) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and publicity and reciprocal enforcement.
 - (g) To lease, purchase or own the real or personal property deemed necessary in the administration of the provisions of this chapter.
 - (h) To prosecute in the name of the state of Idaho any suit or action for collection of the tax or assessment provided for in the provisions of this chapter.
 - (i) To adopt, rescind, modify and amend all necessary and proper orders, and resolutions, ~~and--regulations~~ for the procedure and exercise of its powers and the performance of its duties.
 - (j) To incur indebtedness and carry on all business activities.
 - (k) To keep books and records and accounts of all its doings, which books, records and accounts shall be open to the inspection ~~and--audit~~ by the state ~~auditor~~ controller and public at all times.
 - (l) To audit records of "first purchasers" of Idaho barley and otherwise to determine the time of proper collection amount or payment of the barley tax or any penalties thereto.

SECTION 34. That Section 22-4010, Idaho Code, be, and the same is hereby amended to read as follows:

22-4010. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this chapter which may be specified as a condition of any grant, donation or gift, and all of the revenues received under the provisions of section 22-4017, Idaho Code, shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

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

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

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

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

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

SECTION 35. That Section 22-4207, Idaho Code, be, and the same is hereby amended to read as follows:

22-4207. 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 research director, research staff, a secretary, advertising manager, advertising agents, agents, 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 controller at all times.

(5) To purchase or authorize the purchase of all office equipment

and/or 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 a research program to improve the quality of alfalfa seed, to develop and improve control measures for disease and pests which attack alfalfa and alfalfa seed pollinators and to improve alfalfa growing culture and to disseminate such information among the growers and dealers of the state and to make such research contracts and other agreements as may be necessary.

(8) To plan and conduct a publicity and sales promotion campaign to increase the sale and use of Idaho alfalfa seed and to make such publicity and sales promotion contracts and other agreements as may be necessary.

(9) To establish and maintain the executive offices of the commission at any place within the state of Idaho, which designated place may be changed at the discretion of the commission.

(10) 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 power and the performance of its duties under this act.

(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 activities similar to the work and activities of the commission, and to enter into contracts or 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 promote the sale and use of Idaho alfalfa seed.

(14) To provide for and conduct a comprehensive and extensive research, promotion and educational campaign as continuous as the crop, sales and market conditions reasonably require.

SECTION 36. That Section 23-217, Idaho Code, be, and the same is hereby amended to read as follows:

23-217. SURCHARGE ADDED TO PRICE OF GOODS SOLD — COLLECTION AND REMISSION BY SUPERINTENDENT. (a) The superintendent of the state liquor dispensary is hereby authorized and directed to include in the price of goods hereafter sold in the dispensary, and its branches, a surcharge equal to fifteen per cent (15%) of the current price per unit computed to the nearest multiple of five cents (5¢). Provided, however, that after the price of the surcharge has been included the superintendent of the state liquor dispensary is hereby authorized and directed to allow a discount of five per cent (5%) from the price of each order of goods sold to any licensee, as defined in section 23-902

de., Idaho Code.

(b) The surcharge imposed pursuant to this section shall be collected ~~and remitted to the state auditor monthly;~~ and ~~shall by the state auditor be~~ credited to the liquor account ~~in the agency asset fund of the state.~~

SECTION 37. That Section 23-404, Idaho Code, be, and the same is hereby amended to read as follows:

23-404. DISTRIBUTION OF MONEYS IN LIQUOR ACCOUNT. (1) The moneys received into the liquor account shall be transferred or appropriated as follows†:

(a) An amount of money equal to the actual cost of purchase of alcoholic liquor and payment of expenses of administration and operation of the dispensary, as determined by the superintendent and certified quarterly to the state ~~auditor~~ controller, shall be transferred back to the dispensary; provided, that the amount so transferred back for administration and operation of the dispensary shall not exceed the amount authorized to be expended by regular appropriation authorization.

(b) From the balance remaining after transferring the amounts authorized by subsection (a) above†:

(i) One million two hundred thousand dollars (\$1,200,000) shall be transferred annually to the alcoholism treatment account, which is hereby created in the trust and agency fund†;

(ii) Three hundred thousand dollars (\$300,000) shall be transferred annually to the ~~junior~~ community college account, created by section 33-2139, Idaho Code;

(iii) One million two hundred thousand dollars (\$1,200,000) shall be transferred annually to the public school income fund, as defined in section 33-903, Idaho Code;

(iv) Four million nine hundred forty-five thousand dollars (\$4,945,000) shall be transferred annually to the general account in the state operating fund; and

(v) Six hundred fifty thousand dollars (\$650,000) shall be transferred annually to the cooperative welfare account in the dedicated fund.

(c) Forty percent (40%) of the balance remaining after the transfers authorized by paragraphs (a) and (b) above have been made is hereby appropriated to and shall be paid to the several counties. Each county shall be entitled to an amount in the proportion that liquor sales through the dispensary in that county during the state's previous fiscal year bear to total liquor sales through the dispensary in the state during the state's previous fiscal year, except that no county shall be entitled to an amount less than that county received in distributions from the liquor account during the state's fiscal year 1981.

(d) Sixty percent (60%) of the balance remaining after the transfers authorized by paragraphs (a) and (b) above have been made is hereby appropriated to and shall be paid to the several cities as follows†:

(i) Ninety percent (90%) of the amount appropriated to the

cities shall be distributed to those cities which have a liquor store or distribution station located within the corporate limits of the city. Each such city shall be entitled to an amount in the proportion that liquor sales through the dispensary in that city during the state's previous fiscal year bear to total liquor sales through the dispensary in the state during the state's previous fiscal year, except that no city shall be entitled to an amount less than that city received in distributions from the liquor account during the state's fiscal year 1981-;

(ii) Ten percent (10%) of the amount appropriated to the cities shall be distributed to those cities which do not have a liquor store or distribution station located within the corporate limits of the city. Each such city shall be entitled to an amount in the proportion that that city's population bears to the population of all cities in the state which do not have a liquor store or distribution station located within the corporate limits of the city, except that no city shall be entitled to an amount less than that city received in distributions from the liquor account during the state's fiscal year 1981.

(2) All transfers and distributions shall be made periodically, but not less frequently than quarterly but, the apportionments made to any county or city, which may during the succeeding three (3) year period be found to have been in error either of computation or transmittal, shall be corrected during the fiscal year of discovery by a reduction of apportionments in the case of over-apportionment or by an increase of apportionments in the case of under-apportionment. The decision of the superintendent on entitlements of counties and cities shall be final, and shall not be subject to judicial review.

SECTION 38. That Section 25-1149, Idaho Code, be, and the same is hereby amended to read as follows:

25-1149. DISPOSITION OF RECORDING FEES. All fees received for the recording and renewal of brands under the provisions of chapter 11, title 25, Idaho Code, shall be credited to the brand recording account, which the state auditor controller is authorized and directed to establish in the agency asset fund in the state treasury. All interest earned from investment of moneys in the brand recording account shall accrue to the account.

SECTION 39. That Section 25-1174, Idaho Code, be, and the same is hereby amended to read as follows:

25-1174. HEARING FOR CLAIMS TO LIVESTOCK PROCEEDS ACCOUNT. Any person claiming to be the owner of any livestock sold under the provisions of section 25-1172, Idaho Code, may claim the sale proceeds placed in the unclaimed livestock proceeds account, and the state brand inspector must inquire into such claim, and may hold a hearing for such purpose giving notice thereof to every claimant thereof at least thirty (30) days before the date set for such hearing and after such hearing if satisfied of any claimant's right thereto, must issue

an order granting a certificate to that effect and upon the presentation of the certificate the auditor state controller must draw his warrant on the treasurer for the amount without interest. If no such certificate is presented to the auditor state controller within eighteen (18) months after the date, such money is paid into the treasury of the state of Idaho and such money shall escheat to the state and be apportioned to the public school fund.

SECTION 40. That Section 25-1728, Idaho Code, be, and the same is hereby amended to read as follows:

25-1728. MARKET CHARTER FEE -- PUBLIC LIVESTOCK MARKET FUND -- APPROPRIATION -- PAYMENT OF CLAIMS. (1) Every livestock market operator shall pay annually, on or before May 1, a market charter fee established by rules of the director but not in excess of two hundred dollars (\$200) to the director for each public livestock market operated by him, which payment shall constitute a renewal of his license for one (1) year.

(2) The director shall promptly remit said fees to the state treasurer of the state of Idaho and the sums so paid under the provisions of this act shall be held by the state treasurer as a separate fund to be known as the "Public Livestock Market Fund," which said fund is hereby created by this act. The state auditor controller is hereby authorized, upon presentation of the proper vouchers or claims against said fund, approved by the director and the state board of examiners, as provided by law, to draw his warrant upon said fund.

(3) All moneys in or hereafter to come into said fund are hereby appropriated to said director for the purpose of carrying out the objects of this act and to pay all costs and expenses heretofore or hereafter incurred therein or connected therewith. For the purpose of carrying out the objects of this act, and in the exercise of the powers therein granted, and duties hereby imposed, the director shall have power to make orders concerning the disbursement of said fund.

SECTION 41. That Section 25-3111, Idaho Code, be, and the same is hereby amended to read as follows:

25-3111. POLICIES -- DUTIES, AUTHORITIES, AND POWERS. (1) Consistent with the general purposes of this act, the commission shall establish the policies to be followed in the accomplishments of such purposes.

(2) In the administration of this act, the commission shall have the following duties, authorities and powers:

(a) To conduct a campaign of research, education and publicity.

(b) To find new markets for dairy products and their by-products.

(c) To give, publicize and promulgate reliable information showing the value of milk, cream, and dairy products for any purpose for which they are found useful and profitable.

(d) To make public and encourage the widespread national and international use of dairy products and by-products produced in Idaho.

(e) To investigate and participate in studies of the problems peculiar to the dairy producers in Idaho.

- (3) The commission shall have the duty, power and authority:
- (a) To take such action as the commission deems necessary or advisable in order to stabilize and protect the dairy industry of the state and the health and welfare of the public.
 - (b) To sue and be sued.
 - (c) To enter into such contracts as may be necessary or advisable.
 - (d) To appoint and employ officers, agents and other personnel, including experts in agriculture and dairying and the publicizing of the products thereof, and to prescribe their duties and to fix their compensation.
 - (e) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state.
 - (f) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign ~~or~~ of research, education and publicity in reciprocal enforcement.
 - (g) To lease, purchase or own real or personal property deemed necessary in the administration of this act.
 - (h) To prosecute in the name of the state of Idaho any suit or action for collection of the tax or assessment provided for in this act.
 - (i) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of its duties.
 - (j) To incur indebtedness and carry on all business activities.
 - (k) To keep books and records and accounts of all its doings, which books, records and accounts shall be open to the inspection ~~and-audit~~ by the state ~~auditor~~ controller and public at all times.

SECTION 42. That Section 25-3112, Idaho Code, be, and the same is hereby amended to read as follows:

25-3112. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all moneys received by the commission shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

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

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

(4) On or before January 15 of each year, the commission shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative council, the state ~~auditor~~

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

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

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

SECTION 43. That Section 26-1023, Idaho Code, be, and the same is hereby amended to read as follows:

26-1023. DISPOSITION OF UNCLAIMED FUNDS. The director shall certify to the treasurer of the state a complete list of funds remaining in his hands uncalled for, which have been left in his hands in his official capacity, in trust for depositors in and creditors of any liquidated bank after they have been held by him for six (6) months from the date of the final liquidation of the institution. Along with this certificate, he shall transmit to the treasurer of the state the funds with accumulated interest thereon which he has so held in trust for six (6) months. A copy of such certificate shall also be filed with the state auditor controller, who shall make a record thereof.

Any depositor or creditor of a liquidated bank who has not been paid the amount standing to his credit as thus certified to the state treasurer, may apply to the director for the amount due him, after it has been certified into the treasury of the state. The depositor or creditor shall make an affidavit and offer proof of his identity and of the amount due him by the liquidated bank. When satisfied as to the correctness of the claim and of the identity of the person, the director shall approve the claim and forward it to the auditor state controller, who shall audit the same and if found correct issue his warrant payable to the depositor or creditor for the amount shown by the records to be due such depositor or creditor which shall be paid by the treasurer.

SECTION 44. That Section 31-2307, Idaho Code, be, and the same is hereby amended to read as follows:

31-2307. ANNUAL STATEMENT OF FINANCIAL CONDITION OF COUNTY. Every county auditor must, on or before the second Monday in January of each year, prepare, in duplicate, an exact and full statement, under oath, of the financial condition of his county for the fiscal year last preceding, in such form as prescribed by the board of county commissioners, one of which statements shall be filed in the office of the state

county auditor and the other with the board of county commissioners of the county.

Such statement must clearly set forth the following: The total assessed valuation of the county for each year; the amount of the tax levy on each one hundred dollars (\$100) valuation for each several purpose for which levied, stating it, and the total amount of the tax levy for each year. Therefrom shall be deducted the amount of double assessments, uncollected taxes or other credits ordered by the board of county commissioners to be given to the assessor on account of the roll for that year, showing the actual amount of revenue obtainable from such roll. Thereafter shall follow a statement in which shall be charged to each separate fund for which a levy was made, the proportion of net revenue which may be obtained for such fund from such levy, and also all amounts ordered to be transferred thereto as provided by law, and also all revenues received for such year for each of said funds from sources other than property tax. There shall be credited against such revenue, shown in each fund, the amount allowed by the board of county commissioners, for which warrants have been ordered in such year, payable out of such fund; and which amounts shall be classified into warrants drawn and paid, warrants drawn and not paid, and warrants ordered and not drawn. There shall also be credited, in the statement of the appropriate funds, the amount paid on account of court orders; witness certificates; bonds and coupons; state; ad valorem; wagon road or other levies; current expense; road; bridges; general school purposes; interest on warrants paid; and generally, of all amounts paid out of the revenues of the year on account of each of the several funds, or transferred therefrom as provided by law, and the amount of delinquent tax due to each of such funds from the revenue of such year. The amount of cash in the treasury to the credit of each of such funds shall be credited therein; and said statement of each of said funds shall be balanced, as the condition thereof shall require, by carrying to the credit of such account surplus revenue over expenditures or by debiting the account with deficit of revenue to meet expenditures.

The auditor must, at the close of such report, make recapitulation of the total revenues and expenditures for the year, and must compute the exact levy which would have been required for the net amount of the assessment roll for the year, to pay such expenditures and make a statement of the same:

A further showing shall be made in said statement, as follows: A statement of the actual amount and character of the bonded indebtedness of the county, if any, and rate of interest thereon, together with the amount of the floating indebtedness, at the date of said statement, and the amount of cash on hand in the treasury, applicable to the payment thereof. There shall be a detailed showing made in said statement as to the amount of expenditure made in said year in said county on account of current expense, other than for roads and bridges, wherein the total amount of such expenditures shall be debited and a credit made against the same for the several classified items of expenditure, in the amount shown by each.

Such classification and summarized details shall be as nearly as practicable as follows:

To total amount of expenditure for the year payable out of current

~~expense fund, - \$ - - - - -~~

~~By care of poor; Medical attendance, - \$ - - - - -; burials, - \$ - - - - -; temporary aid, - \$ - - - - -~~

~~By salary, or other compensation of each; actual expenses being a county charge; (showing separately under sheriff for deputies and jailers; board and care of prisoners) office expenses; blanks; stationery; furniture; and supplies; amount of each, - \$ - - - - -~~

~~District court; By defense criminals, - \$ - - - - -; witness fees, - \$ - - - - -; juror fees, - \$ - - - - -~~

~~Courthouse; By merchandise, - \$ - - - - -; repairs, - \$ - - - - -; janitor, - \$ - - - - -; fuel, - \$ - - - - -; etc., and generally, such a summarized detail as shall make a comprehensive statement of the full amount and nature of the expenditures in said fund, for the fiscal year included in said statement.~~

SECTION 45. That Section 33-905, Idaho Code, be, and the same is hereby amended to read as follows:

33-905. SCHOOL DISTRICT BUILDING ACCOUNT -- PAYMENTS TO ACCOUNT -- MONEYS APPROPRIATED TO STATE BOARD -- APPLICATION FOR MONEYS -- PAYMENTS TO DISTRICTS -- REPORTS ON APPLICATIONS -- USES OF MONEYS. 1. The state of Idaho, recognizing its responsibility to establish and maintain a general, uniform and thorough system of public, free common schools, in an effort to partially fulfill this responsibility, hereby creates and establishes the school district building account in the agency asset fund state treasury. The school district building account shall have paid into it such appropriations or revenues as may be provided by law.

2. Moneys in the school district building account are hereby appropriated to and may be expended by the state board of education at any time for the purposes provided in this section, any provision of chapter 35, title 67, Idaho Code, or chapter 36, title 67, Idaho Code, notwithstanding.

3. (a) Commencing July 1, 1994, the board of trustees of any school district may apply to the state board of education to receive a payment or payments from the school district building account; provided, a district demonstrates to the state board of education that it has a substantial and serious need based upon the district's classroom student-teacher ratios, past efforts to levy for such construction, physical condition of existing structures, and the total assessed market value of the district, all of which shall be further defined by actual need criteria established by the state board of education.

(b) When an application for moneys from the account is approved by the state board of education, the state board shall inform the school district that the application has been approved, citing the amount approved for payment and an estimate of the time when the payment can actually be made to the school district.

4. By not later than August 31 of 1991, 1992 and 1993, moneys in the account shall be distributed to each of the several school districts, in the proportion that the average daily attendance of that district for the previous school year bears to the total average daily attendance of the state during the previous school year. Average daily

attendance shall be calculated as provided in section 33-1002 4., Idaho Code.

5. All payments from the school district building account shall be paid out directly to the school district in warrants drawn by the state auditor controller upon presentation of proper vouchers from the state board of education. Pending payments out of the school district building account, the moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other idle moneys in the state treasury. Interest earned on the investments shall be returned to the school district building account.

6. Payments from the school district building account received by a school district may be used by the school district for the purposes authorized in section 33-1102, Idaho Code.

SECTION 46. That Section 33-1707, Idaho Code, be, and the same is hereby amended to read as follows:

33-1707. REIMBURSEMENT -- DETERMINATION -- CERTIFICATION. a. From the data provided by the school district, as required by section 33-1706, Idaho Code, the state department of education shall compute the average of the number of pupils enrolling in the course and those completing the same, and determine for such average number, the per-pupil cost thereof.

The amount due the district from the driver training fund in the state treasury shall be the total cost of operating the program, or the average of the number enrolling in the course and those completing the same, multiplied by one hundred dollars (\$100), whichever is the lesser.

b. On or before the fifteenth day of March, and the fifteenth day of August, and the fifteenth day of October in each year, the state superintendent of public instruction shall certify to the state auditor controller a list of school districts having submitted the reports required in section 33-1706, Idaho Code, and the amount of money due to each as computed under the provisions of subsection a. of this section. The state auditor controller shall draw his warrants against the driver training account in the state treasury, in favor of the several districts entitled thereto, in the amount so certified. Annually, not later than the first day of September in each year, the state superintendent of public instruction shall cause the supervisor of driver training to prepare a report listing the names of the school districts having submitted the reports as required in section 33-1706, Idaho Code, and the amounts of money paid each as computed under the provisions of subsection a. of this section.

SECTION 47. That Section 33-2513, Idaho Code, be, and the same is hereby amended to read as follows:

33-2513. LIBRARY IMPROVEMENT ACCOUNT. 1. The state of Idaho, recognizing its responsibility to provide public library services to its people in both the urban and rural areas of the state, and realizing that some of Idaho's population does not receive any library service, and that many of Idaho's citizens receive only minimal library ser-

vice, hereby creates and establishes the library improvement account in the ~~agency-asset-fund-of-the~~ state treasury. The library improvement account shall have paid into it such appropriations or revenues as may be provided by law.

2. Moneys in the library improvement account are hereby appropriated to and may be expended by the state library board at any time for the purposes provided in this section.

3. (a) The board of trustees of any tax-supported city or district library may apply to the state library board to receive a payment or payments from the library improvement account; provided, they demonstrate to the state library board that their community has a substantial and serious need to have improved library services or a need to expand services to adjacent rural areas.

(b) When an application for moneys from the account is approved by the state library board, the state librarian shall inform the applying library that the application has been approved, citing the amount approved for payment and an estimate of the time when the payment can actually be made to the applying library.

4. All payments from the library improvement account shall be paid out directly to the library in warrants drawn by the state ~~auditor~~ controller upon presentation of proper vouchers from the state library. Pending payments out of the library improvement account, the moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to idle moneys in the state treasury. Interest earned on the investments shall be returned to the library improvement account.

5. No tax-supported city or district library is automatically entitled to any payments from the library improvement account, but must demonstrate to the state library board an actual need for such payment as set forth in subsection 3(a) of this section. The state library board shall establish the criteria upon which actual need is to be determined and shall give priority to projects which will improve library services in a community or expand library services into the rural areas of the state.

6. Payments from the library improvement account received by a library may be used by the library only for the purposes stated in the application as approved by the state library board.

SECTION 48. That Section 33-2909, Idaho Code, be, and the same is hereby amended to read as follows:

33-2909. UNIVERSITY FUND. A fund which shall be known as the university fund is hereby created and established. All moneys now in, or credited to, that certain fund designated on the books in the offices of the state ~~auditor~~ controller and the state treasurer as the university fund and all moneys which may accrue from the investment of the proceeds of the sale of any of the lands granted to the state of Idaho by the United States government under the provisions of the act of Congress of February 18, 1881, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming for university purposes," as amended by the act of July 3, 1890, entitled "An act to provide for the admission of the state of Idaho into the Union," amounting to seventy-two (72) entire sections, and also all moneys which may accrue

from the investment of the proceeds of the sale of any of the fifty thousand (50,000) acres of lands granted to the state of Idaho under the provisions of the act of July 3, 1890, entitled "An act to provide for the admission of the state of Idaho into the Union," for the support and maintenance of a state university or from the investment of the proceeds of the sale of timber growing upon any of the said lands and also any and all moneys which may be received on account of rentals charged for the use of any such lands and all moneys which may be received by the state treasurer on account of interest charged upon deferred payments on such of the said lands as may have been sold by the state shall be credited to, placed in and constitute the university fund.

No moneys shall ever be appropriated out of the university fund for any purpose other than the support and maintenance of the university, nor shall any moneys properly belonging to the said fund ever be diverted therefrom or used for any other purpose whatsoever.

SECTION 49. That Section 33-2911, Idaho Code, be, and the same is hereby amended to read as follows:

33-2911. SCIENTIFIC SCHOOL FUND. A fund which shall be known as the scientific school fund is hereby created and established. All moneys now in, or credited to, that certain fund designated upon the books in the offices of the state auditor controller and the state treasurer as the university school of science fund and all moneys which may accrue from the investment of the proceeds of the sale of any of the one hundred thousand (100,000) acres of lands granted to the state of Idaho by the United States government, under the provisions of the act of Congress of July 3, 1890, entitled, "An act to provide for the admission of the state of Idaho into the Union," for the establishment and maintenance of a scientific school or of any of the timber growing thereon and also any and all moneys which may be received on account of rentals charged for the use of any of such lands and all moneys which may be received by the state treasurer on account of interest charged upon deferred payments on such of the said lands as may have been sold by the state shall be credited to, placed in and constitute the scientific school fund.

SECTION 50. That Section 33-2913, Idaho Code, be, and the same is hereby amended to read as follows:

33-2913. AGRICULTURAL COLLEGE FUND. A fund which shall be known as the agricultural college fund is hereby created and established. All moneys now in or credited to that certain fund designated on the books in the offices of the state auditor controller and the state treasurer as the agricultural college fund, and all moneys which may accrue from the investment of the proceeds of the sale of any of the ninety thousand (90,000) acres of lands granted to the state of Idaho by the United States government, under the provisions of the act of Congress of July 3, 1890, entitled, "An act to provide for the admission of the state of Idaho into the Union," for the use and support of an agricultural college in said state as provided in the acts of Congress making donations of lands for such purposes, or of any of the

timber growing thereon and also any and all moneys which may be received on account of rentals charged for the use of any of such lands and all moneys which may be received by the state treasurer on account of any interest charged upon deferred payments on such of the said lands as may have been sold by the state, shall be credited to, placed in and constitute the agricultural college fund.

No moneys shall ever be appropriated out of the said agricultural college fund for any purpose whatsoever other than the support and maintenance of the agricultural college in the University of Idaho.

SECTION 51. That Section 33-3301, Idaho Code, be, and the same is hereby amended to read as follows:

33-3301. NORMAL SCHOOL FUND. A fund which shall be known as the normal school fund is hereby created and established. All moneys now in, or credited to, that certain fund designated on the books in the offices of the state ~~auditor~~ controller and the state treasurer as the normal school fund and all moneys which may accrue from the investment of the proceeds of the sale of any of the lands granted to the state of Idaho by the United States government under the provisions of the Act of Congress of July 3, 1890, entitled "An act to provide for the admission of the state of Idaho into the Union," for state normal schools or of any of the timber growing thereon and also any and all moneys which may be received on account of any rentals charged for the use of any of such lands and all moneys which may be received by the state treasurer on account of interest upon deferred payments on such of said lands as may have been sold by the state, shall be credited to, placed in and constitute the said normal school fund.

No moneys shall ever be appropriated out of this normal school fund for any purpose whatsoever other than the support and the maintenance of the department of education at Idaho State University, and Lewis-Clark State College, and not more than one-half (1/2) of all the moneys accruing to this fund shall ever be appropriated for the support and maintenance of either of such institutions.

SECTION 52. That Section 33-3710, Idaho Code, be, and the same is hereby amended to read as follows:

33-3710. UNIFORM SYSTEM OF ACCOUNTING FOR DINING HALL FUNDS. The state board of education in its capacities as trustees of the several educational institutions, shall, by provisions uniform in all such institutions, establish such system of accounting, expenditure and reimbursement of such revolving fund as may be appropriate and as may be ordered by the state ~~auditor~~ controller.

SECTION 53. That Section 33-3719, Idaho Code, be, and the same is hereby amended to read as follows:

33-3719. PAUL L. FOWLER MEMORIAL SCHOLARSHIP FUND -- PURPOSES -- AMOUNT -- APPROPRIATION -- INVESTMENT. (1) There is hereby created an account ~~in the agency asset fund~~ in the state treasury to be designated "The Paul L. Fowler Memorial Scholarship Fund." The account shall be used solely for payment of scholarships to students selected

by the state board of education as recipients thereof, and for administration charges not to exceed four percent (4%) of the total amount awarded for scholarships each year.

(2) Moneys deposited in the account will be made available from article VI of the last will of Elizabeth C. Fowler, dated December 8, 1978, pursuant to a court order of distribution in the circuit court of Multnomah county, state of Oregon, dated December 31, 1979, the United States National Bank of Oregon serving as trustee under the will; and in addition, any refunds from students who may interrupt their education or fail to matriculate during any semester for which they have received scholarship funds.

(3) All moneys placed in the account are hereby perpetually appropriated to the office of the state board of education for the purposes of this section. All expenditures from the account shall be paid out in warrants drawn by the state auditor controller upon presentation of proper vouchers from the executive director of the state board of education.

(4) Pending such use, surplus moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the account.

SECTION 54. That Section 34-2502, Idaho Code, be, and the same is hereby amended to read as follows:

34-2502. ELECTION CAMPAIGN FUND -- CREATION. There is hereby created and established in the treasury of the state of Idaho a fund to be known and designated as the "election campaign fund." The state auditor controller shall maintain within the fund a separate account for each party for which a specific designation is made under the provisions of section 63-3088, Idaho Code, and shall keep a general account for moneys for which no specific designation is made and which are to be distributed as provided in section 34-2503, Idaho Code.

All moneys placed in the election campaign fund are hereby perpetually appropriated to the board of examiners for administration and allocation as provided by this act. All expenditures from the fund shall be paid out in warrants drawn by the state auditor controller upon presentation of proper vouchers from the secretary of state. The provisions of section 67-3516(3) and (4), Idaho Code, are hereby specifically declared not to apply to the administration of the election campaign fund.

SECTION 55. That Section 34-2505, Idaho Code, be, and the same is hereby amended to read as follows:

34-2505. STATEMENT OF EXPENDITURES FILED AFTER GENERAL ELECTION -- ~~RULES AND REGULATIONS~~ -- UNQUALIFIED EXPENDITURES -- UNEXPENDED BALANCE. Not later than the thirtieth day following a general election, the chairman of the committee shall be responsible to file with the office of the board a statement setting forth:

(1) the amount of money received by the committee under the provisions of section 34-2503, Idaho Code; and

(2) the qualified election expenses (shown in such detail as the board may prescribe) incurred by the committee.

The board is authorized to prescribe such rules ~~and regulations~~, to conduct such examinations and audits, to conduct such investigations, and to require the keeping and submission of such books, records and information as it deems necessary to carry out the functions and duties imposed by this act.

If the board finds that any of the expenditures reported by the committee are not qualified election expenses, it shall so notify the committee of the amount deemed to have been not qualified. The committee shall be entitled to hearing by the board; if after the hearing by the board, the expenditures are determined not to be qualified, such committee shall pay to the state ~~auditor~~ controller an amount equal to such amount to be credited to the public school fund.

If the report filed under this section shows an unexpended balance of the funds provided under the terms of section 34-2503, Idaho Code, the committee shall file monthly reports on the purposes to which such funds are used until there is no balance.

SECTION 56. That Section 36-107, Idaho Code, be, and the same is hereby amended to read as follows:

36-107. FISH AND GAME ACCOUNT. (a) The director shall promptly transmit to the state treasurer all moneys received by him, from the sale of hunting, fishing and trapping licenses, tags and permits or from any other source connected with the administration of the provisions of the Idaho fish and game code or any law or regulation for the protection of wildlife, including moneys received from the sale of predatory animal furs taken under the provisions of this chapter, and the state treasurer shall deposit all such moneys in the fish and game account, which is hereby established, reserved, set aside, appropriated in the ~~dedicated-fund~~ state treasury, and made available until expended as may be directed by the commission in carrying out the purposes of the Idaho fish and game code or any law or regulation promulgated for the protection of wildlife, and shall be used for no other purpose. Pending expenditure or use, surplus moneys in the fish and game account shall be invested by the state treasurer in the manner provided for idle state moneys in the state treasury by section 67-1210, Idaho Code. Interest received on all such investments shall be paid into the account. The state ~~auditor~~ controller shall annually, by August 1 of each year, transfer the sum of one hundred thousand dollars (\$100,000) from the fish and game account to the University of Idaho Caine Veterinary Teaching and Research Center for disease research regarding the interaction of disease between wildlife and domestic livestock. Said moneys shall be expended on projects agreed upon by the University of Idaho Caine Veterinary Teaching and Research Center and the state wildlife veterinarian.

(b) The commission shall govern the financial policies of the department and shall, as provided by law, fix the budget for the operation and maintenance of its work for each fiscal year. Said budget shall not be exceeded by the director.

(c) The sum of two dollars (\$2.00) from each license authorized in sections 36-406(a) and 36-407(b), Idaho Code, which entitle a per-

son to fish, shall be used for the construction, repair, or rehabilitation of state fish hatcheries, fishing lakes, or reservoirs.

(d) The department is authorized to expend up to one dollar and fifty cents (\$1.50) from each resident deer and elk tag sold and five dollars (\$5.00) from each nonresident deer and elk tag sold to fund the department's big game landowner-sportsman's relations program.

SECTION 57. That Section 36-110, Idaho Code, be, and the same is hereby amended to read as follows:

36-110. FISH AND GAME FEDERAL ACCOUNT. All moneys received from the federal government for the administration of any aspect of the fish and game laws of this state shall be deposited in the fish and game federal account, which is hereby established in such fund as the state auditor controller directs.

Moneys in the fish and game federal account are subject to appropriation, and the provisions of section 67-3516, Idaho Code. Moneys in the account shall be invested by the state treasurer in the manner provided for investment of idle state moneys in the state treasury by section 67-1210, Idaho Code, if not prohibited or limited by the terms of applicable federal law or rule. Interest earned on all such investments shall be paid into the fish and game federal account.

SECTION 58. That Section 36-112, Idaho Code, be, and the same is hereby amended to read as follows:

36-112. ANIMAL DAMAGE CONTROL ACCOUNT. The animal damage control account is hereby established in the dedicated-fund state treasury. Moneys in the account are subject to appropriation to the state animal damage control board established by section 25-128, Idaho Code, for the control of predatory animals and birds. The state auditor controller shall annually, by August 1 of each year, transfer the sum of fifty thousand dollars (\$50,000) from the fish and game account to the animal damage control account. The state animal damage control board in using these moneys shall give priority to any proposed actions on predatory animals or birds forwarded by the department by the same date.

SECTION 59. That Section 36-114, Idaho Code, be, and the same is hereby amended to read as follows:

36-114. BIG GAME PRIMARY DEPREDATION ACCOUNT. (a) The big game primary depredation account is hereby established in the dedicated fund state treasury. Moneys in the account are subject to appropriation for the purposes recited in section 36-1108, Idaho Code. Interest earned on investment of idle moneys in the account shall be paid to the fish and game account.

(b) The state auditor controller shall annually, as soon after July 1 of each year as practical, transfer into the account two hundred thousand dollars (\$200,000) from the fish and game account. Unexpended and unencumbered balances in the big game primary depredation account existing on June 30 shall revert to the fish and game account.

(c) Moneys in the account may be appropriated only to:

1. Honor payment agreements made pursuant to section 36-1108(b), Idaho Code.
 2. Make deprecation damages payments pursuant to section 36-1108(c), Idaho Code.
 3. Provide for reimbursement of expenses for members of the advisory committee established by section 36-122, Idaho Code.
- (d) Any payment for damages pursuant to section 36-1108(c), Idaho Code, is limited by the following conditions and requirements.
1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:
 - (A) The director may order not more than one-third (1/3) of the amount of the approved claim that is to be paid from the big game primary deprecation account to be paid immediately, if, in the judgment of the director, such payment is within the estimated total claims liability for that fiscal year from the big game primary deprecation account.
 - (B) The balance of all unpaid approved claim amounts shall be accumulated to a total as of June 30. If the balance in the big game primary deprecation account is sufficient to pay the balance of all approved claims, the director shall promptly pay them. If the balance is not sufficient to pay the balance of all approved claims, the director shall pay a proportionate share to each claimant.
 - (C) The director shall encumber the balance of the moneys in the account, or moneys sufficient to pay the approved claims, whichever is the lesser.
 2. Each claimant must submit a statement of total damages sustained per occurrence. For each such statement, the following conditions and requirements apply:
 - (A) The amount of one thousand dollars (\$1,000) must be deducted from each such statement. This deductible is a net loss to the owner or lessee, and will not be compensated for from either the big game primary deprecation account or the big game secondary deprecation account.
 - (B) The total amount that may be paid from the big game primary deprecation account shall not exceed nine thousand dollars (\$9,000) per approved claim.
 - (C) Approved claims that exceed ten thousand dollars (\$10,000) total (one thousand dollars (\$1,000) deductible and nine thousand dollars (\$9,000) payment from the big game primary deprecation account) shall be processed under the provisions of section 36-115, Idaho Code.
 - (D) Approved claims of any amount that involve damage to livestock by black bear or mountain lion shall be processed under the provisions of section 36-115, Idaho Code.
 - (E) Approved claims of any amount that involve damage to forage by antelope, deer, elk or moose shall be processed under the provisions of section 36-115, Idaho Code.
 3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:
 - (A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

SECTION 60. That Section 36-115, Idaho Code, be, and the same is hereby amended to read as follows:

36-115. BIG GAME SECONDARY DEPREDATION ACCOUNT. (a) The big game secondary depredation account is hereby created in the dedicated-fund state treasury. Moneys in the account are subject to appropriation for the purposes recited in section 36-1108(c), Idaho Code, section 36-114(d), Idaho Code, section 36-1109 and section 36-1110, Idaho Code. Moneys in the account shall be invested as provided in section 67-1210, Idaho Code, and interest earned on investment of idle moneys in the account shall be paid to the account. The big game secondary depredation account shall be under the administrative direction of the director of the department of administration.

(b) In addition to any moneys appropriated to the account from other sources, the state auditor controller shall transfer the earned interest not to exceed two hundred and fifty thousand dollars (\$250,000) from the fish and game account to the big game secondary depredation account each fiscal year until a total of one million two hundred fifty thousand dollars (\$1,250,000) has been transferred to the account.

(c) The principal amount in the account shall not be appropriated, but only the interest earned on investment of the moneys in the account shall be available for appropriation. The director of the department of administration shall annually report to the legislature, the division of financial management, the state auditor controller, the director of the department of agriculture and the director of the department of fish and game the amount of interest earnings and the availability of such earnings for appropriation. However, should the balance in the account ever exceed three million dollars (\$3,000,000), interest earnings that exceed the amount appropriated for any fiscal year shall be transferred to the fish and game set-aside account for habitat rehabilitation. Transferred funds shall be spent pursuant to an appropriation for the set-aside account.

(d) Any payment for damages pursuant to sections 36-1108(c) and 36-114(d), Idaho Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

- (A) The director of the department of administration may order not more than one-third (1/3) of the amount of the approved claim that is to be paid from the big game secondary depredation account to be paid immediately, if, in the judgment of the director of the department of administration, such payment is within the estimated total claims liability for that fiscal year from the big game secondary depredation account.

- (B) The balance of all unpaid approved claim amounts,

including claims submitted under the provisions of sections 36-1109 and 36-1110, Idaho Code, shall be accumulated to a total as of June 30. If the balance in the big game secondary deprecation account appropriation is sufficient to pay the balance of all approved claims, the director of the department of administration shall promptly pay them. If the balance is not sufficient to pay the balance of all approved claims, the director of the department of administration shall pay a proportionate share to each claimant.

(C) The director of the department of administration shall encumber the balance of moneys appropriated from the big game secondary deprecation account, or moneys sufficient to pay the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For each such statement, the following conditions and requirements apply:

(A) The amount of one thousand dollars (\$1,000) must be deducted from each such statement. This deductible is a net loss to the owner or lessee, and will not be compensated for from either the big game primary deprecation account or from the big game secondary deprecation account, but the owner or lessee is required to absorb only a single one thousand dollar (\$1,000) deductible per claim, whether the claim is paid solely from the big game primary deprecation account or from both deprecation accounts.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

(e) Any claim for damages pursuant to section 36-1109, Idaho Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director of the department of administration may order that not more than one-third (1/3) of the amount of the approved claim to be paid immediately, if, in the judgment of the director of the department of administration, such payment is within the estimated total claims liability for that fiscal year from the big game secondary deprecation account.

(B) The balance of all unpaid approved claim amounts shall be accumulated to a total as of June 30. If the balance in the big game secondary deprecation account appropriation is sufficient to pay all approved claims, the director of the department of administration shall promptly pay them. If the balance is not sufficient to pay the balance of all approved claims, the director of the department of administration shall pay a proportionate share to each claimant.

(C) The director of the department of administration shall

- encumber the balance of the appropriation, or moneys sufficient to pay the approved claims, whichever is the lesser.
2. Each claimant must submit a statement of total damages sustained per occurrence. For each such statement, the following conditions and requirements apply:
 - (A) The amount of five thousand dollars (\$5,000) must be deducted from each such statement. This deductible is a net loss to the owner or caretaker, and will not be compensated for from the big game secondary deprecation account.
 - (B) The total amount of all claims that may be paid from the big game secondary deprecation account for domestic sheep or cattle losses shall not exceed twenty-five thousand dollars (\$25,000) in any one (1) fiscal year.
 3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:
 - (A) All statutory requirements leading up to approval for payment have been met.
 - (B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.
- (f) Any claim for damages to forage pursuant to section 36-1110, Idaho Code, is limited by the following conditions and requirements:
1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:
 - (A) The director of the department of administration may order not more than one-third (1/3) of the amount of the approved claim to be paid immediately, if, in the judgment of the director of the department of administration, such payment is within the estimated total claims liability for that fiscal year from the big game secondary deprecation account.
 - (B) The balance of all unpaid approved claim amounts shall be accumulated to a total as of June 30. If the balance in the big game secondary deprecation account appropriation is sufficient to pay all approved claims, the director of the department of administration shall promptly pay them. If the balance is not sufficient to pay the balance of all approved claims, the director of the department of administration shall pay a proportionate share to each claimant.
 - (C) The director of the department of administration shall encumber the balance of the appropriation, or moneys sufficient to pay the approved claims, whichever is the lesser.
 2. Each claimant must submit a statement of total damages sustained per occurrence. For such statement, the following conditions and requirements apply:
 - (A) The amount of one thousand dollars (\$1,000) must be deducted from each statement. This deductible is a net loss to the owner or lessee, and will not be compensated for from the big game secondary deprecation account.
 - (B) The total amount of all claims for damages to forage that may be paid from the big game secondary deprecation account shall not exceed twenty-five per cent (25%) of the

amount of interest earned from investments of moneys in that account in any one (1) fiscal year.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:
- (A) All statutory requirements leading up to approval for payment have been met.
 - (B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

SECTION 61. That Section 36-301, Idaho Code, be, and the same is hereby amended to read as follows:

36-301. FORMS OF LICENSES, TAGS AND PERMITS -- PRINTING -- CHARGEABLE TO DIRECTOR. The forms of the various fishing, hunting and trapping licenses, tags and permits and related applications shall be determined by the director. The director shall cause to be printed such number of blank licenses, tags, permits and related applications as may be required from time to time and shall supervise the selling of same throughout the state.

It is hereby made the duty of the state auditor controller to keep and maintain a record of the number of such licenses, tags and permits so printed, and to hold the director accountable for same and for moneys received therefor.

SECTION 62. That Section 36-308, Idaho Code, be, and the same is hereby amended to read as follows:

36-308. MONTHLY REPORTS ~~TO STATE AUDITOR~~. On or about the first day of each month, the director shall make a report to the state auditor controller showing the number of blank licenses received from ~~said auditor~~ the controller and the total number of each type sold. All moneys from such sales received by the director shall be deposited with the state treasurer and credited to the state fish and game fund.

SECTION 63. That Section 36-309, Idaho Code, be, and the same is hereby amended to read as follows:

36-309. DISPOSITION OF MUTILATED OR UNSOLD LICENSES, TAGS OR PERMITS. All persons to whom blank licenses, tags or permits have been consigned as herein provided, shall turn over and deliver to said director all mutilated and unsold licenses, tags or permits, and the director shall then turn over and deliver forthwith to the state auditor controller all said mutilated and unsold licenses, tags and permits, and each of said persons authorized to handle licenses shall be held accountable for all mutilated or unsold licenses, tags and permits not so turned over and delivered to the director.

Provided, that when satisfactory proof is presented to the board of examiners, of unavoidable loss or destruction of blank licenses, tags or permits, the said board may relieve the person charged with accountability therefor, and order repaid to him any moneys already paid by him into the treasury on said account.

SECTION 64. That Section 38-114, Idaho Code, be, and the same is hereby amended to read as follows:

38-114. STATE TO PAY PRO RATA FOR FIRE PROTECTION -- DEFICIENCY WARRANTS. The state shall bear and pay into the forest protection fund its pro rata share of the assessments provided for in section 38-111, Idaho Code, for fire protection to state lands and expenses incurred, accruing or contracted for within each forest protective district in enforcing and carrying out the provisions of this chapter and protecting the forest lands belonging to the state against damage, devastation or destruction by fire, in the proportion which such lands belonging to the state within each forest protective district of the state bear to the total area of forest land within such protective district, and the state shall be considered an owner of forest land within the meaning of that term as used in this chapter, and for the purposes thereof. The state board of land commissioners may authorize the issuance of deficiency warrants for the purpose of defraying such assessments, and when so authorized the state auditor controller shall draw such deficiency warrants against the general fund. Such moneys as the state shall thus become liable for shall be paid as a part of the expenses of the state board of land commissioners out of appropriations which shall be made by the legislature for that purpose. In all appropriations hereafter made for expenses of said state board of land commissioners, account shall be taken of and provision made for this item of expense.

SECTION 65. That Section 38-131, Idaho Code, be, and the same is hereby amended to read as follows:

38-131. DEFICIENCY WARRANTS FOR EXCESS COSTS OF FIRE SUPPRESSION. In event the actual cost for the control or suppression of forest fires in any forest protective district exceeds in any one (1) year the maximum moneys available for forest protection in that district from the forest protection fund or any other special or general fund provided for that purpose, the state board of land commissioners may authorize the issuance of deficiency warrants for the purpose of defraying such excess costs and when so authorized the state auditor controller shall, after notice to the state treasurer, draw deficiency warrants against the general fund.

SECTION 66. That Section 38-131A, Idaho Code, be, and the same is hereby amended to read as follows:

38-131A. DEFICIENCY WARRANTS FOR COSTS OF FIRE SUPPRESSION ON STATE-OWNED RANGE LANDS. The state board of land commissioners may authorize the issuance of deficiency warrants for the purpose of paying the costs of fire suppression on state-owned range lands whether or not said lands are adjacent to or intermingled with forest lands. When so authorized, the state auditor controller shall, after notice to the state treasurer, draw deficiency warrants against the general account.

SECTION 67. That Section 38-408, Idaho Code, be, and the same is

hereby amended to read as follows:

38-408. MONEYS FROM CONTRACTS AND APPROPRIATIONS -- EXPENDITURES AND ACCOUNTS. All moneys paid to the director of the department of lands, or the state forest wardens, under any contract whereby the director assumes the management and reduction of any fire hazard for the protection of forest resources, shall be deposited with the state treasurer and shall be credited to the forest management fund as herein provided.

All moneys appropriated for, accruing to, or received by said fund are hereby appropriated for the purpose specified in sections 38-401--38-410, Idaho Code, and shall only be used in the protective districts where collected. All funds in, or accruing to, the erosion control account after the effective date of this section shall be credited to the forest practices rehabilitation account created in section 38-134013, Idaho Code.

All moneys deposited in said fund shall remain in the state treasury for the use of the director in the payment of items constituting claims against the fund. This fund may be drawn upon by sight drafts signed by the director and attached to vouchers for the planned expenditure, both in such form as the state auditor controller shall prescribe. At such time as the board of examiners may prescribe the director shall present a complete itemized account of all expenditures from said fund. The said board is authorized to approve or reject any item in said account. If any item thereof is disallowed the director or the state forest warden responsible therefor shall replace the amount thereof in the said fund. The amount of the items allowed shall be credited by the auditor state controller to the director.

SECTION 68. That Section 38-1209, Idaho Code, be, and the same is hereby amended to read as follows:

38-1209. LEVY OF ASSESSMENT -- BUDGET -- HEARING -- FUNDS -- BOND OF SECRETARY -- SALARY. (a) The board is hereby authorized and directed to levy an assessment on the scale of all forest products harvested within the state of Idaho in an amount not to exceed twenty cents (20¢) per thousand (1,000) board feet or twelve cents (12¢) per cunit, provided that no such assessment shall be levied more than once on any forest product. The board shall set times and places for its meetings and shall hold not less than four (4) meetings in each calendar year. The board shall designate a meeting date on which a budget shall be adopted and assessment shall be levied. Notice of such meeting shall be given thirty (30) days prior thereto in a newspaper of general circulation throughout the state. The board shall designate and levy an assessment as herein provided to raise moneys necessary to fund operations of the board and the state scaling program established by this chapter based upon the budget adopted and notice of such levy shall be given in the notice of the budget. The budget and assessment shall become effective upon adoption by the board. In the event a written request is made therefor by any interested person within thirty (30) days after notice of the budget and assessment has been published, the board shall set a time and place for a hearing at which any person may submit recommendations for changes in the budget and

the assessment. Thereafter the board shall either confirm or modify the budget and assessment and cause notice of such action to be published in a newspaper of general circulation throughout the state within ten (10) days after such action. If the budget or the assessment is modified, the modification shall become effective upon publication. Such hearing shall be held not later than thirty (30) days after receipt of a written request therefor.

(b) The assessment herein provided shall be levied against and paid by the purchaser. The term "purchaser" as used herein shall also include the owner of the timber where the owner processes or utilizes the forest products in its operations or where the owner sells forest products outside the state of Idaho and the forest products are scaled within the state of Idaho, provided that the assessment provided in this chapter shall not be levied against the United States of America, nor any unit nor agency thereof. The assessment shall be transmitted to the board on or before the twentieth day of each month for all timber harvested during the previous month.

(c) The secretary of the board shall receive and account for all moneys derived under the provisions of this act, and shall pay the same monthly to the state treasurer, who shall keep such moneys in a separate account to be known as the "state scaling account," which is hereby created in the state treasury. Such account shall be kept separate and apart from all other moneys in the treasury, and shall be paid out only on approval of the board. All moneys in the "state scaling account" are hereby continually appropriated for the use of the board. The board may establish, maintain and use a rotary fund as provided by state law. The secretary of the board shall give a surety bond to the state in such sum as the board may determine. The premium on said bond shall be regarded as a proper and necessary expense of the board, and shall be paid out of the "state scaling account." The secretary of the board shall receive such salary as the board shall determine in addition to the compensation and expenses provided in section 38-1205, Idaho Code. The board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures of this account for any purpose which in the opinion of the board is reasonably necessary for the proper performance of its duties under this act. All warrants on said "state scaling account" shall be drawn by the state auditor controller on vouchers by the board and the state board of examiners.

SECTION 69. That Section 38-1508, Idaho Code, be, and the same is hereby amended to read as follows:

38-1508. DUTIES AND POWERS OF THE COMMISSION. (1) Consistent with the general purposes of this chapter, the commission shall establish the policies to be followed in the accomplishments of such purposes.

(2) In the administration of the provisions of this chapter, the commission shall, in conjunction and cooperation with other entities which represent the forest products industry, have the following duties, authorities and powers:

(a) Conduct research and surveys to determine public attitudes and levels of knowledge regarding forest management and the forest products industry;

- (b) Design educational campaigns and other needed efforts to provide the public with accurate information regarding the management of Idaho's forest lands and the forest products industry;
 - (c) Be an advocate for the proper management of Idaho's forest lands and for a healthy forest products industry in the state;
 - (d) Be a source of accurate and timely data regarding the forest resource and the forest products industry;
 - (e) Make projections regarding future timber supplies, availability of timber, new or existing products and markets, and other biological or social trends which might affect forest management or the forest products industry in Idaho; and
 - (f) Cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and publicity.
- (3) The commission shall also have the duty, power and authority:
- (a) To take such actions as the commission deems necessary or advisable to stabilize and protect the forest products industry of the state and the health and welfare of the public;
 - (b) To sue and be sued;
 - (c) To enter into such contracts as may be necessary or advisable;
 - (d) To appoint and employ officers, agents and other personnel, including experts in publicizing forest management or the forest products industry, and to prescribe their duties and fix their compensation;
 - (e) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within the state;
 - (f) To lease, purchase or own the real or personal property deemed necessary in the administration of the provisions of this chapter;
 - (g) To prosecute in the name of the state of Idaho any suit or action for collection of any tax or assessment provided for in this chapter;
 - (h) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of its duties;
 - (i) To incur indebtedness and carry on all business activities; and
 - (j) To keep books and records and accounts of all its doings, which books, records, and accounts shall be open to the inspection and audit by the state auditor controller and public at all times.

SECTION 70. That Section 38-1517, Idaho Code, be, and the same is hereby amended to read as follows:

38-1517. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all moneys received by the commission shall be deposited in one or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate

such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

(2) Funds can be withdrawn or paid out of such accounts only upon checks or other orders upon such accounts signed by two (2) officers designated by the commission when the amount of such payments exceeds two thousand dollars (\$2,000). Such designees may include the members of the staff of the commission.

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

(4) On or before January 15 of each year, the commission shall file with the senate and house committees responsible for natural resources, the legislative council, the state auditor controller, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission for the preceding year. The report shall also include an estimate of income of the commission for the current and next fiscal year and a projection of anticipated expenses by category for the current and next fiscal year. From and after January 15, 1994, the report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding year.

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

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

SECTION 71. That Section 39-253, Idaho Code, be, and the same is hereby amended to read as follows:

39-253. ACCOUNTING FOR FEES. Fees received from the certifications of such records, from a search of the files or for other services shall be accounted for as prescribed by the state auditor controller.

SECTION 72. That Section 39-414, Idaho Code, be, and the same is hereby amended to read as follows:

39-414. POWERS AND DUTIES OF DISTRICT BOARD. The district board of health shall have and may exercise the following powers and duties:

(1) To administer and enforce all state and district health laws, regulations, and standards.

(2) To do all things required for the preservation and protection of the public health and preventive health, and such other things delegated by the director of the state department of health and welfare and this shall be authority for the director to so delegate.

(3) To determine the location of its main office and to determine the location, if any, of branch offices.

(4) To enter into contracts with any other governmental or public agency whereby the district board agrees to render services to or for

such agency in exchange for a charge reasonably calculated to cover the cost of rendering such service. This authority is to be limited to services voluntarily rendered and voluntarily received and shall not apply to services required by statute, rule, and regulations, or standards promulgated pursuant to this act or chapter 1, title 39, Idaho Code.

(5) All moneys or payment received or collected by gift, grant, devise, or any other way shall be deposited to the respective division or subaccount of the public health district in the public health district account authorized by section 39-422, Idaho Code.

(6) To establish a fiscal control policy required by the state auditor controller.

(7) To cooperate with the state board and the department of health and welfare.

(8) To enter into contracts with other governmental agencies, and this act hereby authorizes such other agencies to enter into contracts with the health district, as may be deemed necessary to fulfill the duties imposed upon the district in providing for the health of the citizens within the district.

(9) To purchase, exchange or sell real property and construct, rent, or lease such buildings as may be required for the accomplishment of the duties imposed upon the district and to further obtain such other personal property as may be necessary to its functions.

(10) To accept, receive and utilize any gifts, grants, or funds and personal and real property that may be donated to it for the fulfillment of the purposes outlined in this act.

(11) To establish a charge whereby the board agrees to render services to or for entities other than governmental or public agencies for an amount reasonably calculated to cover the cost of rendering such service.

(12) To enter into a lease of real or personal property as lessor or lessee, or other transaction with the Idaho health facilities authority for a term not to exceed ninety-nine (99) years upon a determination by the district board that the real or personal property to be leased is necessary for the purposes of the district, and to pledge nontax revenues of the district to secure the district's obligations under such leases.

(13) To administer and certify solid waste disposal site operations, closure, and post closure procedures established by statute or regulation in accordance with provisions of chapter 74, title 39, Idaho Code, in a manner equivalent to the site certification process set forth in section 39-7408, Idaho Code.

SECTION 73. That Section 39-422, Idaho Code, be, and the same is hereby amended to read as follows:

39-422. PUBLIC HEALTH DISTRICT ACCOUNT -- ESTABLISHMENT -- DIVISIONS -- FISCAL OFFICER -- EXPENDITURES. (1) There is hereby authorized and established ~~in the trust and agency fund~~ in the state treasury a special account to be known as the public health district account for which the state treasurer shall be custodian. Within the public health district account there shall be seven (7) divisions or subaccounts, one (1) for each of the seven (7) public health dis-

tricts. Each division within the account will be under the exclusive control of its respective district board of health and no moneys shall be withdrawn from such division of the account unless authorized by the district board of health or their authorized agent.

(2) The procedure for the deposit and expenditure of moneys from the public health district account will be in accordance with procedures established between all district boards and the state auditor controller. All income and receipts received by the districts shall be deposited in the public health district account.

(3) Claims against the divisions of the health district account are not claims against the state of Idaho. Claims against an individual health district are limited to that district's division moneys.

SECTION 74. That Section 39-4417, Idaho Code, be, and the same is hereby amended to read as follows:

39-4417. HAZARDOUS WASTE EMERGENCY ACCOUNT. (1) There is hereby created an account ~~in the agency asset fund~~ in the state treasury to be designated the hazardous waste emergency account.

(2) The account shall consist of moneys appropriated to the account by the legislature, moneys allotted to the account as a result of departmental compliance proceedings, moneys allotted to the account in a court ordered award or judgment, moneys allotted to the account in a court approved settlement, and moneys contributed to the account from other sources.

(3) Moneys in the account may be used by the director in the case of a hazardous waste emergency to pay the necessary costs of preventing, neutralizing, or mitigating any threat to the public health or safety, or to the environment caused by that emergency.

(4) The board may promulgate regulations for the withdrawal and use of funds from the account as specified in subsection (3) of this section.

(5) All moneys placed in the account are hereby perpetually appropriated to the department for the purposes described in subsection (3) of this section. All expenditures from the account shall be paid out in warrants drawn by the state auditor controller upon presentation of the proper vouchers.

(6) Pending use, surplus moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code. Interest earned on the investments shall be returned to the account.

SECTION 75. That Section 39-7110, Idaho Code, be, and the same is hereby amended to read as follows:

39-7110. DEFICIENCY WARRANTS FOR REIMBURSEMENT OF RESPONSE COSTS. (1) The commission shall review all claims for reimbursement and make recommendations as to payment or nonpayment of the claims to the board of examiners within one hundred twenty (120) days after termination of the hazardous substance incident. The board of examiners may authorize the issuance of deficiency warrants for the purpose of reimbursing reasonable and documented costs associated with emergency response actions taken pursuant to this chapter. The costs associated with rou-

tine firefighting procedures shall not be reimbursable costs under this chapter.

(2) Deficiency warrants authorized by the board of examiners shall not exceed the sum of one hundred thousand dollars (\$100,000) for reimbursement of all claims made as a result of a single hazardous substance incident. In the event all claims for reimbursement for a single hazardous substance incident exceeds the sum of one hundred thousand dollars (\$100,000), the board of examiners shall determine an appropriate and equitable basis of payment of reimbursements.

(3) Upon authorization of deficiency warrants by the board of examiners in accordance with the provisions of this section, the state auditor controller shall, after notice to the state treasurer, draw deficiency warrants in the authorized amounts against the general account.

(4) Nothing contained in this section shall be construed to change or impair any right of recovery or subrogation arising under any other provisions of law.

SECTION 76. That Section 40-615, Idaho Code, be, and the same is hereby amended to read as follows:

40-615. COUNTY AND DISTRICT BOARDS -- COOPERATION WITH STATE. Commissioners of any county, or the board of commissioners of any highway district, are empowered to cooperate with the state in the construction of highways or bridges, with aid from the United States or the state. The boards of commissioners are authorized to deposit with the treasurer of the state, to be placed in the state highway account, the amount of funds to be contributed by the county or highway district on any project for the improvement or construction of highways or bridges, which may be agreed upon in writing between the boards of commissioners and the board. The boards of commissioners are empowered to make deposits in advance of construction and at the time the agreement between the boards and the board is entered into. In the event the project for the improvement or construction of highways or bridges is not proceeded with, or in the event that all of the funds deposited by any board of commissioners for use on any project are not used in the completion of the project, the board shall repay any unused balances to the boards of commissioners having deposited these funds, and the state auditor controller shall draw his warrant for the payment of those moneys out of the state highway account against claims duly approved by the board and the state board of examiners.

SECTION 77. That Section 40-701, Idaho Code, be, and the same is hereby amended to read as follows:

40-701. HIGHWAY DISTRIBUTION ACCOUNT -- APPORTIONMENT. (1) There is established in the ~~dedicated fund of~~ the state treasury an account known as the "Highway Distribution Account," to which shall be credited:

(a) Moneys as provided by sections 63-2412(1)(f)3 and 63-2418(3), Idaho Code;

(b) All moneys collected by the department, their agents and vendors, and county assessors and sheriffs, under the provisions of

title 49, Idaho Code, except as otherwise specifically provided for; and

(c) All other moneys as may be provided by law.

(2) Beginning July 1, 1992, one-half of one per cent (.5%) of the moneys in the highway distribution account may be remitted to the state highway account and shall be utilized to encourage the use of recycled materials including, but not limited to, recycled glass, reclaimed asphalt, asphalt containing recycled plastic, recycled rubber tires and paper in highway construction and maintenance projects. The remainder shall be apportioned thirty-five and seventy-seven hundredths per cent (35.77%) to local units of government and fifty-eight and eighty-three hundredths per cent (58.83%) to the state highway account established in section 40-702, Idaho Code, and five and forty hundredths per cent (5.40%) to the law enforcement account, established in section 67-2904, Idaho Code. The state auditor controller shall remit the moneys apportioned to local units of government not later than January 25, April 25, July 25 and October 25 of each year, and to the state highway account and the law enforcement account as the moneys become available to the highway distribution account.

(3) Interest earned on the investment of idle moneys in the highway distribution account shall be paid to the highway distribution account.

(4) All idle moneys in the dedicated highway trust or asset accounts or subaccounts established from highway user revenues, reimbursements, fees or permits shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the various highway trust or asset accounts and subaccounts.

SECTION 78. That Section 40-707, Idaho Code, be, and the same is hereby amended to read as follows:

40-707. APPROPRIATION OF MONEYS IN STATE HIGHWAY ACCOUNT. All moneys at any time in the state highway account, except those as are otherwise required by law to be placed in the state highway redemption account, are hereby appropriated for the purpose of defraying the expense, debts and costs incurred in carrying out the powers and duties of the highway board as provided by law, and for defraying administrative expenses of the department, including salaries of the board, the salary of the director, and salaries and wages of employees of the department and board and expenses for traveling. Communication supplies, equipment, fixed charges and all other necessary expenses of the department and board, not otherwise provided for and all claims against the state highway account shall be examined by the department and certified to the state auditor controller, who shall, upon approval of the board of examiners, draw his warrant against the state highway account for all bills and claims allowed by the board.

SECTION 79. That Section 40-708, Idaho Code, be, and the same is hereby amended to read as follows:

40-708. POLICY OF LEGISLATURE ON EXPENDITURES. (1) It is the

declared policy of the legislature that, except as otherwise provided, all highway-user revenues accruing to the state highway account be spent exclusively for the maintenance, construction and development of highways and bridges in the state highway system. By mutual cooperative written agreements, or in the event of emergencies or other unusual circumstances where the financial or general welfare of the people is concerned, two (2) or more units of government may, upon a showing of cause declared and entered upon the minutes of an official meeting of the board, the boards of county, highway district commissioners or the governing body of any cities involved, as the case may be, share jointly the costs of the maintenance, construction or development of highways and bridges in any state, county, district or city system.

(2) All moneys apportioned to the board, counties or highway districts, and cities from the proceeds from the imposition of tax on fuels and from any tax or fee for the registration or operation of motor vehicles for general highway construction and maintenance, bridge and culvert moneys, shall be accounted for as to the actual expenditure to the state auditor controller, as dedicated funds by a certification of the governing unit receiving, budgeting and expending those dedicated funds. The certification shall list the actual funds received for the budgetary period in each category of dedicated funds and the actual expenditure of the used dedicated funds. Any balance of dedicated funds unexpended must be shown and accounted for as a beginning balance in the next regular budget. The certification shall be prepared by the director, county auditor or highway district treasurer or city clerk, and shall be signed by the elected county or highway district commissioners, mayor, council, or board members of the respective reporting governmental unit. The certification shall be made by the 15th of November of each year for the preceding fiscal budget year, and shall be published once as a legal notice between November 15th and the end of November. Failure to make certification, failure to publish or the making of false statements in the certification shall subject the person so doing to the penalties prescribed in section 40-207, Idaho Code, or be used as the grounds for removal from office of the offending officials. The state auditor controller is empowered to withhold the distribution of funds for noncompliance with the provisions of this section, but upon compliance shall authorize the distribution to be made.

(3) Moneys remaining unexpended in dedicated funds shall not be budgeted and expended for uses other than the limits of the dedicated fund.

(4) Highway districts may accumulate fund balances at the end of a fiscal year and carry over those fund balances into the ensuing fiscal year sufficient to achieve or maintain highway district operations on a cash basis. A fund balance is the excess of the assets of a fund over its liabilities and reserves.

SECTION 80. That Section 40-709, Idaho Code, be, and the same is hereby amended to read as follows:

40-709. APPORTIONMENT OF FUNDS FROM HIGHWAY DISTRIBUTION ACCOUNT TO LOCAL UNITS OF GOVERNMENT. From the moneys appropriated from the

highway distribution account to local units of government, the appropriation shall be distributed as follows:

(1) Thirty per cent (30%) shall be apportioned among incorporated and specially chartered cities, in the same proportion as the population of the incorporated or specially chartered city bears to the total population of all the incorporated or specially chartered cities as shown by the last regular or special federal census.

(2) The remainder shall be apportioned:

(a) Ten per cent (10%) shall be divided equally among all counties of the state.

(b) Forty-five per cent (45%) shall be divided among the counties of the state in the proportion that the amount collected from motor vehicle registrations in each county during the last calendar year bears to the total amount of those collections in all counties in the state.

(c) Forty-five per cent (45%) shall be divided among the counties of the state in the proportion that the number of miles of improved highways in the county highway system of each county bears to the total number of miles of improved highways in the county highway systems of all counties in the state. The director is directed to certify to the state auditor controller, on or before January 1 of each year, the number of miles of improved highways in each county.

(3) Moneys paid to counties with highway districts shall be further distributed by the state as follows:

(a) Ten per cent (10%) shall be divided equally among the county, if the county maintains any highways, and the highway districts;

(b) Forty-five per cent (45%) shall be divided among the county, if the county maintains any highways, and the highway districts of the county in the proportion that the amount collected from motor vehicle registrations in each area designated during the last calendar year bears to the total amount of those collections in the entire county;

(c) Forty-five per cent (45%) shall be divided among the county, if the county maintains any highways, and the highway districts in the proportion that the number of miles of improved highways in the county and the highway districts bear to the total number of miles of improved highways in the entire county highway system.

(4) The state auditor controller shall ascertain the sums set for the apportionment and remit to the local governments their share of the amount computed. The apportionment hereby made shall be remitted to the local governments not later than January 25, April 25, July 25, and October 25 of each year.

(5) Moneys paid to incorporated or specially chartered cities shall be expended by the governing bodies of those cities solely in the construction and maintenance of highways within their corporate limits and to meet the interest and sinking fund requirements for the current year on any unpaid bonds issued by those cities for highway and bridge purposes, or refunding bonds issued to take up those bonds.

(6) Each highway district receiving an apportionment from the highway distribution account shall apportion those funds as follows: To the interest and sinking fund of the district, an amount as may be necessary to meet the interest and sinking fund requirements for that

year on any unpaid bonds issued by that district, and any balance of those funds shall be used for highway and bridge maintenance and construction. Each district may expend all or any portion of the balance of those funds in the construction and maintenance of state highways within the district.

(7) No part of highway funds or any apportionment from it shall ever be used for any purposes other than those provided in this section, except as specifically otherwise provided. At the end of any fiscal year an unexpended balance of highway funds shall be carried forward and retained and subsequently applied to the maintenance and construction of highways or the payment of bond interest and principal and sinking fund requirements.

SECTION 81. That Section 40-715, Idaho Code, be, and the same is hereby amended to read as follows:

40-715. TRANSFER OF SUMS ALLOCABLE TO COUNTIES, HIGHWAY DISTRICTS AND CITIES -- DISBURSEMENT. It is the duty of the state auditor controller to draw drafts upon the state treasury for the transfer of the distributive sums allocable to the several counties, highway districts and cities, which drafts shall be made payable directly to the county treasurers, highway district secretary or city clerk. The county treasurers shall deposit the moneys in the county highway fund, highway district secretaries shall deposit the moneys in the highway district road fund and the city clerk shall deposit the moneys in the city street fund.

SECTION 82. That Section 41-406, Idaho Code, be, and the same is hereby amended to read as follows:

41-406. DEPOSIT AND REPORT OF FEES, LICENSES AND TAXES. (1) The director shall transmit all taxes, fines and penalties collected by him to the state treasurer as provided under section 59-1014, Idaho Code. The director shall file with the state auditor controller a statement of each deposit thus made. All such funds received shall be deposited into the department of insurance suspense account.

Such funds shall be distributed as follows:

(a) Ten percent (10%) shall be deposited in the insurance refund account which is hereby created for the purpose of repaying overpayments of any taxes, fines, and penalties or other erroneous receipts. There is hereby appropriated out of the insurance refund account so much thereof as shall be necessary for the payment of refunds. Any unencumbered balance remaining in the insurance refund account on June 30 of each and every year in excess of forty thousand dollars (\$40,000) shall be transferred to the general account and the state auditor controller 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.

(b) That portion of the premium tax, payable to the public employee retirement account as provided in section 59-1394, Idaho Code, shall be distributed to that account.

(c) That portion of the premium tax necessary to cover adminis-

trative costs incurred by the department in placing insurance companies or any other insurance entities into receivership or under administrative supervision, and such costs cannot be satisfied from the assets of these companies or entities, shall be distributed to the insurance insolvency administrative account which is hereby created. There is hereby appropriated out of the insurance insolvency administrative account so much thereof as shall be necessary, but not to exceed two hundred thousand dollars (\$200,000) in any one (1) fiscal year, for the payment of the department's administrative expenses incurred in carrying out such receiverships or supervisions. A balance of one hundred thousand dollars (\$100,000) shall be maintained in this account on June 30 of each year.

(d) The balance of the premium tax, fines and penalties shall be distributed to the general account of the state of Idaho.

(e) All moneys received for fees, licenses and miscellaneous charges collected shall be distributed to the insurance administrative account.

(2) The director shall make and file with the state auditor controller an itemized statement of the fees, licenses, taxes, fines and penalties collected by him during the preceding month, and shall deliver a certified copy of the statement to the state treasurer.

SECTION 83. That Section 42-202, Idaho Code, be, and the same is hereby amended to read as follows:

42-202. APPLICATION TO APPROPRIATE WATER -- CONTENTS -- FILING FEES -- DISPOSITION OF FEES -- RECORD OF RECEIPTS. For the purpose of regulating the use of the public waters and of establishing by direct means the priority right to such use, any person, association or corporation hereafter intending to acquire the right to the beneficial use of the waters of any natural streams, springs or seepage waters, lakes or ground water, or other public waters in the state of Idaho, shall, before commencing of the construction, enlargement or extension of the ditch, canal, well, or other distributing works, or performing any work in connection with said construction or proposed appropriation or the diversion of any waters into a natural channel, make an application to the department of water resources for a permit to make such appropriation. Such application must set forth:

1. The name and post-office address of the applicant.
2. The source of the water supply.
3. The nature of the proposed use or uses and the period of the year during which water is to be used for such use or uses.
4. The location of the point of diversion and description of the proposed ditch, channel, well or other work and the amount of water to be diverted and used.
5. The time required for the completion of construction of such works and application of the water to the proposed use.

Whenever it is desired to appropriate and store flood or winterflow waters, the applicant shall specify in acre feet the quantity of such flood or winterflow waters which he intends to store, but for irrigation purposes he shall not claim more than five (5) acre feet of stored water per acre of land to be irrigated, nor, in the

event of the filing of an application claiming both normal flow and flood water and winterflow water, shall the total amount of water claimed exceed the equivalent of a continuous flow during the irrigation season of more than one (1) cubic foot per second for each fifty (50) acres of land to be irrigated, or more than five (5) acre feet of stored water for each acre of land to be irrigated.

The application shall be accompanied by a plan and map of the proposed works for the diversion and application of the water to a beneficial use, showing the character, location and dimensions of the proposed reservoirs, dams, canals, ditches, pipelines, wells and all other works proposed to be used by them in the diversion of the water, and the area and location of the lands proposed to be irrigated, or location of place of other use.

If the application involves more than twenty-five (25) second feet of water or the development of more than five hundred (500) theoretical horse power, or impoundment of water in a reservoir with an active storage capacity in excess of ten thousand (10,000) acre feet, the applicant may be required by the director of the department of water resources to furnish a statement of the financial resources of the corporation, association, firm or person making the application, and the means by which the funds necessary to construct the proposed works are to be provided, and the estimated cost of construction; and if such application is made by a corporation, the amount of its capital stock, how much thereof has been actually paid in, and the names and places of residence of its directors; and if for the generation of power or any other purpose than irrigation or domestic use, the purpose for which it is proposed to be used, the nature, location, character, capacity and estimated cost of the works, and whether the water used is to be and will be returned to the stream, and if so, at what point on the stream.

In case the proposed right of use is for agricultural purposes, the application shall give the legal subdivisions of the land proposed to be irrigated, with the total acreage to be reclaimed as near as may be; provided, that no one shall be authorized to divert for irrigation purposes more than one (1) cubic foot of water per second of the normal flow for each fifty (50) acres of land to be so irrigated, or more than five (5) acre feet of stored water per annum for each acre of land to be so irrigated, unless it can be shown to the satisfaction of the department of water resources that a greater amount is necessary. Provided further, that the plan of irrigation submitted shall provide for the distribution of water to within not more than one (1) mile of each legal subdivision of the land proposed to be reclaimed by the use of such water; provided also, that in the case of all ditches designed to have a capacity of ten (10) cubic feet per second or less, such map showing the location of such ditch, and the place of use of such water, or the location of the lands to be irrigated, may be upon blanks furnished by the department of water resources.

No application shall be accepted and filed by the department of water resources until the applicant shall have deposited with the department a filing fee as in this act provided.

All moneys received by the department of water resources under the provisions of this chapter shall be deposited with the state treasurer, and such sums as may be necessary shall be available for the

payment of the expenses of the department of water resources incurred in carrying out the provisions of this chapter.

Such expense shall be paid by the state auditor controller in the manner provided by law, upon vouchers duly approved by the state board of examiners, for the work performed under the direction of the department of water resources. The department of water resources shall keep a record of all filing fees received in connection with applications for permits to appropriate public waters.

Provided further, that rights initiated prior to the enactment of this amendment, so far as it pertains to flood and winterflow waters, shall not be affected thereby.

SECTION 84. That Section 42-2018, Idaho Code, be, and the same is hereby amended to read as follows:

42-2018. CAREY ACT TRUST FUND -- CONTINUING APPROPRIATION. As provided in the act of congress all moneys received by the department of water resources from the sale of lands selected under the provisions of this chapter shall be deposited with the state treasurer, and such sums as may be necessary shall be available for the payment of the expenses of the department of water resources incurred in carrying out the provisions of this chapter.

Such expenses shall be paid by the state auditor controller in the manner provided by law, upon vouchers duly approved by the state board of examiners, for the work performed under the direction of the department of water resources; and any balance remaining over and above the expense necessary to carry out the provisions of this chapter shall constitute a trust fund in the hands of the state treasurer to be used only for the reclamation of other arid lands; provided, however, that any funds in the hands of the state treasurer in excess of fifty thousand dollars (\$50,000) may be loaned by the department of finance in the manner and form prescribed by the laws of this state for the loan of school funds; provided, also, that said department of finance shall have and is hereby granted power and authority to sell, transfer or assign said securities, or any part thereof, whenever said department of water resources shall determine that the Carey Act fund has use for, and needs, the money aforesaid in carrying out the purposes of the trust imposed upon the state by the laws of the state or United States. No sale, transfer or assignment, aforesaid, shall be made by said department of finance for less than the face value and accrued interest of said securities.

SECTION 85. That Section 42-2024, Idaho Code, be, and the same is hereby amended to read as follows:

42-2024. MANNER OF REPAYMENT. Such claim shall be paid from the funds herein appropriated by warrant drawn by the state auditor controller upon the treasurer of the state upon allowance of a verified claim by the state board of examiners in the manner provided by law, but no claim shall be allowed except the approval of the director of the department of water resources be indorsed thereon.

SECTION 86. That Section 42-2807, Idaho Code, be, and the same is

hereby amended to read as follows:

42-2807. LANDS ASSESSED -- STATE LANDS. All lands directly benefited by any irrigation or drainage project, or any irrigation or drainage works established under this chapter, and all public or corporate roads or railroads so benefited in whole or in part, shall be assessed in proportion to the benefits for the construction thereof. All lands owned by the state of Idaho benefited by such project may be assessed for such benefit the same as taxable land, provided a notice of the filing of the petition and of the time and place of hearing and notice of hearing shall have first been served on the state auditor controller: provided, that instead of paying the said assessments so levied against the state lands, the state may promptly offer said state lands for sale at public sale in the manner provided by law, and as rapidly as permitted by the provisions of the state constitution, until the entire acreage of state land in such project shall have been sold and if the state does not make appropriations for the payment of such assessments against such state lands, then the sale of such state land, when made, shall be made under contract requiring the purchaser as a condition to receiving title to such lands from the state, or to receiving any contract right or interest therein, to pay all assessments duly levied against such lands under the provisions of this chapter, and to pay to the proper county officer at the time of such sale such annual assessments as may have come due prior to the time of such sale, with interest thereon as hereinafter provided, and to continue the payment of such assessments until title passes from the state to such purchaser, which conveyance shall be made from the state to the purchaser subject to the liens herein provided for.

SECTION 87. That Section 46-719, Idaho Code, be, and the same is hereby amended to read as follows:

46-719. ARMORY CONSTRUCTION FUND. There is hereby created in the state treasury, a separate fund to be known as the "Armory Construction Fund," and all such moneys as may hereafter come into said fund are hereby appropriated for armory construction projects and to carry out the purposes and objects of this act. All funds received from the federal government, if such funds are payable directly to the state, and all other funds received from any source to carry out the purposes and objects of this act, shall be delivered to the state treasurer and by him deposited in said "Armory Construction Fund." All moneys paid into said "Armory Construction Fund," including federal moneys and state moneys appropriated thereto, shall be used solely for the construction of new armory facilities or the expansion, rehabilitation or conversion of existing facilities as provided in this act, and such moneys shall be paid out upon warrants drawn by the state auditor controller upon presentation of proper vouchers showing the adjutant general's approval of such disbursements. Any appropriations made to the "Armory Construction Fund" are expressly exempted from the provisions of the Standard Appropriations Act of 1945, sections 67-3601--67-3614, Idaho Code, from the provisions of section 67-3509, Idaho Code, and from the provisions of sections 67-3516--67-3523, Idaho Code.

SECTION 88. That Section 46-1005A, Idaho Code, be, and the same is hereby amended to read as follows:

46-1005A. DISASTER EMERGENCY ACCOUNT. (1) There is hereby created and established in the state treasury a separate account ~~in the state operating fund~~ to be known as the disaster emergency account which account shall be administered by the governor or his designee. The account shall only be used to pay obligations and expenses incurred by the state of Idaho during a declared state of disaster emergency.

(2) In order to pay said obligations and expenses in coping with a declared state of disaster emergency the governor shall expend state money as follows:

(a) The governor shall use any moneys available in the disaster emergency account.

(b) In the event the disaster emergency account is inadequate to satisfy said obligations and expenses, the governor is empowered to direct, by executive order, the state ~~auditor~~ controller to transfer moneys from the general account, created pursuant to section 67-1205, Idaho Code, to the disaster emergency account, provided that in the governor's judgment sufficient general account moneys will be available to support the full general account appropriations for the current fiscal year.

(c) In addition to any purpose for which they have previously been created, all funds excluding constitutionally created funds, or funds limited in their application by the constitution of the state of Idaho, are hereby expressly declared to be appropriated for the purpose of effectuating the purposes of this act. If the moneys made available in paragraphs (a) and (b) above are inadequate to meet the above mentioned obligations and expenses, the governor is empowered to direct the state ~~auditor~~ controller, by executive order, to transfer to the disaster emergency account moneys from any eligible account in order to pay said obligations and expenses; provided, that in the governor's judgment, the moneys transferred are not required to support the current year's appropriation of the affected accounts.

(d) In the event that restitution is made to the state from nonstate sources to reimburse the state for costs incurred in responding to a state of disaster emergency, the governor may use funds from the restitution to reimburse accounts from which funds were drawn to pay for the state's response to the emergency.

(3) In addition to any other purpose for which they might have been appropriated, all moneys made available by this act to be used in the event of a disaster emergency are hereby perpetually appropriated for the purpose set forth in this section according to the limitations established by this section and the constitution of the state of Idaho. In no event may the revenues made available by section 46-1005A (2) (b) and (c), Idaho Code, for any and all emergency purposes exceed, during any fiscal year, one percent (1%) of the annual appropriation of general account moneys for that fiscal year.

SECTION 89. That Section 49-450A, Idaho Code, be, and the same is hereby amended to read as follows:

49-450A. PLATE MANUFACTURING ACCOUNT. There is hereby created in the state treasury an account to be known as the "plate manufacturing account" for the purpose of paying the actual cost to manufacture license plates and to pay costs related to use of the centennial design on the license plate. All moneys in this account are hereby continuously appropriated to the department. Any additional funds required to pay plate manufacturing costs will be transferred by the state ~~auditor~~ controller from the state highway account.

SECTION 90. That Section 49-2205, Idaho Code, be, and the same is hereby amended to read as follows:

49-2205. HAZARDOUS MATERIAL/HAZARDOUS WASTE TRANSPORTATION ENFORCEMENT ACCOUNT. (1) For the purposes of the Idaho department of law enforcement, there is hereby created an account ~~in the dedicated fund~~ in the state treasury, to be designated the hazardous material/hazardous waste transportation enforcement account.

(2) The account shall consist of:

(a) Moneys appropriated to the account;

(b) Moneys as provided in sections 49-2202 and 49-2203, Idaho Code, and in subsections (1) and (2) of section 49-2209, Idaho Code;

(c) Donations, gifts and grants from any source; and

(d) Any other moneys which may hereafter be provided by law.

(3) Moneys in the account may be used by the director for reasonable costs incident to enforcement of the laws and rules related to the transportation of hazardous material or hazardous waste. Such costs include expenditures for inspection and monitoring programs, training of law enforcement personnel to meet specialized needs of hazardous materials/hazardous waste enforcement, and other reasonable expenses necessary for the enforcement of such programs.

(4) All moneys placed in the account shall be appropriated annually by the legislature for the purposes described in subsection (3) of this section. All expenditures from the account shall be paid out in warrants drawn by the state ~~auditor~~ controller upon presentation of the proper vouchers.

(5) Pending use, surplus moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code.

(6) An amount of money equal to the actual and reasonable cost of issuing the permits and endorsements, collecting the moneys for them, and the direct administrative costs as determined by the department and certified by the state ~~auditor~~ controller, shall be paid to the state highway account established in section 40-702, Idaho Code.

SECTION 91. That Section 50-1012, Idaho Code, be, and the same is hereby amended to read as follows:

50-1012. ACCOUNTING SYSTEM. The system for accounting of receipts, expenditures and reporting in each city shall be as prescribed in the Uniform Accounting and Reporting Manual for Idaho Cities and as the same may be hereafter amended and revised. Not less than three (3) copies of the accounting manual with current amendments

and revisions shall at all times be on file in the office of the state auditor controller.

SECTION 92. That Section 50-1047, Idaho Code, be, and the same is hereby amended to read as follows:

50-1047. GENERAL PROVISIONS. Any ordinance assessing a tax pursuant to this act shall contain a finding by the local governing body of the city based upon evidence presented to it that the condition set forth in section 50-1044, Idaho Code, exists and shall provide the methods for reporting and collecting taxes due. Taxes collected pursuant to any such ordinance shall be remitted to the city official designated in such ordinance or other such official contracting, pursuant to this act, with the city to provide collection services, and shall constitute revenue of the city available for any lawful corporate purpose approved by city voters subject to the provisions of this act. In any election, the ordinance submitted to city voters shall: (a) state and define the specific tax to be approved; (b) state the exact rate of the tax to be assessed; (c) state the exact purpose or purposes for which the revenues derived from the tax shall be used; and (d) state the duration of the tax. No tax shall be redefined, no rate shall be increased, no purpose shall be modified, and no duration shall be extended without subsequent approval of city voters. An ordinance adopting any local-option nonproperty tax authorized by this act may provide for separate identification of taxes as may be appropriate. The city clerk of any city adopting an ordinance pursuant to this act shall, immediately following approval of such ordinance, or any amendment thereto, forward a copy of said ordinance or amendment to the state auditor controller, the chairman of the state tax commission, and the chairman of the state board of tax appeals.

SECTION 93. That Section 50-1049, Idaho Code, be, and the same is hereby amended to read as follows:

50-1049. COLLECTION AND ADMINISTRATION OF LOCAL-OPTION NONPROPERTY TAXES BY STATE TAX COMMISSION -- DISTRIBUTION. (a) A city which has levied a tax pursuant to section 50-1044, Idaho Code, may contract with the state tax commission for the collection and administration of such taxes in like manner and under the definitions, rules and regulations of the tax commission for the collection and administration of the state sales tax under chapter 36, title 63, Idaho Code. A city which levies such tax shall have the right to review and audit the records of collection thereof maintained by the commission and the returns of taxpayers relating to such tax. Alternatively, such city shall have authority to administer and collect such tax.

(b) All revenues collected by the tax commission pursuant to section 50-1044, Idaho Code, shall be distributed as follows:

(1) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid through the state refund account and those moneys are continuously appropriated;

(2) An amount of money equal to such fee as may be agreed upon

between the commission and such city for the actual cost of the collection and administration of the tax. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost at the end of each fiscal year shall be distributed as provided in paragraph (3) of this subsection;

(3) All remaining moneys received pursuant to this chapter shall be placed in an account designated by the state ~~auditor~~ controller and remitted monthly to the city levying such tax.

SECTION 94. That Section 50-2611, Idaho Code, be, and the same is hereby amended to read as follows:

50-2611. USE OF REVENUE -- CONTRACTS TO ADMINISTER OPERATION OF DISTRICT. The legislative authority of each city shall have sole discretion as to how the revenue derived from the special assessments is to be used within the scope of the purposes; however, the legislative authority may appoint existing advisory boards or commissions to make recommendations as to its use, or the legislative authority may create a new advisory board or commission for the purpose.

The legislative authority may contract with a chamber of commerce or other similar business association operating primarily within the boundaries of the legislative authority to administer the operation of a business improvement district, including any funds derived pursuant thereto; provided, that such administration must comply with all applicable provisions of law including this chapter, with all county or city resolutions and ordinances, and with all regulations lawfully imposed by the ~~State-Auditor~~ state controller or other state agencies.

SECTION 95. That Section 54-217, Idaho Code, be, and the same is hereby amended to read as follows:

54-217. STATE BOARD OF ACCOUNTANCY ACCOUNT. All fees, charges and fines of every kind collected by the board under the provisions of this chapter shall be deposited in the state treasury to the credit of the Idaho state board of accountancy account. All such moneys as may hereafter come into the Idaho state board of accountancy account are hereby appropriated to carry out the purposes and objects of this chapter, and for payment of all costs and expenses incurred in connection therewith. No other state funds shall be expended for the purposes of this chapter. Moneys shall be paid out of the account upon warrants drawn by the state ~~auditor~~ controller upon the presentation of proper vouchers approved by the Idaho state board of accountancy. Such claims and vouchers will be subject to such examination by the board of examiners as are other claims against the state.

SECTION 96. That Section 54-910, Idaho Code, be, and the same is hereby amended to read as follows:

54-910. STATE BOARD OF DENTISTRY FUND -- CREATION OF. All fees of any kind collected under the provisions of this act shall be deposited with the state treasury to the credit of a separate fund to be known

as the state board of dentistry fund and all such moneys as may hereafter come into such fund are hereby appropriated to carrying out the purposes and objects of this act, and to pay all costs and expenses incurred in connection therewith. No other state funds shall be expended for the purposes of this act provided that funds collected hereunder shall be immediately available in the biennium 1967-68, the provisions of the budget law notwithstanding. Such moneys shall be paid out upon warrants drawn by the state auditor controller upon presentation of proper vouchers approved by the state board of dentistry or its executive secretary acting within his delegated authority. Such claims and vouchers shall be examined by the board of examiners as are other claims against the state. Moneys paid from this fund are expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code (Standard Travel Pay and Allowance Act of 1949).

SECTION 97. That Section 54-1209, Idaho Code, be, and the same is hereby amended to read as follows:

54-1209. RECEIPTS AND DISBURSEMENTS. The secretary of the board, or assistants thereto as may be designated by the board, shall receive and account for all moneys derived under the provisions of this act, and shall pay the same monthly to the state treasurer, who shall keep such moneys in a separate account to be known as the "professional engineers' and professional land surveyors' account." Such moneys shall be kept separate and apart from all other moneys in the treasury, and shall be paid out only on approval of the board. All moneys in the "professional engineers' and professional land surveyors' account" are hereby specifically appropriated for the use of the board. The secretary of the board shall be bonded to the state of Idaho in the time, form and manner prescribed in chapter 8, title 59, Idaho Code. The secretary of the board shall receive such salary as the board shall determine in addition to the compensation and expenses provided for in section 54-1205, Idaho Code. The board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures from this fund for any purpose which, in the opinion of the board, is reasonably necessary for the proper performance of its duties under this act, including the expenses of the board's delegates to annual conventions of, and membership dues to, the National Council of Examiners for Engineering and Surveying and any of its subdivisions. Under no circumstances shall the total amount of expenditures approved by the board in payment of the expenses and compensation provided for in this act exceed the accumulated amount of the examination, registration and renewal fees collected as herein provided. All warrants on said "professional engineers' and professional land surveyors' account" shall be drawn by the state auditor controller on vouchers by the board and the state board of examiners.

SECTION 98. That Section 54-1405, Idaho Code, be, and the same is hereby amended to read as follows:

54-1405. DISPOSITION OF FUNDS -- STATE BOARD OF NURSING ACCOUNT -- CREATION OF. All fees of any kind collected under the provisions

of this act shall be deposited in the state treasury to the credit of an account to be known as the state board of nursing account in accordance with chapter 8, title 57, Idaho Code, which is hereby created and all such monies as are now in or may hereafter come into such account are hereby appropriated for carrying out the purposes and objectives of this act and to pay all costs and expenses incurred in connection therewith.

Such monies shall be paid out upon warrants drawn by the state ~~auditor~~ controller upon presentation of proper vouchers approved by the state board of nursing.

SECTION 99. That Section 54-1506, Idaho Code, be, and the same is hereby amended to read as follows:

54-1506. STATE BOARD OF OPTOMETRY FUND -- CREATION. (1) All fees of any kind collected under the provisions of this act and all fees collected from optometrists in or out of the state of Idaho by law, except those fees required by subsection (2) of this section and section 54-1523, Idaho Code, shall be deposited in the state treasury to the credit of a separate fund to be known as the state board of optometry fund and all such moneys deposited into such fund are hereby appropriated to carrying out the purpose and objects of this act and to pay salaries, fees, costs and expenses incurred in connection with the purpose and objects of this act. The funds collected shall be immediately available in the fiscal year 1972-1973 of the 1971-1973 biennium, the provisions of the budget law notwithstanding. The funds collected shall remain perpetually in the state board of optometry fund from one biennium to the next. The moneys and funds in the state board of optometry fund shall be paid out upon warrants drawn by the state ~~auditor~~ controller upon presentation of proper vouchers approved by the state board of optometry or its executive secretary acting within his delegated authority. Moneys paid from this fund are expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code (Standard Travel Pay and Allowance Act of 1949).

(2) The annual fee for renewal of a license shall be established by board rule, not to exceed seventy-five dollars (\$75.00), which shall be paid to the bureau of occupational licenses, and to pay salaries, fees, costs and expenses incurred in connection with the purposes and objects of this act.

SECTION 100. That Section 54-1720, Idaho Code, be, and the same is hereby amended to read as follows:

54-1720. OTHER DUTIES -- POWERS -- AUTHORITY. The board of pharmacy shall have such other duties, powers, and authority as may be necessary to the enforcement of this act and to the enforcement of board rules and regulations made pursuant thereto, which shall include, but are not limited to, the following:

(1) The board may join such professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of pharmacy for the protection of the health and welfare of the public and whose activities assist and facilitate the work of the board.

(2) In addition to any statutory requirements, the board may require such surety bonds as it deems necessary to guarantee the performance and discharge of the duties of any officer or employee receiving and disbursing funds.

(3) The executive director of the board shall keep the seal of the board and shall affix it only in such manner as may be prescribed by the board.

(4) On or before the 60th day after the last day of each state fiscal year, the board shall submit to the governor a report summarizing its proceedings and activities during that fiscal year, together with a report of all moneys received and disbursed by the board. Such reports or comprehensive summaries or abstracts thereof, as determined by the board shall be made available to the public.

(5) (a) The board shall determine within thirty (30) days prior to the beginning of each state fiscal year the fees to be collected for:

1. Examinations and reexaminations, which fee shall not exceed two hundred fifty dollars (\$250);
2. The issuance of licenses, which fee shall not exceed two hundred fifty dollars (\$250);
3. The issuance of certificates of registration and renewal certificates of registration, which fee shall not exceed one hundred dollars (\$100); and
4. The certification of approved providers of continuing education courses, which fee shall not exceed three hundred dollars (\$300).

(b) All fees or fines which shall be paid under the provisions of this act shall be paid over by the board to the treasurer of the state of Idaho, and shall be held by the state treasurer in the pharmacy account, which shall be paid out by the state treasurer upon warrant drawn by the state auditor controller against said account. The state auditor controller is hereby authorized, upon presentation of the proper vouchers of claims against the state, approved by the said board and the state board of examiners, as provided by law, to draw his warrant upon said account.

(6) The board may receive and expend moneys in addition to its annual appropriations, from parties other than the state, provided:

(a) Such moneys are awarded for the pursuit of a specific objective which the board is authorized to accomplish by this act, or which the board is qualified to accomplish by reason of its jurisdiction or professional expertise;

(b) Such moneys are expended for the pursuit of the objective for which they are awarded;

(c) Activities connected with or occasioned by the expenditures of such moneys do not interfere with or impair the performance of the board's duties and responsibilities and do not conflict with the exercise of the board's powers as specified by this act;

(d) Such moneys are kept in a separate, special state account; and

(e) Periodic reports are made to the administrator, division of budget, policy planning and coordination, concerning the board's receipt and expenditure of such moneys.

(7) The board shall assign to each drug outlet under its juris-

diction, a uniform state number, coordinated where possible with all other states which adopt the same uniform numbering system.

(8) The board or its authorized representatives shall also have power to investigate and gather evidence concerning alleged violations of the provisions of this act or of the rules and regulations of the board.

(9) (a) Notwithstanding anything in this act to the contrary, whenever a duly authorized representative of the board finds or has probable cause to believe that any drug, or device is adulterated or misbranded within the meaning of the Idaho food, drug and cosmetic act, he shall affix to such drug or device a tag or other appropriate marking giving notice that such article is or is suspected of being adulterated or misbranded, has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until provision for removal or disposal is given by the board, its agent or the court. No person shall remove or dispose of such embargoed drug or device by sale or otherwise without the permission of the board or its agent or, after summary proceedings have been instituted, without permission from the court.

(b) When a drug or device detained or embargoed under paragraph (a) of this subsection (9) has been declared by such representative to be adulterated or misbranded, the board shall, as soon as practical thereafter, petition the judge of the district court in whose jurisdiction the article is detained or embargoed for an order for condemnation of such article. If the judge determines that the drug or device so detained or embargoed is not adulterated or misbranded, the board shall direct the immediate removal of the tag or other marking.

(c) If the court finds the detained or embargoed drug or device is adulterated or misbranded, such drug or device, after entry of the decree, shall be destroyed at the expense of the owner under the supervision of a board representative and all court costs and fees, storage and other proper expense shall be borne by the owner of such drug or device. When the adulteration or misbranding can be corrected by proper labeling or processing of the drug or device, the court, after entry of the decree and after such costs, fees and expenses have been paid and a good and sufficient bond has been posted, may direct that such drug or device be delivered to the owner thereof for such labeling or processing under the supervision of a board representative. Expense of such supervision shall be paid by the owner. Such bond shall be returned to the owner of the drug or device on representation to the court by the board that the drug or device is no longer in violation of the embargo and the expense of supervision has been paid.

(d) It is the duty of the attorney general to whom the board reports any violation of this subsection to cause appropriate proceedings to be instituted in the proper court without delay and to be prosecuted in the manner required by law. Nothing in this subsection (9) shall be construed to require the board to report violations whenever the board believes the public's interest will be adequately served in the circumstances by a suitable written notice or warning.

(10) Except as otherwise provided to the contrary, the board shall exercise all of its duties, powers and authority in accordance with the administrative procedures act.

(11) (a) For the purpose of any proceedings held before the board as authorized by law, including the refusal, nonrenewal, revocation or suspension of licenses, registrations or certifications authorized by this act, or the imposition of fines or reprimands on persons holding such licenses, certification or registrations, the board may subpoena witnesses and compel their attendance, and may also at such time require the production of books, papers, documents or other memoranda. In any such proceeding before the board, any member of the board, or its designee, may administer oaths or affirmations to witnesses so appearing.

(b) If any person shall refuse to obey a subpoena so issued, or refuse to testify or produce any books, papers or documents called for by said subpoena, the board may make application to the district court of the county in which the proceeding is held, for an order of the court requiring the person to appear before the court, and to show cause why the person should not be compelled to testify, to produce such books, papers, memoranda or other documents required by the subpoena, or otherwise comply with its terms. The application shall set forth the action theretofore taken by the board to compel the attendance of the witness, the circumstances surrounding the failure of the witness to attend or otherwise comply with the subpoena, together with a brief statement of the reasons why compliance with the subpoena is necessary to the proceeding before the board.

(c) Upon the failure of a person to appear before the court at the time and place designated by it, the court may enter an order without further proceedings requiring the person to comply with the subpoena. Any person failing or refusing to obey such order of the court shall be punished for contempt of court as in other cases provided.

SECTION 101. That Section 54-1809, Idaho Code, be, and the same is hereby amended to read as follows:

54-1809. STATE BOARD OF MEDICINE FUND -- CREATION OF. All fees of any kind collected under the provisions of this act shall be deposited in the state treasury to the credit of a separate fund to be known as the state board of medicine fund and all such moneys as are now in or may hereafter come into such fund are hereby appropriated to the board for carrying out the purposes and objects of this act, and to pay all costs and expenses incurred in connection therewith. All moneys in the state board of medicine fund on the effective date of this act are hereby transferred and appropriated to the state board of medicine fund hereby created. Moneys shall be paid out of the fund upon warrants drawn by the state auditor controller upon presentation of proper vouchers approved by the board.

SECTION 102. 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 commission under the provisions of this act, except as designated in section 54-2035A, Idaho Code, shall be deposited at least monthly with the state treasurer and said funds so deposited shall be deposited to the credit of the special real estate account, which account is hereby created. All funds so deposited in said special real estate account are hereby appropriated for the purpose of carrying out the provisions of this act. All expenditures from said account by the commission under the provisions of this act shall be paid out on warrants drawn by the state ~~auditor~~ controller upon presentation of proper vouchers approved by the commission. Such claims and supporting vouchers shall be examined by the state board of examiners 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 commission shall have power to make orders concerning the disbursement of the moneys in said special real estate account, 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 account may be expended by the commission for the promotion and improvement of the real estate profession, the advancement of education and research in the field of real estate, including, but not limited to, courses sponsored by the commission or in conjunction with any university or college in the state and/or contracting for a particular research project in the field of real estate, and the promotion and advertising of the state of Idaho.

SECTION 103. That Section 54-2120, Idaho Code, be, and the same is hereby amended to read as follows:

54-2120. CREATION OF STATE BOARD OF VETERINARY MEDICINE ACCOUNT. All moneys, including civil penalties collected under the provisions of this chapter shall be deposited in ~~the dedicated fund of~~ the state treasury to the credit of a separate account to be known as the "state board of veterinary medicine account," and all moneys as are now in or may hereafter come into the account are hereby appropriated to the board for carrying out the purposes and objects of this chapter, and to pay all costs and expenses incurred in connection with the provisions of this chapter. All moneys in the occupational licenses account belonging to the state board of veterinary medicine as of July 1, 1983, are hereby transferred and appropriated to the state board of veterinary medicine account hereby created. Moneys shall be paid out of the account upon warrants drawn by the state ~~auditor~~ controller upon presentation of proper vouchers approved by the board.

SECTION 104. That Section 54-2809, Idaho Code, be, and the same is hereby amended to read as follows:

54-2809. PROFESSIONAL GEOLOGISTS' FUND -- FINANCES. The secretary of the board shall receive and account for all moneys derived under the provisions of this act, and shall pay the same monthly to the state treasurer, who shall keep such moneys in a separate fund to be known as the "professional geologists' fund." Such fund shall be kept

separate and apart from all other moneys in the treasury, and shall be paid out only on approval of the board. The secretary of the board shall give a surety bond to the state in such sum as the board may determine. The premium on said bond shall be regarded as a proper and necessary expense of the board, and shall be paid out of the "professional geologists' funds." The secretary of the board shall receive such salary as the board shall determine in addition to the compensation and expenses provided for in section 54-2805, Idaho Code. The board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures of this fund for any purpose which in the opinion of the board is reasonably necessary for the proper performance of its duties under this act. Under no circumstances shall the total amount of expenditures approved by the board in payment of the expenses and compensation provided for in this act exceed the amount of the examination and registration fees collected as herein provided. All warrants on the "professional geologists' funds" shall be drawn by the state auditor controller on vouchers by the board and approved by the state board of examiners.

SECTION 105. That Section 54-3605, Idaho Code, be, and the same is hereby amended to read as follows:

54-3605. POWERS AND DUTIES OF COMMISSION. The 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 wines 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 grapes and grape products.

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

(6) To investigate and participate in studies of the problems to the growers of grapes in the state of Idaho.

(7) To take such action as the commission deems necessary or advisable in order to promote grapes for juices, raisins, wines and other grape by-products.

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

(9) 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.

(10) 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 cam-

paigned of research, education, product protection, publicity and reciprocal enforcement of these objects.

(11) To protect brands, marks, packages, brand names or trademarks being promoted by the commission.

(12) To do any and all things that will promote grapes for juices, raisins, wines and other grape by-products.

(13) To keep an accurate record of all its dealings, which shall be open to inspection and audit by the state auditor controller.

(14) To sue and be sued.

(15) 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 106. That Section 55-1809, Idaho Code, be, and the same is hereby amended to read as follows:

55-1809. NOTICE OF FILING -- REGISTRATION -- FEES. 1. Upon receipt of the application for registration in proper form and of a registration fee of two hundred fifty dollars (\$250), the commission shall issue a notice of filing to the applicant. In addition to the application for registration fee, the following fees are payable prior to issuance of an order of registration; five dollars (\$5.00) per lot, parcel, unit or interest numbering fifty (50) to two hundred fifty (250); four dollars (\$4.00) per lot, parcel, unit or interest numbering two hundred fifty-one (251) to five hundred (500); three dollars (\$3.00) per lot, parcel, unit or interest numbering five hundred one (501) to seven hundred fifty (750); and two dollars and fifty cents (\$2.50) for each lot, parcel, unit or interest numbering in excess of seven hundred fifty (750). The maximum application and registration fee is twenty-five hundred dollars (\$2,500). Within ninety (90) days from the date of the notice of filing, the commission shall enter an order registering the subdivided lands or rejecting the registration. If no order of rejection is entered within ninety (90) days from the date of notice of filing, the land shall be deemed registered unless the applicant has consented in writing to a delay.

2. If the commission affirmatively determines, upon inquiry and examination, that the requirements of section 55-1808, Idaho Code, have been met, it shall enter an order registering the subdivided lands and shall designate the form of the public offering statement.

3. If the commission determines, upon inquiry and examination, that any of the requirements of section 55-1808, Idaho Code, have not been met, the commission shall notify the applicant that the application for registration must be corrected in the particulars specified within ten (10) days. If the requirements are not met within the time allowed, the commission shall enter an order rejecting the registration which shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective for twenty (20) days during which time the applicant may petition for reconsideration and shall be entitled to a hearing.

4. Registration under this act shall be effective as of the date of the registration order for a period of one (1) year and may be renewed for additional periods of one (1) year by filing, not later than fifteen (15) days prior to the expiration of a registration, a

renewal application in such form and containing such information as the commission shall prescribe, together with the payment of a renewal fee of two hundred fifty dollars (\$250), plus one dollar (\$.00) for each lot, parcel, unit or interest. A late renewal fee of twenty-five dollars (\$25.00) per day will be charged for each day the renewal application is late, with a maximum late fee of five hundred dollars (\$500). Each amendment to the original registration requires a twenty-five dollar (\$25.00) fee. The initial registration and any renewal fees shall not be returned or refunded for any reason.

5. All fees collected by the commission under this act shall be deposited at least monthly with the state treasurer and said funds so deposited shall be deposited to the credit of the special real estate fund. All funds so deposited are hereby appropriated to the commission for the purpose of carrying out the provisions of this act. All expenditures from said fund by the commission under the provisions of this act shall be paid out on warrants drawn by the state auditor controller upon presentation of proper vouchers approved by the commission. Such claims and supporting vouchers shall be examined by the state board of examiners in the same manner as other claims against the state of Idaho. For the purpose of carrying out the objects of this act and in the exercise of the powers herein granted, the commission shall have powers 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 such other expenses as deemed necessary.

SECTION 107. That Section 56-233, Idaho Code, be, and the same is hereby amended to read as follows:

56-233. PROCEDURE FOR DISBURSEMENT OF FUNDS TO RECIPIENTS. Notwithstanding the provisions of section 56-405 and section 56-406, Idaho Code, any such contract entered into between the designated and responsible governmental agency and an independent contractor for the administration of such medical assistance programs may set forth therein a procedure for the disbursement of funds to the recipients of such program and, upon the approval of the procedures so established by the ~~auditor-of-the-state-of-idaho~~ state controller, disbursements of funds shall be made by the state of Idaho to the independent contractor and by the independent contractor to the recipients in accordance with the procedures so established. Procedures established by contract for the disbursement of funds shall have reference only to such funds as involve the participation of the federal government under the provisions of title XIX of the Social Security Act of 1965, as amended.

SECTION 108. That Section 56-404, Idaho Code, be, and the same is hereby amended to read as follows:

56-404. TRANSFER OF FUNDS FROM GENERAL FUND TO WELFARE FUND. Upon the approval of the claim upon the general fund by the state board of examiners, the state auditor controller and the state treasurer shall transfer the approved amount from the general fund to the cooperative

welfare fund. Any unexpended balance in the cooperative welfare fund at the end of any month shall be subject to disbursement in accordance with the terms of this act in any subsequent month.

SECTION 109. That Section 56-406, Idaho Code, be, and the same is hereby amended to read as follows:

56-406. PROCEDURE FOR MAKING DISBURSEMENTS. For disbursements as described in section 56-405(a), Idaho Code, the director shall make requisition to the state auditor controller upon vouchers, showing the director's approval of such disbursements, and certifying to the participation therein of federal funds as described in said section 56-405(a), Idaho Code. Upon the presentation of such vouchers, the state auditor controller shall issue warrants on the state treasury against the cooperative welfare fund, payable to the persons named by the director in the amounts allowed by it, as indicated upon the vouchers. Such warrants shall be transmitted by the state auditor controller to the director of the department of health and welfare for distribution. Requisitions and vouchers for disbursements described in section 56-405(a), Idaho Code, shall be subject to examination by the state auditor controller in order to determine that the account is in proper form, that the totals carried thereon are correct, and that there are funds in the state treasury out of which the same may lawfully be paid.

SECTION 110. That Section 57-302, Idaho Code, be, and the same is hereby amended to read as follows:

57-302. SUMMARY OF OUTSTANDING BONDS TO BE INCLUDED IN RECORDER'S FINANCIAL STATEMENT. It is hereby made the duty of the county recorder to include in the annual financial statement to the state auditor board of county commissioners, provided for in section 31-2307, Idaho Code, a classified summary ~~on a form to be prescribed by the state auditor~~ of all outstanding bonds of the county and of each included bonded district and the total amount in the bond redemption funds of the county and of each included bonded district.

SECTION 111. That Section 57-304, Idaho Code, be, and the same is hereby amended to read as follows:

57-304. COUNTY RECORDER ~~AND STATE AUDITOR~~ NOT TO CHARGE FEES. There shall be no fee charged by the county recorder for filing any such lists or making the copies for transmission to the state auditor board of county commissioners or for any other services herein required of the county recorder, ~~nor shall there be any charge by the state auditor for any services herein required of him.~~

SECTION 112. That Section 57-305, Idaho Code, be, and the same is hereby amended to read as follows:

57-305. STATE COUNTY AUDITOR TO KEEP INFORMATION FOR REFERENCE. The state county auditor shall keep in some convenient form for reference, the information received from the counties various treasurers as

herein provided.

SECTION 113. That Section 57-726, Idaho Code, be, and the same is hereby amended to read as follows:

57-726. ISSUANCE OF WARRANTS BY STATE ~~AUDITOR~~ CONTROLLER COVERING INVESTMENTS BY BOARD. Whenever the board shall order the investment of any part of the public school fund or any permanent endowment fund of the state held for investment, the board shall notify the state ~~auditor~~ controller and state treasurer of such order and of the amount so ordered invested, together with the name of the custodian, and the state ~~auditor~~ controller shall draw a warrant for the amount stated in the notice in favor of the custodian, and the state treasurer shall pay such warrant out of the fund designated, upon indorsement of such custodian.

SECTION 114. That Section 57-812, Idaho Code, be, and the same is hereby amended to read as follows:

57-812. CONSOLIDATION INTO ROTARY FUND. (1) Those accounting entities on the records of the state ~~auditor~~ controller and state treasurer, commonly referred to as "rotary funds," but which are not recognized or created by law, may be consolidated into the rotary fund as accounts by the state ~~auditor~~ controller, utilizing such numbering and identification sequence as fits the needs of the state's accounting system.

(2) All financial transactions of the rotary fund, including the receipt of moneys and payments by warrant, shall be maintained on the account level within the rotary fund. The state ~~auditor~~ controller and the state treasurer may prescribe requirements for this purpose.

(3) After July 1, 1977, accounts within the rotary fund may be established in the manner provided by sections 67-2019 through 67-2022, Idaho Code, with the numbering and identification sequence to be assigned by the state ~~auditor~~ controller.

SECTION 115. That Section 57-813, Idaho Code, be, and the same is hereby amended to read as follows:

57-813. CATASTROPHIC HEALTH CARE COST ACCOUNT. (1) There is hereby created ~~in--the--agency--asset--fund~~ in the state treasury an account to be designated the "Catastrophic Health Care Cost Account." The account shall be used solely for payment of insurance premiums, payment of claims or payment of the expenses of administering the catastrophic health care cost account.

(2) The administrator of the catastrophic health care cost program may retain counsel.

(3) All moneys placed in the account are hereby perpetually appropriated to the administrator of the catastrophic health care cost program for purposes of this program. All expenditures from the account shall be paid out in warrants drawn by the state ~~auditor~~ controller upon presentation of proper vouchers from the administrator. Pending use, surplus moneys in the account shall be invested by the state treasurer in the same manner as prescribed in section 67-1210,

Idaho Code, with respect to surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the account.

SECTION 116. That Section 57-818, Idaho Code, be, and the same is hereby amended to read as follows:

57-818. EQUINE EDUCATION ACCOUNT. There is hereby created in the ~~dedicated fund state treasury~~ the equine education account. Moneys in the account may be appropriated only to the university of Idaho for its veterinary science program to be used specifically to enhance and forward the work conducted at the northwest equine reproduction laboratory, and as provided for in this section. In order for appropriated moneys to be expended, such moneys must be matched on a one-to-one match basis by contributions from private sources. Any unencumbered or unexpended balances of appropriations at the end of a fiscal year shall be transferred to the public school income fund by the state auditor controller.

SECTION 117. That Section 57-1307, Idaho Code, be, and the same is hereby amended to read as follows:

57-1307. DISTRIBUTION OF REVENUES. All moneys received by the state treasurer under the provisions of chapter 12 and chapter 13, title 57, Idaho Code, for transmittal to other units or departments of government shall be expeditiously paid to the units or departments as soon as distribution information is received from the appropriate agency of the federal government. To accomplish expeditious payment the division of financial management, and the state auditor controller, shall immediately carry out their duties.

If a payment under the provisions of chapter 12 or chapter 13, title 57, Idaho Code, has been made in error to other units or departments due to erroneous information received from the appropriate agency of the federal government or due to any other reason, the state treasurer shall either make the necessary adjustments in the next distribution to said units or departments, or shall expeditiously demand refunds from those units or departments which were overpaid and such units or departments shall pay such refunds expeditiously to the state treasurer.

SECTION 118. That Section 58-101, Idaho Code, be, and the same is hereby amended to read as follows:

58-101. STATE LAND BOARD -- CONSTITUTION -- DEPARTMENT OF LANDS CREATED. The governor, secretary of state, attorney general, state auditor controller and superintendent of public instruction being constituted a state board of land commissioners by section 7 of article 9, of the Constitution of the state, as such board, have the direction, control and disposition of the public lands of the state. The board shall exercise the said constitutional functions through the instrumentality of a department of lands which is hereby created.

SECTION 119. That Section 58-116, Idaho Code, be, and the same is

hereby amended to read as follows:

58-116. GROSS RECEIPTS PAYABLE INTO TREASURY. The gross amount of money received by the department, from whatever source, belonging to or for the use of the state, shall be paid into the state treasury, without delay, without any deduction on account of salaries, fees, costs, charges, expenses or claim of any description whatever and shall be credited to such fund or funds as are now or may hereafter be designated by law for the deposit thereof. No money belonging to, or for the use of, the state shall be expended or applied by the department except in consequence of an appropriation made by law and upon the warrant of the ~~auditor~~ state controller.

SECTION 120. That Section 58-123, Idaho Code, be, and the same is hereby amended to read as follows:

58-123. DIRECTOR OF DEPARTMENT -- STATEMENTS -- ANNUAL REPORTS. On the first business day of each quarter the director of the department of lands shall forward to the state ~~auditor~~ controller and treasurer a statement in duplicate of the amount of moneys received and deposited from all sources. Such statement shall show the class and character of the lands sold or leased, and the amounts of moneys received from all other sources; and on or before the first day of December immediately preceding the meeting of the legislature, he shall make a report to the governor of the business of his office, the transactions of the state board of land commissioners and the land, forest and fire affairs of the state, showing, by tables, the land belonging to the several funds of the state, to whom sold, the amount leased, and the receipts from all sources; and said reports shall contain any such other items of information concerning state lands, forests and fires as the state board of land commissioners may deem worthy of publication.

SECTION 121. That Section 58-129, Idaho Code, be, and the same is hereby amended to read as follows:

58-129. DEPOSIT OF PAPERS WITH STATE TREASURER. All valuable papers and securities, or any portion thereof, pertaining to the business of the land department, may, by direction of the state board of land commissioners, be deposited with the state treasurer for safekeeping in the fireproof vault and fire and burglar proof safe provided for the treasurer's department. Upon such order being made by the board, the director shall prepare a list of such valuable papers and securities so ordered deposited, in triplicate, and shall take thereon the receipt of the treasurer for such papers and securities, leaving one (1) list with the treasurer, filing one (1) with the state ~~auditor~~ controller and preserving one (1) in the office of the board. For the safekeeping of such papers and securities, and their return to the state board of land commissioners when required at any time, the state treasurer shall be liable on his official bond.

SECTION 122. That Section 58-304A, Idaho Code, be, and the same is hereby amended to read as follows:

58-304A. FORFEITURE OF COTTAGE SITE LEASES -- NEW LEASES -- COLLECTIONS -- DISPOSITION. Upon forfeiture of a cottage site lease as provided in section 39-3610, Idaho Code, as amended, the department issuing the cottage site lease shall, as a condition of any new lease of such cottage site, collect from the new lessee an amount equal to all unpaid connection fees or charges, monthly rates, tolls or charges, and special benefits payments, as certified by the district to the department as unpaid by the cottage site lessee whose cottage site lease was forfeited. Any amounts so collected shall be immediately transmitted by the department collecting the same to the state treasurer to be placed in the revolving fund for water and sewer districts established in section 58-141A, Idaho Code, taking his receipt therefor in duplicate, filing one (1) with the state auditor controller and the other receipt in the office of the department.

SECTION 123. That Section 58-308, Idaho Code, be, and the same is hereby amended to read as follows:

58-308. IMPROVEMENTS -- FILING OF RECEIPT FOR PAYMENT -- MISTAKE AND FRAUD. Should anyone apply to lease any of the lands belonging to the state upon which there are improvements belonging to another party, before the lease shall issue, he shall file in the office of the state board of land commissioners a receipt showing that the price of said improvements, as agreed upon by the parties, or fixed by the state board, has been paid to the owner thereof in full, or shall make satisfactory proof that he has tendered to such owner the price of said improvements, so agreed upon, or fixed by the board. If, by any mistake or error, any money has been, or shall hereafter be, paid on account of any sale or lease of state lands, or if any land or timber shall have been, or shall hereafter be sold by the state, or lease executed, which land or timber shall have been, or shall hereafter be, by a court or tribunal of competent jurisdiction, adjudged to belong to another than the state of Idaho, at the date of such sale or the execution of such lease, a claim shall be presented to the state board of examiners, and, if authorized by them, the auditor state controller shall draw a warrant in favor of the party paying said money, and the state treasurer shall pay the same out of the fund into which such money was deposited or placed. If through any fraud, deceit or misrepresentation, any party or parties shall procure the issuing of any lease for state lands the board shall have the authority to cancel such lease.

SECTION 124. That Section 58-323, Idaho Code, be, and the same is hereby amended to read as follows:

58-323. UNEARNED INTEREST -- CERTIFICATE OF REBATE -- ALLOWANCE AND PAYMENT. The officer receiving such final payment of principal for the state in cases of unearned and rebatable interest, or the officer receiving money paid by error or mistake on the principal or interest on such certificate of sale, is hereby authorized, directed and empowered to execute and deliver, over his signature, to the person entitled thereto, a certificate stating, in cases of rebate of unearned interest, that the holder or his assignee, is entitled to a rebate of

unearned interest under the terms of this chapter, giving the amount thereof, the date to which the interest on said certificate of sale had been paid, and the date when the principal on said certificate of sale was paid in full; and in cases of payment of principal or interest made by error or mistake, stating the date of the payment and the nature of the error or mistake, and the amount of rebate due. The said claim shall be paid from the fund of the state into which the moneys represented by said claim were paid and distributed on their receipt by the state, which payment shall be made by warrant drawn by the state auditor controller on the treasurer of the state of Idaho, as in the case of other claims against the state.

SECTION 125. That Section 59-103, Idaho Code, be, and the same is hereby amended to read as follows:

59-103. RESIDENCE OF CERTAIN OFFICERS. The following officers must reside within the county of Ada and keep their offices in Boise City:

The Governor.
Secretary of State.
Auditor Controller.
Treasurer.
Attorney General.
Superintendent of Public Instruction.

SECTION 126. That Section 59-204, Idaho Code, be, and the same is hereby amended to read as follows:

59-204. DEALING IN WARRANTS PROHIBITED. The state treasurer and auditor state controller, the several county, city, district or precinct officers of this state, their deputies and clerks, are prohibited from purchasing or selling, or in any manner receiving to their own use or benefit, or to the use or benefit of any person or persons, whatever, any state, county, or city warrants, scrip, orders, demands, claims, or other evidences of indebtedness against the state, or any county or city thereof, except evidences of indebtedness issued to or held by them for services rendered as such officer, deputy or clerk, and evidences of the funded indebtedness of such state, county, city, district or corporation.

SECTION 127. That Section 59-307, Idaho Code, be, and the same is hereby amended to read as follows:

59-307. CERTIFICATE TO BE FILED BEFORE SALARY PAID -- DUTY OF STATE ~~AUDITOR~~ CONTROLLER. From and after the first day of June, 1921, the state auditor controller shall not certify any claim nor issue any warrant, for the payment of any salary, wages, per diem or other compensation of any officer, clerk or other state employee, not elected by popular vote, against any appropriation specifically provided for the payment of such compensation, unless the certificate prescribed by section 59-306, Idaho Code, shall previously have been filed in his office, and ~~said auditor~~ the state controller shall be liable upon his official bond for the payment of such compensation in excess of the

rate prescribed by law or legally fixed by such certificate of appointment.

SECTION 128. That Section 59-501, Idaho Code, be, and the same is hereby amended to read as follows:

59-501. SALARIES OF STATE ELECTIVE OFFICERS -- REGULAR PAYMENT -- TRAVELING EXPENSES -- FEES PROPERTY OF STATE. The governor, lieutenant governor, secretary of state, state auditor controller, state treasurer, attorney general and superintendent of public instruction shall, during their continuance in office, and commencing on the first Monday in January, 1991 receive for their services compensation as follows:

Governor, \$75,000 per annum;

Lieutenant governor, \$20,000 per annum;

Secretary of state, \$62,500 per annum;

State auditor controller, \$62,500 per annum; said salary to be audited by the legislative council;

Attorney general, \$67,500 per annum;

State treasurer, \$62,500 per annum; and

State superintendent of public instruction, \$62,500 per annum.

Such compensation shall be paid on regular pay periods as due out of the state treasury, and shall be in full for all services by said officers respectively rendered in any official capacity or employment whatever during their respective terms of office; but no increase of compensation shall affect the salaries of such officers during their present terms of office; provided, however, that the actual and necessary expenses of the governor, lieutenant governor, secretary of state, attorney general, state auditor controller, state treasurer, and superintendent of public instruction while traveling within the state, or between points within the state, in the performance of official duties, shall be allowed and paid by the state; not however, exceeding such sum as shall be appropriated for such purpose.

Actual and necessary subsistence expenses of the governor while traveling in connection with the performance of official duties are hereby expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code. (Standard Travel Pay and Allowance Act of 1949).

No officer named in this section shall receive, for the performance of any official duty any fee for his own use, but all fees fixed by law for the performance by either of them, of any official duty, shall be collected in advance and deposited with the state treasurer to the credit of the state.

SECTION 129. That Section 59-503, Idaho Code, be, and the same is hereby amended to read as follows:

59-503. TIME OF PAYMENT OF SALARIES. (1) The salaries of all state and district officers and employees whose salaries are paid monthly from the state treasury, shall be paid on or before the tenth day of the month following the month for which the salary is due, out of any money in the treasury not otherwise appropriated.

(2) From and after June 30, 1973, the state auditor controller may prescribe pay periods different from a monthly pay period, except

that any such program shall insure that payment is made on or before the end of the pay period following the end of the pay period for which salaries are due. The programs prescribed by the state auditor controller need not be uniform between or among agencies and departments.

SECTION 130. That Section 59-506, Idaho Code, be, and the same is hereby amended to read as follows:

59-506. SALARY SUSPENDED DURING FAILURE TO REPORT FOR MONEYS COLLECTED. Any officer, or deputy, failing to report in the form prescribed by the state auditor controller for all public moneys collected by him on behalf of the state, shall not be allowed any salary or compensation during the period of such failure.

SECTION 131. That Section 59-513, Idaho Code, be, and the same is hereby amended to read as follows:

59-513. DEFERRED COMPENSATION PROGRAMS FOR EMPLOYEES OF STATE OR POLITICAL SUBDIVISIONS. The state of Idaho, and any county, city, or political subdivision of the state acting through its governing body, is hereby authorized to contract with an employee to defer all or a portion of that employee's income, and may subsequently with the consent of the employee, invest such deferred income in a funding medium for the purpose of funding a deferred compensation program for the employee.

The state board of examiners shall supervise and regulate the deferred compensation program for state employees, and may adopt rules and regulations to implement such a program.

The governing body of any county, city, or political subdivision of the state, shall supervise and regulate the deferred compensation program for its employees.

In no event shall the amount of income an employee elects to defer exceed the total annual salary, or compensation under the existing salary schedule or classification plan applicable to such employee in such year. Any income deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the retirement contributions and pension benefits earned by any employee, but any sum so deferred shall not be included in the computation of any income taxes withheld on behalf of any such employee.

Coverage of an employee under a deferred compensation plan under this section shall not render such employee ineligible for simultaneous membership and participation in the pension systems for public employees which are otherwise provided for.

For the purpose of this act the state auditor controller is authorized to make such deductions from salary for any employee of the state who has authorized such deductions in writing, and the state board of examiners may designate administrative agents for the state of Idaho to execute all necessary agreements pertaining to the deferred compensation program.

For the purposes of this act, the term "employee" includes elected or appointed officials.

SECTION 132. That Section 59-804, Idaho Code, be, and the same is hereby amended to read as follows:

59-804. SURETY BONDS -- BLANKET SURETY BOND -- CRIME INSURANCE TERMS AND CONDITIONS. (1) Each official surety bond, blanket surety bond or suitable crime insurance policy of a public official or an employee shall be payable to the state or appropriate political subdivision, and shall be in the appropriate form as defined in section 59-802, Idaho Code. The surety bond, blanket surety bond, or suitable crime insurance shall be executed by a corporate surety company authorized to do business in this state in the amount fixed by the administrator, or by the governing body of the political subdivision.

(2) In lieu of individual bonds, the administrator or the governing body of a political subdivision may elect to provide a schedule or blanket corporate surety bond, or suitable crime insurance covering all or any group of public officials or employees whenever the premiums would be less than the aggregate of premiums chargeable under individual coverage. Any blanket or schedule bond or crime insurance provided shall contain all terms and conditions required in subsection (1) of this section or as defined in section 59-802, Idaho Code.

(3) All official bonds of employees of the state and its agencies shall be approved by the governor and shall be approved as to form and legal sufficiency by the attorney general and shall be filed with the secretary of state without cost, except that the bond of the secretary of state or a certified copy of any master, blanket or schedule bond including the secretary of state shall be filed with the state auditor controller.

(4) All official surety bonds, blanket surety bonds, or suitable crime insurance coverage of public officials or employees of a political subdivision shall be approved by the governing body of the political subdivision. After the governing body approves the form and legal sufficiency, the bonds or policies shall be filed with the clerk or secretary of the political subdivision.

SECTION 133. That Section 59-904, Idaho Code, be, and the same is hereby amended to read as follows:

59-904. STATE OFFICES -- VACANCIES, HOW FILLED AND CONFIRMED. (a) All vacancies in any state office, and in the supreme and district courts, unless otherwise provided for by law, shall be filled by appointment by the governor. Appointments to fill vacancies pursuant to this section shall be made as provided in subsections (b), (c), (d), (e), and (f) of this section, subject to the limitations prescribed in those subsections.

(b) Nominations and appointments to fill vacancies occurring in the office of lieutenant governor, state auditor controller, state treasurer, superintendent of public instruction, attorney general and secretary of state shall be made by the governor, subject to the advice and consent of the senate, for the balance of the term of office to which the predecessor of the person appointed was elected.

(c) Nominations and appointments to and vacancies in the following listed offices shall be made or filled by the governor subject to the advice and consent of the senate for the terms prescribed by law,

or in case such terms are not prescribed by law, then to serve at the pleasure of the governor:

Director of the department of administration,
Director of the department of finance,
Director of the department of insurance,
Director, department of agriculture,
Director of the department of employment,
Director of the department of water resources,
Director of the department of law enforcement,
Director, department of labor and industrial services,
Director of the department of commerce,
Manager of the state insurance fund,
Member of the state tax commission,
Members of the board of regents of the university of Idaho and the state board of education,
Members of the Idaho water resources board,
Members of the state fish and game commission,
Members of the Idaho transportation board,
Members of the state board of health and welfare,
Members of the board of directors of state parks and recreation,
Members of the board of correction,
Members of the industrial commission,
Members of the Idaho public utilities commission,
Members of the Idaho personnel commission,
Members of the board of directors of the Idaho state retirement system.

(d) Appointments made by the state board of land commissioners to the office of director, department of lands, and appointments to fill vacancies occurring in those offices shall be submitted by the president of the state board of land commissioners to the senate for the advice and consent of the senate in accordance with the procedure prescribed in this section.

(e) Appointments made pursuant to this section while the senate is in session shall be submitted to the senate forthwith for the advice and consent of that body. The appointment so made and submitted shall not be effective until the approval of the senate has been recorded in the journal of the senate. Appointments made pursuant to this section while the senate is not in session shall be effective until the appointment has been submitted to the senate for the advice and consent of the senate. Should the senate adjourn without granting its consent to such an interim appointment the appointment shall thereupon become void and a vacancy in the office to which the appointment was made shall exist.

All appointments made pursuant to subsection (c) of this section, except those appointments for which a term of office is fixed by law, shall terminate at the expiration of any gubernatorial term. Appointments to fill the vacancies thus created by the expiration of the term of office of the governor shall be forthwith submitted to the senate for the advice and consent of that body, and when so submitted shall be as expeditiously considered as possible.

Upon receipt of an appointment in the senate for the purpose of securing the advice and consent of the senate, the appointment shall be referred by the presiding officer to the appropriate committee of

the senate for consideration and report prior to action thereon by the full senate.

(f) It is the intent of the legislature that the provisions of this section as amended by this act shall not apply to appointments which have been made prior to the effective date of this act. It is the further intent of the legislature that the provisions of this section shall apply to the offices listed in this section and to any office created by law or executive order which succeeds to the powers, duties, responsibilities and authorities of any of the offices listed in subsections (c) and (d) of this section.

SECTION 134. That Section 59-1105, Idaho Code, be, and the same is hereby amended to read as follows:

59-1105. CONTRIBUTIONS FROM LOCAL ENTITIES. Under rules and regulations to be prescribed by the state auditor controller, each municipal corporation, political subdivision, drainage or irrigation district, hereinafter referred to as public employer, coming within the provisions of this chapter, shall remit to the state auditor controller the amounts required to be withheld from the salary or wages of each officer and employee together with the matching contribution of such public employer and any interest or penalties imposed for late remittances, in the manner and form prescribed by the state auditor controller. Such moneys shall be deposited in the social security trust account.

In case any public employer does not make, at the time or times due, the payments provided for under an agreement pursuant to this section, there shall be added, as part of the amounts due, interest at the rate of six percent (6%) per annum from the date due until paid plus a penalty of six percent (6%) and the state auditor controller may, at his discretion, deduct any delinquent amounts including interest and penalty from any funds or moneys due such delinquent public employer as may be in the possession of the state treasurer, and credit the same to the social security trust account.

If any public employer is delinquent in the payment of any moneys required to be paid under the provisions of this chapter, and is so delinquent for more than thirty (30) days, the state auditor controller shall so notify the board of county commissioners who shall thereupon order the county treasurer to withhold the equivalent amount of such moneys as are delinquent, together with the equivalent amount of any penalty or interest which may be due as a result of such delinquency, from any funds or moneys due such delinquent public employer as may be in the possession of the county treasurer, and to pay the same over to the state auditor controller, for the credit of the social security trust account.

SECTION 135. That Section 59-1106A, Idaho Code, be, and the same is hereby amended to read as follows:

59-1106A. REVOLVING ACCOUNT FOR SOCIAL SECURITY ADMINISTRATION. There is hereby appropriated out of the general account in the state operating fund, not otherwise appropriated, the sum of fifty thousand dollars (\$50,000) to be used as a revolving account in the state trea-

sury by the state auditor controller to handle remittances that must be made to the federal social security administration pending the making of adjustments and the collection of shortages in remittances for local government entities. The state auditor controller shall prescribe and adopt all necessary procedures for implementing the purpose of the revolving account.

SECTION 136. That Section 59-1107, Idaho Code, be, and the same is hereby amended to read as follows:

59-1107. PAYMENTS FROM STATE TRUST FUND. Moneys now or hereafter in such fund are hereby appropriated to the state board of examiners for the sole purpose of making payments to the United States in accordance with said Public Law 734. Such payments shall be made in such amounts and at such times as the state auditor controller shall certify them to be due and payable.

SECTION 137. That Section 59-1107A, Idaho Code, be, and the same is hereby amended to read as follows:

59-1107A. RECOVERY OF OVERPAYMENTS -- PAYMENT OF EXPENSES AND DISTRIBUTION OF RECOVERIES. The state auditor controller is authorized to recover on behalf of the state and all governmental entities enumerated in section 59-1101, Idaho Code, and on behalf of all officers and employees thereof, social security overpayments made to the United States treasury.

The expenses incurred by the state auditor controller in recovering such overpayments for a state agency and its employees or any governmental entity other than a school district and its employees shall be charged to the state agency or such governmental entity. In the event the state auditor controller incurs expenses in connection with a program to seek such a recovery on behalf of more than one (1) state agency or governmental entity, he shall allocate such expenses to such state agencies and governmental entities in such manner as he deems reasonable. The state auditor controller may bill state agencies and governmental entities other than school districts directly for such expenses or may reduce the amount of their recovery of social security funds or credits by the amount of such expenses.

Expenses incurred for recovery of funds on behalf of school districts and their employees may be paid out of any recoveries of overpayments on behalf of school districts. ~~Any amounts not so paid shall be included in the estimate of requirements certified by the state auditor to the state tax commission pursuant to section 59-115, Idaho Code, to be paid from the appropriation to the social security trust account pursuant to section 63-3638(d), Idaho Code.~~

The state auditor controller may take such actions as he deems reasonable in the recovery of such overpayments including contracting with third parties for the recovery of such funds.

The full amount of any recoveries of overpayments for employees of the state and all governmental entities shall be refunded to such employees. The amount of any recoveries on behalf of the state and its agencies and school districts after deducting the expenses of collection shall be transferred to the state general account. Any expenses

previously paid by a state agency shall be refunded to such state agency from such recoveries. Any unpaid expenses shall be paid from such recoveries. The amount of any recoveries on behalf of other governmental entities after deducting any unpaid expenses of collection shall be refunded to such governmental entities or allowed as a credit against future social security liability.

SECTION 138. That Section 59-1108, Idaho Code, be, and the same is hereby amended to read as follows:

59-1108. RECEIPTS OF STATE TRUST FUND. Collections into said fund shall be paid into said fund under such rules ~~and regulations~~ as shall be prescribed by the state ~~auditor controller~~, and shall consist of all moneys received from the various political subdivisions of the state, all state contributions for participation in the Federal Old Age and Survivors Insurance program, and all taxes collected from employees covered by said program.

SECTION 139. That Section 59-1110, Idaho Code, be, and the same is hereby amended to read as follows:

59-1110. ASSESSMENT OF SPECIAL FUNDS. The state board of examiners shall assess any special fund of the state from which salaries are paid, for the full amount due as state participation, when and as the state ~~auditor controller~~ shall certify such amounts as due and payable; and all such amounts are hereby appropriated for transfer from whatever fund or funds as shall be concerned, to the social security trust fund, save and except the several endowment earning funds.

SECTION 140. That Section 59-1325, Idaho Code, be, and the same is hereby amended to read as follows:

59-1325. EMPLOYER REMITTANCE TO BOARD -- COLLECTION OF DELINQUENCIES. (1) So as to be received not later than the twentieth day of each month each employer, or, where the employer's payroll is paid separately by departments, each department of the employer, shall remit to the retirement board all contributions required of it and its employees on the basis of salaries paid by it during the previous month with whatever contributions or contribution credits may be required to correct previous errors or omissions. These remittances shall be accompanied by such reports as are required by the board to determine contributions required and member benefit entitlements established under this chapter. The board may charge regular interest for remittances received after the twentieth of the month at the rate of interest provided in section 28-22-104(1), Idaho Code.

(2) If any employer shall fail or refuse to remit any such contributions within thirty (30) days after the date due, the board may certify to the state ~~auditor controller~~ the fact of such failure or refusal and the amount of the delinquent contribution or contributions, together with its request that such amount be set over from funds of the delinquent employer to the credit of the retirement fund. A copy of such certification and request shall be furnished the delinquent employer.

(3) Within ten (10) days after receipt of such request, the state auditor controller shall draw his warrant for payment of such amount out of moneys in the state treasury allocated to the use of such employer during the current fiscal year.

SECTION 141. That Section 59-1333, Idaho Code, be, and the same is hereby amended to read as follows:

59-1333. CONTRIBUTIONS FROM EMPLOYEES. The contribution for a member who is not classified as a police officer or firefighter shall be sixty percent (60%) of the employer contribution rate determined pursuant to section 59-1322, Idaho Code, and rounded to the nearest one hundredth percent (.01%) of salary; provided, however, that such member rate effective October 1, 1985, shall remain at five and thirty-four hundredths percent (5.34%) of salary until the first time after October 1, 1985, that the employer rate is changed from eight and eighty-nine hundredths percent (8.89%) of salary. The board is specifically authorized to certify to the state auditor controller the necessary adjustments in the rate of member contributions.

SECTION 142. That Section 59-1334, Idaho Code, be, and the same is hereby amended to read as follows:

59-1334. CONTRIBUTIONS -- FROM POLICEMEN AND FIREFIGHTERS. The contribution for a member who is classified as a police officer or firefighter shall be seventy-two percent (72%) of the employer contribution rate determined pursuant to section 59-1322, Idaho Code, and rounded to the nearest one hundredth percent (.01%) of salary; provided, however, that such member rate effective October 1, 1985, shall remain at six and forty hundredths percent (6.40%) of salary until the first time after October 1, 1985, that the employer rate is changed from eight and eighty-nine hundredths percent (8.89%) of salary. The board is specifically authorized to certify to the state auditor controller the necessary adjustments in the rate of member contributions.

SECTION 143. That Section 59-1404, Idaho Code, be, and the same is hereby amended to read as follows:

59-1404. ADDITIONAL SUCCESSORS TO OFFICE OF GOVERNOR. In the event that the governor, for any of the reasons specified in the constitution, is not able to exercise the powers and discharge the duties of his office, or is unavailable, and in the event the lieutenant governor, president pro tempore of the senate, and the speaker of the house of representatives be for any of the reasons specified in the constitution not able to exercise the powers and discharge the duties of the office of governor, or be unavailable, the secretary of state and state auditor controller shall, in the order named, if the preceding named officers be unavailable, exercise the powers and discharge the duties of the office of governor until a new governor is elected and qualified, or until a preceding named officer becomes available; Provided, however, that no emergency interim successor to the aforementioned offices may serve as governor.

SECTION 144. That Section 59-1603, Idaho Code, be, and the same is hereby amended to read as follows:

59-1603. CONFORMITY WITH CLASSIFIED POSITIONS. (1) To the extent possible, each nonclassified position in the executive department will be paid a salary or wage comparable to classified positions with similar duties, responsibilities, training, experience and other qualifications. Temporary employees and agricultural inspectors referred to in subsections (n) and (p) of section 67-5303, Idaho Code, shall not be entitled to sick leave accruals provided in section 59-1605, Idaho Code, vacation leave provided in section 59-1606, Idaho Code, nor holiday pay defined in subsection (12) of section 67-5302, Idaho Code, unless contributions are being made to the public employees retirement system in accordance with chapter 13, title 59, Idaho Code, and rules promulgated by the retirement board. Vacation and sick leave accruals, but not holiday pay, shall be awarded retroactively, if necessary, to the date such employees become eligible for retirement system membership. Officers and employees who are not paid from the salary schedule established in section 67-5309C(a), Idaho Code, are not eligible for the longevity factors provided by section 67-5309C(b), Idaho Code.

(2) To the extent possible, each nonclassified position in the legislative department will be paid a salary or wage comparable to classified positions with similar duties, responsibilities, training, experience and other qualifications. Officers and employees who are not paid from the salary schedule established in section 67-5309C(a), Idaho Code, are not eligible for the longevity factors provided by section 67-5309C(b), Idaho Code.

(3) The supreme court shall determine the schedules of salary and compensation for all officers and employees of the judicial department which are not otherwise fixed by law. To the extent possible, the supreme court shall adopt schedules which are compatible with the state's accounting system. The judicial department may also maintain personnel records and files under such system as is ordered by the supreme court.

(4) The state board of education shall determine the schedules of salary and compensation, longevity, and prescribe policies for overtime and compensatory time off from duty, for all officers and employees of the state board of education who are not subject to the provisions of chapter 53, title 67, Idaho Code, and which are not otherwise fixed by law. To the extent possible, the state board of education shall adopt schedules and policies which are compatible with the state's accounting system. The state board of education may also maintain personnel records and files under a system of its own, if approved by the state ~~auditor~~ controller.

(5) Members of the legislature, the lieutenant governor, other officers whose salaries are fixed by law, and members of part-time boards, commissions and committees shall be paid according to law.

(6) Any schedule of salary and compensation, if not the schedule prescribed by section 67-5309C(a), Idaho Code, must be approved by the appointing authority and be communicated to the state ~~auditor~~ controller in writing at least thirty (30) days in advance of the effective date of the schedule.

(7) In addition to salary increases provided by any compensation schedule adopted pursuant to paragraph (6) of this section, nonclassified officers and employees, except those who are elected officials or whose salaries are fixed by law, may be granted a lump sum bonus not to exceed one thousand dollars (\$1,000) in any given fiscal year based upon an affirmative certification of meritorious service. Exceptions to the one thousand dollar (\$1,000) limit provided in this section may be granted if approved in advance by the state board of examiners.

(8) Each appointing authority, including the elective offices in the executive department, the legislative department, the judicial department, and the state board of education and the board of regents, shall comply with all reporting requirements necessary to produce the list of employee positions prescribed by section 67-3519, Idaho Code.

(9) The adjutant general, with the approval of the governor, shall prescribe personnel policies for all officers and employees of the national guard which are not otherwise fixed by law. Such policies will include an employee grievance procedure with appeal to the adjutant general. The adjutant general shall determine schedules of salary and compensation which are, to the extent possible, comparable to the schedules used for federal civil service employees of the national guard and those employees serving in military status. Schedules adopted shall be compatible with the state's accounting system to the extent possible.

SECTION 145. That Section 59-1604, Idaho Code, be, and the same is hereby amended to read as follows:

59-1604. CREDITED STATE SERVICE. (1) For the purposes of payroll, vacation or annual leave, sick leave and other applicable purposes, credited state service shall be earned by:

(a) The elective officers of the executive department, except the lieutenant governor;

(b) Nonclassified officers and employees of any department, commission, division, agency or board of the executive department, except for part-time members of boards, commissions and committees;

(c) Officers and employees of the legislative department, except members of the house of representatives and the senate.

(2) One (1) hour of credited state service shall be earned by each eligible state officer or employee specified in subsection (1) above for each hour, or major fraction thereof, that the officer or employee receives pay, whether for hours worked or on approved leave. The state board of examiners shall adopt comparative tables and charts to compute credited state service on daily, weekly, bi-weekly, calendar month and annual periods.

(3) Members of the legislature, the lieutenant governor, and members of part-time boards, commissions and committees, shall not be eligible for annual leave or sick leave. Members of the legislature, the lieutenant governor, and members of part-time boards, commissions and committees shall, for retirement and longevity purposes only, be credited for each calendar month of service actually served, whether in session or not.

(4) Credited state service for those officers and employees identified by section 67-5303(i), Idaho Code, shall be as determined by the state board of education, except no such officer or employee shall be credited with more than two thousand eighty (2080) hours during any twelve (12) month period.

Any policy and procedures determined by the state board of education must be communicated to the state auditor controller in writing at least one hundred eighty (180) days in advance of the effective date of the policy and procedures.

(5) Service for retirement purposes shall be as provided in chapter 13, title 59, Idaho Code, or in chapter 20, title 1, Idaho Code.

SECTION 146. That Section 59-1605, Idaho Code, be, and the same is hereby amended to read as follows:

59-1605. SICK LEAVE COMPUTATION. (1) Eligible nonclassified officers and employees shall accrue sick leave at the same rate and under the same conditions as is provided in section 67-5333, Idaho Code, for classified officers and employees.

(2) Sick leave shall be taken by nonclassified officers and employees in as nearly the same manner as possible as is provided in section 67-5333, Idaho Code, for classified officers and employees.

(3) The supreme court shall determine the sick leave policies for all officers and employees of the judicial department. To the extent possible, the supreme court shall adopt policies which are compatible with the state's accounting system. Any policy and procedures determined by the supreme court must be communicated to the state auditor controller in writing at least one hundred eighty (180) days in advance of the effective date of the policy and procedures.

(4) The state board of education shall determine the sick leave policies for all officers and employees of the state board of education who are not subject to the provisions of chapter 53, title 67, Idaho Code. To the extent possible, the state board of education shall adopt policies which are compatible with the state's accounting system.

Any policy and procedures determined by the state board of education must be communicated to the state auditor controller in writing at least one hundred eighty (180) days in advance of the effective date of the policy and procedures.

(5) The state board of examiners shall adopt comparative tables and charts to compute sick leave on daily, weekly, bi-weekly, calendar month and annual periods.

SECTION 147. That Section 59-1606, Idaho Code, be, and the same is hereby amended to read as follows:

59-1606. VACATION TIME. (1) Eligible nonclassified officers and employees in the executive department and in the legislative department shall accrue vacation leave and take vacation leave at the same rate and under the same conditions as is provided in sections 67-5334 and 67-5335, Idaho Code, for classified officers and employees.

(a) The state board of examiners shall adopt comparative tables and charts to compute vacation time on daily, weekly, bi-weekly,

calendar month and annual periods.

(2) Eligible nonclassified officers and employees in the judicial department shall accrue vacation leave as determined by order of the supreme court.

Leave policies established by the supreme court must be communicated to the state auditor controller in writing at least one hundred eighty (180) days in advance of the effective date of the policies.

(3) The state board of education shall determine the vacation leave policies for all officers and employees of the state board of education who are not subject to the provisions of chapter 53, title 67, Idaho Code. To the extent possible, the state board of education shall adopt policies which are compatible with the state's accounting system.

Any policy and procedures determined by the state board of education must be communicated to the state auditor controller in writing at least one hundred eighty (180) days in advance of the effective date of the policy and procedures.

SECTION 148. That Section 61-1007, Idaho Code, be, and the same is hereby amended to read as follows:

61-1007. OBJECTIONS TO FEES ASSESSED -- PROCEDURE. If any public utility or railroad corporation subject to the provisions of this act claims the assessment made against it is erroneous, excessive, unlawful or invalid, it shall on or before the time specified for payment of the first instalment of the assessment made against it, file with the commission its written objections to such assessment, setting out specifically the grounds upon which it claims said assessment to be erroneous, excessive, unlawful or invalid. The commission, upon receipt of any such objection, and after ten (10) days' notice in writing to the objector, shall proceed to hold a hearing upon such objections within twenty (20) days after the date of such notice. Within twenty (20) days after such hearing, the commission shall make and enter its findings in its minutes and issue its order in accordance with said findings and forthwith transmit the same to the objector by registered mail. The commission shall refund any overpayment of any fees prescribed by this act and all claims for such refunds against the "Public Utilities Commission Fund" created by this act, shall be examined by the commission and certified by the president of the commission to the state auditor controller, who shall, upon the approval of the board of examiners, draw his warrant against said "Public Utilities Commission Fund" for all such claims for refunds so allowed and approved.

SECTION 149. That Section 61-1008, Idaho Code, be, and the same is hereby amended to read as follows:

61-1008. PUBLIC UTILITIES COMMISSION FUND -- CREATION -- APPROPRIATION -- DISPOSITION OF SURPLUS. The state treasurer shall be custodian of a fund, which is hereby created, to be known as the "Public Utilities Commission Fund," into which shall be paid and deposited all funds accruing or received under any and all provisions of this act, and all fees, licenses, charges, assessments, fines and penalties,

including fees collected from motor carriers under the provisions of title 61, chapter 8, Idaho Code, now or hereafter payable to, collected or recovered by the commission under any other law of this state, and all funds otherwise appropriated or made available to said fund. All moneys from whatever source accruing to and received into said fund are hereby appropriated, within the limits of funds determined therefor by the legislature, for the payment of the administrative and maintenance expenses of the commission, including salaries and wages of the commissioners and employees, travel, supplies, equipment, fixed charges, refunds of fees and all other necessary expenses of the commission, not otherwise provided for; moneys shall be paid out of said "Public Utilities Commission Fund" by the state treasurer only upon claim vouchers prepared and approved by the commission, certified by the president of the commission to the state auditor controller who, after audit as provided by law, shall draw his warrant against said "Public Utilities Commission Fund" for all such claims. Any moneys collected under this act remaining in said "Public Utilities Commission Fund" at the end of any fiscal year, shall be retained in said fund for the use of the commission for the purposes specified in this act and shall be credited ratably by the commission to the respective railroad corporations, other public utilities subject to the provisions of this act according to the respective portions of such fees determined hereunder to be assessable against each such railroad corporation and other public utility, respectively, for the ensuing fiscal year, and the respective fee assessed against each of them, respectively, for such ensuing fiscal year shall be correspondingly reduced; provided that, only moneys paid under the provisions of this act by railroad corporations and other public utilities shall be considered in determining the surplus to be so credited by the commission.

SECTION 150. 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 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, an annual 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 controller 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 administrative construction shall be binding upon the inquiring officer 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 property, 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 according 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 assessment 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 supplement 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 before it or its agents to testify and/or produce for examination such books, papers, records, or other data relating to any matter within its jurisdiction. However, no person 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 or its agents in obedience to such a summons, shall, in the discretion of the commission, receive the same compensation 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 witnesses appearing before it; the power to administer oaths and take affirmations is vested in each member of the commission 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 or its agents upon being summoned to appear as herein provided, the clerk of the district court of the county shall upon demand of the commission, any member thereof, its executive secretary, or agent, issue a subpoena reciting the demand therefor and summoning the witness 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 programs 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 and an annual appraisal school for its employees and for the assessors of the various counties of this state. Additionally, the commission shall provide for the establishment of an evaluator certification program. Such program shall include, as a minimum, a written examination prepared, administered and graded under the supervision and control of an examination committee. The committee is to be composed as the state tax commission may by regulation provide subject to the provisions of this act. The commission's regulations shall include but need not be limited to the following:

(a) the composition of the examination committee, provided, however, that the committee shall include a representative of the counties and a representative of a professional evaluators' association within this state. The representative of the counties together with the representatives of such professional evaluators' association shall constitute a majority of the committee.

(b) the frequency with which the examination shall be given.

(c) a reasonable review procedure by which examinees having complaints may seek review of the examination committee.

(d) the establishment of a reasonable period of time within which a county evaluator must meet the certification requirements as a condition to continued employment by the county as a property tax evaluator.

(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; providing, 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 investigate the effectiveness and adequacy of the revenue laws of this state and to assist the executive and legislative departments in estimation of revenue, analysis of tax measures and determination of the administrative feasibility of proposed tax legislation.

(27) Recommend to the governor in a report at least sixty (60) days before and to the legislature ten (10) days prior to 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 manner.

(28) Maintain a forest land and forest product tax section to perform the functions and duties of the tax commission under the provisions of chapter 17, title 63, Idaho Code.

SECTION 151. That Section 63-2301, Idaho Code, be, and the same is hereby amended to read as follows:

63-2301. LICENSES TO BE PREPARED AND PRINTED. The state auditor controller must prepare and have printed blank licenses of all classes mentioned in this chapter for terms of three (3), six (6) and twelve (12) months, and for such shorter terms as are herein authorized to be issued, with a blank receipt attached for the signature of the tax collector when sold.

SECTION 152. That Section 63-2302, Idaho Code, be, and the same is hereby amended to read as follows:

63-2302. LICENSES TO BE TRANSMITTED TO TREASURER. The state auditor controller, after signing, numbering and classifying the same, must transmit as many as may be required to the treasurer of each county and charge him therewith. The treasurer must countersign the same and deliver them to the county auditor, taking his receipt therefor, and charge him therewith, giving in the entry the number, classes and amounts thereof.

SECTION 153. That Section 63-2303, Idaho Code, be, and the same is hereby amended to read as follows:

63-2303. FORMS FOR COUNTY LICENSES. The county auditor must furnish printed forms, similar to those furnished by the state auditor controller, for all licenses, the entire proceeds of which are paid into the county treasury, and each license must be first numbered by the county treasurer, and by said treasurer charged to the auditor in a book kept for that purpose.

SECTION 154. That Section 63-2306, Idaho Code, be, and the same is hereby amended to read as follows:

63-2306. COUNTY AUDITOR TO REPORT TO STATE AUDITOR CONTROLLER. On the first day of each month each county auditor must report to the state auditor controller the number of licenses issued by the tax collector or officer charged with the duty of issuing the same, the amount of money paid for the same, and the number and description of licenses on hand, and the state auditor controller must hold each county treasurer or other county officer responsible for all licenses issued to him under this chapter, not accounted for or returned at the settlement to be made on the first day of January of each year.

SECTION 155. That Section 63-2520, Idaho Code, be, and the same is hereby amended to read as follows:

63-2520. DISTRIBUTION OF MONEYS COLLECTED. Revenues received from the taxes imposed by this chapter, and any revenues received from licenses, permits, penalties, interest, or deficiency additions, shall be distributed by the tax commission as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(b) The balance remaining with the state treasurer after deducting the amount described in paragraph (a) above shall be distributed as follows:

(1) 43.3% of such balance shall be distributed to the permanent building account created by section 57-1108, Idaho Code.

(2) 6.7% of such balance shall be distributed to the water pollution control account.

(3) 1% of such balance shall be distributed to the central tumor registry account. The amount of money so distributed to the central tumor registry account shall not exceed one hundred ten thousand dollars (\$110,000) per fiscal year, and at such time as one hundred ten thousand dollars (\$110,000) has been distributed to the central tumor registry account during any fiscal year, all such distributions in excess of one hundred ten thousand dollars (\$110,000) shall be made instead to the general account of the state of Idaho.

(4) 2.5% of such balance shall be distributed to the cancer control account created by section 57-1702, Idaho Code. Revenues received in the cancer control account shall be paid over to the state treasurer by the state tax commission to be distributed as follows:

(i) Such amounts as are appropriated for purposes specified in section 57-1702, Idaho Code, shall be expended as appropriated;

(ii) Any balance remaining in the cancer control account on June 30 of any fiscal year after the amounts withdrawn by appropriation have been deducted, shall be reserved for transfer to the general account on July 1 and the state auditor controller shall order such transfer.

(5) All remaining moneys shall be distributed to the general account of the state of Idaho.

SECTION 156. That Section 63-3067, Idaho Code, be, and the same is hereby amended to read as follows:

63-3067. REVENUE RECEIVED -- STATE REFUND ACCOUNT. All moneys, except as hereinafter provided, received by the state of Idaho under this act shall be deposited by the state tax commission, as received by it, with the state treasurer and shall be placed in and become a part of the general account under the custody of the state treasurer. Providing however, that an amount equal to twenty per cent (20%) of the amount deposited with the state treasurer shall be placed in the "state refund account" which is hereby created for the purpose of repaying overpayments, for the purpose of depositing in the trust accounts specified in section 63-3067A, Idaho Code, such amounts as

may be designated by individuals for the purpose of depositing in the Idaho ag in the classroom account an amount as may be designated by the individual receiving a refund for such overpayment, and for the purpose of paying any other erroneous receipts illegally assessed or collected, penalties collected without authority and taxes and licenses unjustly assessed, collected or which are excessive in amount. Whenever necessary for the purpose of making prompt payment of refunds, the board of examiners, upon request from the state tax commission, and after review, may authorize the state tax commission to transfer any additional specific amount from income tax collections to the "state refund account." There is appropriated out of the state refund account so much thereof as may be necessary for the payment of the refunds herein provided. 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 account on June 30 of each and every year in excess of the sum of four hundred thousand dollars (\$400,000) shall be transferred to the general account and the state auditor controller 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 157. That Section 63-3202, Idaho Code, be, and the same is hereby amended to read as follows:

63-3202. PROCEDURE FOR ISSUANCE OF NOTES. (1) Whenever the state treasurer shall deem it to the best interests of the state of Idaho to issue state of Idaho tax anticipation notes, as provided in section 63-3201, Idaho Code, the state treasurer shall make written application to the state board of examiners, stating the amount of state of Idaho tax anticipation notes the state treasurer deems advisable to issue. Upon approval of the state board of examiners by order or resolution duly entered on the minutes of the state board of examiners, the state treasurer shall issue the tax anticipation notes in accordance with the provisions of this chapter.

(2) Prior to the public issuance and public sale of any tax anticipation note, the state treasurer shall prepare a written plan of financing which shall be filed in the office of the governor. The plan of financing shall provide for the terms and conditions under which the tax anticipation notes shall be issued, sold and delivered, the taxes to be anticipated, the maximum amount of tax anticipation notes which may be outstanding at any one time under the plan of financing, the sources of payment of the tax anticipation notes issued pursuant to the plan of financing, which may include the proceeds of sale of notes issued to refund outstanding tax anticipation notes and to pay accrued interest thereon, and all other details necessary in connection with the issuance, sale and delivery of the tax anticipation notes. The plan of financing shall specify a method pursuant to which the interest rate or rates on the tax anticipation notes may be determined during the time the tax anticipation notes are outstanding and shall also set forth the maximum interest rate which the tax anticipation notes may bear.

(3) The tax anticipation notes shall bear interest, shall be in the form, shall be executed in the manner, shall be payable, shall be sold in the manner and at prices, either at, in excess of, or below the face value thereof, and generally shall be issued in the manner and with the details as shall be set forth in an order of the state treasurer, all in conformity with any applicable plan of financing and with this chapter.

(4) Each tax anticipation note shall recite that it is a valid and binding obligation of the state of Idaho and that the faith and credit of the state of Idaho is solemnly pledged for the payment of the principal of and interest thereon in accordance with its terms and the constitution and laws of the state of Idaho.

(5) Each tax anticipation note shall be registered prior to issuance in the office of the state auditor controller and a legend to that effect shall appear on each tax anticipation note.

(6) Immediately upon the completion of any sale, the state treasurer shall make a verified return of said sale to the state auditor controller, specifying the amount of notes sold, the person or persons to whom said notes were sold and the price, terms and conditions of the sale. Immediately upon the sale of any tax anticipation notes, the state treasurer shall credit the proceeds of sale, other than accrued interest, to the general account of the state operating fund of the state.

SECTION 158. That Section 63-3404, Idaho Code, be, and the same is hereby amended to read as follows:

63-3404. DUTIES OF STATE TAX COMMISSION -- ACCOUNTING AND REPORTS. (a) The state tax commission shall remit all moneys collected by it to the state treasurer, daily, and shall account for all moneys so collected and remitted, on forms prescribed by the state auditor controller. Accounting procedures employed in the office of the state tax commission shall be those prescribed by the state auditor controller with the approval of the state board of examiners. The governor may from time to time request reports from the state tax commission of the amount of moneys collected under any and/or all of the taxes and licenses collected by it, 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 commission shall make a report on all of these matters to the governor not less than semiannually.

(b) The records and accounts of the office of state tax 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 commission.

SECTION 159. That Section 65-102, Idaho Code, be, and the same is hereby amended to read as follows:

65-102. STATE AND LOCAL APPROPRIATIONS -- STATE AID -- CHARACTER OF MEMORIAL -- CONDITIONS PRECEDENT TO STATE AID. Each county or any

association therein in the state of Idaho shall be entitled to receive from the state of Idaho, for the erection of such memorial, the sum of one thousand dollars (\$1,000) whenever the county commissioners of said county or any association therein shall appropriate at least one thousand dollars (\$1,000) to be used with the money granted by the state of Idaho for the erection of said memorial. Each memorial erected with the state aid hereinbefore provided for shall be of the character, design, and style decided upon by the said commission. And in addition to the appropriation of at least one thousand dollars (\$1,000) to be made by each county or any association therein desiring to receive the sum of one thousand dollars (\$1,000) from the state of Idaho, the said county commissioners of said county or any association therein must provide a suitable location for the erection of said memorial, and also submit to the state auditor controller the plans and specifications of its proposed memorial giving full details, and no portion of the sum hereby appropriated shall be paid to any county or any association therein until the county or said association shall certify to the state auditor controller that at least one thousand dollars (\$1,000) has been appropriated and is available for the erection of said memorial and that a suitable site has been provided, and said plans and specifications have been approved by the said commission.

SECTION 160. That Section 65-205, Idaho Code, be, and the same is hereby amended to read as follows:

65-205. EXPENDITURE OF FUNDS -- EMERGENCY EXPENDITURES. The secretary of the commission is hereby authorized to certify all sums to be expended by said commission in carrying out the purposes of this chapter to the state board of examiners, and the state board of examiners, upon the approval of said sums, shall cause the state auditor controller to draw warrants for the amount of the same: provided, however, that whenever the secretary of said commission shall determine that an emergency exists he shall have the authority to draw sight drafts on the treasurer of the state of Idaho to relieve such emergency: provided, however, that no one of such drafts shall exceed the sum of fifty dollars (\$50.00), and further provided that the total amount paid out by sight drafts shall not exceed the sum of five hundred dollars (\$500) during any one (1) month. All sight drafts so drawn and paid shall be passed upon by the state board of examiners at the next regular meeting of such board, after the payment thereof by the state treasurer.

SECTION 161. That Section 66-118, Idaho Code, be, and the same is hereby amended to read as follows:

66-118. POWERS AND DUTIES OF THE BOARD -- HOSPITALS MANAGED BY -- ANNUAL REPORT. The board shall have complete authority to manage and operate the State Hospital North, at Orofino; the State Hospital South, at Blackfoot; the Idaho State School and Hospital at Nampa; with authority to establish professional standards of qualifications for doctors, nurses, superintendents, general managers, farm managers, attendants, and all other personnel and may employ a general business

manager for each of said hospitals, and hospital personnel at said hospitals and medical superintendents for each of said hospitals, at its discretion, or a superintendent, or director, or manager who may be over all hospitals. The board shall have complete authority to, or it is the duty of the board:

(a) To make rules and regulations for the government of said hospitals and to define the duties of all employees; provided, that the members of the board shall not be personally liable for any act of any employee done in violation of any law, or contrary to any rule or regulation of the board; nor shall any administrative employee of the board be responsible for the act of any other employee done in violation of any laws of the state, or rule or regulation of the board, or order of the administrative employee;

(b) To receive, take and hold property, both real and personal, in trust for the state and for the use and benefit of such hospitals;

(c) To visit each of said hospitals at such times as it deems necessary and to keep itself advised of all expenses and the condition of buildings and property, the safety and treatment of patients, and require the general manager or superintendent to make periodic reports as to the condition of each hospital and treatment of the patients;

(d) To require the keeping of a complete and accurate set of books of each hospital in accordance with the accounting required of other institutions of the state; to examine and audit the expenditures of each hospital and to certify the same to the state auditor controller. The board shall require that all itemized bills, purchases and other expenditures made, must be examined and approved by the head of the hospital making such purchases or expenditures and then the same must be certified by the board, and transmitted to the state auditor controller to be audited and allowed in the same manner as other accounts against the state are audited and allowed. When allowed the state auditor controller must draw his warrant on the state treasurer for the amount so audited and allowed, and the state treasurer is hereby authorized and required to pay the same out of any money in the state treasury appropriated therefor;

(e) To make regulations and fix the terms and conditions of payment of costs of care and treatment of mentally ill persons who are not indigent or who are not residents of the state, who are admitted to said State Hospital North, State Hospital South, or Idaho State School and Hospital, all receipts from such persons to be paid into the state treasury and credited to salaries and wages, other current expense, or capital outlay of the general fund of the remitting hospital, at the discretion of the board;

(f) To enter into reciprocal agreements with similar boards of other states for the transfer of residents of those states, who have been involuntarily hospitalized to any of the aforesaid hospitals in this state, or the transfer of Idaho residents, who have been involuntarily hospitalized to similar hospitals in those states, to the appropriate hospital in this state;

(g) To recognize that or to proceed on the fact that any order of involuntary hospitalization of an Idaho resident, by judicial action of another state, shall be sufficient for admitting such resident, without further judicial action in this state, to a similar hospital in this state;

(h) To remove patients in case of necessity, or when they feel it is for the betterment of the patient's welfare, to an appropriate place at the discretion of the board, and to make necessary negotiations to carry out such a procedure;

(i) To purchase insurance for any of the medical staff in any of the hospitals against liability for alleged malpractice by reason of any act, or omission, while in the service of the state of Idaho;

(j) To remove and transfer from one (1) state hospital to another, or from a state hospital to a private hospital, or to a hospital of another state, or other government agency, any person confined therein, for the purpose of grouping together classes of mentally ill persons, or to give them better medical aid and care;

(k) To report to the governor each year, a statement of receipts and expenditures, the condition of each hospital, the number of patients under treatment at each hospital during the preceding year and such other matters as may be pertinent, and to make an annual report to the governor in substantially the same manner on or before the 1st day of December prior to each regular session of the legislature;

(l) To delegate to the head of the hospital, or to a director or superintendent, or manager of all hospitals the powers and duties vested by law in the board, at its discretion;

(m) To initiate, create, or promote procedures, policies and practices either as a body or in cooperation with other governmental departments or agencies for the general welfare and betterment of the mental health of the people of the state of Idaho.

SECTION 162. That Section 66-503, Idaho Code, be, and the same is hereby amended to read as follows:

66-503. CUSTODY OF MONEY -- DUTY OF SUPERINTENDENT OR MANAGER.

All moneys so held in trust shall be kept by the superintendent or manager, subject to be returned to the person or persons from whom any part of such fund has been taken for deposit in trust, except any portion thereof applied to such patient's expenses while in said state hospital or the Idaho state school and hospital or applied to the payment of the funeral expenses of said patient, upon his death, release or discharge from the said institution; provided, however, that if any patient who dies or has been discharged or escaped from any state hospital or Idaho state school and hospital does not present, personally or through his legal guardian, heirs or assigns, a claim against the said trust fund for repayment to him of money to his credit in said trust fund for patients within five (5) years from the date of his death, discharge or escape as certified to the state auditor controller of the state of Idaho by the officer in charge of said institutions, said money shall escheat to the state of Idaho and shall be transferred to the general fund thereof by the state auditor controller and the superintendent.

SECTION 163. That Section 66-1101, Idaho Code, be, and the same is hereby amended to read as follows:

66-1101. INSANE ASYLUM FUND -- CREATION AND CONSTITUTION -- LIM-

TATION ON USE. A fund which shall be known as the Insane Asylum Fund is hereby created and established. All moneys now in, or credited to, that certain fund designated on the books in the offices of the state ~~auditor~~ controller and the state treasurer as the insane asylum fund and all moneys which may accrue from the investment of the proceeds of the sale of any of the fifty thousand (50,000) acres of lands granted to the state of Idaho under the provisions of the Act of Congress of July 3, 1890, entitled "An act to provide for the admission of the state of Idaho into the Union" for the support and maintenance of the insane asylum [state hospital south] located at Blackfoot or from the investment of the proceeds of the sale of timber growing upon any of the said lands, and also any and all moneys which may be received on account of rentals charged for the use of any of such lands and all moneys which may be received by the state treasurer on account of interest charged upon deferred payments on such of the said lands as may have been sold by the state shall be credited to, placed in, and constitute the insane asylum fund.

No moneys shall ever be appropriated out of the said insane asylum fund for any purpose other than the support and maintenance of the insane asylum [state hospital south] located at Blackfoot, nor shall moneys properly belonging to the said fund ever be diverted therefrom or used for any other purpose whatsoever.

SECTION 164. That Section 66-1107, Idaho Code, be, and the same is hereby amended to read as follows:

66-1107. **MONEYS CREDITED OR ACCRUING TO SPECIAL FUNDS -- EXCLUSIVE USE.** All moneys heretofore properly credited to or accruing to any special fund heretofore created out of any portion of the expendable income from the land grant of one hundred and fifty thousand (150,000) acres aforesaid, for the support or maintenance of the Idaho State University, the State Youth Services Center, State Hospital North, Idaho State Veterans Homes and the State School for the Deaf and the Blind, respectively, or any of such institutions, together with all funds hereafter accruing under this act to the funds designated in section 66-1106, Idaho Code, are hereby appropriated for the maintenance of said institutions, respectively, and no portion of said funds shall be diverted to any other purpose or transferred to any other fund: provided, that no provision hereof shall be so construed as to preclude the state ~~auditor~~ controller from correcting errors in the apportionment of receipts or distribution of disbursements heretofore or hereafter erroneously credited or charged to any of such funds.

SECTION 165. That Section 66-1108, Idaho Code, be, and the same is hereby amended to read as follows:

66-1108. **SCHOOL FOR THE DEAF AND THE BLIND FUND.** Any and all funds heretofore accruing to the credit of the charitable institutions fund on the books of the state ~~auditor~~ controller and state treasurer and not properly transferred or credited to funds known and designated as "The Academy of Idaho Fund," "The Idaho Technical Institute Fund" or "The Southern Branch of the University of Idaho Fund," "The Idaho

Industrial Reform School Fund" or "The Idaho Industrial Training School Fund," "The Northern Idaho Insane Asylum Fund" or "The Northern Idaho Sanitarium Fund," "The Soldiers' Home Fund" and the "School for the Deaf and the Blind Fund" or the "Deaf and Blind School Fund," shall be transferred and credited to a special fund to be known as the "School for the Deaf and the Blind Fund."

SECTION 166. That Section 67-406b, Idaho Code, be, and the same is hereby amended to read as follows:

67-406b. COMPENSATION AND EXPENSES. 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 committee.

The committee shall, on or before November 30, 1976, establish the rate of compensation and expenses for services to be rendered by members of the legislature during the two (2) year period commencing on December 1, 1976. The compensation and expenses so established shall, on or before such date, be filed with the secretary of state and the state auditor controller. The rates thus established shall be the rates applicable for the two (2) year period specified unless prior to the twenty-fifth legislative day of the regular 1977 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 committee shall on or before the last day of November of each even numbered year, establish the rate of compensation, and expenses for services to be rendered by members of the legislature during the two (2) 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 controller. The rates thus established shall be the rates applicable for the two (2) 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 167. That Section 67-429, Idaho Code, be, and the same is hereby amended to read as follows:

67-429. POWERS AND DUTIES. (1) It shall be the duty of the council to collect and compile information, to draft bills and to conduct research upon any subject which the legislature may authorize or direct or upon any subject which it may determine, provided that all activities of the council must be reasonably related to a legislative purpose. The legislature may make specific assignments to the council by a concurrent resolution approved by both houses.

(2) The council may hold public hearings and it may authorize or direct any of its committees to hold public hearings on any matters within the jurisdiction of the council.

(3) The council shall establish and maintain a legislative reference library.

(4) For the purpose of conducting any study within the jurisdiction of the council, by resolution adopted by the affirmative vote of two-thirds (2/3) of the entire membership of the council, the chairman of the council may subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence or other documents or records which the council deems relevant or material to any matter on which the council or any committee is conducting a study.

(5) It shall be the duty of the council to superintend and administer the legislative space in the capitol building at all times, and to prepare such space when required for the sessions of the legislature, which shall include the provision of furniture and equipment.

(6) The legislative council shall review and make recommendations to the personnel commission on all aspects of the personnel system, including policies, wages and salaries.

(7) The council has authority to appoint committees and hire staff or contract for services to implement the provisions of this section. In addition to the duties provided above, the council has authority to:

(a) Provide the legislature with research and analysis of current and projected state revenue, state expenditure and state tax expenditures;

(b) Provide the legislature with a report analyzing the governor's proposed levels of revenue and expenditures for budgets and supplemental budget requests submitted to the legislature;

(c) Provide an analysis of the impact of the governor's proposed revenue and expenditure plans for the next fiscal year;

(d) Conduct research on matters of economic and fiscal policy and report to the legislature on the result of the research;

(e) Provide economic reports and studies on the state of the state's economy including trends and forecasts for consideration by the legislature;

(f) Conduct budget and tax studies and provide general fiscal and budgetary information;

(g) Review and make recommendations on the operation of state programs in order to appraise the implementation of state laws regarding the expenditure of funds and to recommend means of improving their efficiency;

(h) Recommend to the legislature changes in the mix of revenue sources for programs, in the percentage of state expenditures devoted to major programs, and in the role of the legislature in overseeing state government expenditures and revenue projections;

(i) Make a continuing study and investigation of the building needs of the government of the state of Idaho, including, but not limited to, the following: the current and future requirements of new buildings, the maintenance of existing buildings, rehabilitating and remodeling of old buildings, the planning of administrative offices, and exploring the methods of financing building and related costs; and

(j) Conduct a study of state-local finance, analyzing and making recommendations to the legislature on issues including levels of state support for political subdivisions, basic levels of local need, balances of local revenues and options, relationship of

local taxes to individuals' ability to pay and financial reporting by political subdivisions.

(8) In performing its duties under subsection (7) of this section, the council and its employees may consider, among other things:

(a) The relative dependence on state tax revenues, federal funds and user fees to support state-funded programs, and whether the existing mix of revenue sources is appropriate given the purpose of the programs;

(b) The relative percentages of state expenditures that are devoted to major programs such as education, assistance to local government, aid to individuals, state agencies and institutions and debt service; and

(c) The role of the legislature in overseeing state government expenditures, including legislative appropriation of money from the general account, legislative appropriation of money from funds other than the general account, state agency receipt of money into revolving and other dedicated funds and expenditure of money from these funds and state agency expenditure of federal funds.

(9) The council's recommendations shall consider the long-term needs of the state. The recommendations must not duplicate work done by standing committees of the senate and house of representatives.

(10) The council may, after consultation with the governor and with the chairs of the standing committees of the legislature, select mandates and state programs for review. When selecting mandates, state aids or state programs to be reviewed, the council may consider those that involve payments to local units of government. Staff from affected agencies, staff from the division of financial management and legislative staff shall participate in the reviews.

(11) The following state aids and associated state mandates may be reviewed:

(a) Local government aid, ad valorem property tax credits, tax increment financing and fiscal disparities;

(b) Human service aids;

(c) Educational support dollars utilized for school district general fund aids, school district capital expenditure fund aids, and school district debt service fund aids;

(d) General government aids including natural resource aids, environmental protection aids, transportation aids, economic development aids and general infrastructure aids.

(12) At the direction of the council, the reviews of state aids and state mandates involving state financing of local government activities listed in subsection (11) of this section may include:

(a) The employment status, wages and benefits of persons employed in administering the programs;

(b) The desirable applicability of state procedural laws or rules;

(c) Methods for increasing political subdivision options in providing their share, if any, of program costs;

(d) Desirable redistributions of funding responsibilities for the program and the time period during which any recommended funding distribution should occur;

(e) Opportunities for reducing program mandates and giving political subdivisions more flexibility in meeting program needs;

- (f) Comparability of treatment of similar units of government;
 - (g) The effect of the state aid or mandate on the distribution of tax burdens among individuals based upon ability to pay;
 - (h) Coordination of the payment or allocation formula with other state aid programs;
 - (i) Incentives that have been created for local spending decisions, and whether the incentives should be changed;
 - (j) Ways in which political subdivisions have changed their revenue-raising behavior since receiving these grants;
 - (k) An assessment of the accountability of all government agencies that participate in the administration of the program.
- (13) The legislative council may provide for a complete audit of any and every fund in the state treasury and other state moneys at least once in every two (2) fiscal years and is hereby authorized:
- (a) To supervise and examine the accounts and expenditures of the several departments and public institutions of the state and to prescribe rules and regulations necessary to assure the adequacy and timeliness of all audits performed for or on behalf of all political subdivisions thereof;
 - (b) To inspect securities held by the several departments and public institutions of the state and the political subdivisions thereof;
 - (c) To examine, at any and all times, the accounts of every private corporation, institution, association, or board receiving appropriations from the legislature or contracting for health and welfare services with the state of Idaho;
 - (d) To demand and receive reports from the state treasurer, state auditor controller, state-commissioner director of the department of finance, and any other officer or agency, and from the several state depositories;
 - (e) To publish, from time to time, for the information of the several departments and of the general public, bulletins of the works of government;
 - (f) To be the official depository of all audits of the several departments and public institutions of the state and its political subdivisions; the filing of an audit with the official depository shall satisfy all requirements for the filing of an audit with the state, any other provision of law notwithstanding;
 - (g) To review or have reviewed the work papers or other documentation utilized in the audit of a state department or public institution of the state and its political subdivisions, and to reject for filing in the official depository any report based upon unsatisfactory work papers or inadequately supported documentation;
 - (h) To review and approve the terms and conditions or other statement of services to be provided on any or all contracts or agreements by state government agencies for audits or audit type services; and
 - (i) To report to the attorney general, for such action, civil or criminal, as the attorney general may deem necessary, all facts showing illegal expenditure of the public money or misappropriation of the public money or misappropriation of the public property. The governor and state auditor controller shall also be

notified when the report is made to the attorney general pursuant to this subsection.

All reports, findings and audits of the legislative council pursuant to this subsection shall be submitted to the legislature and to the governor.

SECTION 168. That Section 67-435, Idaho Code, be, and the same is hereby amended to read as follows:

67-435. POWERS AND DUTIES. The joint finance-appropriations committee shall have the following powers and duties:

(1) To review the executive budget and the budget requests of each state department, agency and institution, including requests for construction of capital improvements, as well as other requests for appropriations submitted to the legislature.

(2) To conduct such hearings as it may deem necessary and proper.

(3) To submit a report to each session of the legislature covering its activities during the preceding period and setting forth its findings and recommendations and to make such recommendations to the appropriate legislative committees as it may deem proper concerning the budget and other proposed legislation.

(4) To require copies of all audit reports issued by the legislative council employees or contractors ~~or the state auditor~~, and to require access to all audit working papers and other records of the employees or contractors of the legislative council ~~or the state auditor~~.

(5) To perform such other duties as the legislature or legislative council may by appropriate resolution direct.

SECTION 169. That Section 67-451, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) There is hereby appropriated out of the general account in the ~~state operating fund~~ and transferred into the legislative account, and commencing July 1, 1993, the state ~~auditor~~ controller is authorized and directed to make such transfers in the amounts shown on each of the following dates in each year:

| | |
|-------------|-------------|
| January 1 | \$1,175,000 |
| March 1 | \$1,175,000 |
| June 1 | \$925,000 |
| September 1 | \$1,075,000 |

(3) The presiding officers of each house of the legislature are hereby authorized to make expenditures out of the legislative account for any necessary expenses of the legislature and the legislative account is hereby perpetually appropriated for any necessary expenses of the legislature. Necessary expenses of the legislature shall

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

(4) The state auditor controller is hereby directed to devise and implement a financial reporting and control system for the purposes of this act that exempts legislative expenditures from any other provision of law, and the legislative account shall be specifically exempt from the provisions of chapter 35, title 67, Idaho Code, and shall be specifically exempt from the provisions of chapter 36, title 67, Idaho Code. Such system must produce a report as of the end of each calendar month that clearly shows additions to the account, the unexpended balance in the account, the expenditures to date, and the expenditures for the month reported, suitably detailed in such manner as the presiding officers may instruct the state auditor controller. A copy of such report must be delivered to the presiding officer of each house of the legislature and to the governor by no later than the fifth working day of the following month.

SECTION 170. That Section 67-461, Idaho Code, be, and the same is hereby amended to read as follows:

67-461. CONDUCT OF AND ISSUANCE OF PERFORMANCE EVALUATION REPORTS. (1) Prior to any performance evaluation, the legislative management systems analyst shall conduct a survey to obtain an overview of the operations of the agency or program. The survey will develop background information, including roles and identities of key personnel, identify actual and potential financial, managerial and operational problem areas and determine whether and to what extent detailed audit tests may be required in each specific area. In consultation with the agency or program, the legislative management systems analyst will develop a performance evaluation work plan.

(2) Prior to the presentation of any performance evaluation to the committee, the evaluated agency, the governor and the state auditor controller shall have an opportunity to review the performance evaluation findings and issue a response. The response of the agency, the governor and the state auditor controller to the performance evaluation shall be included in the performance evaluation when it is presented to the committee. All documents, writings and information transmitted pursuant to this subsection shall be deemed confidential and shall not be released to the public prior to the time the commit-

tee issues its performance evaluation report pursuant to subsection (3) of this section. Any person violating the provisions of this subsection regarding confidentiality shall be guilty of a misdemeanor.

(3) The committee shall issue performance evaluation reports, favorable or unfavorable, of any state agency, and such reports shall be a public record. Prior to the release of a performance evaluation report, all papers, physical and electronic records and correspondence and other supporting materials comprising the work papers in the possession of the legislative council employee or other entity charged with the preparation of a performance evaluation report shall be confidential and exempt from disclosure pursuant to chapter 3, title 9, Idaho Code. Additionally, all other records or materials in the possession of the legislative council or other entity charged with the preparation of a performance evaluation report that would otherwise be confidential or exempt from disclosure shall be exempt from disclosure pursuant to the provisions of chapter 3, title 9, Idaho Code. A copy of the report signed by the cochairmen of the committee, including committee recommendations, shall be submitted to the governor, to the state ~~auditor~~ controller, to each member of the legislature, and to the official, officer or person in charge of the state agency examined.

SECTION 171. That Section 67-463, Idaho Code, be, and the same is hereby amended to read as follows:

67-463. ASSISTANCE. The office of the attorney general, the office of the state ~~auditor~~ controller and the administrator of the division of financial management are authorized to assist the joint legislative oversight committee in its conduct of performance evaluations if the committee and the legislative management systems analyst deems that such offices may be helpful.

SECTION 172. That Section 67-801, Idaho Code, be, and the same is hereby amended to read as follows:

67-801. STATE EXECUTIVE OFFICERS ENUMERATED. The executive department shall consist of a governor, lieutenant-governor, secretary of state, state ~~auditor~~ controller, state treasurer, attorney general and superintendent of public instruction.

SECTION 173. That Section 67-814, Idaho Code, be, and the same is hereby amended to read as follows:

67-814. CERTIFICATION OF ELECTION OF GOVERNOR-ELECT BY SECRETARY OF STATE. As soon as possible after every general election at which a governor-elect has been elected, the secretary of state shall certify to the ~~director-of-the-budget~~ administrator of the division of financial management and to the state ~~auditor~~ controller the fact of such election.

SECTION 174. That Section 67-916, Idaho Code, be, and the same is hereby amended to read as follows:

67-916. FEES -- UCC ADMINISTRATIVE ACCOUNT. (1) The secretary of state shall collect and persons served shall pay the fees and charges provided for the uniform commercial code (UCC) program by law or administrative rule. The UCC program consists of the functions of the secretary of state which are governed by chapter 9, title 28 and chapter 3, title 45, Idaho Code. The secretary of state shall adjust fees and charges as necessary to meet the appropriation as provided for by law.

The secretary of state shall not, in any one (1) calendar year, increase any fee by an amount greater than twenty percent (20%) of that fee in effect on the previous December 31.

(2) UCC administrative account:

(a) There is hereby created an account in the state treasury, to be designated the "UCC administrative account" to provide for the expenses of the UCC program as provided for by law.

(b) The UCC administrative account shall be effective December 31, 1992, and be in existence for a period of at least six (6) months prior to the dedicated account appropriation becoming effective and shall consist of the following:

(i) all moneys appropriated by the legislature;

(ii) all fees and charges collected by the secretary of state for UCC program services.

(c) All moneys placed in the account shall be examined, audited and allowed in the manner now or hereinafter provided by law.

(d) Pending use for purposes of the provisions of the laws of this state, moneys in the UCC administrative account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury.

(e) The secretary of state shall transmit all fees and charges collected by him for UCC program services to the state treasurer as provided under section 59-1014, Idaho Code. The secretary of state shall file with the state ~~auditor~~ controller, a statement of each deposit thus made. All such funds received, unless otherwise specifically designated by another section of the law administered by the secretary of state shall be deposited into the UCC administrative account.

(f) At the beginning of each fiscal year, those moneys in the UCC administrative account which exceed the current year's appropriation plus any residual encumbrances made against prior years' appropriations by twenty-five percent (25%) or more shall be transferred to the general account.

SECTION 175. That Section 67-1201, Idaho Code, be, and the same is hereby amended to read as follows:

67-1201. DUTIES OF TREASURER. It is the duty of the treasurer:

1. To receive and keep all moneys belonging to the state not required to be received and kept by some other person, and if deemed necessary by the treasurer, to name additional or multiple custodians for the same.

2. To file and keep, for not less than two (2) years, the certificates of the ~~auditor~~ state controller delivered to him when moneys

are paid into the treasury. After two (2) years, such records may be disposed of as provided in sections 9-328 through 9-330, Idaho Code, unless a specific written request for further retention has been made to the treasurer.

3. To deliver to each person paying money into the treasury a receipt showing the amount, the sources from which the money accrued, and the funds into which it is paid, which receipts must be numbered in order, beginning with number one (1) at the commencement of each fiscal year.

4. To pay warrants drawn by the auditor state controller out of the accounting entity upon which they are drawn.

5. To invest idle moneys in the state treasury, other than moneys in public endowment funds, in permitted investments, and to pay the interest received on all such investments, unless otherwise specifically required by law, into the general account in the state operating fund.

6. To keep, for so long as the treasurer deems necessary, a record of all moneys received and disbursed.

7. To keep, for so long as the treasurer deems necessary, separate records of the different funds.

8. To report to the auditor state controller daily, the amount disbursed for redemption of bonds and in payment of warrants; which report must show the date and number of such bonds and warrants, the fund out of which they were paid, and to report to the auditor state controller monthly, the balance of cash on hand in the treasury to the credit of each fund.

9. At the request of either house of the legislature, or any committee thereof, to give information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office.

10. To report to the governor at the time prescribed in this code, the exact balance in the treasury to the credit of the state, with a summary of the receipts and payments of the treasury during the preceding fiscal year.

11. To authenticate with his official seal all writings and papers issued from his office.

12. To discharge such other duties as may be imposed upon him by law.

SECTION 176. That Section 67-1206, Idaho Code, be, and the same is hereby amended to read as follows:

67-1206. TRANSFERS OF BALANCES IN FUNDS. Whenever there shall be or remain in any special or temporary fund created or established by or under any law of the state of Idaho, a surplus or unexpended and unencumbered balance after the purpose or purposes for which such special or temporary fund was provided shall have been fully accomplished, the state auditor controller shall transfer any such balance to the general fund of the state: provided, that where such balance shall consist, in whole or in part, of the proceeds of any bonds then outstanding, the same shall be transferred to the sinking fund provided for the redemption of such bonds.

SECTION 177. That Section 67-1209, Idaho Code, be, and the same is hereby amended to read as follows:

67-1209. SUSPENSE ACCOUNT. Any state officer, department, board or institution having or receiving money in trust or for safe-keeping pending its final disposition or distribution shall deposit the same in the state treasury in a special suspense account from which it may be withdrawn or distributed under rules and regulations promulgated by the state auditor controller.

SECTION 178. That Section 67-1212, Idaho Code, be, and the same is hereby amended to read as follows:

67-1212. UNPAID WARRANTS -- INTEREST -- RECORD. (1) All warrants upon funds the balance in which is insufficient to pay them must be turned over to the state treasurer by the state auditor controller. All of such warrants shall be registered by the state treasurer as follows: he shall date and sign such warrants on the back thereof underneath the words "Presented for payment and not paid for want of moneys" and return the same to the state auditor controller for delivery to the respective payees. It is the duty of the state treasurer to keep a register of all warrants not paid for want of moneys, in which register such warrants shall be listed in numerical order, and when paid the treasurer shall note on such register the amount of interest paid and the date of payment. Any such warrants, registered by the state treasurer, shall from date of registration until paid bear interest at a rate to be fixed by the state treasurer.

(2) In lieu of registering warrants as provided in subsection (1) above, the state treasurer shall have authority to:

(a) Pay such warrants out of any moneys available if it appears that money sufficient to pay such warrants will, within thirty (30) days be available in the fund, or account in the case of accounts in the agency asset fund, rotary fund, or any other fund maintained on the account level, upon which such warrants are drawn; the state treasurer shall charge the fund or account for which such moneys are advanced a service fee and an amount of interest substantially equal to what could have been earned had the advanced moneys been invested, and the amount of the service fee and interest shall constitute an appropriation from the fund or account for which the advancement was made; or

(b) Issue tax anticipation notes as provided by chapter 32, title 63, or section 57-1112, Idaho Code.

SECTION 179. That Section 67-1213, Idaho Code, be, and the same is hereby amended to read as follows:

67-1213. REFUSAL TO PAY WARRANTS -- PENALTY -- CANCELATION. If the state treasurer wilfully and unlawfully refuses to pay any warrant lawfully drawn upon the treasury, he forfeits and must pay fourfold the amount, to be recovered by action against the treasurer and his sureties on his official bond or otherwise: provided, that on the first day of July of each year hereafter all warrants and treasurer's checks, which would have been paid if presented, which have been out-

standing for a period of one (1) year or more are void. On all such canceled or void warrants or treasurer's checks, the state treasurer is required to refuse payment and he must plainly mark across the face of every warrant or treasurer's check presented to him for payment the words "not paid, time of redemption expired." Said warrant, if surrendered to the state ~~auditor~~ controller, shall be replaced by a new warrant in like amount.

SECTION 180. That Section 67-1216, Idaho Code, be, and the same is hereby amended to read as follows:

67-1216. INSPECTION OF TREASURER'S OFFICE. The books, papers, letters and transactions pertaining to the office of treasurer, are at all times during office hours open to the inspection of a committee of the legislature, or either branch thereof, to examine and settle all accounts, or to take copies of the same, and to count all moneys; and when the successor of any such treasurer is appointed and qualified, the state ~~auditor~~ controller must examine and settle all the accounts of such treasurer, remaining unsettled, and give to him a certified statement, showing the balance of moneys, securities and effects for which he is accountable, and which have been delivered to his successor, and report the same to the legislature.

SECTION 181. That Section 67-1401, Idaho Code, be, and the same is hereby amended to read as follows:

67-1401. DUTIES OF ATTORNEY GENERAL. It is the duty of the attorney general:

1. To attend the supreme court and prosecute or defend all causes to which the state or any officer thereof, in his official capacity, is a party; and all causes to which any county may be a party, unless the interest of the county is adverse to the state or some officer thereof acting in his official capacity. Also to prosecute and defend all the above-mentioned causes in the United States courts. And in all cases where he shall be required to attend upon the United States courts, other than those sitting within this state, he shall be allowed his necessary and actual expenses, all claims for which shall be audited by the state board of examiners.

2. After judgment in any of the causes referred to in the preceding subdivision, to direct the issuing of such process as may be necessary to carry the same into execution.

3. To account for and pay over to the proper officer all moneys which may come into his possession belonging to the state or to any county.

4. To supervise nonprofit corporations, corporations, charitable or benevolent societies, person or persons holding property subject to any public or charitable trust and to enforce whenever necessary any noncompliance or departure from the general purpose of such trust and, in order to accomplish such purpose, said nonprofit corporations, corporations, charitable or benevolent societies, person or persons holding property subject to any public or charitable trust are subject at all times to examination by the attorney general, on behalf of the state, to ascertain the condition of its affairs and to what extent,

if at all, said trustee or trustees may have failed to comply with trusts said trustee or trustees have assumed or may have departed from the general purpose for which it was formed. In case of any such failure or departure, the attorney general shall institute, in the name of the state, any proceeding necessary to enforce compliance with the terms of the trust or any departure therefrom.

5. To exercise supervisory powers over prosecuting attorneys in all matters pertaining to the duties of their offices, and from time to time require of them reports as to the condition of public business intrusted to their charge.

6. To give his opinion in writing, without fee, to the legislature or either house thereof, and to the governor, secretary of state, treasurer, auditor state controller, and the trustees or commissioners of state institutions, when required, upon any question of law relating to their respective offices. It shall be his duty to keep a record of all written opinions rendered by his office and such opinions shall be compiled annually and made available for public inspection. All costs incurred in the preparation of said opinions shall be borne by the office of the attorney general. A copy of the opinions shall be furnished to the supreme court and to the state librarian.

7. When required by the public service, to repair to any county in the state and assist the prosecuting attorney thereof in the discharge of his duties.

8. To bid upon and purchase, when necessary, in the name of the state, and under the direction of the auditor state controller, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and to enter satisfaction in whole or in part of such judgments as the consideration for such purchases.

9. Whenever the property of a judgment debtor in any judgment mentioned in the preceding subdivision has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance, taking precedence of the judgment in favor of the state, under the direction of the auditor state controller, to redeem such property from such prior judgment, lien, or encumbrance; and all sums of money necessary for such redemption must, upon the order of the board of examiners, be paid out of any money appropriated for such purposes.

10. When in his opinion it may be necessary for the collection or enforcement of any judgment hereinbefore mentioned, to institute and prosecute, in behalf of the state, such suits or other proceedings as he may find necessary to set aside and annul all conveyances fraudulently made by such judgment debtors; the cost necessary to the prosecution must, when allowed by the board of examiners, be paid out of any appropriations for the prosecution of delinquents.

11. To discharge the other duties prescribed by law.

12. To report to the governor, at the time required by this code, the condition of the affairs of his department and of the reports received by him from prosecuting attorneys.

SECTION 182. That Section 67-1505, Idaho Code, be, and the same is hereby amended to read as follows:

67-1505. PRINTING OF SUPPLIES AND LAWS. He shall prepare, have

printed and furnished, through the county superintendents, to all officers charged with the administration of the laws relating to the public schools, and to teachers, such blank forms and books as are needed or required to be used in the discharge of their duties. He shall have the law relating to the public schools printed in pamphlet form and shall supply school officers, school libraries and state libraries with one copy each of said pamphlets; said printing to be paid for on warrant of the auditor state controller out of the general fund, on bills approved by the state board of examiners.

SECTION 183. That Section 67-1918, Idaho Code, be, and the same is hereby amended to read as follows:

67-1918. FINANCIAL AND ACCOUNTING RESPONSIBILITIES OF THE DIVISION. It shall be the duty of the administrator of the division of financial management to work with the financial management technical development committee to:

(1) Develop and implement financial and management reporting systems to serve the needs of budget development and management support. Such systems shall be developed in consultation with the state auditor controller, executive departments, legislature and other elected officials and shall be designed to assist department directors, the governor, and the legislature with their decision-making responsibilities;

(2) Develop recommended changes to the state account structure, accounting policies or accounting procedures, that would benefit financial and management reporting. Such recommendations shall be supplied to the state auditor controller not later than May first of each fiscal year;

(3) Make studies of the effect of federal assistance programs in the state and advise the governor and the legislature of alternative recommended methods and procedures for the administration of these programs;

(4) Study and recommend to the governor methods for improving efficiency of interdepartmental financial functions;

(5) Perform such other duties and perform other studies assigned by the governor in the area of administration for the executive branch.

SECTION 184. That Section 67-2001, Idaho Code, be, and the same is hereby amended to read as follows:

67-2001. CONSTITUTION OF BOARD. The board of examiners created by section 18, article IV, of the constitution of the state of Idaho is styled the "State Board of Examiners." For the purposes of section 20, article IV, of the constitution of the state of Idaho, said board shall be an executive department of state government. The governor is chairman of the said board. The state auditor controller is ex officio secretary of the state board of examiners.

SECTION 185. That Section 67-2003, Idaho Code, be, and the same is hereby amended to read as follows:

67-2003. DUTIES OF SECRETARY -- RECORD OF CLAIMS. It is the duty

of the state auditor controller, acting as secretary of the board of examiners, to receive and file all claims against the state, and for this purpose he shall keep a book in which shall be entered a record of all claims so presented, giving the name and address of each claimant, the amount claimed, the amount allowed by the board, the number of the warrant by which paid, and such other information as may be necessary in order to preserve a complete history of each claim.

SECTION 186. That Section 67-2005, Idaho Code, be, and the same is hereby amended to read as follows:

67-2005. VOUCHER FORMS. It is the duty of the state auditor controller to prescribe forms of vouchers on which all requests for expenditure of state moneys must be submitted, and when such forms of vouchers have been prescribed no request for expenditure of state moneys shall be received and filed by the state auditor controller unless the same shall be presented on the proper form.

SECTION 187. That Section 67-2012, Idaho Code, be, and the same is hereby amended to read as follows:

67-2012. PAYROLL -- VOUCHERS. For all institutions or departments where the officers and employees are paid a fixed salary, a voucher may be submitted in the form of a regular periodic payroll covering the compensation of such officers and employees. Subject to the rules of the state board of examiners, a warrant will be issued by the state auditor controller to each person carried on such rolls for the amount shown thereon. The vouchers must contain a certificate from the head of the department or institution to the effect that the services were necessary in the public service, that they were actually rendered as charged, that the rate of pay of each individual carried thereon has been lawfully fixed by proper authority and that the account is correct and just.

SECTION 188. That Section 67-2013, Idaho Code, be, and the same is hereby amended to read as follows:

67-2013. FILING, EXAMINATION AND CORRECTION OF VOUCHERS. Whenever a voucher is received by the state auditor controller he shall before filing the same, examine or cause it to be examined ~~as-an-audit~~ prior to payment and, if it is not correct in form or amount, or if there are no moneys in the state treasury out of which the same may lawfully be paid, he shall forthwith return the same to the party rendering the account for correction or for submission at a later date if there is made an appropriation out of which the same may lawfully be paid.

SECTION 189. That Section 67-2014, Idaho Code, be, and the same is hereby amended to read as follows:

67-2014. CERTIFICATION OF CLAIM BY ~~AUDITOR~~ CONTROLLER. On all claims submitted to the state board of examiners for their action, the state auditor controller must certify that the claim is in proper form, that the totals carried thereon are correct, that receipts when

required by law or regulation of the board covering items for which reimbursement is asked are submitted therewith, and that, subject to the provisions of section 67-1212, Idaho Code, there are moneys in the state treasury out of which the same may be lawfully paid.

SECTION 190. That Section 67-2016, Idaho Code, be, and the same is hereby amended to read as follows:

67-2016. ~~AUDITOR'S~~ STATE CONTROLLER'S CIVIL LIABILITY. For the proper performance of the duties herein enjoined upon the state ~~auditor controller~~, as secretary of the state board of examiners, or for any unlawful or irregular payment of any account submitted against the state, the state ~~auditor controller~~ is hereby made responsible upon his official bond.

SECTION 191. That Section 67-2018, Idaho Code, be, and the same is hereby amended to read as follows:

67-2018. AUDIT OF CLAIMS. It is the duty of the state board of examiners to examine all claims, except salaries and compensation of officers fixed by law, and except fixed appropriations for principal and interest of the public bonded debt, and except claims against the state already presented to the board and favorably reported by it to the legislature for passage. The board may approve or disapprove any claim or demand against the state, or any item thereof, or may recommend a less amount in payment of the whole, or any item thereof, and a decision of a majority of the members shall stand as the decision of the board. But no claim shall be examined, considered or acted upon by said board, unless the state ~~auditor controller~~, as secretary of the state board of examiners, shall have indorsed thereon the certificates required to be made by him by section 67-2014, Idaho Code, and unless receipted vouchers are filed therewith showing the payment of all items for which reimbursement is asked.

Expenditures for the ordinary operations of state government, for which appropriations have been made, need not be examined or reviewed by the board of examiners.

SECTION 192. That Section 67-2020, Idaho Code, be, and the same is hereby amended to read as follows:

67-2020. ROTARY EXPENSE ACCOUNT -- ALLOWANCE. The requisition of the head of any department, board or institution or the disbursing officer thereof requesting a revolving account shall be acted upon by the board of examiners in the same manner as a claim against the state and, if allowed, shall be regarded as an advance for current cash items, and not for any kind of salary or wage advance. It shall be allowed only in case an appropriation has been made by law for the specific expenditures intended to be paid out of the account. The amount of the revolving account shall be charged by the ~~auditor~~ state controller against the officer making the requisition who may, if the board deems necessary, be required to give a bond in addition to his official bond, in such sum as the board may fix, to secure the repayment of such account.

SECTION 193. That Section 67-2021, Idaho Code, be, and the same is hereby amended to read as follows:

67-2021. ROTARY EXPENSE ACCOUNT -- HOW DRAWN UPON. The money advanced shall remain in the state treasury for the use of the officer making the requisition. The account may be drawn upon by a sight draft signed by the officer and attached to an itemized voucher for the expenditure, both in such form as the state ~~auditor~~ controller shall prescribe.

SECTION 194. That Section 67-2022, Idaho Code, be, and the same is hereby amended to read as follows:

67-2022. ROTARY EXPENSE ACCOUNT -- ALLOWANCE OF ITEMS. At stated intervals to be fixed by the board by general regulation each officer having a revolving account shall present a complete itemized account of all expenditures therefrom for allowance or rejection. If any item thereof is disallowed, the officer shall replace the amount thereof in the revolving account. The amount of items allowed shall be credited by the ~~auditor~~ state controller to the officer or replaced in the revolving account.

SECTION 195. That Section 67-2023, Idaho Code, be, and the same is hereby amended to read as follows:

67-2023. AUDITOR CONTROLLER DRAWING WARRANT FOR DISAPPROVED CLAIMS -- LIABILITY. In case the ~~auditor~~ state controller shall draw a warrant for any claim, or part of a claim or item thereof, which is disapproved by the board, he shall be liable upon his official bond for the same if any loss shall accrue to the state therefrom.

SECTION 196. That Section 67-2402, Idaho Code, be, and the same is hereby amended to read as follows:

67-2402. STRUCTURE OF THE EXECUTIVE BRANCH OF IDAHO STATE GOVERNMENT. (1) Pursuant to section 20, article IV, Idaho constitution, all executive and administrative offices, agencies, and instrumentalities of the executive department of state, except for those assigned to the elected constitutional officers, are allocated among and within the following departments:

- Department of administration
- Department of agriculture
- Department of commerce
- Department of correction
- Department of employment
- Department of finance
- Department of fish and game
- Department of health and welfare
- Department of insurance
- Idaho transportation department
- Industrial commission
- Department of labor and industrial services
- Department of lands

Department of law enforcement
Department of parks and recreation
Department of revenue and taxation
Department of self-governing agencies
Department of water resources
State board of education

The public school districts of Idaho, having condemnation authority, shall be considered civil departments of state government for the purpose of and limited to the purchase of state endowment land at appraised prices.

(2) The governor, lieutenant governor, secretary of state, state ~~auditor~~ controller, state treasurer, attorney general and superintendent of public instruction each heads a constitutional office.

(3) For its internal structure, unless specifically provided otherwise, each department shall adhere to the following standard terms:

(a) The principal unit of a department is a division. Each division shall be headed by an administrator. The administrator of any division may be exempt from the provisions of chapter 53, title 67, Idaho Code, if declared exempt by the director of the department at the time of the creation of the division.

(b) The principal unit of a division is a bureau. Each bureau shall be headed by a chief.

(c) The principal unit of a bureau is a section. Each section shall be headed by a supervisor.

SECTION 197. That Section 67-2511, Idaho Code, be, and the same is hereby amended to read as follows:

67-2511. GROSS RECEIPTS PAYABLE INTO TREASURY -- APPROPRIATION AND WARRANT OF ~~AUDITOR~~ CONTROLLER PREREQUISITES TO EXPENDITURE OF STATE FUNDS. The gross amount of money received by every department, from whatever source, belonging to or for the use of the state, shall be paid into the state treasury, without delay without any deduction on account of salaries, fees, costs, charges, expenses or claim of any description whatever and shall be credited to such fund or funds as are now or may hereafter be designated by law for the deposit thereof. No money belonging to, or for the use of, the state shall be expended or applied by any department except in consequence of an appropriation made by law and upon the warrant of the ~~auditor~~ state controller.

SECTION 198. That Section 67-2606, Idaho Code, be, and the same is hereby amended to read as follows:

67-2606. OCCUPATIONAL LICENSES ACCOUNT -- PAYMENT OF EXPENSES OF BUREAU FROM -- MANNER. No moneys in the occupational license account may be expended except by appropriation. All expenses of the bureau of occupational licenses, including salaries and/or wages of employees, incurred in administering the provisions of law relative to the licensing of trades, businesses, occupations and professions shall be paid out of the occupational licenses account by warrants drawn by the state ~~auditor~~ controller upon the treasurer upon allowance of verified claims by the state board of examiners in the manner provided by law,

but no claim shall be allowed except by the approval of the chief of the bureau of occupational licenses.

SECTION 199. That Section 67-2702, Idaho Code, be, and the same is hereby amended to read as follows:

67-2702. FEES -- FINES -- MISCELLANEOUS CHARGES. (1) The director of the department of finance shall collect and persons so served shall pay to the director the fees, fines, examination and miscellaneous charges provided for by the laws administered by the director of the department of finance or provided for from time to time by regulation promulgated by the director of the department of finance. The director of the department of finance shall increase fees, fines, examination and miscellaneous charges as necessary to allow the department of finance to meet the appropriation as provided for by law.

The director of the department of finance shall not, in any one (1) calendar year, increase any fee by an amount greater than twenty percent (20%) of that fee in effect on the previous December 31.

(2) Finance administrative account:

(a) There is hereby created an account in the dedicated fund in the state treasury, to be designated the "finance administrative account" to provide for the expenses of the department of finance as provided for by law.

(b) The finance administrative account shall be effective December 31, 1984, and be in existence for a period of at least six (6) months prior to the dedicated account appropriation becoming effective and shall consist of the following:

(i) all moneys appropriated by the legislature.

(ii) all fees, fines, examination and miscellaneous charges collected by the department of finance.

(c) All moneys placed in the account shall be examined, audited and allowed in the manner now or hereinafter provided by law.

(d) Pending use for purposes of the provisions of the laws of this state, moneys in the finance administrative account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury.

(e) The director of the department of finance shall transmit all fees, fines, examination and miscellaneous charges collected by him to the state treasurer as provided under section 59-1014, Idaho Code. The director of the department of finance shall file with the state auditor controller, a statement of each deposit thus made. All such funds received, unless otherwise specifically designated by another section of the law administered by the director of the department of finance shall be deposited into the finance administrative account.

(f) At the beginning of each fiscal year, those moneys in the finance administrative account which exceed the current year's appropriation plus any residual encumbrances made against prior years' appropriations by twenty-five percent (25%) or more shall be transferred to the general account.

SECTION 200. That Section 67-2724, Idaho Code, be, and the same

is hereby amended to read as follows:

67-2724. OFFICERS AND PERSONS AUTHORIZED TO MAKE INSPECTIONS AND EXAMINATIONS. The governor, state auditor controller, or the department of finance, or any person authorized in writing by them or it, may, during business hours, in the presence of the treasurer or his deputy, inspect and examine the books of account in the office of the treasurer, and all contracts, writings, securities, and other papers belonging to the state, or pertaining to the business thereof, held by the treasurer, and may inspect and count the moneys belonging to this state and the several funds thereof in the custody of the treasurer, and it is hereby made the duty of the state treasurer to furnish all reasonable facilities for the purpose.

And the governor, state auditor treasurer, or the department of finance, or any person authorized in writing by them or it, may, likewise, during business hours, in the presence of the auditor state controller or his deputy, inspect and examine the books of account in the office of the auditor state controller, and all contracts, writings, securities, bonds, and other papers belonging to the state, or pertaining to the business thereof in the custody of the auditor state controller, and it is hereby made the duty of the state auditor state controller to furnish all reasonable facilities for the purpose.

SECTION 201. That Section 67-2726, Idaho Code, be, and the same is hereby amended to read as follows:

67-2726. BANKS TO WHICH OFFICIALS SECRETLY INDEBTED INELIGIBLE. No bank is eligible to become or remain a state depository, to which the state treasurer, state auditor controller, or the chief deputy of either of them is directly indebted, unless the fact of such indebtedness is made known to the department of finance, but the amount and character of such indebtedness shall be subject to disclosure according to chapter 3, title 9, Idaho Code, and said department of finance shall treat such information in strict confidence. Any member of the department violating this provision shall be guilty of a misdemeanor, and punished therefor as provided by law.

In case of a violation by a state depository of this provision, the department of finance shall immediately cause all funds therein to be withdrawn and such bank shall be ineligible again to become a state depository during the incumbency of the official so indebted to said bank.

SECTION 202. That Section 67-2744, Idaho Code, be, and the same is hereby amended to read as follows:

67-2744. DEPOSITORIES TO RENDER MONTHLY STATEMENTS. The treasurer shall require, and it is hereby made the duty of every such depository to keep accurate accounts of all such moneys deposited with it, showing the amount deposited and when deposited, and to render, at the beginning of each and every month, to the treasurer and to the auditor state controller when requested, a statement, in duplicate, showing the daily balance of the treasurer's moneys held by it during the month next preceding.

SECTION 203. That Section 67-3508, Idaho Code, be, and the same is hereby amended to read as follows:

67-3508. STANDARD CLASSIFICATION. (1) Excepting where the legislature expressly departs from the classification hereinafter set forth in any appropriation bill, all appropriations made by the legislature, and all estimates hereafter made for budget purposes, and all expenditures hereinafter made from appropriations or funds received from other sources, shall be classified and standardized by items as follows:

(a) Personnel costs, which shall include the salaries or wage expenses of employees and officers, including the monetary value of unused sick leave, as provided by section 67-5339, Idaho Code, whether full-time, part-time, or other irregular or seasonal help and including compensation or honorarium of members of boards or commissions, and shall also include the employer's share of contributions related to those employees and officers, such as retirement, health and life insurance, workmen's compensation, employment security and social security.

(b) Operating expenditures, which shall include all expenses for services, travel, consumable supplies, and minor items of equipment that have an estimated life of less than two (2) years and not otherwise classified under personnel costs or capital outlay, and shall include the governmental overhead charge, including all payments made in the way of refunds of receipts and overpayments erroneously deposited in the state treasury.

(c) Capital outlay, which, when used in an appropriation act, shall include all expenditures for land, highways, buildings including appurtenances, fixtures and fixed equipment, structures, which also includes additions, replacements, major repairs, and renovations to, which materially extends the capital assets' useful life or materially improves or increases its capacity, and shall include salaries and wages of nonagency personnel in connection therewith. Automobiles, domestic animals, machinery, apparatus, equipment and furniture including additions thereto, which will have a useful life or service substantially more than two (2) years, shall also be included.

(d) Trustee and benefit payments, which shall include the cash payments of welfare or retirement benefits to individuals and payments to individuals, persons, or political entities, and not otherwise classified under personnel costs, operating expenditures or capital outlay.

(2) The state auditor controller is hereby authorized and directed to implement such subclassifications of the standard classifications herein set forth which are necessary for preparation of the state budget, as supplied by the administrator of the division of financial management and the legislative council.

An annual review of the subclassifications shall be made by the administrator of the division and the legislative council.

The state auditor controller shall be supplied the changes desired by the administrator and the legislative council in the subclassifications which are necessary for the preparation of the state budget or the identification and distribution of expenditures

from appropriations no later than sixty (60) days prior to the beginning of any fiscal year to be effective for that fiscal year.

SECTION 204. That Section 67-3510, Idaho Code, be, and the same is hereby amended to read as follows:

67-3510. CLASSIFICATIONS MADE TO CONFORM. All classifications used in appropriations made by the twentieth session of the legislature shall be made to conform to the standard classification set forth in section 67-3508, Idaho Code. All expenditures made from said appropriations shall be classified in conformity with the standard classification. The state ~~auditor~~ controller shall use the standard classification in the classification of all warrants drawn against appropriations made by the twentieth session of the Idaho legislature and all continuing appropriations heretofore made, and all appropriations hereafter made.

SECTION 205. That Section 67-3512A, Idaho Code, be, and the same is hereby amended to read as follows:

67-3512A. TEMPORARY REDUCTION OF ALLOTMENTS. Whenever the governor as chief budget officer of the state may determine that the expenditures authorized by the legislature for the current fiscal year shall exceed anticipated moneys available to meet those expenditures, the governor by executive order may reduce the allotments on file in the office of the state ~~auditor~~ controller for any department, office or institution of the state; provided, that no reduction of allotments for the elective officers in the executive department shall be made to a level which prohibits the discharge of constitutional duties and provided that no reduction of allotments for the legislative and judicial departments shall be made without the permission in writing of the head of such department. The head of any executive department, office or institution of the state may appeal the temporary reduction of an allotment to the state board of examiners, and the state board of examiners may, after hearing and consideration of evidence, restore said allotment to its original level or to such lesser level as may be required to assist the state in maintaining a balanced budget. The governor may not temporarily reduce allotments to a level lower than that required to insure that state expenditures do not exceed revenues. A temporary reduction of allotment pursuant to this section shall not result in a reduction of appropriation. The governor at any time by executive order may restore allotments which have been temporarily reduced to their original level.

SECTION 206. That Section 67-3516, Idaho Code, be, and the same is hereby amended to read as follows:

67-3516. APPROPRIATION ACTS DEEMED FIXED BUDGETS -- RATE OF EXPENDITURE. (1) Appropriation acts when passed by the legislature of the state of Idaho, and allotments made thereunder, whether the appropriation is fixed or continuing, are fixed budgets beyond which state officers, departments, bureaus and institutions may not expend. It is assumed that the rate of expenditure from said appropriations, as a

general rule, should not exceed approximately fifty percent (50%) of such appropriations each six (6) months of the fiscal year.

(2) Funds available to any agency from sources other than state funds, if not cognizable at the time when appropriations were made whether state fiscal liability is increased or not, must have prior approval of the administrator of the division of financial management and the board of examiners in order that funds may be expended, except those funds received under such conditions that preclude approval by the administrator of the division and/or the board of examiners.

(3) One state agency may bill another state agency for goods and services, provided the billing agency receives prior approval in writing from the billed agency or such billing is provided for by law. This process will be known as interagency billing to which the following rules will apply:

(a) Interagency billing credits shall be clearly identified to distinguish between these credits and general revenues or receipts to appropriation.

(b) The state auditor controller will treat interagency billing credits as receipts and not classify such credits as a reduction of the expenditures of the receiving agency. Interagency billing credits for agencies funded from the general account shall be deposited to a revenue account of that agency. Interagency billing credits for all other accounts shall be deposited to the appropriate account of that agency.

(c) Interagency billing credits may be expended by the collecting agency in the fiscal year collected only to the extent that authority to do so has been requested and approved by the legislature through an appropriation for the state operating and dedicated accounts. Interagency billing credits for the trust and agency asset accounts may be expended like all other receipts for those accounts. These credits will be clearly identified as interagency billing credits.

(d) The agency which is billed for the goods and services shall classify, treat and account for such expenses in the same manner as if such expenses had been paid by warrant, and may encumber unexpended balances to liquidate known or anticipated interagency billing expenses at the end of a fiscal year. The state auditor controller shall provide for the method of liquidation of these encumbrances.

(4) State agencies selling goods, products, and services to another state agency must use the interagency process detailed by subsection (3) above. State agencies, departments and institutions may sell goods, products, and services to the public and/or other political entities. These cash receipts may be expended according to the following rules:

(a) The state auditor controller will classify these moneys as receipts.

(b) Receipts for agencies funded from the general account shall be deposited to a revenue account of that agency. Receipts for all other accounts shall be deposited to the appropriate account of that agency.

(c) The collecting agency may expend all such receipts only to the extent that authority to do so has been requested and approved

by the legislature through an appropriation, except receipts received by agencies for the sale of capital outlay items or receipts from insurance for the settlement of claims may be included as an increase to their appropriation and must be identified at a class code level. Expenditure of such receipts must be for like kind of capital outlay items, or any other expenses necessary to correct the damages.

SECTION 207. That Section 67-3517, Idaho Code, be, and the same is hereby amended to read as follows:

67-3517. REQUESTS FOR ALLOTMENT BY OFFICIALS, DEPARTMENTS, BUREAUS AND INSTITUTIONS. In order to guard against excessive expenditure of appropriations, and as an act of economy, efficiency and control relating to said appropriations, it is hereby made the duty of each officer, department, bureau and institution, except the legislative and judicial departments, to file with the administrator of the division of financial management, who shall forward a copy to the state auditor controller, a request for allotment of funds to be made available during the fiscal year, from the appropriation to said officer, department, bureau or institution. Requests for allotment shall be submitted to the administrator of the division at a time as prescribed by the administrator of the division, and as a general rule, in the same detail as appropriated, unless greater detail is deemed necessary by the administrator of the division. The legislative and judicial departments shall file a request for allotment of funds with the state auditor controller not later than fifteen (15) days prior to the expiration of the current allotment, in such detail as the submitting agency desires. It shall be the duty of the state auditor controller to provide a monthly report in the same or greater detail as the request for allotment, plus any adjustments made during the course of the fiscal year, expenditures for the month and expenditures to date for the year, and the percent of unexpended balance in the adjusted allotment, and the percent of unexpended balance in the adjusted appropriation, if any.

SECTION 208. That Section 67-3518, Idaho Code, be, and the same is hereby amended to read as follows:

67-3518. INVESTIGATION OF REQUESTS BY ADMINISTRATOR. It is hereby made the duty of the administrator of the division of financial management to investigate such requests, to act upon said requests, making the necessary additions or reductions thereto, based upon necessary requirements, and within the amount appropriated, and deliver the same, to the state auditor controller not later than fifteen (15) days prior to the expiration of the current allotment.

SECTION 209. That Section 67-3520, Idaho Code, be, and the same is hereby amended to read as follows:

67-3520. ALLOCATION OF AMOUNT BY STATE AUDITOR CONTROLLER. The state auditor controller shall, upon receipt of the requests, allocate and make available for expenditure the amount authorized by the admin-

istrator of the division of financial management and the amounts requested by the legislative and judicial departments.

SECTION 210. That Section 67-3524, Idaho Code, be, and the same is hereby amended to read as follows:

67-3524. EQUITABLE DISTRIBUTION OF GOVERNMENT OVERHEAD EXPENSE. (1) It is declared the public policy of this state that governmental overhead expenses should be equitably distributed among and between all of the boards, commissions, agencies, and other state and public entities utilizing the state auditor's controller's or state treasurer's services and functions to help defray the general fund expense of state government.

(2) Based on the advice of the state auditor controller, the state treasurer, the administrator of the division of financial management, and a representative named by the joint finance-appropriations committee, the board of examiners shall determine governmental overhead rates composed of a financial transaction charge, and a separate personnel/payroll processing charge.

The rates shall be established annually by not later than August 15, to be applicable during the succeeding fiscal year.

The financial transaction charge shall be a uniform charge applied to all financial transactions processed by the state auditor controller through the accounting system.

The personnel/payroll processing charge shall be applied to all personnel/payroll transactions processed by the state auditor controller.

(3) The charges imposed in this section shall be imposed and collected monthly by the state auditor controller and utilized by the state auditor controller for maintaining the state's accounting system and the state's personnel/payroll system.

SECTION 211. That Section 67-3603, Idaho Code, be, and the same is hereby amended to read as follows:

67-3603. MANNER OF PAYMENT OF SUMS APPROPRIATED. All sums appropriated by any appropriation act shall, unless otherwise expressly provided by law, be paid out of the state treasury on warrants drawn by the state auditor controller against the proper fund upon presentation of proper vouchers or claims approved as provided by law.

SECTION 212. That Section 67-3604, Idaho Code, be, and the same is hereby amended to read as follows:

67-3604. CLOSING ACCOUNTS BY STATE AUDITOR CONTROLLER. The state auditor controller shall close his accounts as to all appropriations on the day following the close of each fiscal year, and transfer all balances unencumbered at the close of business on the preceding day to the accounts from which such appropriations are severally made.

SECTION 213. That Section 67-3608, Idaho Code, be, and the same is hereby amended to read as follows:

67-3608. MONEYS RECEIVED BY STATE EDUCATIONAL INSTITUTIONS DEPOSITED WITH STATE TREASURER -- EXCEPTIONS. Except as otherwise expressly provided by law, all sums of money received by any state educational institution, which belong to the state of Idaho, or received by any agent, employee or representative thereof, for services, fees or net deposits, or for any other purposes whatever, except income pledges under Chapter 32 37, Title 32 33, Idaho Code Annotated, and excepting income pledges under any other law or laws of the state of Idaho now in force or hereafter enacted and in force, and excepting moneys received from the United States pursuant to appropriations made by it for the maintenance, use and support of any of the educational institutions referred to herein, or for cooperative work with the United States, or for payments in reimbursement of money expended in such cooperative work, shall be immediately paid by the person receiving the same to the bursar of such educational institution, who shall deposit the same with the state treasurer at the time and in the manner required by law. Trust moneys shall not be construed to be moneys belonging to the state of Idaho. It is hereby made the duty of the state auditor controller and state treasurer to enter the deposits so received in the general fund of the state of Idaho, and the state auditor controller shall add the deposits so received to the appropriation currently available to the said institution; and all such sums of money so received and added are hereby appropriated from the general fund of the state of Idaho for the maintenance, use and support of such institution, and the moneys shall be expended for the use and support of such institution and shall be audited and accounted for as other appropriations to the said institution.

SECTION 214. That Section 67-3610, Idaho Code, be, and the same is hereby amended to read as follows:

67-3610. ~~MONTHLY--CERTIFICATION--BY~~ UNIVERSITY OF IDAHO ~~TO--STATE~~ ~~AUDITOR~~ -- ANNUAL AUDITED FINANCIAL STATEMENT AND ~~ACCOUNTING~~. As a condition to availability of appropriations made to it, and to institutions and activities under its control or supervision, the state board of education and board of regents of the University of Idaho shall, ~~on or before the 20th day of each month, certify to the state auditor in detail the total amount of revenue, receipts and income from any sources relating to said institutions and activities for the preceding calendar month, and submit to the state board of examiners for approval and allowance, vouchers for the payment of such moneys for the purchase of property, for services rendered, or for any other purpose. The state board of education and the board of regents of the University of Idaho is hereby required to make and file with the state auditor controller on or before the 20th day of January of each year for the preceding fiscal year, a full, complete and detailed an audited financial statement and account showing receipt of moneys from state and federal appropriations, endowment funds, local and institutional incomes, or from any other source, other than the direct appropriations made to it and to institutions and activities under its control or supervision, and also showing all expenditures.~~

SECTION 215. That Section 67-3611, Idaho Code, be, and the same

is hereby amended to read as follows:

67-3611. EXPENDITURE OF FUNDS FROM SALE OF SERVICES, RENTALS OR SALE OF PRODUCTS BY STATE INSTITUTIONS. All state institutions, educational, charitable, penal and otherwise, shall be allowed to expend the funds arising from the sale of services, rentals of personal property, stock, farm or garden produce, or other goods, or article produced within or by the institution, for the maintenance, use and support of said institution, without reducing the amount of the appropriations made to such institutions; all such sums received shall be deposited with the state treasurer and it is hereby made the duty of the state auditor controller and the state treasurer to enter deposits so received in the general fund of the state, and the state auditor controller shall add the deposits so received to the appropriations made to such institutions severally; and the sums of money so received are hereby appropriated from the general fund of the state of Idaho for the maintenance, use and support of the institution by which the same are so received; and the said moneys shall be expended for the use and support of such institution for which the same were deposited, and shall be audited and accounted for as other appropriations to the said institution are.

SECTION 216. That Section 67-3801, Idaho Code, be, and the same is hereby amended to read as follows:

67-3801. ISSUANCE UPON CANCELATION OF OUTSTANDING BONDS. The state of Idaho, through its governor and state treasurer, is authorized to have printed extra blank state bonds of any issue now outstanding or hereafter issued; said bonds to be kept in such secure place as may be designated by such officials. The state treasurer is hereby authorized to receive for cancelation and cancel any bonds which may have been or are hereafter issued, and upon cancelation thereof to issue to the owner or holder of such bonds submitted for cancelation, new bonds of the same issue of such higher or lower denominations as may be requested, but the equivalent in money and in the exact form and contents, except as to the amount of each individual bond, as the bonds canceled.

Upon the cancelation of said bonds they shall each be mutilated by perforating the face thereof with the word "canceled," and each coupon attached thereto shall be mutilated by punching a hole therein, and the numbers and denominations of the new bonds issued in place thereof shall be stamped or written on each of said canceled bonds. The state auditor controller and the state treasurer shall each enter a full description of the new bonds or bond in registers kept in their respective offices for such purpose and shall show the cancelation of the old bonds in the proper bond register. The new bonds shall be signed by the state auditor controller following the word "registered." The state officers in office at the time of the issuing of the new bonds, holding the same offices as those signing the old bonds are hereby authorized to sign their names, attest and execute the new bond or bonds so issued, but such bonds shall bear the date of the original bonds. Upon the face of each new bond as issued must appear the words: "This bond is issued this day of, 19.., in

lieu of bond No. of this issue, in compliance with the provisions of chapter No. 86, 1923 Session Laws of the State of Idaho," inserting the date of the issue of the new bond. All expenses connected with such exchange of any bonds shall be paid in advance by the applicant.

SECTION 217. That Section 67-4917C, Idaho Code, be, and the same is hereby amended to read as follows:

67-4917C. COLLECTION AND ADMINISTRATION OF HOTEL/MOTEL ROOM SALES TAX BY STATE TAX COMMISSION -- DISTRIBUTION. (1) A district which has levied a sales tax pursuant to section 67-4917B, Idaho Code, may contract with the state tax commission for the collection and administration of the tax in like manner, and under the definitions, and rules and regulations of said commission for the collection and administration of the state sales tax under chapter 36, title 63, Idaho Code, on receipts from the furnishing of hotel and motel rooms. A district which levies such tax shall have the right to review and audit the records of collection thereof maintained by the commission and the returns of hotel and motel owners and operators. Alternatively, such district shall have authority to administer and collect such tax.

(2) All revenues collected by the tax commission pursuant to section 67-4917B, Idaho Code, shall be distributed as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the tax commission to be paid shall be paid through the state refund account and those moneys are continuously appropriated.

(b) An amount of money equal to the actual cost of the collection and administration of the tax imposed by the provisions of this section shall be retained by the tax commission. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost at the end of each fiscal year shall be distributed as provided by paragraph (c) of this subsection.

(c) All remaining moneys received pursuant to this chapter shall be placed in an account designated by the state auditor controller and remitted monthly to the district levying the tax.

SECTION 218. That Section 67-5202, Idaho Code, be, and the same is hereby amended to read as follows:

67-5202. OFFICE OF ADMINISTRATIVE RULES COORDINATOR. There is hereby established the office of administrative rules coordinator in the office of the state auditor controller. The coordinator shall be a nonclassified employee and shall be appointed by the state auditor controller with the advice and consent of the senate. The coordinator shall receive all notices and rules required in this chapter to be published in the bulletin or the administrative code. The coordinator shall prescribe a uniform style, form, and numbering system which shall apply to all rules adopted by all agencies. The coordinator shall review all submitted rules for style, form, and numbering, and may return a rule that is not in proper style, form, or number.

SECTION 219. That Section 67-5303, Idaho Code, be, and the same is hereby amended to read as follows:

67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state of Idaho and all employees in such departments, except those employees specifically defined as nonclassified, shall be classified employees, who are subject to this act and to the system of personnel administration which it prescribes. Nonclassified employees shall be:

(a) Members of the state legislature and all other officers of the state of Idaho elected by popular vote, and persons appointed to fill vacancies in elective offices, and employees of the state legislature.

(b) Members of statutory boards and commissions and heads of departments appointed by and serving at the pleasure of the governor, and members of advisory boards and councils appointed by the departments.

(c) All employees and officers in the office, and at the residence, of the governor; and all employees and officers in the offices of the lieutenant-governor, secretary of state, attorney general, state treasurer, state ~~auditor~~ controller, and state superintendent of public instruction who are appointed on and after the effective date of this act.

(d) Except as otherwise provided by law, not more than one (1) declared position for each board or commission and/or head of a participating department in addition to those declared to be nonclassified by other provisions of law.

(e) Part-time professional consultants who are paid on a fee basis for any form of legal, medical or other professional service, and who are not engaged in the performance of administrative duties for the state.

(f) Judges, temporary referees, receivers and jurors.

(g) All employees of the Idaho supreme court and district courts.

(h) All employees of the Idaho state bar.

(i) Assistant attorneys general attached to the office of the attorney general.

(j) Officers, members of the teaching staffs of state educational institutions, the professional staff of the Idaho department of education administered by the board of regents and the board of education, and the professional staffs of the Idaho department of vocational education and vocational rehabilitation administered by the state board for vocational education. "Teaching staff" includes teachers, coaches, resident directors, librarians and those principally engaged in academic research. The word "officer" means presidents, vice presidents, deans, directors, or employees in positions designated by the state board who receive an annual salary of not less than step "A" of the pay grade equivalent to three hundred and fifty-five (355) Hay points in the state compensation schedule. A nonclassified employee who is designated as an "officer" on July 5, 1991, but does not meet the requirements of this subsection, may make a one (1) time irrevocable election to remain nonclassified. Such an election must be made not later than August 2, 1991. When such positions become vacant, these positions will be reviewed and designated as either classified or nonclassified in accordance with this subsection.

(k) Employees of the military division not assigned to the bureau of disaster services.

(l) Patients, inmates or students employed in a state institution.

(m) Persons employed in positions established under federal grants, which, by law, restrict employment eligibility to specific individuals or groups on the basis of nonmerit selection requirements. Such employees shall be termed "project exempt" and the tenure of their employment shall be limited to the length of the project grant, or twenty-four (24) months, or four thousand one hundred sixty (4,160) hours of credited state service, whichever is of the shortest duration. No person hired on a project-exempt appointment shall be employed in any position allocated to the classified service.

(n) Temporary employees.

(o) All employees and officers of the following named commodity commissions, and all employees and officers of any commodity commission created hereafter: the Idaho potato commission, as provided in chapter 12, title 22, Idaho Code; the Idaho honey advertising commission, as provided in chapter 28, title 22, Idaho Code; the Idaho bean commission, as provided in chapter 29, title 22, Idaho Code; the Idaho prune commission, as provided in chapter 30, title 22, Idaho Code; the Idaho hop grower's commission, as provided in chapter 31, title 22, Idaho Code; the Idaho wheat commission, as provided in chapter 33, title 22, Idaho Code; the Idaho pea and lentil commission, as provided in chapter 35, title 22, Idaho Code; the Idaho apple commission, as provided in chapter 36, title 22, Idaho Code; the Idaho cherry commission, as provided in chapter 37, title 22, Idaho Code; the Idaho mint grower's commission, as provided in chapter 38, title 22, Idaho Code; the state board of sheep commissioners, as provided in chapter 1, title 25, Idaho Code; the state brand board, as provided in chapter 11, title 25, Idaho Code; the Idaho beef council, as provided in chapter 29, title 25, Idaho Code; and the Idaho dairy products commission, as provided in chapter 31, title 25, Idaho Code.

(p) All inspectors of the fresh fruit and vegetable inspection service of the Idaho department of agriculture, except those positions involved in the management of the program.

(q) All employees of the division of correctional industries within the department of correction.

(r) All wardens employed by the department of correction.

SECTION 220. That Section 67-5314, Idaho Code, be, and the same is hereby amended to read as follows:

67-5314. METHOD OF FINANCING. (1) There is hereby created in the state operating fund in the state treasury the personnel commission account. All participating departments are hereby authorized and directed to pay out of their funds to the state treasurer their respective shares of the authorized budget of the commission. All moneys placed in said account are hereby perpetually appropriated to the commission for the administrative purposes of this act. All expenditures from said account shall be paid out in warrants drawn by the state ~~auditor~~ controller upon presentation of proper vouchers from the commission.

(2) The commission shall allocate costs of its operation to each participating department in the same proportion that the amount of the payroll for classified employees of the department bears to the total amount of the payroll for classified employees of all departments combined and averaged as to the basis for allocation of costs.

(3) Each participating department shall deposit to said account on a pay period basis as prescribed by the state ~~auditor~~ controller, an amount equal to its share of costs of operation of personnel commission according to the costs allocation formula set forth above. Departmental deposits for each succeeding fiscal year shall be at a percentage rate of salaries and wages for positions subject to this act, computed to be sufficient to carry out the intent and all provisions of this act as directed by the legislature.

SECTION 221. That Section 67-5716, Idaho Code, be, and the same is hereby amended to read as follows:

67-5716. DEFINITIONS OF TERMS. (1) Acquisition. The process of procuring or purchasing property by the state of Idaho.

(2) Procurement. Obtaining property for state use by lease, rent, or any manner other than by purchase or gift.

(3) Property. Goods, services, parts, supplies and equipment, both tangible and intangible, including, but nonexclusively, designs, plans, programs, systems, techniques and any rights and interests in such property.

(4) Goods. Items of personal property, not qualifying as equipment, parts or supplies.

(5) Services. Personal services, in excess of personnel regularly employed for whatever duration and/or covered by personnel system standards, for which bidding is not prohibited or made impractical by statute, rules and regulations or generally accepted ethical practices.

(6) Parts. Items of personal property acquired for repair or replacement of unserviceable existing items.

(7) Supplies. Items of personal property having an expendable quality or during its normal use is consumed and which requires or suggests acquisition in bulk.

(8) Equipment. Items of personal property which have a normal useful life expectancy of two (2) or more years.

(9) Component. An item of property normally assembled with other items into a unified productive whole at the site of use, which items belong to functional classes that may be interchangeable units of similar function but differing operational or productive capabilities.

(10) Vendor. A person or entity capable of supplying property to the state.

(11) Bidder. A registered vendor who has submitted a bid on a specific item or items of property to be acquired by the state.

(12) Lowest Responsible Bidder. The responsible bidder whose bid reflects the lowest acquisition price to be paid by the state; except that when specifications are valued or comparative performance examinations are conducted, the results of such examinations and the relative score of valued specifications will be weighed, as set out in the specifications, in determining the lowest acquisition price.

(13) Contractor. A bidder who has been awarded an acquisition contract.

(14) Registered Vendor. A qualified vendor registered with the administrator of the division of purchasing.

(15) Agency. All officers, departments, divisions, bureaus, boards, commissions and institutions of the state, including the public utilities commission, but excluding other legislative and judicial branches of government, and excluding the governor, the lieutenant-governor, the secretary of state, the state auditor controller, the state treasurer, the attorney general, and the superintendent of public instruction.

SECTION 222. That Section 67-5735, Idaho Code, be, and the same is hereby amended to read as follows:

67-5735. PROCESSING -- REIMBURSEMENT OF CONTRACTOR. Within ten (10) days after the property acquired is delivered as called for by the bid specifications, the acquiring agency shall complete all processing required of that agency to permit the contractor to be reimbursed according to the terms of the bid. Within ten (10) days of receipt of the documents necessary to permit reimbursement of the contractor according to the terms of the contract, the state auditor controller shall cause a warrant to be issued in favor of the contractor and delivered. Contracts let or entered into by or through the division of purchasing are exempt from the provisions of section 67-2302, Idaho Code; provided, however, that late contract payments may be assessed interest by the vendor at the rate set forth in section 63-3045, Idaho Code, unless another rate is established by contract.

SECTION 223. That Section 67-5750, Idaho Code, be, and the same is hereby amended to read as follows:

67-5750. POSTAGE APPROPRIATIONS -- RECORDS OF DEPARTMENTAL MAIL KEPT THROUGH CENTRAL POSTAL SYSTEM -- EXCEPTION. The central postal system chief, under the direction of the department of administration, shall cause to be metered all such outgoing mail and shall be responsible for the keeping of records and costs thereof, and shall be able to at least monthly certify to the state auditor controller the amount expended on behalf of each department, agency or institution directly utilizing the central postal system, which amount shall be charged against the funds of such department, agency or institution and continually appropriated to the account of the department of administration for the operation of the central postal system. Those agencies which expend funds for stamps and metered postage directly shall make expenditure reports available to the department of administration at least semiannually. The department of administration shall annually submit in the department budget request an accounting of the total cost of postage to the state, as well as the calculated savings and the methods through which such savings were derived. The central postal system chief is hereby directed to evaluate materials to be mailed and shall cause mail to be properly prepared utilizing the lowest practical and most feasible rate of postage. Provided, however, that each member of the legislature of the state of Idaho shall be

issued United States postage for each session attended, in an amount determined by each session of the legislature to be charged to the legislative expense appropriation.

SECTION 224. That Section 67-5772, Idaho Code, be, and the same is hereby amended to read as follows:

67-5772. REMITTANCE OF CONTRIBUTIONS -- COLLECTION OF DELINQUENCIES. (1) Between the first and twentieth day of each month, each employer, or, where the employer's payroll is paid separately by departments, each department of each employer, shall remit to the director of the department of administration all contributions required of it and its employees on the basis of salaries paid by it during the previous month. These remittances shall be accompanied by such reports as required by rules of the director of the department of administration.

(2) If any employer shall fail or refuse to remit any such contributions within thirty (30) days after the date due, the director of the department of administration may certify to the state treasurer the fact of such failure or refusal and the amount of the delinquent contribution or contributions, together with a request that such amount be set over from funds of the delinquent employer to the credit of the group insurance fund. A copy of such certification and request shall be furnished the delinquent employer.

(3) Within ten (10) days after receipt of such request, the state auditor controller shall draw his warrant for payment of such amount out of moneys in the state treasury allocated to the use of such employer during the current fiscal year. If such moneys are not so available, the director of the department of administration shall take any legal steps necessary to collect such amount.

SECTION 225. That Section 67-5776, Idaho Code, be, and the same is hereby amended to read as follows:

67-5776. RETAINED RISKS ACCOUNT -- PURPOSES -- AMOUNT -- LIMIT -- APPROPRIATION -- INVESTMENT. (1) There is hereby created an account in the agency asset fund in the state treasury to be designated the "retained risk account." The account shall be used solely for payment of premiums, costs of maintaining the operation of the risk management office, or upon losses not otherwise insured and suffered by the state as to property and risks which at the time of the loss were eligible for such payment under guidelines theretofore issued by the director of the department of administration.

(2) In addition to moneys, if any, appropriated to the account by the legislature, the director shall deposit with the state treasurer for credit to the retained risk account:

- (a) the gross amount of all premiums and surcharges received under section 67-5777, Idaho Code;
- (b) all refunds received on account of insurance policies canceled before expiration;
- (c) all refunds or returns under experience rating arrangements with insurers;
- (d) savings from amounts otherwise appropriated for the purchase

of insurance or conduct of the risk management office operation;
(e) all net proceeds of the sale of salvage resulting from losses paid out of the retained risk account.

(3) The director may from time to time develop guidelines as to properties and risks eligible for payment out of the retained risk account, and as to making of claim and proof of loss.

(4) All moneys placed in the account are hereby perpetually appropriated for the purposes of this section. All expenditures from the account shall be paid out in warrants drawn by the state auditor controller upon presentation of proper vouchers from the director of the department of administration.

(5) Pending such use, surplus moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the account.

SECTION 226. That Section 67-5778, Idaho Code, be, and the same is hereby amended to read as follows:

67-5778. COLLECTION OF DELINQUENT PAYMENTS. (1) If any office, department, division, board, commission, institution, agency, or operation of the government of the state of Idaho shall fail or refuse to remit any such payment as charged by the director of the department of administration within thirty (30) days after the date due when funds have been appropriated, the director may certify to the state treasurer the fact of such failure or refusal and the amount of the delinquent payment, together with the request that such amount be set over from funds of the delinquent department to the credit of the retained risk account. A copy of such certification and request shall be furnished the delinquent department.

(2) Within ten (10) days after receipt of such request, the state auditor controller shall draw a warrant for payment of such amount out of moneys in the state treasury allocated to the use of such department during the current fiscal year. If such moneys are not so available, the director, department of administration shall take any legal steps necessary to collect such amount.

SECTION 227. That Section 67-6203, Idaho Code, be, and the same is hereby amended to read as follows:

67-6203. COMMISSIONERS -- CHAIRMAN -- APPOINTMENTS. The governor shall appoint seven (7) persons to be commissioners of the Idaho housing agency. Preference shall be given to persons representing persons of low income and to persons with experience in the fields of mortgage lending, finance, banking, real estate, or home building. The governor shall appoint a chairman from among the seven (7) commissioners. The commissioners shall be appointed for terms of four (4) years, except that all vacancies shall be filled for the unexpired term, and provided that the terms of the first seven (7) commissioners appointed shall end on July 1, 1976, and that the terms of three (3) commissioners next appointed shall end on July 1, 1978, and that the terms of the remaining four (4) commissioners so next appointed shall end on

July 1, 1980. A commissioner shall hold office until his successor has been appointed and qualifies. A certificate of the appointment or reappointment of any commissioner shall be filed in the office of the secretary of state and in the office of the agency, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. The governor, the state treasurer, the state auditor controller and the administrator of the division of financial management shall serve as advisors to the commissioners of the agency.

In addition, two (2) members of the Idaho senate, one (1) from the majority party and one (1) from the minority party, and two (2) members of the Idaho house of representatives, one (1) from the majority party and one (1) from the minority party, shall be appointed by the legislative council to serve as advisors to the commissioners of the agency. Such appointments shall be for a term of two (2) years beginning on January 1 of each odd-numbered year, and no appointee shall serve more than two (2) terms. Actual and necessary expenses and per diem shall be allowed as provided for members of the legislative council, and shall be paid from legislative funds. The legislative council shall appoint advisory members as provided herein for terms beginning on July 1, 1980, and expiring January 1, 1981, which terms shall not be included in the prohibition against more than two (2) terms.

SECTION 228. That Section 67-6305, Idaho Code, be, and the same is hereby amended to read as follows:

67-6305. BICENTENNIAL COMMISSION OF IDAHO FUND CREATED -- APPROPRIATION. There is hereby created a fund within the state treasury to be designated as the "Bicentennial Commission of Idaho Fund," to be used by the commission as a revolving fund for the deposit of contributions and for the payment of expenses and other costs established by the commission. All moneys placed in such fund are hereby perpetually appropriated to the commission for the administrative purposes of this act. All expenditures from said fund shall be paid out in warrants drawn by the state auditor controller upon presentation of proper vouchers from the "commission" chairman.

SECTION 229. That Section 67-6610, Idaho Code, be, and the same is hereby amended to read as follows:

67-6610. CONTRIBUTION IN EXCESS OF FIFTY DOLLARS. (a) Any person who contributes more than fifty dollars (\$50.00) (including one or more smaller contributions which aggregate more than fifty dollars (\$50.00) in any one calendar year) to a candidate or political committee shall accompany the contribution with a statement of his full name and complete address.

(b) If a political treasurer is offered or receives a payment or contribution of more than fifty dollars (\$50.00), or which together with prior contributions from the same person during that calendar year exceeds fifty dollars (\$50.00), and there is no statement of the full name and complete address of the person making the contribution, the contribution shall be returned to the contributor if his identity can be ascertained. If the contributor's identity cannot be ascertained, the contribution shall be transmitted immediately by the

political treasurer who received it to the state auditor controller for deposit in the public school fund.

SECTION 230. That Section 67-7013, Idaho Code, be, and the same is hereby amended to read as follows:

67-7013. REMITTANCE OF FEES. (1) There is established in the ~~dedicated fund of~~ the state treasury an account known as the "State Vessel Account," to which shall be credited:

(a) Moneys or fees collected by assessors and authorized vendors, under the provisions of this section and sections 67-7008 and 67-7011, Idaho Code; and

(b) All other moneys as may be provided by law.

(2) All fees collected by an assessor or authorized vendor under the provisions of sections 67-7008 and 67-7011, Idaho Code, shall be forwarded to the state treasurer not later than the fifteenth day of the month following the calendar month in which the fees were collected, and the state treasurer shall then pay the moneys collected into the state vessel account and the park and recreation account, as provided in subsection (3) of this section, unless otherwise provided by law.

(3) Moneys collected shall be deposited eighty-five percent (85%) to the state vessel account, and fifteen percent (15%) to the park and recreation account established in section 67-4225, Idaho Code. The department shall remit the moneys apportioned to county units of government from the state vessel account not later than January 25, April 25, July 25 and October 25 of each year.

(4) All moneys deposited to the park and recreation account are to be appropriated for the purpose of defraying the expenses, debts and costs incurred in carrying out the powers and duties of the department as provided in this chapter, and for defraying administrative expenses of the department, including salaries and wages of employees of the department, expenses for traveling, supplies, equipment and other necessary expenses of the department as they relate to administration of this chapter. All claims against moneys apportioned to the park and recreation account shall be expended by the department and certified to the state auditor controller, who shall, upon approval of the board of examiners, draw his warrant against the park and recreation account for all bills and claims allowed by the board. Should the related administrative costs of the department amount to less than the moneys apportioned to the park and recreation account for such purposes, the difference shall be remitted to the state vessel account and then apportioned to all counties with a boating improvement program so that the amount apportioned to each eligible county will be in the same ratio as the county's amount of funds received from the state vessel account during the prior fiscal year by a county bears to the total amounts received during that prior fiscal year by all eligible counties.

(5) All moneys deposited to the state vessel account and appropriated to the department, shall be apportioned among the counties of the state based on the designations which the owners make on their application for a certificate of registration or use permit.

(a) An owner, when purchasing a certificate of registration or

use permit, will be allowed to designate, on the appropriate form, a primary and secondary eligible county where his boating activity occurs. The portion of his fees which are appropriated from the state vessel account shall be apportioned to the designated counties, with seventy percent (70%) of those fees apportioned to the primary designated county and thirty percent (30%) apportioned to the secondary designated county.

(b) Should an owner designate on the appropriate form only one (1) eligible county where his boating activity occurs, the full portion of his fees which are appropriated from the state vessel account shall be apportioned to the designated county.

(c) Should an owner fail to designate on the appropriate form any eligible county where his boating activity occurs, the full portion of his fees which are appropriated from the state vessel account shall be apportioned to all counties with a boating improvement program so that the amount apportioned to each eligible county will be in the same ratio as the county's amount of funds received from the state vessel account during the prior three (3) month payment period bears to the total amounts received during that prior three (3) month payment period by all eligible counties.

(6) Only those counties in the state with a boating improvement program, as recognized by the department, shall be eligible to receive moneys from the state vessel account. A "boating improvement program" means that one or more recognized boating facilities are being developed and/or maintained within the county's jurisdiction and/or that the county has or is actively developing a recognized boating law enforcement program.

(7) Moneys apportioned to the eligible counties shall be placed in and credited to an account which shall be known and designated as the county vessel fund, which shall be used and expended by the board of county commissioners for the protection and promotion of safety, waterways improvement, creation and improvement of parking areas for boating purposes, making and improving boat ramps and moorings, marking of waterways, search and rescue, and all things incident to such purposes including the purchase of real and personal property. The board of county commissioners is also authorized to use and expend funds from the county vessel fund outside the county when the board deems it advisable and for the public good.

(8) Within sixty (60) calendar days of the end of each county fiscal year, the county clerk shall calculate the ending fund balance of the county vessel fund for that fiscal year. If the ending fund balance is higher than the amount of revenues deposited in the county vessel fund from the state vessel account during that fiscal year, then the difference shall be remitted to the state vessel account within thirty (30) calendar days of that calculation. Moneys remitted to the state vessel account, in accordance with the provisions of this section, shall be apportioned to all counties with a boating improvement program so that the amount apportioned to each eligible county will be in the same ratio as the county's amount of funds received from the state vessel account during the prior county fiscal year bears to the total amounts received during that prior county fiscal year by all eligible counties. The provisions of this subsection shall

not apply to specific sums of money in county vessel accounts, for which the county commissioners have given written notice, to the department of parks and recreation of an intention to retain those funds for a specific purpose. The notice shall specify the amount of the funds to be held, indicate the purpose for which the funds shall be utilized and provide the date when the funds will be expended. If an amended notice is not submitted by the county commissioners, moneys not expended or contractually committed by the date stated in the original notice of the board of county commissioners shall revert to the state vessel account for distribution as provided in this subsection. All interest earned on moneys invested from a county vessel fund shall return to the county vessel fund.

SECTION 231. That Section 67-7409, Idaho Code, be, and the same is hereby amended to read as follows:

67-7409. POWERS AND DUTIES OF THE DIRECTOR. The director shall be responsible for the daily operations of the lottery, and shall have the following duties, powers and responsibilities in addition to others herein granted:

(1) The director shall:

(a) Operate and administer the lottery in accordance with the provisions of this act and the policies, rules and regulations of the lottery;

(b) Appoint deputy directors, sales personnel and security staff, who shall be exempt from the provisions of chapter 53, title 67, Idaho Code, as may be required to carry out the functions and duties of his office; and

(c) Hire professional, technical and other employees as may be necessary to perform the duties of his office subject to the provisions of chapter 53, title 67, Idaho Code.

(2) The director shall:

(a) Confer regularly with the commission on the operation and administration of the lottery;

(b) Make available for inspection by the commission, on request, all books, records, files, and other information and documents of the lottery; and

(c) Advise the commission and make such recommendations as the director considers necessary and advisable to improve the operation and administration of the lottery.

(3) The director may enter into contracts for marketing, advertising, promotion, research and studies for the lottery and for products and services for effectuating the purposes of this chapter, however, contracts for major procurements must be approved by the commission. The director may not enter into contracts for the administration of the lottery.

(4) The director shall:

(a) Submit quarterly financial statements to the commission, the governor, the state treasurer, and the legislature. Such financial statements shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, a statement of operations, a statement of changes in financial position, and related footnotes. Such financial statements are to be pro-

- vided within forty-five (45) days of the last day of each quarter;
- (b) Submit annual financial statements to the commission, the governor, the state treasurer, and each member of the legislature. Such financial statements shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, a statement of operations, a statement of changes in financial position, and related footnotes. Such financial statements shall have been examined by the state auditor controller or a firm of independent certified public accountants in accordance with generally accepted auditing standards and shall be provided within ninety (90) days of the last day of the lottery's fiscal year;
- (c) Report to the governor and the legislature any matters which require immediate changes in the laws of this state in order to prevent abuses and evasions of this act or the rules and regulations of the lottery or to rectify undesirable conditions in connection with administration or operation of the lottery;
- (d) Carry on a continuous study and investigation of the lottery to:
- (i) Identify any defects in the provisions of this chapter or in the rules and regulations of the commission leading to an abuse in the administration or operation of the lottery or an evasion of this act or the rules and regulations of the lottery;
 - (ii) Make recommendations for changes in this chapter or the rules and regulations of the lottery to prevent abuses or evasions or to improve the efficiency of the lottery;
 - (iii) Ensure that the provisions of this chapter and the rules and regulations of the lottery are administered and formulated to serve the purposes of this chapter;
 - (iv) Prevent the use of the lottery, the provisions of this chapter, or the rules and regulations of the lottery from fostering professional gambling or crime;
- (e) Make a continuous study and investigation of:
- (i) The operation and administration of similar laws and lotteries in other states and countries;
 - (ii) The available information on the subject of lotteries and related subjects;
 - (iii) Any federal laws which may affect the operation of the lottery; and
 - (iv) The reaction of citizens of this state to existing and potential features of the lottery with a view to recommending or effecting changes that will tend to serve the purposes of this chapter.
- (5) The director shall provide for secure lottery facilities and lottery systems, including data processing facilities and systems.
- (6) The director shall be responsible for monitoring class III gaming on Indian reservations as may be required by compacts entered into by the state in accordance with state statutory law and pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. section 2701 et seq. and 18 U.S.C. sections 1166-1168.
- (7) The director shall perform all other acts necessary to carry out the purposes and provisions of this chapter.

SECTION 232. That Section 67-7450, Idaho Code, be, and the same is hereby amended to read as follows:

67-7450. AUDIT OF FUNDS -- REPORTS. (1) The right is reserved to the state of Idaho to audit funds of the commission at any time.

(2) On or before January 15 of each year, the director shall file with the senate state affairs committee, the house state affairs committee, the legislative council, the state auditor controller, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current and next fiscal years and a projection of anticipated expenses by category for the current and next fiscal years. From and after January 15, 1990, the report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.

(3) In addition to the reports required in subsection (2) of this section, the director shall also file the same report with the joint finance-appropriations committee. Notwithstanding any other provision of this chapter, the joint finance-appropriations committee may, by appropriation measure, limit or modify proposed expenditures of the commission.

SECTION 233. That Section 70-208, Idaho Code, be, and the same is hereby amended to read as follows:

70-208. ALLOWANCE OF CLAIMS. All claims for expenses incurred under the provisions of this chapter shall be made against the state of Idaho for payment from the moneys herein appropriated. Such claims shall be made in the manner and form as other claims against the state are made; and, after approval by the commissioner as herein provided for, shall be presented to the state board of examiners for action; and, if allowed by them, as proper claims against the moneys herein appropriated, it shall be the duty of the state auditor controller to draw and deliver to the claimants warrants for such claims against said moneys; and, upon presentation of such warrants to the state treasurer, it shall be his duty to pay such warrants from the said moneys herein appropriated.

SECTION 234. That Section 72-327, Idaho Code, be, and the same is hereby amended to read as follows:

72-327. SOURCE OF FUND -- EXCISE LEVY. (1) Except as otherwise provided in section 72-328, Idaho Code, and subsection (4) of this section, in addition to any benefits paid to an employee, the employer shall forthwith pay to the industrial commission, for deposit in the industrial special indemnity fund, a lump sum without discount, equal to five per cent (5%) of all benefits or other considerations specified in any summary and payment, commission order, compensation agreement, award or approved settlement, whether specified in percentage ratings, specific dollar amounts or in some other form which may be converted to a specific dollar amount, and including credits for pre-

viously paid or advanced permanent disability income benefits, but specifically excluding amounts paid or owing by an employer for total temporary or partial temporary disability income benefits and previously paid or incurred medical benefits.

(2) Except as otherwise provided in subsection (3) of this section, in cases involving the approved settlement of any claim, involving less than total and permanent disability, where future payments are to be made, in whole or in part, on a periodic annuity or installment basis, the excise levy provided for in subsection (1) of this section shall apply as follows:

(a) To all amounts paid in lump sum at the time of or contemporaneous to the approved settlement, however designated, excluding amounts actually intended for and specifically identified as payment for total or partial temporary disability income benefits and previously paid or incurred medical benefits; and

(b) To the cost of all future periodic, annuity or installment payments, which cost shall either be the actual, established cost to the employer or its surety or, absent proof thereof, the present cash value of such payments calculated at the time of settlement pursuant to regulations promulgated and approved by the industrial commission for these purposes.

(3) The provisions of subsection (2) of this section shall not apply, and no levy shall be assessed against benefits or payments on an approved settlement involving future payments on a periodic annuity or installment basis where, based upon the record and evidence before it the commission finds that the employee suffers total and permanent disability, and that the parties have entered into settlement as an alternative means of paying income benefits and medical and related expenses which the employee would otherwise be entitled to receive pursuant to section 72-408 or 72-432, Idaho Code, provided that nothing contained in this subsection shall relieve an employer from levy on the amount of its agreed payment or apportioned share of total and permanent disability compensation in settled or adjudicated claims arising under section 72-332, Idaho Code.

(4) Whenever the cash balance of the industrial special indemnity fund shall exceed two million dollars (\$2,000,000), upon notification of that fact by the manager, supported by statements of the treasurer and director of the department of administration, the levy of excise provided for in subsection (1) of this section shall be reduced to four per cent (4%), and shall remain at that level until:

(a) The cash balance of the fund shall again be reduced below two million dollars (\$2,000,000), at which time the levy of excise shall increase to five per cent (5%); or

(b) The cash balance of the fund shall reach the limitations of section 72-328, Idaho Code, at which time the provisions of that section shall apply. During any period when the four per cent (4%) levy specified in paragraph (a) above is in effect, the manager shall furnish the commission such periodic financial information as it may require to assist it in providing notice of and implementing increases and reductions in levies.

(5) Any notice from the commission temporarily increasing or reducing the percentage of excise levy shall be made by the commission at least thirty (30) days prior to the application of the notice and a

certified copy of such notice shall be filed in the office of the state treasurer and the office of the state auditor controller, with a copy thereof to the manager.

(6) As applied in this act, the terms "cash balance" and "cash balance of the fund" mean all money deposited or invested by the state treasurer to the credit of the industrial special indemnity fund, pursuant to sections 72-325 and 72-326, Idaho Code, and all interest earned thereon.

SECTION 235. That Section 72-328, Idaho Code, be, and the same is hereby amended to read as follows:

72-328. SUSPENSION OF EXCISE -- DISCRETION OF COMMISSION. Whenever the cash balance of the industrial special indemnity fund shall exceed two million five hundred thousand dollars (\$2,500,000), the commission, upon notification of that fact by the manager, supported by statements of the treasurer and director of the department of administration, shall temporarily suspend the levy of the excise made pursuant to section 72-327, Idaho Code. Such suspension of the levy shall remain in effect until the cash balance of the fund shall again be reduced to two million dollars (\$2,000,000) or less, at which time the commission, upon notification of that fact by the manager, supported by statements of the treasurer and director of the department of administration, shall reinstate the appropriate levy of excise, as specified in section 72-327, Idaho Code.

Any notice of suspension or reinstatement of the excise levy shall be made by the commission and shall become effective immediately upon a certified copy of such notice being filed in the office of the state treasurer and the office of the state auditor controller, with a copy thereof to the manager.

SECTION 236. That Section 72-910, Idaho Code, be, and the same is hereby amended to read as follows:

72-910. STATE TREASURER CUSTODIAN OF FUND. The state treasurer shall be the custodian of the state insurance fund, and all disbursements therefrom shall be paid by him upon warrants signed by the state auditor controller, or upon sight drafts signed by the state insurance manager as provided by section 72-927, Idaho Code. The state treasurer shall give a separate and additional bond in an amount to be fixed by the governor, and with sureties approved by him, conditioned for the faithful performance of his duty as custodian of the state insurance fund. The state treasurer may deposit any portion of the said fund not needed for immediate use, in the manner and subject to all the provisions of law respecting the deposit of other state funds by him. Interest earned by such portion of the state insurance fund deposited by the state treasurer shall be collected by him and placed to the credit of the fund.

SECTION 237. That Section 72-912, Idaho Code, be, and the same is hereby amended to read as follows:

72-912. INVESTMENT OF SURPLUS OR RESERVE. The endowment fund

investment board shall at the direction of the manager invest any of the surplus or reserve funds belonging to the state insurance fund in real estate and the same securities and investments authorized for investments by insurance companies in Idaho as shall be approved by the manager. The endowment fund investment board shall be the custodian of all such securities or evidences of indebtedness, provided that the endowment fund investment board may employ a custodial bank to hold such securities. The state insurance fund is authorized to pay the actual expenses of the endowment fund investment board which the board incurs in investing surplus or reserve funds and which are approved by the manager of the state insurance fund. It shall collect the principal and interest thereof, when due, and pay the same into the state insurance fund. The state treasurer shall pay all warrants or vouchers drawn on the state insurance manager and by the state ~~auditor~~ controller. The endowment fund investment board at the request of the manager may sell any of such securities, the proceeds thereof to be paid over to the state treasurer for said insurance fund. Where such funds of the state insurance fund have been or are hereafter invested, with real property as security, and the said real property has been or is hereafter acquired by the state of Idaho by reason of foreclosure proceedings, voluntary deed, or otherwise, such property shall be held in trust by the state of Idaho for the benefit of the state insurance fund and may be sold by the endowment fund investment board at the request of the manager of said fund, and said sale may be had at private sale or public auction, upon such terms and under such conditions as the endowment fund investment board deems for the best interest of the state, but no sale of real estate at private sale may be had for a less price than the amount, with accrued interest, costs and expenses, which has been invested by the state insurance fund in said real estate. Where such sale is to be made at public auction, it must take place in the county where the real estate is situated, and notice of time and place of sale must be posted in three (3) of the most public places in such county, and published in a newspaper, if there be one (1) printed in the said county, for at least once a week for not less than two (2) consecutive weeks, within thirty (30) days prior to the sale. Where such sale is to be made at private sale, it must take place in the county where the real estate is situated, and notice of time and place of sale must be posted in three (3) of the most public places in such county, and published in a newspaper, if there be one (1) printed in said county, for at least once a week for not less than two (2) consecutive weeks, within thirty (30) days prior to the sale. The notice must state a day on or after which the sale will be made, and a place where offers or bids will be received. The day last referred to must be at least fifteen (15) days from the first publication of notice, and the sale must not be made before that day, but must be made within six (6) months thereafter. The bids or offers must be in writing, sealed, and delivered to the investment manager of the endowment fund investment board. The real estate and tenements, or the part thereof or interest therein to be sold, must be described with common certainty in the notice. The deed or deeds to such real estate shall be executed in the name of the state of Idaho as required by section 16, chapter 4 of the constitution of the state of Idaho, and the proceeds from any such sale be paid over to the state trea-

surer for said insurance funds.

SECTION 238. That Section 72-1346, Idaho Code, be, and the same is hereby amended to read as follows:

72-1346. EMPLOYMENT SECURITY FUND. (a) Establishment and Control. There is hereby established in the state treasury a special fund, separate and apart from all public moneys or funds of this state, an "Employment Security Fund," which shall be administered by the director exclusively for purposes of this act. All moneys coming into said fund are hereby perpetually appropriated to the director to be by him administered separate and apart from all other moneys and funds of this state pursuant to the provisions of this act and the Federal Social Security Act. This fund shall consist of all contributions collected pursuant to this act, payments in lieu of contributions, interest earned upon any moneys in the fund, any property or securities acquired through the use of moneys belonging to the fund, all earnings of such property or securities, and all other moneys received for the fund from any other source. All moneys in the fund shall be mingled and undivided. All financial transactions of the employment security fund shall be maintained on the account level. The state auditor controller and the state treasurer may prescribe requirements for this purpose.

(b) Accounts and Deposits. The state auditor controller shall maintain within the fund three (3) separate accounts: (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All moneys payable to the fund, upon receipt thereof by the director, shall be promptly forwarded to the state treasurer for immediate deposit in the clearing account. All moneys in the clearing account after clearance thereof, shall, except as herein otherwise provided, be deposited promptly with the secretary of the treasury of the United States of America to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act, as amended, any provisions of law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. Refunds and reimbursements payable pursuant to sections 72-1357, 72-1316(a)(4), Idaho Code, may be paid from the clearing account or the benefit account, except that amounts found to be refundable which were paid into the state employment security administrative and reimbursement account, shall be paid only out of such latter account. The benefit account shall consist of all moneys requisitioned for the payment of benefits from this state's account in the unemployment trust fund in the treasury of the United States. Except as herein otherwise provided, moneys in the clearing and benefit accounts may be deposited by the state treasurer under the direction of the director in any depository bank in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Moneys in the clearing and benefit accounts shall not be commingled with other state funds, but shall be maintained in separate accounts on the books of the depository bank. Such money shall be secured by the depository bank to the same extent and in the same manner as required by the gen-

eral public depository law of this state; and collateral pledged for this purpose shall be kept separate and distinct from collateral pledged to secure other funds of the state. The state treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the employment security fund provided for under this act.

(c) Withdrawals. Moneys requisitioned by the director through the treasurer from this state's account in the unemployment trust fund shall be used exclusively for the payment of benefits and for refunds pursuant to the provisions of this act, except that money credited to this state's account pursuant to section 903 of the Federal Social Security Act, as amended, shall be used exclusively as provided in subsection (e) of this section. The director through the treasurer shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to this state's account therein, as he deems necessary for the payment of such benefits and refunds for a reasonable future period. Upon receipt thereof such moneys shall be deposited in the benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody, nor shall such expenditures require the approval of the state board of examiners. The residual daily balance in the benefit account may be invested in accordance with the cash management improvement act of 1990, and earnings on those investments may be used to pay the related banking costs of maintaining the benefit account. Any earnings in excess of the related banking costs shall be returned to the state's account in the federal unemployment trust fund annually. All warrants issued for the payment of benefits and refunds shall bear the signature of the director or his duly authorized agent for that purpose. Upon approval and agreement by and between the director and state ~~auditor~~ controller, amounts in the benefit account may be transferred to a revolving account established and maintained in a depository bank from which the director may issue checks for the payment of benefits and refunds in accordance with the provisions of this act, and for no other purpose. Moneys so transferred shall be deposited subject to the same requirements as provided with respect to moneys in the clearing and benefit accounts in this section, subdivision (b). Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account or revolving account referred to herein, after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of benefits and refunds during succeeding periods, or, in the discretion of the director, shall be redeposited with the secretary of the treasury of the United States of America to the credit of this state's account in the unemployment trust fund, as provided in subsection (b) of this section.

(d) Management of funds upon discontinuance of unemployment trust fund. The provisions of subsections (a), (b), and (c) of this section, to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the secretary of the treasury of the United

States of America continues to maintain for this state a separate book account of all funds deposited by this state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all moneys belonging to the employment security fund of this state shall be administered by the director as a trust fund for the purpose of paying benefits under this act, and the director shall have authority to hold, invest, transfer, sell, deposit, and release such moneys, and any properties, securities, or earnings acquired as an incident to such administration; provided, that such moneys shall be invested in accordance with the provisions of the State Depository Law; provided, further, that such investment shall be at all times made so that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits.

(e) Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States of America pursuant to section 903 of the Federal Social Security Act, as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses incurred for the administration of this act. Such money may be requisitioned and used for the payment of expenses incurred for the administration of this act pursuant to a specific appropriation by the legislature, provided that the expenses are incurred and money is requisitioned after the enactment of an appropriation law which specifies the purposes for which such money is appropriated and the amounts appropriated therefor and provides that the amounts be limited by the following provisions:

(1) Such money may not be obligated after the close of the two (2) year period which began on the date of the enactment of the appropriation law; and

(2) The amount which may be obligated during any twelve (12) month period beginning on July 1 and ending on the next June 30 does not exceed the amount by which (i) the aggregate of the amounts credited to the account of this state pursuant to section 903 of the Federal Social Security Act, as amended, during the same twelve (12) month period and the thirty-four (34) preceding twelve (12) month periods, exceeds (ii) the aggregate of the amounts used pursuant to this subsection and charged against the amounts credited to the account of this state during any such thirty-five (35) twelve (12) month periods. For the purposes of this subsection, amounts used during any twelve (12) month period beginning on July 1 and ending on the next June 30 shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount obligated for the administration of this act during any such twelve (12) month period may be charged against any amount credited during such a twelve (12) month period earlier than the thirty-fourth preceding such period.

SECTION 239. That Section 73-218, Idaho Code, be, and the same is hereby amended to read as follows:

73-218. PROCEEDS OF SALE, HOW HANDLED. The proceeds of the sale of the treasury notes shall be placed to the credit of the code fund in the state treasury, except such amount as may be required to be paid as accrued interest, which amount shall be credited to a special interest fund for payment of interest on the treasury notes. The expenses incurred by the state treasurer in the preparation and sale of the treasury notes shall be paid out of the code fund. The balance of such proceeds and all moneys now or hereafter in said code fund shall be used exclusively for the purposes authorized by this act, and shall be paid out of warrants drawn by the state auditor controller supported by vouchers of the commission.

Whenever any treasury notes are hereafter issued and outstanding, pursuant to this act, the state treasurer shall set up and keep separate accounts for payment of the interest required to be paid on such treasury notes and to provide a sinking fund for the payment of such treasury notes.

SECTION 240. That Section 73-219, Idaho Code, be, and the same is hereby amended to read as follows:

73-219. APPROPRIATION. All funds, appropriations and other moneys now or hereafter appropriated or provided by law for the purposes and administration of the functions, powers and duties of the code commission created by chapter 167, Laws of 1949, including those funds and moneys of the code fund and the code redemption fund, shall be and the same hereby are, respectively, transferred to the code fund created by chapter 167, Laws of 1949, and made available to and placed under the control of said code commission, and all such moneys accruing to or received into said fund are hereby appropriated to said code commission for expenditure by it in the administration and carrying out of the duties and purposes required of the said commission under the provisions of this act and to pay the compensation and expenses of the commission and its employees. The state auditor controller is hereby authorized and directed to cause the foregoing transfers to be made. All such moneys shall be paid out on warrants drawn by the state auditor controller as in this act provided, supported by vouchers prepared and approved by the code commission certified by its chairman, and approved by the state board of examiners.

SECTION 241. This act shall be in full force and effect on and after the first Monday of January, 1995, if the state board of canvassers has certified that an amendment to the Constitution of the State of Idaho has been adopted at the general election of 1994 to change the name of the state auditor to state controller.

Approved March 25, 1994.

CHAPTER 181
(S.B. No. 1389)

AN ACT

RELATING TO THE STATE AUDITOR AND THE OFFICE OF THE STATE AUDITOR TO CHANGE THE TITLE OF STATE AUDITOR TO STATE CONTROLLER; AMENDING SECTIONS 34-610, 34-1211 AND 34-1701, IDAHO CODE, TO CHANGE THE TITLE OF STATE AUDITOR TO STATE CONTROLLER; AMENDING SECTION 67-429, IDAHO CODE, TO PROVIDE ADDITIONAL AUDIT DUTIES FOR THE LEGISLATIVE COUNCIL AND TO PROVIDE NAME CHANGES; AMENDING THE CHAPTER HEADING, CHAPTER 10, TITLE 67, IDAHO CODE; REPEALING SECTIONS 67-1002, 67-1026, 67-1033 AND 67-1036, IDAHO CODE; AMENDING SECTION 67-1001, IDAHO CODE, TO PROVIDE NAME CHANGES, TO STRIKE OBSOLETE PROVISIONS, TO PROVIDE PROPER REFERENCES, TO STRIKE REFERENCE TO AUDITS OF THE LEGISLATURE AND ITS AGENCIES, AND TO PROVIDE ADDITIONAL DUTIES FOR THE STATE CONTROLLER; AMENDING SECTION 67-1004, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE NAME CHANGES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-1011, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE NAME CHANGES, AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 67-1014, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE A NAME CHANGE AND TO PROVIDE FOR CERTIFICATION OF COPIES OF DOCUMENTS; AMENDING SECTIONS 67-1015, 67-1016 AND 67-1030, IDAHO CODE, TO REDESIGNATE THE SECTIONS AND TO PROVIDE NAME CHANGES; AMENDING SECTION 67-1012, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE A NAME CHANGE AND TO PROVIDE A REPORT ON DELINQUENT COLLECTORS; AMENDING SECTION 67-1018, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE NAME CHANGES, AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTIONS 67-1005 AND 67-1006, IDAHO CODE, TO REDESIGNATE THE SECTIONS AND TO PROVIDE NAME CHANGES; AMENDING SECTION 67-1008, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE NAME CHANGES AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 67-1009, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-1003, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE NAME CHANGES, AND TO PROVIDE PROPER REFERENCES; AMENDING SECTION 67-1021, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE NAME CHANGES; AMENDING SECTION 67-1022, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE NAME CHANGES AND TO STRIKE OBSOLETE PROVISIONS; AMENDING SECTION 67-1017, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE NAME CHANGES, AND TO PROVIDE PROPER REFERENCES; AMENDING SECTIONS 67-1010, 67-1013, 67-1007 AND 67-1031, IDAHO CODE, TO REDESIGNATE THE SECTIONS AND TO PROVIDE NAME CHANGES; AMENDING SECTION 67-1032, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE NAME CHANGES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 67-1034, 67-1035 AND 67-1028, IDAHO CODE, TO REDESIGNATE THE SECTIONS AND TO PROVIDE NAME CHANGES; AMENDING SECTIONS 67-1023 AND 67-1027, IDAHO CODE, TO REDESIGNATE THE SECTIONS, TO PROVIDE NAME CHANGES, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-1024, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE NAME CHANGES, AND TO STRIKE OBSOLETE PROVISIONS; AMENDING SECTION 67-1025, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO

PROVIDE PROPER REFERENCES; AMENDING SECTION 67-1029, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE NAME CHANGES; AMENDING SECTIONS 67-1101, 67-1102 AND 67-1103, IDAHO CODE, TO PROVIDE NAME CHANGES; AMENDING SECTION 67-1104, IDAHO CODE, TO PROVIDE NAME CHANGES AND TO STRIKE OBSOLETE PROVISIONS; AMENDING CHAPTER 20, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2027, IDAHO CODE, TO PROVIDE THAT THE STATE BOARD OF EXAMINERS SHALL PROVIDE FOR AUDITS OF THE LEGISLATIVE DEPARTMENT; AMENDING SECTION 9-335, IDAHO CODE, TO PROVIDE THAT THE OFFICE OF STATE CONTROLLER SHALL BE A LAW ENFORCEMENT AGENCY FOR CERTAIN INVESTIGATORY PURPOSES; AMENDING SECTION 9-340, IDAHO CODE, AS AMENDED BY SECTION 2, CHAPTER 388, LAWS OF 1993, TO STRIKE REFERENCE TO THE STATE AUDITOR'S POST-AUDIT DUTIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 4, CHAPTER 388, LAWS OF 1993, TO CHANGE THE EFFECTIVE DATE; REPEALING CHAPTER 16, TITLE 67, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 388, LAWS OF 1993; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 34-610, Idaho Code, be, and the same is hereby amended to read as follows:

34-610. ELECTION OF STATE ~~AUDITOR~~ CONTROLLER -- QUALIFICATIONS. (1) At the general election, 1974, and every four (4) years thereafter, a state ~~auditor~~ controller shall be elected.

(2) No person shall be elected to the office of state ~~auditor~~ controller unless he shall have attained the age of twenty-five (25) years at the time of his election, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state. Each declaration shall have attached thereto a petition which shall contain the signatures of one thousand (1000) qualified electors.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of one hundred dollars (\$100) which shall be deposited in the general fund.

SECTION 2. That Section 34-1211, Idaho Code, be, and the same is hereby amended to read as follows:

34-1211. STATE BOARD OF CANVASSERS -- MEETINGS. The secretary of state, state ~~auditor~~ controller and state treasurer shall constitute the state board of canvassers. The functions of the board shall be election functions, and the secretary of state shall be chairman of the board. The state board of canvassers shall meet within fifteen (15) days after the primary election and within fifteen (15) days after the general election in the office of the secretary of state for the purpose of canvassing the abstracts of votes cast for all candidates for federal, state and district offices.

SECTION 3. That Section 34-1701, Idaho Code, be, and the same is

hereby amended to read as follows:

34-1701. OFFICERS SUBJECT TO RECALL. The following public officers, whether holding their elective office by election or appointment, and none other, are subject to recall:

(1) State officers:

(a) The governor, lieutenant-governor, secretary of state, state auditor controller, state treasurer, attorney general, and superintendent of public instruction;

(b) Members of the state senate, and members of the state house of representatives.

(2) County officers:

(a) The members of the board of county commissioners, sheriff, treasurer, assessor, prosecuting attorney, clerk of the district court, and coroner.

(3) City officers:

(a) The mayor;

(b) Members of the city council.

SECTION 4. That Section 67-429, Idaho Code, be, and the same is hereby amended to read as follows:

67-429. POWERS AND DUTIES. (1) It shall be the duty of the council to collect and compile information, to draft bills and to conduct research upon any subject which the legislature may authorize or direct or upon any subject which it may determine, provided that all activities of the council must be reasonably related to a legislative purpose. The legislature may make specific assignments to the council by a concurrent resolution approved by both houses.

(2) The council may hold public hearings and it may authorize or direct any of its committees to hold public hearings on any matters within the jurisdiction of the council.

(3) The council shall establish and maintain a legislative reference library.

(4) For the purpose of conducting any study within the jurisdiction of the council, by resolution adopted by the affirmative vote of two-thirds (2/3) of the entire membership of the council, the chairman of the council may subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence or other documents or records which the council deems relevant or material to any matter on which the council or any committee is conducting a study.

(5) It shall be the duty of the council to superintend and administer the legislative space in the capitol building at all times, and to prepare such space when required for the sessions of the legislature, which shall include the provision of furniture and equipment.

(6) The legislative council shall review and make recommendations to the personnel commission on all aspects of the personnel system, including policies, wages and salaries.

(7) The council has authority to appoint committees and hire staff or contract for services to implement the provisions of this section. In addition to the duties provided above, the council has authority to:

- (a) Provide the legislature with research and analysis of current and projected state revenue, state expenditure and state tax expenditures;
 - (b) Provide the legislature with a report analyzing the governor's proposed levels of revenue and expenditures for budgets and supplemental budget requests submitted to the legislature;
 - (c) Provide an analysis of the impact of the governor's proposed revenue and expenditure plans for the next fiscal year;
 - (d) Conduct research on matters of economic and fiscal policy and report to the legislature on the result of the research;
 - (e) Provide economic reports and studies on the state of the state's economy including trends and forecasts for consideration by the legislature;
 - (f) Conduct budget and tax studies and provide general fiscal and budgetary information;
 - (g) Review and make recommendations on the operation of state programs in order to appraise the implementation of state laws regarding the expenditure of funds and to recommend means of improving their efficiency;
 - (h) Recommend to the legislature changes in the mix of revenue sources for programs, in the percentage of state expenditures devoted to major programs, and in the role of the legislature in overseeing state government expenditures and revenue projections;
 - (i) Make a continuing study and investigation of the building needs of the government of the state of Idaho, including, but not limited to, the following: the current and future requirements of new buildings, the maintenance of existing buildings, rehabilitating and remodeling of old buildings, the planning of administrative offices, and exploring the methods of financing building and related costs; and
 - (j) Conduct a study of state-local finance, analyzing and making recommendations to the legislature on issues including levels of state support for political subdivisions, basic levels of local need, balances of local revenues and options, relationship of local taxes to individuals' ability to pay and financial reporting by political subdivisions.
- (8) In performing its duties under subsection (7) of this section, the council and its employees may consider, among other things:
- (a) The relative dependence on state tax revenues, federal funds and user fees to support state-funded programs, and whether the existing mix of revenue sources is appropriate given the purpose of the programs;
 - (b) The relative percentages of state expenditures that are devoted to major programs such as education, assistance to local government, aid to individuals, state agencies and institutions and debt service; and
 - (c) The role of the legislature in overseeing state government expenditures, including legislative appropriation of money from the general account, legislative appropriation of money from funds other than the general account, state agency receipt of money into revolving and other dedicated funds and expenditure of money from these funds and state agency expenditure of federal funds.
- (9) The council's recommendations shall consider the long-term

needs of the state. The recommendations must not duplicate work done by standing committees of the senate and house of representatives.

(10) The council may, after consultation with the governor and with the chairs of the standing committees of the legislature, select mandates and state programs for review. When selecting mandates, state aids or state programs to be reviewed, the council may consider those that involve payments to local units of government. Staff from affected agencies, staff from the division of financial management and legislative staff shall participate in the reviews.

(11) The following state aids and associated state mandates may be reviewed:

(a) Local government aid, ad valorem property tax credits, tax increment financing and fiscal disparities;

(b) Human service aids;

(c) Educational support dollars utilized for school district general fund aids, school district capital expenditure fund aids, and school district debt service fund aids;

(d) General government aids including natural resource aids, environmental protection aids, transportation aids, economic development aids and general infrastructure aids.

(12) At the direction of the council, the reviews of state aids and state mandates involving state financing of local government activities listed in subsection (11) of this section may include:

(a) The employment status, wages and benefits of persons employed in administering the programs;

(b) The desirable applicability of state procedural laws or rules;

(c) Methods for increasing political subdivision options in providing their share, if any, of program costs;

(d) Desirable redistributions of funding responsibilities for the program and the time period during which any recommended funding distribution should occur;

(e) Opportunities for reducing program mandates and giving political subdivisions more flexibility in meeting program needs;

(f) Comparability of treatment of similar units of government;

(g) The effect of the state aid or mandate on the distribution of tax burdens among individuals based upon ability to pay;

(h) Coordination of the payment or allocation formula with other state aid programs;

(i) Incentives that have been created for local spending decisions, and whether the incentives should be changed;

(j) Ways in which political subdivisions have changed their revenue-raising behavior since receiving these grants;

(k) An assessment of the accountability of all government agencies that participate in the administration of the program.

(13) The legislative council may provide for a complete audit of any and every fund in the state treasury and other state moneys at least once in every two (2) fiscal years, and commencing for fiscal year 1995 and each year thereafter shall provide for an annual state-wide financial audit of the statewide annual financial report prepared by the state controller, and is hereby authorized:

(a) To supervise and examine the accounts and expenditures of the several departments and public institutions of the state and to

prescribe rules and regulations necessary to assure the adequacy and timeliness of all audits performed for or on behalf of all political subdivisions thereof;

(b) To inspect securities held by the several departments and public institutions of the state and the political subdivisions thereof;

(c) To examine, at any and all times, the accounts of every private corporation, institution, association, or board receiving appropriations from the legislature or contracting for health and welfare services with the state of Idaho;

(d) To demand and receive reports from the state treasurer, state auditor controller, ~~state-commissioner-of-finance~~ director of the department of finance, and any other officer or agency, and from the several state depositories;

(e) To publish, from time to time, for the information of the several departments and of the general public, bulletins of the works of government;

(f) To be the official depository of all audits of the several departments and public institutions of the state and its political subdivisions; the filing of an audit with the official depository shall satisfy all requirements for the filing of an audit with the state, any other provision of law notwithstanding;

(g) To review or have reviewed the work papers or other documentation utilized in the audit of a state department or public institution of the state and its political subdivisions, and to reject for filing in the official depository any report based upon unsatisfactory work papers or inadequately supported documentation;

(h) To review and approve the terms and conditions or other statement of services to be provided on any or all contracts or agreements by state government agencies for audits or audit type services; and

(i) To report to the attorney general, for such action, civil or criminal, as the attorney general may deem necessary, all facts showing illegal expenditure of the public money or misappropriation of the public money or misappropriation of the public property. The governor and state auditor controller shall also be notified when the report is made to the attorney general pursuant to this subsection.

All reports, findings and audits of the legislative council pursuant to this subsection shall be submitted to the legislature and to the governor.

SECTION 5. That the heading for Chapter 10, Title 67, Idaho Code, be, and the same is hereby amended to read as follows:

STATE AUDITOR CONTROLLER

SECTION 6. That Sections 67-1002, 67-1026, 67-1033 and 67-1036, Idaho Code, be, and the same are hereby repealed.

SECTION 7. That Section 67-1001, Idaho Code, be, and the same is hereby amended to read as follows:

67-1001. DUTIES OF AUDITOR CONTROLLER. It is the duty of the auditor state controller:

1. To superintend the fiscal concerns of the state, with its accounting, informational, payroll, and related data processing services.

2. To deliver to the governor on or before the first day of December January, a report of the funds of the state, its revenues, and of the public expenditures during the preceding fiscal year.

3. To ~~accompany his annual report with tabular statements, showing~~

~~a. The amount of each appropriation for the preceding fiscal year, the amounts expended, and the balance, if any.~~

b. The the amount of revenue, if any, chargeable to each county for such years the preceding fiscal year, the amount paid, and the amount unpaid or due therefrom.

4. When requested, to give information in writing to either house of the legislature relating to the fiscal affairs of the state or the duties of his office.

5. To suggest plans and provide internal control standards for the improvement and management of the public revenues, assets, expenditures and liabilities.

6. To keep and state all accounts in which the state is interested.

7. To keep an account of all warrants drawn upon the treasurer, and a separate account under the head of each specified appropriation, showing at all times the unexpended balance of such appropriation.

8. To keep an account between the state and the treasurer, and therein charge the treasurer with the balance in the treasury when he came into office, and with all moneys received by him, and credit him with all warrants drawn on and paid by him.

9. To keep a register of warrants, showing the fund or funds upon which they are drawn, the number, in whose favor, the appropriation applicable to the payment thereof, and when the liability accrued.

10. To examine and settle the accounts of all persons indebted to the state, and to certify the amount to the treasurer, and upon the presentation and filing of the treasurer's receipt therefor to give such person a discharge and charge the treasurer therewith.

11. In his discretion to require any person presenting an account for settlement to be sworn before him, and to answer, orally or in writing, as to any facts relating to it.

12. To require all persons who have received any moneys belonging to the state and have not accounted therefor to settle their accounts.

13. To ~~direct and superintend account for~~ the collection of all moneys due the state, not the responsibility of any other agency and institute suits in its name for all official delinquencies in relation to assessment, collection and payment of the revenue, and against persons who by any means have become possessed of public money or property and fail to pay over or deliver the same, and against all debtors of the state, of which suits the courts of Ada County have jurisdiction, without regard to the residence of the defendants.

14. To draw warrants on the treasurer for the payment of moneys directed by law to be paid out of the treasury; but no warrant must be drawn unless authorized by law.

less. For the purposes of this section, the cash balance in the benefit account established in section 72-1346(b), Idaho Code, shall be deemed to be the cash balance in the account of this state in the unemployment trust fund established and maintained pursuant to section 904 of the social security act, as amended.

SECTION 10. That Section 67-1014, Idaho Code, be, and the same is hereby amended to read as follows:

67-10~~14~~04. SEAL OF OFFICE -- CERTIFIED COPIES OF DOCUMENTS AS EVIDENCE. The auditor state controller must keep a seal of office or sign, or use a facsimile signature, for the authentication of all papers, writings, and documents required by law to be certified by him, and copies so authenticated and certified, of all papers and documents lawfully deposited in his office, must be received in evidence as the original.

SECTION 11. That Section 67-1015, Idaho Code, be, and the same is hereby amended to read as follows:

67-10~~15~~05. OFFICIAL BOND. The auditor state controller must be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code.

SECTION 12. That Section 67-1016, Idaho Code, be, and the same is hereby amended to read as follows:

67-10~~16~~06. APPOINTMENT OF DEPUTY. The auditor state controller may appoint such deputies, assistants and employees, and fix the compensation thereof, within the limits of appropriation made therefor, as is necessary.

SECTION 13. That Section 67-1030, Idaho Code, be, and the same is hereby amended to read as follows:

67-1030~~07~~07. STATE OFFICERS AND CUSTODIANS OF STATE FUNDS -- EXAMINATION. The state auditor controller may examine any of the books, papers, accounts, bills, vouchers or other documents of property of any or all of the state officers, and custodians of state funds. He may examine, under oath, state officers and the custodians of state funds aforesaid.

SECTION 14. That Section 67-1012, Idaho Code, be, and the same is hereby amended to read as follows:

67-10~~12~~08. AUDITOR STATE CONTROLLER TO REPORT DELINQUENT COLLECTORS. The auditor state controller must report to the legislature, within ten (10) days after the commencement of each regular session when requested in writing by the presiding officer of either house, a list of all the collectors of revenue, and other holders of public money, whose accounts remain unsettled for six (6) months after they ought to have been settled according to law, and the reasons therefor.

SECTION 15. That Section 67-1018, Idaho Code, be, and the same is hereby amended to read as follows:

67-101821. AUTHORITY TO INSTALL BOOKKEEPING-AND ACCOUNTING AND REPORTING SYSTEM FOR STATE. (1) The provisions of this section reserve to the state auditor controller, in order to carry out the provisions and requirements of this section, the authority to establish funds in addition to those required by law or constitutional provisions.

(2) The state auditor controller shall have power to prescribe and install, to modify from time to time, and to enforce, an accurate and modern system of accounting and bookkeeping financial reporting for the state of Idaho, to cover and include all its financial transactions and all funds, accounts, and property owned by or held in trust or custody of the state, and to that end may take all proceedings and make all investigations necessary to procure the information for said purposes, and may also require the keeping of such books, records and accounts and the making of such reports as he may from time to time prescribe, in and by the office of the state auditor controller, and all other state offices, departments, boards and institutions.

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

SECTION 16. That Sections 67-1005 and 67-1006, Idaho Code, be, and the same are hereby amended to read as follows:

67-100522. WARRANTS, HOW DRAWN -- LOST WARRANTS. (1) All warrants must be drawn in the order prescribed by the state auditor controller.

~~67-1006--LOST WARRANTS----~~ISSUANCE OF DUPLICATES. (2) In case of the loss or destruction of any warrant heretofore issued or that may be issued by the ~~auditor of the state of Idaho controller~~, and, after notice by the involved agency to the state treasurer and state auditor controller to stop payment on the lost or destroyed warrant the state auditor controller is hereby authorized to issue his duplicate warrant to take the place of the warrant so lost or destroyed, upon satisfactory proof by affidavit of the loss of the said warrant. In the issuance of any such duplicate warrant, the auditor state controller may require an indemnity bond, conditioned upon the payment to the state of Idaho of any loss or damage or obligation by reason of the said lost warrant becoming a claim against the state; and, it shall be the duty of the state auditor controller to notify the state treasurer of the issuance of the said duplicate warrant.

SECTION 17. That Section 67-1008, Idaho Code, be, and the same is hereby amended to read as follows:

67-100823. CLAIMS AGAINST THE STATE. All persons having claims against the state must exhibit the same, with the evidence in support thereof, to the auditor state controller, to be audited examined, set-

tled and allowed by the board of examiners, within two (2) years after such claims shall accrue, and not afterward. In all suits brought in behalf of the state, no debt or claim must be allowed against the state as a set-off but such as have been exhibited to the auditor state controller, and allowed or disallowed by the board of examiners except only in cases where it is proved to the satisfaction of the court that the defendant, at the time of the trial, is in possession of vouchers which he could not produce to the auditor state controller, or that he was prevented from exhibiting the claim to the auditor state controller by absence from the state, sickness, or unavoidable accident. No claim which is not provided for by law shall be audited examined or set off.

SECTION 18. That Section 67-1009, Idaho Code, be, and the same is hereby amended to read as follows:

67-100924. REGULATING CLAIMS REQUIRING PAYMENT IN ADVANCE. When an expenditure authorized to be made by any state department, body or officer is of such a nature as to require payment in advance of performance or delivery, then the right of the officer to obtain such service of or property on behalf of or in the service of the state shall constitute a claim against the state to be presented and allowed as are other claims. The board of examiners may, in its discretion, prescribe rules and ~~regulations~~ with respect to the filing and allowance of such claims and the subsequent accounting therefor. Any money obtained upon such claim and not expended on behalf of or in the service of the state shall be repaid by the claimant to the state.

SECTION 19. That Section 67-1003, Idaho Code, be, and the same is hereby amended to read as follows:

67-100325. ACCOUNT OF ~~SCHOOL~~ ENDOWMENT FUNDS, HOW KEPT. The auditor state controller must keep a separate account of each of the school endowment funds, and of the interest and income thereof, together with such moneys as may be raised by special tax or otherwise for school each purposes.

SECTION 20. That Section 67-1021, Idaho Code, be, and the same is hereby amended to read as follows:

67-102126. OFFSETTING OBLIGATIONS AND MAKING NECESSARY ENTRIES. The state auditor controller shall have power, with the consent of the state board of examiners, whenever he shall determine that any creditor of the state of Idaho or any of its departments, agencies or institutions is indebted to the state of Idaho or any of its departments, agencies or institutions to offset such obligations, and make all necessary transfers and entries in the books of the state in accordance with sound accounting practice to accomplish such offset.

SECTION 21. That Section 67-1022, Idaho Code, be, and the same is hereby amended to read as follows:

67-102227. AUTHORITY TO RECOGNIZE ASSIGNMENTS OF OBLIGATIONS

OWING BY STATE. The authority of the state auditor controller to recognize assignments of obligations owing by the state of Idaho is defined and limited as follows: ~~The state auditor may recognize assignments for the purpose of paying or collecting federal excise taxes required to be collected by the state or any of its instrumentalities; assignments for the purpose of purchasing securities of the United States or of the state of Idaho in time of war for the benefit of the assignor; the United States or the state of Idaho; assignments to the state of Idaho in whole or partial retirement of any obligation to the state or any of its instrumentalities; and such other to those assignments as may be specially approved by the state board of examiners.~~

SECTION 22. That Section 67-1017, Idaho Code, be, and the same is hereby amended to read as follows:

67-10+731. FUNDS CREATED BY REGENTS OF UNIVERSITY OF IDAHO AND STATE BOARD OF EDUCATION -- ~~AUDITOR~~ STATE CONTROLLER TO KEEP RECORDS. The state auditor controller is hereby empowered and directed to keep such records as may be necessary and expedient of any and all general or special funds that the regents of the University of Idaho and the state board of education may create for the state's universities and colleges and to file and keep as part of the records of his office any orders, vouchers, books, or other documents which may be delivered to him by said the regents or the state board of education or their duly elected treasurer agent.

SECTION 23. That Section 67-1010, Idaho Code, be, and the same is hereby amended to read as follows:

67-10+041. VOUCHERS AND ACCOUNTS PRESERVED. ~~All~~ Evidence of all accounts, vouchers, and/or documents settled, or to be settled, by the auditor state controller or board of examiners must be preserved in his office for not less than two (2) years, and copies thereof, authenticated by the official seal of the auditor state controller, shall be given to any person interested therein who requires the same. After the legislative council has indicated no further need, such records may be disposed of unless a specific written request for further retention has been made to the auditor state controller.

SECTION 24. That Section 67-1013, Idaho Code, be, and the same is hereby amended to read as follows:

67-10+342. INSPECTION OF ~~AUDITOR'S~~ CONTROLLER'S BOOKS BY LEGISLATURE. All the books, papers, letters, and transactions pertaining to the office of the auditor state controller are open to the inspection of a committee of the legislature, or either branch thereof, who shall examine all the auditor's state controller's accounts.

SECTION 25. That Section 67-1007, Idaho Code, be, and the same is hereby amended to read as follows:

67-100751. PROCEEDINGS AGAINST DEFAULTERS. Whenever any person

has received moneys, or has money or other personal property which belongs to the state, or has been intrusted with the collection, management, or disbursement of any moneys, bonds, or interest accruing therefrom, belonging to, or held in trust by, the state, and fails to render an account thereof to, and make settlement with, the auditor state controller within the time prescribed by law, or, when no particular time is specified, fails to render such account and make settlement, or who fails to pay into the state treasury any moneys belonging to the state, upon being required so to do by the auditor state controller, within twenty (20) days after such requisition, the auditor state controller must state an account with such person, charging twenty-five per cent (25%) damages, and interest at the rate of ten per cent (10%) per annum from the time of failure; a copy of which account in any suit therein is prima facie evidence of the things therein stated. But in case the auditor state controller cannot, for want of information, state an account, he may, in any action brought by him, aver that fact, and allege generally the amount of money or other property which is due to or which belongs to the state.

SECTION 26. That Section 67-1031, Idaho Code, be, and the same is hereby amended to read as follows:

67-1031~~52~~. REFUSAL TO MAKE RETURNS AND EXHIBITS -- PENALTY. Each and every person required herein to make returns and exhibits to the state auditor controller, who shall refuse or neglect to make such returns or exhibits, or who shall refuse to give such information required by the state auditor controller, shall be guilty of a felony, and shall be punished by a fine not exceeding five thousand dollars (\$5,000), or imprisonment in the penitentiary not more than five (5) years or both.

SECTION 27. That Section 67-1032, Idaho Code, be, and the same is hereby amended to read as follows:

67-1032~~53~~. OBSTRUCTING OR MISLEADING STATE AUDITOR CONTROLLER -- PENALTY. Any person who shall wilfully obstruct or mislead the state auditor controller in the execution of his duties as by this chapter prescribed, shall be guilty of a felony, and upon conviction thereof, shall be punished by a fine of not more than five thousand dollars (\$5,000), or imprisonment in the penitentiary not more than five (5) years, or both.

SECTION 28. That Section 67-1034, Idaho Code, be, and the same is hereby amended to read as follows:

67-1034~~54~~. STATE TREASURER A DEFAULTER -- REPORT TO GOVERNOR -- REMOVAL FROM OFFICE. If, at any time, upon an examination being made by the state auditor controller of the books and accounts of the state treasurer, and the funds under his control, it shall be found that the said state treasurer is a defaulter, it shall be the duty of the state auditor controller to at once report such fact to the governor who shall have authority upon receiving such report to at once suspend the treasurer, and to appoint a treasurer temporarily, and to continue

such suspension until such defalcation shall have been made good: provided, however, that in case it shall appear to the satisfaction of the governor that such defalcation cannot be made good by the state treasurer, he shall have authority to declare said office vacant, and fill the same by appointment as in case of other vacancies.

SECTION 29. That Section 67-1035, Idaho Code, be, and the same is hereby amended to read as follows:

67-103555. COUNTY TREASURER A DEFAULTER -- REPORT TO COUNTY COMMISSIONERS -- REMOVAL FROM OFFICE. If, at any time, the state auditor controller, upon an examination of the books and accounts of any treasurer of any county, and the funds under the control, or in the custody of, such treasurer, as authorized by law, shall find that any such treasurer is a defaulter, he shall at once report such defalcation or inability of such treasurer to the board of county commissioners of the county interested, which board of county commissioners shall, upon receiving such notice, have authority to suspend such treasurer, and to appoint a treasurer temporarily, and to continue such suspension until such defalcation shall have been made good: provided, however, that such board of county commissioners shall have power, in case it shall appear to their satisfaction that such defalcation cannot be made good, to declare said office vacant, and to fill the same by appointment as required by law in case of vacancies arising in any such office.

SECTION 30. That Section 67-1028, Idaho Code, be, and the same is hereby amended to read as follows:

67-102856. REPORT OF EXAMINATION TO GOVERNOR -- ACTION AGAINST DELINQUENT OFFICIAL. The state auditor controller shall report to the governor the result of his examination, as well as any failure of duty of any public official, as often as he thinks it may be required by public interest. The governor may cause the result of any examination, made by the state auditor controller, to be made public, or, at his discretion, may take such action for the public security as the exigency may demand. He may, if he deems the public interest to require it, suspend any officer from further performance of duty, until the examination be had, or such security be obtained as may be demanded for the prompt protection of public funds.

SECTION 31. That Sections 67-1023 and 67-1027, Idaho Code, be, and the same are hereby amended to read as follows:

67-102381. SUBMISSION OF ANNUAL FINANCIAL STATEMENT TO STATE AUDITOR CONTROLLER BY ALL TAXING ~~AND-ASSESSING~~ UNITS OF GOVERNMENT -- REGULATIONS RULES. (1) When requested ifn addition to any other statement of financial condition required by law, the auditor of every county, and the treasurer of any other taxing unit of government or assessing--unit--of-government, shall submit to the state auditor controller an annual financial report, under oath, as in this act provided. The state auditor controller shall formulate regulations rules necessary hereunder.

~~67-1027. COUNTY OFFICERS REFUSING TO OBEY INSTRUCTIONS. ENFORCING COMPLIANCE.~~ (2) The state auditor controller shall report to the prosecuting attorney, the refusal or neglect of county officers to obey his instructions. The prosecuting attorney, in case of county or municipal officers, shall promptly take action to enforce a compliance with such instructions of the state auditor controller.

SECTION 32. That Section 67-1024, Idaho Code, be, and the same is hereby amended to read as follows:

67-102482. FINANCIAL STATEMENT -- FORM ~~AND CONTENTS~~. The financial report required by ~~this act~~ in section 67-1081, Idaho Code, shall be in a standard form prescribed by the ~~auditor of the state controller~~, which form shall include, but not by way of limitation, the following information:
~~BALANCE, cash on deposit and on hand undeposited, beginning of the accounting year~~
 RECEIPTS

Ad-Valorem-Taxes

Collected

Due

Assessments

Collected

Due

Fees

~~Sale of service and commodities~~

~~Interest on investments~~

~~Investments sold~~

~~Bonds payable sold~~

~~Receipts from other government units (be specific)~~

~~Fines and forfeitures~~

~~Other (be specific)~~

Total receipts

Total receipts and beginning balance

EXPENDITURES

Personal services

Contractual services

Travel

Commodities

Printing, stationery, office supplies

Land improvements

Equipment

Structures

Bonds paid

Interest expense

Investments purchased

Other (be specific)

Total expenditures

~~BALANCE, cash on deposit and on hand, undeposited, end of the accounting year~~

INDEBTEDNESS

Outstanding-----Issued-----Retired

| | | | |
|----------------|-------------|-------------|--------|
| beginning----- | this----- | this----- | end-of |
| of-year----- | fiscal----- | fiscal----- | fiscal |
| | year----- | year----- | year |

Description-of-indebtedness
 Total

SECTION 33. That Section 67-1025, Idaho Code, be, and the same is hereby amended to read as follows:

67-102583. FAILURE TO SUBMIT FINANCIAL STATEMENT -- PENALTY. The person responsible shall submit the financial report required by ~~this act in section 67-1081, Idaho Code,~~ within ~~ninety~~ ~~(90)~~ one hundred eighty (180) days after the last day of the reporting unit's fiscal year. Failure to comply with the terms of this act is a misdemeanor.

SECTION 34. That Section 67-1029, Idaho Code, be, and the same is hereby amended to read as follows:

67-102984. DUTIES OF OFFICERS TO ASSIST STATE ~~AUDITOR~~ CONTROLLER. To enable the state auditor controller to properly perform the services herein required of him, the county commissioners and officers of the several counties, the state treasurer and all other county and state officers, shall afford all reasonable and needed facilities to the state auditor controller. All officers and employees of the counties, herein referred to shall make returns and exhibits to the state auditor controller, under oath, in such form, and at such time or times, as he shall prescribe.

SECTION 35. That Section 67-1101, Idaho Code, be, and the same is hereby amended to read as follows:

67-1101. UNIFORM CLASSIFICATION OF RECEIPTS AND EXPENDITURES -- DUTY OF STATE ~~AUDITOR~~ CONTROLLER. It shall be the duty of the state auditor controller to adopt and promulgate a uniform classification of revenues and nonrevenue receipts by function and source, and a uniform classification of expenditures by function and object, which classifications shall be conformable to modern standards of accounting and reporting and shall be adapted to the requirements of the bureau-of budget division of financial management for budget purposes.

SECTION 36. That Section 67-1102, Idaho Code, be, and the same is hereby amended to read as follows:

67-1102. RECEIPTS AND DISBURSEMENTS -- CLASSIFICATION -- TABULATION BY CALENDAR MONTHS. It shall be the duty of the state auditor controller to classify, according to the aforesaid standards, all remittances received into the state treasury and all disbursements authorized therefrom, and to tabulate the same by calendar months from original auditor's controller's certificates and ~~claim-vouchers~~ data on file in his office.

SECTION 37. That Section 67-1103, Idaho Code, be, and the same is hereby amended to read as follows:

67-1103. CERTIFICATES AND CLAIM VOUCHERS TO CONTAIN DATA ESSENTIAL TO CLASSIFICATION. The ~~said-auditor state controller~~ shall not issue any certificate authorizing the treasurer to receive money, nor file any claim voucher for disbursement, until all data essential for classification purposes is set forth on such document.

SECTION 38. That Section 67-1104, Idaho Code, be, and the same is hereby amended to read as follows:

67-1104. ANNUAL REPORTS. The auditor state controller shall prepare, annually on a fiscal year basis, exhibits showing the proper detailed classification of all receipts and warrant disbursements, respectively, of each office, department, bureau and institution of the state of Idaho, followed by a recapitulation of receipts from general sources and a recapitulation of disbursements ~~by-general-class-as~~ follows.

REVENUE-RECEIPTS

- A.--~~Taxes-~~
- B.--~~Licenses-and-Permits-~~
- C.--~~Charges-for-Services-and-Fees-~~
- D.--~~Interest-and-Penalties-~~
- E.--~~Rentals-~~
- F.--~~Fines,-Forfeitures,-Escheats,-including-surety-bond-adjustments-~~
- G.--~~Miscellaneous-Sales-~~
- H.--~~Matched-Funds-and-Contributions-~~

NONREVENUE-RECEIPTS

- A.--~~Sale-of-Capital-Assets-~~
- B.--~~Sale-of-State-Obligations-~~
- C.--~~Insurance-Adjustment-to-Capital-Assets-~~
- D.--~~Trust-Accounts-~~
- E.--~~Revolving-Fund-Reimbursements-~~
- F.--~~Refunds-of-Erroneous-Payments-~~

DISBURSEMENTS

- A.--~~Maintenance-and-Operation-~~
- B.--~~Capital-Outlay-~~
- C.--~~Relief-and-Pensions-~~
- D.--~~Refunds-of-Erroneous-Receipts-~~
- E.--~~Payments-as-Agent-~~

One (1) of such exhibits shall be delivered to the division of financial management and one (1) to the legislative council, two (2) to the office, department or governing board referred to in the exhibit (one (1) of which shall be for the use of the executive head of the particular bureau, institution or other unit covered by such exhibit), and the fourth shall be permanently filed in the auditor's state controller's office.

SECTION 39. That Chapter 20, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2027, Idaho Code, and to read as follows:

67-2027. BOARD TO PROVIDE FOR AUDITS. For fiscal year 1995 and each year thereafter, the state board of examiners shall engage the

services of a certified public accountant to audit the fiscal affairs of the legislative department.

SECTION 40. That Section 9-335, Idaho Code, be, and the same is hereby amended to read as follows:

9-335. EXEMPTIONS FROM DISCLOSURE -- CONFIDENTIALITY. (1) Notwithstanding any statute or rule of court to the contrary, nothing in this chapter nor chapter 10, title 59, Idaho Code, shall be construed to require disclosure of investigatory records compiled for law enforcement purposes by a law enforcement agency, but such exemption from disclosure applies only to the extent that the production of such records would:

- (a) Interfere with enforcement proceedings;
- (b) Deprive a person of a right to a fair trial or an impartial adjudication;
- (c) Constitute an unwarranted invasion of personal privacy;
- (d) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement agency in the course of a criminal investigation, confidential information furnished only by the confidential source;
- (e) Disclose investigative techniques and procedures; or
- (f) Endanger the life or physical safety of law enforcement personnel.

(2) An inactive investigatory record shall be disclosed unless the disclosure would violate the provisions of subsection (1)(a) through (f) of this section. Investigatory record as used herein means information with respect to an identifiable person or group of persons compiled by a law enforcement agency in the course of conducting an investigation of a specific act or omission and shall not include the following information:

- (a) The time, date, location, and nature and description of a reported crime, accident or incident;
- (b) The name, sex, age, and address of a person arrested, except as otherwise provided by law;
- (c) The time, date, and location of the incident and of the arrest;
- (d) The crime charged;
- (e) Documents given or required by law to be given to the person arrested;
- (f) Informations and indictments except as otherwise provided by law; and
- (g) Criminal history reports.

As used herein, the term "law enforcement agency" means the office of the attorney general, the office of the state controller, the department of law enforcement, the office of any prosecuting attorney, sheriff or municipal police department.

(3) Whenever it is made to appear by verified petition to the district court of the county where the records or some part thereof are situated that certain investigatory records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the investigative record or show cause why he should not do so. The court

shall decide the case after examining the record in camera, papers filed by the parties, and such oral argument and additional evidence as the court may allow.

If the court finds that the public official's decision to refuse disclosure is not justified, he shall order the public officials to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure. Any person who fails to obey the order of the court shall be cited to show cause why he is not in contempt of court. The court may, in its discretion, award costs and fees to the prevailing party.

SECTION 41. That Section 9-340, as amended by Section 2, Chapter 388, Laws of 1993, Idaho Code, be, and the same is hereby amended to as follows:

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(2) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(3) Records, maps or other records identifying the location of archaeological or geophysical sites or endangered species, if not already known to the general public.

(4) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(5) Production records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

(6) Records relating to the appraisal of real property, timber, or mineral rights prior to its acquisition, sale or lease by a public agency.

(7) Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(8) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(9) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(10) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(11) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records;

(f) Except as provided in this subsection, all information provided to a law enforcement agency for sex offender registration pursuant to the provisions of section 18-8306, Idaho Code:

(i) Such information shall be available upon request to a law enforcement agency; and

(ii) The information provided pursuant to the provisions of subsections (1) and (3) of section 18-8306, Idaho Code, shall be provided to any person upon written request. Such written request shall include the name, date of birth and social security number of the person for whom the information is requested.

(12) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(13) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(14) Any personal records, other than names and addresses, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency pursuant to a statutory requirement for

licensing, certification, permit or bonding.

(15) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(16) Computer programs developed or purchased by or for any public agency for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

- (a) The original data including, but not limited to, numbers, text, voice, graphics and images;
- (b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or
- (c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

(17) Records that identify the method by which the Idaho state tax commission selects tax returns for audit review.

(18) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(19) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(20) Employment security information and unemployment insurance benefit information, except that all interested parties may agree to waive the exemption.

(21) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(22) Investigatory records of a law enforcement agency, as defined in section 9-337(5), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(23) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study.

(24) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

(25) Records of the department of health and welfare or a public health district that identifies a person infected with a reportable disease.

(26) Records of hospital care, medical records, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment.

(27) Records of a person maintained pursuant to chapter 18, title 16, Idaho Code.

(28) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(29) Records contained in court files of judicial proceedings, the disclosure of which is prohibited by or under rules adopted by the Idaho supreme court, but only to the extent that confidentiality is provided under such rules, and any drafts or other working memoranda related to judicial decision making.

(30) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative council by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

~~(31) (a) All papers, physical and electronic records and correspondence or other supporting materials comprising the work papers in the possession of the office of the state auditor prior to release of the related final audit and all other records or materials in the possession of the office of the state auditor that would otherwise be confidential or exempt from disclosure.~~

(b) All papers, physical and electronic records and correspondence or other supporting materials comprising the work papers in the possession of the office of the legislative council prior to release of the related final audit and all other records or materials in the possession of the office of the legislative council that would otherwise be confidential or exempt from disclosure.

(32) The records, finding, determinations and decision of any prelitigation screening panel formed under chapter 10, title 6, Idaho Code.

(33) Board of professional discipline reprimands by informal admonition pursuant to subsection (6)(f) of section 54-1806A, Idaho

Code.

(34) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(35) Information, records, including names and addresses of victims, or investigations of the department of correction or the commission of pardons and parole to the extent that disclosure thereof would interfere with the secure and orderly conduct of their operations, or the rehabilitation of any person in the custody of the department of correction or on parole, or would substantially prejudice or prevent the carrying out of the functions of the department of correction or the commission of pardons and parole if the public interest in confidentiality clearly outweighs the public interest in disclosure.

(36) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant, including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(37) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(38) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(c) To employers and prospective employers not subject to the

provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction.

(39) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided, however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

(40) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided, however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency.

(40¹) Records of laboratory test results provided by or retained by the department of agriculture's quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

SECTION 42. That Section 4, Chapter 388, Laws of 1993, be, and the same is hereby amended to read as follows:

SECTION 4. This act shall be in full force and effect on and after ~~July 1, 1994~~ the first Monday of January, 1995.

SECTION 43. That Chapter 16, Title 67, Idaho Code, as enacted by Section 1, Chapter 388, Laws of 1993, be, and the same is hereby repealed.

SECTION 44. (1) Section 42 of this act shall be in full force and effect on and after July 1, 1994.

(2) All other sections of this act shall be in full force and effect on and after the first Monday of January, 1995, if the state board of canvassers has certified that an amendment to the Constitution of the State of Idaho has been adopted at the general election of 1994 to change the name of the state auditor to state controller.

If an amendment to the Constitution of the State of Idaho to change the name of the state auditor to state controller is not adopted by the electorate at the general election of 1994, none of the sections of this act shall be in effect except Section 42 of this act.

Approved March 25, 1994.

CHAPTER 182
(S.B. No. 1396)

AN ACT

RELATING TO SCHOOL DISTRICTS; AMENDING SECTION 33-313, IDAHO CODE, TO PROVIDE FOR REDEFINING TRUSTEE ZONE BOUNDARIES NOT MORE THAN EVERY FIVE YEARS, TO PROVIDE FOR THE SUBMISSION OF A REVISED PROPOSAL TO REDEFINE TRUSTEE ZONE BOUNDARIES UPON DISAPPROVAL OF THE ORIGINAL PROPOSAL, AND TO PROVIDE FOR MEMBERSHIP OF THE BOARD OF TRUSTEES FOLLOWING REDEFINITION OF TRUSTEE ZONE BOUNDARIES.

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

SECTION 1. That Section 33-313, Idaho Code, be, and the same is hereby amended to read as follows:

33-313. TRUSTEE ZONES. Each elementary school district shall be divided into three (3) trustee zones and each other school district shall be divided into no fewer than five (5) or more than nine (9) trustee zones according to the provisions of section 33-501, Idaho Code. Any proposal to define the boundaries of the several trustee zones in each such school district shall include the determination, where appropriate, of the number of trustee zones in such district, and the date of expiration of the term of office for each trustee. The boundaries of the several trustee zones in each such school district shall be defined and drawn so that, as reasonably as may be, each such zone shall have approximately the same population.

Whenever the area of any district has been enlarged by the annexation of all or any part of another district, or by the correction of errors in the legal description of school district boundaries, any such additional territory shall be included in the trustee zone or zones contiguous to such additional territory until such time as the trustee zones may be redefined and changed. Trustee zones may be redefined and changed, but not more than once every ~~two-(2)~~ five (5) years in the manner hereinafter provided.

A proposal to redefine and change trustee zones of any district may be initiated by its board of trustees, and submitted to the state board of education, or by petition signed by not less than fifty (50) school electors residing in the district, and presented to the board

of trustees of the district. Within one hundred twenty (120) days following the receipt of a petition to redefine and change the trustee zones of a district the board of trustees shall prepare a proposal for a change which will equalize the population in each zone in the district and shall submit the proposal to the state board of education. Any proposal, ~~or petition,~~ shall include a legal description of each trustee zone as the same would appear as proposed, a map of the district showing how each trustee zone would then appear, and the approximate population each would then have, should the proposal to change any trustee zones become effective.

Within sixty (60) days after it has received the said ~~petition and~~ plan proposal the state board of education may approve or disapprove ~~any~~ the proposal to redefine and change trustee zones and shall give notice thereof in writing to the board of trustees of the district wherein the change is proposed. Should the state board of education disapprove a proposal that had been initiated at the request of petitioners, the board of trustees shall within forty-five (45) days submit a revised proposal to the state board of education. Should the state board of education approve the proposal, the board of trustees shall within sixty (60) days after notification of the approval of such proposal submit to the school district electors residing in the district, in an election to be held not less than thirty (30) days prior to the date of the next ensuing annual election of school district trustees, the question of approving or disapproving the proposal to change trustee zones. Notice of such election shall be posted and published, the election shall be held and conducted and the ballots canvassed, as provided in chapter 4, title 33, Idaho Code. If a majority of the school district electors residing in the district, and voting in the election, should approve the proposal, the trustee zones shall be changed in accordance with the proposal.

At the next regular meeting of the board of trustees following the approval of the proposal the board shall appoint from its membership ~~or from the patrons resident in each trustee zone, a person from that zone~~ a trustee for each new zone to serve as trustee until ~~the next annual meeting that incumbent trustee's three (3) year term expires.~~ If the current board membership includes two (2) incumbent trustees from the same new trustee zone, the board will select the incumbent trustee with the most seniority as a trustee to serve the remainder of his three (3) year term. If both incumbent trustees have equal seniority, the board will choose one (1) of the trustees by the drawing of lots. If there is a trustee vacancy in any of the new zones, the board of trustees shall appoint from the patrons resident in that new trustee zone, a person from that zone to serve as trustee until the next annual meeting. At the annual election a trustee shall be elected to serve during the term specified in the election for the zone. The elected trustee shall assume office at the annual meeting of the school district next following the election.

CHAPTER 183
(S.B. No. 1406, As Amended)

AN ACT

RELATING TO WINTER FEEDING ADVISORY COMMITTEES; AMENDING CHAPTER 1, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-123, IDAHO CODE, TO ESTABLISH A WINTER FEEDING ADVISORY COMMITTEE AND TO PROVIDE FOR MEMBER SELECTION AND MEETING DATES.

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

SECTION 1. That Chapter 1, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-123, Idaho Code, and to read as follows:

36-123. WINTER FEEDING ADVISORY COMMITTEES. (1) A winter feeding advisory committee shall be established for each district where winter feeding of antelope, elk, and deer normally occurs. Each committee shall consist of five (5) members. The members shall be appointed and removed for cause by unanimous vote of the Idaho fish and game commission. The regional wildlife councils will provide a list of appointees. It is intended that the committees reflect the cross section of the major interest groups associated with each district. Each committee shall meet at such times as appropriate, but not less frequently than annually, on or before December 1, before the winter feeding season arrives, whichever is earlier.

(2) The term of office of a member shall be two (2) years, except a portion of the initial appointments may be for a term of one (1) year to provide staggered terms. Appointments to fill vacancies shall be for the balance of the unexpired term. The committees shall serve without compensation.

(3) The department of fish and game shall provide staff assistance and support for the committees.

(4) The committees shall have the authority to:

(a) Act as an independent resource in each district to give advice and recommendations on the administration of winter feeding programs;

(b) Act as a liaison between the commission, the department, interest groups, and the public on winter feeding issues.

Approved March 25, 1994.

CHAPTER 184
(S.B. No. 1411)

AN ACT

RELATING TO DRAWING CHECKS WITHOUT FUNDS; AMENDING SECTION 18-3106, IDAHO CODE, TO PROVIDE THAT DRAWING A SERIES OF CHECKS, DRAFTS OR ORDERS WHICH ARE LESS THAN FIFTY DOLLARS INDIVIDUALLY BUT IN THE

AGGREGATE TOTAL ONE HUNDRED FIFTY DOLLARS OR MORE, WHICH ARE DRAWN IN VIOLATION OF THE SECTION AS PART OF A COMMON SCHEME OR PLAN, CONSTITUTE A SERIES OF TRANSACTIONS WHICH MAY BE CHARGED AS A FELONY AND INCREASING THE MAXIMUM FINES WHICH MAY BE LEVIED FOR VIOLATIONS OF THE SECTION.

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

SECTION 1. That Section 18-3106, Idaho Code, be, and the same is hereby amended to read as follows:

18-3106. DRAWING CHECK WITHOUT FUNDS -- DRAWING CHECK WITH INSUFFICIENT FUNDS -- PRIMA FACIE EVIDENCE OF INTENT -- STANDING OF PERSON HAVING ACQUIRED RIGHTS -- PROBATION CONDITIONS. (a) Any person who for himself or as the agent or representative of another or as an officer of a corporation, wilfully, with intent to defraud shall make or draw or utter or deliver, or cause to be made, drawn, uttered or delivered, any check, draft or order for the payment of money upon any bank or depository, or person, or firm, or corporation, knowing at the time of such making, drawing, uttering or delivery that the maker or drawer has no funds in or credit with such bank or depository, or person, or firm, or corporation, for the payment in full of such check, draft or order upon its presentation, although no express representation is made with reference thereto, shall upon conviction be punished by imprisonment in the state prison for a term not to exceed three (3) years or by a fine not to exceed five fifty thousand dollars (\$50,000) or by both such fine and imprisonment.

(b) Any person who for himself or as the agent or representative of another or as an officer of a corporation, wilfully, with intent to defraud shall make, draw, utter or deliver, or cause to be made, drawn, uttered or delivered, any check, draft or order for the payment of money in the sum of fifty dollars (\$50.00) or more, or any series of transactions as defined in subsection (f) of this section, upon any bank or depository, or person, or firm, or corporation, knowing at the time of such making, drawing, uttering or delivery that the maker or drawer has some but not sufficient funds in or credit with such bank or depository, or person, or firm, or corporation, for the full payment of such check, draft or order or series of transactions upon its presentation, although no express representation is made with reference thereto, shall upon conviction be punished by imprisonment in the state prison for a term not to exceed three (3) years, or by a fine not to exceed five fifty thousand dollars (\$50,000), or by both such fine and imprisonment.

(c) Any person who for himself or as the agent or representative of another or as an officer of a corporation, wilfully, with intent to defraud, shall make, draw, utter or deliver, or cause to be made, drawn, uttered, or delivered, any check, draft or order for payment of money, in a sum less than fifty dollars (\$50.00), which is not part of a series of transactions as defined in subsection (f) of this section, upon any bank or depository, or person, or firm, or corporation, knowing at the time of such making, drawing, uttering or delivery that the maker or drawer has some but not sufficient funds in or credit with such bank or depository, or firm, or person, or corporation, for the

full payment of such check, draft or order upon its presentation, although no express representation is made with reference thereto, shall upon conviction for a first offense be punished by imprisonment in the county jail for a term not exceeding six (6) months, or by a fine not exceeding ~~three-hundred~~ one thousand dollars (\$~~31,000~~ 1,000) or by both such fine and imprisonment; and upon a second conviction the person so convicted shall be punished by imprisonment in the county jail for a term not exceeding one (1) year, or by a fine not exceeding one two thousand dollars (\$2,000), or by both such fine and imprisonment; provided, however, that upon a third or subsequent conviction, the person so convicted shall be punished by imprisonment in the state prison for a term not exceeding three (3) years, or by a fine not exceeding five fifty thousand dollars (\$50,000), or by both such fine and imprisonment.

(d) As against the maker or drawer thereof, the making, drawing, uttering or delivering of such check, draft or order as aforesaid shall be prima facie evidence of intent to defraud and of knowledge of no funds or insufficient funds, as the case may be, in or credit with such bank, or depository, or person, or firm, or corporation, for the payment in full of such check, draft or order upon its presentation. The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or depository, or person, or firm, or corporation upon whom such check, draft or order is drawn for the payment of such check, draft or order.

(e) Any person having acquired rights with respect to a check which is not paid because the drawer has no funds, no account or insufficient funds, shall have standing to file a complaint under this section, regardless of whether he is the payee, holder or bearer of the check.

(f) For purposes of this section a "series of transactions" means a series of checks, drafts or orders for the payment of money which are less than fifty dollars (\$50.00) individually but in the aggregate total one hundred fifty dollars (\$150) or more, and which are made, uttered, drawn or delivered in violation of this section as part of a common scheme or plan.

(g) If a sentence of probation is ordered for violation of this section, the court as a condition of probation may require the defendant to make restitution on all checks issued and which are unpaid at the date of commencement of the probation in addition to any other terms and conditions appropriate for the treatment and rehabilitation of the defendant.

Approved March 25, 1994.

CHAPTER 185
(S.B. No. 1412)

AN ACT

RELATING TO DISHONORED CHECKS; AMENDING CHAPTER 22, PART 1, TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 28-22-105, IDAHO CODE, TO PROVIDE FOR LIABILITY FOR INTEREST, THE RATE OF INTEREST,

COLLECTION COSTS AND ATTORNEYS' FEES FOR CHECKS DISHONORED BY NON-ACCEPTANCE OR NONPAYMENT; AMENDING CHAPTER 22, PART 1, TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 28-22-106, IDAHO CODE, TO PROVIDE A STATUTORY FORM FOR NOTICE OF DISHONOR; AMENDING CHAPTER 22, PART 1, TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 28-22-107, IDAHO CODE, TO PROVIDE THE CONSEQUENCES FOR FAILING TO COMPLY WITH STATUTORY REQUIREMENTS; AMENDING CHAPTER 42, PART 3, TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 28-42-308, IDAHO CODE, TO PROVIDE THAT PARTIES TO A CREDIT TRANSACTION MAY CONTRACT FOR DISHONORED CHECK FEES; AMENDING SECTION 28-41-204, IDAHO CODE, TO PROVIDE THAT SECTION 28-42-308, IDAHO CODE, SHALL APPLY TO ALL CREDIT TRANSACTIONS AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Chapter 22, Part 1, Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 28-22-105, Idaho Code, and to read as follows:

28-22-105. CHECKS DISHONORED BY NONACCEPTANCE OR NONPAYMENT -- LIABILITY FOR INTEREST -- COLLECTION COSTS AND ATTORNEYS' FEES. Whenever a check, as defined in section 28-3-104, Idaho Code, has been dishonored by nonacceptance or nonpayment and has not been paid within fifteen (15) days and after the holder of such check sends such notice of dishonor as provided in section 28-22-106, Idaho Code, to the drawer at his last known address, then if the check does not provide for the payment of interest, or collection costs and attorneys' fees, the drawer of such check shall also be liable for payment of interest at the rate of twelve percent (12%) per annum from the date of dishonor and cost of collection not to exceed fifteen dollars (\$15.00) or the face amount of the check, whichever is the lesser; provided however, that if the holder of the dishonored check has the right to collect a set fee under a written agreement or has notified the drawer by a posted notice at the point of sale that the drawer will be required to pay a set collection fee if the check is dishonored, the holder is not required to give the notice of dishonor as provided in section 28-22-106, Idaho Code, and may assess a collection cost of the notice amount regardless of the size of the check, but the set fee may not exceed fifteen dollars (\$15.00). In addition, in the event of court action on the check, the court, after such notice and the expiration of said fifteen (15) days, shall award reasonable attorneys' fees as part of the damages payable to the holder of the check. The provisions of this section shall not apply to any check which has been dishonored by reason of any justifiable stop payment order.

SECTION 2. That Chapter 22, Part 1, Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 28-22-106, Idaho Code, and to read as follows:

28-22-106. STATUTORY FORM FOR NOTICE OF DISHONOR. The notice of dishonor shall be sent by certified mail to the drawer at his last known address, and said notice shall be substantially in the following form:

NOTICE OF DISHONOR OF CHECK

A check drawn by you and made payable by you to in the amount of has not been accepted for payment by, which is the drawee bank designated on your check. This check is dated, and it is numbered, No.

You are CAUTIONED that unless you pay the amount of this check within fifteen (15) days after the date this letter is postmarked, you may very well have to pay the following additional amounts:

(1) Costs of collecting the amount of the check, including an attorney fee which will be set by the court; and

(2) Interest on the amount of the check which shall accrue at the rate of twelve percent (12%) per annum from the date of dishonor.

You are advised to make your payment to at the following address:

SECTION 3. That Chapter 22, Part 1, Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 28-22-107, Idaho Code, and to read as follows:

28-22-107. CONSEQUENCES FOR FAILING TO COMPLY WITH REQUIREMENTS. No interest, collection costs and attorneys' fees shall be recovered on any dishonored check under the provisions of section 28-22-105, Idaho Code, where the holder of such check or any agent, employee or assignee of the holder has demanded:

(1) Interest or collection costs in excess of that provided in section 28-22-105, Idaho Code; or

(2) Interest or collection costs prior to the expiration of fifteen (15) days after the certified mailing of notice of dishonor, as provided in sections 28-22-105 and 28-22-106, Idaho Code; or

(3) Attorneys' fees, either without having such fees set by the court, or prior to the expiration of fifteen (15) days after the certified mailing of notice of dishonor, as provided in sections 28-22-105 and 28-22-106, Idaho Code.

The provisions of this section shall not prohibit the collection of a set collection fee which does not exceed fifteen dollars (\$15.00), if the holder has the right to collect a set fee under a written agreement or has notified the drawer at the point of sale that the drawer will be required to pay the set collection fee in the event a check is dishonored.

SECTION 4. That Chapter 42, Part 3, Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 28-42-308, Idaho Code, and to read as follows:

28-42-308. DISHONORED CHECK FEES. With respect to a regulated credit transaction, a dishonored check fee of fifteen dollars (\$15.00) may be charged and collected by a creditor, for the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft, offered by a debtor in full or partial repayment of a regulated credit transaction, and, provided that the fee is contracted for between the parties.

SECTION 5. That Section 28-41-204, Idaho Code, be, and the same is hereby amended to read as follows:

28-41-204. APPLICABILITY. This act shall apply only to credit transactions for a consumer purpose, except for the following parts, chapters and sections, which shall apply to credit transactions for any and all purposes:

- (1) Part 1, chapter 41, title 28, Idaho Code;
- (2) Section 28-41-202, Idaho Code;
- (3) Section 28-41-203, Idaho Code;
- (4) Section 28-41-204, Idaho Code;
- (5) Part 3, chapter 41, title 28, Idaho Code;
- (6) Part 2, chapter 42, title 28, Idaho Code;
- (7) Section 28-42-308, Idaho Code;
- (8) Part 4, chapter 42, title 28, Idaho Code;
- (89) Section 28-45-109, Idaho Code; and
- (910) Chapter 49, title 28, Idaho Code.

No provisions of this act other than those specified in subsections (a1) through (i10) of this section shall limit, expand or otherwise affect the powers, rights, duties or obligations of creditors or debtors in credit transactions for a business purpose.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after passage and approval, and retroactively to July 1, 1993.

Approved March 25, 1994.

CHAPTER 186
(S.B. No. 1548)

AN ACT

RELATING TO MEDICAL CARE SAVINGS ACCOUNTS; AMENDING SECTION 63-3022, IDAHO CODE, TO PROVIDE THE EFFECT OF CONTRIBUTIONS TO MEDICAL CARE SAVINGS ACCOUNTS ON TAXABLE INCOME, TO PROVIDE THE EFFECT OF INTEREST EARNED ON MEDICAL CARE SAVINGS ACCOUNTS ON TAXABLE INCOME, TO PROVIDE THE EFFECT OF WITHDRAWALS FROM MEDICAL CARE SAVINGS ACCOUNTS ON TAXABLE INCOME AND TO MAKE TECHNICAL CORRECTIONS; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 53, TITLE 41, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR ESTABLISHMENT OF MEDICAL CARE SAVINGS ACCOUNTS, TO PROVIDE FOR APPOINTMENT OF AN ACCOUNT ADMINISTRATOR, TO PROVIDE FOR WITHDRAWALS FROM A MEDICAL CARE SAVINGS ACCOUNT, TO

PROVIDE FOR A REPORT TO THE LEGISLATURE AT A TIME CERTAIN; AND PROVIDING A SUNSET CLAUSE FOR ONE SECTION OF THE ACT.

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

SECTION 1. That Section 63-3022, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022. TAXABLE INCOME. The term "taxable income" means "taxable income" as defined in section 63 of the Internal Revenue Code, adjusted as provided in this chapter, including adjustments under and subject to the provisions of subsections (s) and (u) of section 63-3027, Idaho Code, and sections 63-3027B through 63-3027E, Idaho Code:

(a) Add interest and dividends received or accrued during the taxable year from foreign securities and from securities issued by states and other political subdivisions, other than those issued by the state of Idaho, its cities and political subdivisions, exempt from federal income tax under the Internal Revenue Code, less applicable amortization.

(1) In the case of a corporation whose income is taxable under this chapter, no deduction shall be allowed for interest on indebtedness incurred or continued to purchase after January 1, 1983, or to carry obligations acquired after January 1, 1983, the interest of which is wholly exempt from the taxes imposed under this chapter. The amount of interest on indebtedness thus incurred or continued shall be an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's average adjusted basis of the obligations mentioned in the preceding sentence bears to such average adjusted basis for all assets of the taxpayer, or, at the option of the taxpayer, an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's interest income from the obligations mentioned in the preceding sentence bears to the taxpayer's total income for the taxable year.

(2) In the case of a corporation whose income is computed pursuant to section 63-3027, Idaho Code, the interest expense deductible shall be an amount equal to interest and dividend income subject to apportionment, plus the amount, if any, by which the balance of interest expense exceeds interest and dividend income not subject to apportionment. Interest expense not included in the preceding sentence shall be directly offset against interest and dividend income not subject to apportionment. This provision shall not apply to dividend income excluded pursuant to section 63-3027C(c) and (e), Idaho Code.

(b) Add any state taxes, measured by net income, paid or accrued during the taxable year adjusted for state tax refunds used in arriving at taxable income as defined in section 63 of the Internal Revenue Code.

(c) Add the net operating loss deduction used in arriving at tax-

able income as defined in section 63 of the Internal Revenue Code.

(d) (1) A net operating loss for any taxable year commencing on or after January 1, 1983, but prior to January 1, 1990, shall be a net operating loss carryover to each of the ten (10) taxable years following the taxable year of such loss; provided, however, such net operating loss shall be subtracted in each succeeding year in order but the total subtracted in the succeeding taxable years shall not exceed the total of such net operating loss; provided, further, that a net operating loss not to exceed one hundred thousand dollars (\$100,000) arising in a taxable year commencing on or after January 1, 1983, but prior to January 1, 1990, may, at the election of the taxpayer, be carried back to the three (3) immediately preceding taxable years, and if such loss is not entirely absorbed by the income of those years, the amount of loss not exhausted may be subtracted from taxable income arising in the next ten (10) years succeeding the taxable year in which the loss arises in order until exhausted. A net operating loss for any taxable year commencing on and after January 1, 1990, shall be a net operating loss carryback not to exceed one hundred thousand dollars (\$100,000) to the three (3) immediately preceding taxable years, and any loss not entirely absorbed by the income of those years may be subtracted from taxable years arising in the next fifteen (15) years succeeding the taxable year in which the loss arises in the order until exhausted. At the election of the taxpayer, the three (3) year carryback may be foregone and the loss subtracted from taxable years arising in the next fifteen (15) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b)(3)(c) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the regulations of the state tax commission and once made is irrevocable for the year in which it is made. In the event that the taxpayer elects to carryback any loss arising in a year commencing on or after January 1, 1983, but prior to January 1, 1990, any loss not exhausted may be subtracted from taxable income arising in the next succeeding ten (10) taxable years in order until exhausted.

(2) Net operating losses incurred by a corporation during a year in which such corporation had no Idaho business situs may not be subtracted. Net operating losses incurred by a person, other than a corporation, in business activities not taxable by Idaho may not be subtracted.

(e) In the case of a corporation, add the amount deducted under the provisions of sections 243(a) and (c), 244, 245 and 246A of the Internal Revenue Code (relating to dividends received by corporations) as limited by section 246(b)(1) of said code.

(f) In the case of a corporation, subtract an amount determined under section 78 of the Internal Revenue Code to be taxable as dividends.

(g) Subtract the amount of any income received or accrued during the taxable year which is exempt from taxation by this state, under the provisions of any other law of this state or a law of the United States, if not previously subtracted in arriving at taxable income, as defined by section 63 of the Internal Revenue Code.

(h) In the case of a corporation with more than fifty per cent (50%) of its income taxable within this state, the salary, fee or other compensation of its nonresident officers or directors shall be treated as income from sources within the state. Whether or not any personal services have been performed by such nonresident officers or directors in this state, they shall be deemed to have a business situs in this state. If such salary, fee or other compensation is not reported to this state as income, such corporation shall not deduct as part of its expenses for the taxable year any part of such salary, fee or other compensation in computing taxable income. When the salary, fee or other compensation paid to such nonresident officer is reported to this state as income by such nonresident officer, it shall be apportioned by applying to the total of such income the apportionment factor of the corporation paying the salary, fee or other compensation, as such factor is reported on the corporation's income tax return computed pursuant to section 63-3027, Idaho Code, or as subsequently modified. Provided, however, reasonable compensation paid to such nonresident officers or directors for personal services actually performed outside the state of Idaho shall not be included as income earned from Idaho sources.

(i) For the purpose of determining the taxable income of the beneficiary of a trust or of an estate, distributable net income as defined for federal tax purposes shall be corrected for the other adjustments required by this section. In the event that a nonresident beneficiary of a trust or estate fails to file an Idaho income tax return reporting all or any part of distributable net income taxable in Idaho or fails to pay any tax due thereon, the trust or estate making the payment or distribution shall be taxable upon the amount of such distribution or payment at the rates established by section 63-3024, Idaho Code.

(j) In the case of an individual who is on active duty as a full-time officer, enlistee or draftee, with the armed forces of the United States, which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more, deduct compensation paid for services performed outside this state by the armed forces of the United States, only to the extent such income is included in "taxable income," as defined in section 63 of the Internal Revenue Code, and provided that appropriate adjustments shall be made in his standard deduction amount and exemptions as described in section 63-3027A, Idaho Code.

(k) In the case of a corporation, add any capital loss deducted which loss was incurred during any year in which such corporation had no Idaho business situs. In the case of persons, other than corporations, add any capital loss deducted which was incurred in business activities not taxable by Idaho at the time such loss was incurred. In the case of a corporation having income from Idaho sources and having elected to file federal income tax returns thereon pursuant to subchapter-S of the Internal Revenue Code, or a partnership having income from Idaho sources, salaries, wages, fees, and other compensation paid to nonresident shareholders or partners, and the items of income, loss, deduction, and credit allocated to each nonresident shareholder or partner shall be treated as having sources within the state. Whether or not any personal services have been performed in

this state by such nonresident shareholders or partners, they shall be deemed to have a business situs in this state. When the salaries, wages, fees, and other compensations paid to such nonresident shareholders or partners or items of income, loss, deduction, and credit, or allocated to such shareholders or partners is reported to this state as taxable income pursuant to this subsection, such income shall be apportioned by applying to the total of such income the apportionment factor of the corporation or partnership. The apportionment factor of the corporation or partnership shall be computed pursuant to the provisions of section 63-3027, Idaho Code. If such items of income, loss, deduction, or credit, salaries, wages, fees or other compensation are not reported to this state by the nonresident shareholders or partners, such corporation or partnership shall report the same to this state and be taxable thereon at the corporate rate. Provided, however, reasonable compensation paid to such nonresident shareholders or partners for personal services actually performed outside the state of Idaho shall not be included as income earned from Idaho sources. In computing the income taxable to the corporation or partnership under this subsection, deduction shall not be allowed for a carryover or carryback of a net operating loss provided for in subsection (d) of this section or a capital loss provided for in section 1212 of the Internal Revenue Code.

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

- (1) a. The standard deduction as defined in section 63, Internal Revenue Code, plus contributions made to the state of Idaho for credit to the medical assistance account, if such contributions were not previously subtracted in arriving at taxable income, plus
- b. Itemized expenditures of not to exceed one thousand dollars (\$1,000) per cared for member incurred in providing personal care services to or for an immediate member of the taxpayer's family; such services may be provided either in the taxpayer's home or the family member's home; personal care services shall be as defined in chapter 56, title 39, Idaho Code, but the cared for member need not be medicaid eligible for the purposes of this section only, if he substantially meets all of the other requirements of chapter 56, title 39, Idaho Code; in order for the deduction under this paragraph to be allowed, the expenditures claimed must not have been reimbursed by medicare, medicaid or private insurance, and such expenditures must not have been previously subtracted in arriving at taxable income.
- (2) a. Itemized deductions as defined in section 63 of the Internal Revenue Code except state income taxes as specified in section 164 of the Internal Revenue Code, plus
- b. Contributions made to the state of Idaho for credit to the medical assistance account, if such contributions were not previously subtracted in arriving at taxable income, plus
- c. Itemized expenditures of not to exceed one thousand dollars (\$1,000) per cared for member incurred in providing personal care services to or for an immediate member of the

taxpayer's family; such services may be provided either in the taxpayer's home or the family member's home; personal care services shall be as defined in chapter 56, title 39, Idaho Code, but the cared for member need not be medicaid eligible for the purposes of this section only, if he substantially meets all of the other requirements of chapter 56, title 39, Idaho Code; in order for the deduction under this paragraph c. to be allowed, the expenditures claimed must not have been reimbursed by medicare, medicaid or private insurance, and such expenditures must not have been previously subtracted in arriving at taxable income.

(m) Deduct any amounts added to gross income under section 87 of the Internal Revenue Code for tax credits allowable to the taxpayer under section 40 of the Internal Revenue Code.

(n) Add the taxable amount of any lump sum distribution deducted from gross income pursuant to section 402(e)(3) of the Internal Revenue Code. The taxable amount will include the ordinary income portion and the amount eligible for the capital gain election.

(o) Deduct any amounts included in gross income under the provisions of section 86 of the Internal Revenue Code relating to certain social security and railroad benefits.

(p) In the case of a self-employed individual, deduct the actual cost of premiums paid to secure worker's compensation insurance for coverage in Idaho, if such cost has not been deducted in arriving at taxable income.

(q) Add the amount claimed as a credit under section 63-3029G, Idaho Code, if previously deducted in arriving at taxable income.

(r) Deduct, to the extent included in adjusted gross income, the amount of a contribution made in the tax year on behalf of the taxpayer to a medical care savings account act, chapter 53, title 41, Idaho Code, to the extent the contribution is accepted by the account administrator as provided in chapter 53, title 41, Idaho Code.

(s) Deduct, to the extent included in adjusted gross income, interest earned on a medical care savings account established pursuant to chapter 53, title 41, Idaho Code, other than interest added pursuant to subsection (t) of this section.

(t) Add, to the extent not included in adjusted gross income, the amount of money withdrawn by the taxpayer in the tax year from a medical care savings account and the interest earned on the account in the tax year of a withdrawal pursuant to section 41-5305(2), Idaho Code.

SECTION 2. That Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 53, Title 41, Idaho Code, and to read as follows:

CHAPTER 53
MEDICAL CARE SAVINGS ACCOUNT ACT

41-5301. SHORT TITLE. This act shall be known and may be cited as the "Medical Care Savings Account Act."

41-5302. DEFINITIONS. As used in this act:

(1) "Account administrator" means any of the following:

- (a) A national or state chartered bank, a federal or state chartered savings and loan association, a federal or state chartered savings bank, or a federal or state chartered credit union.
 - (b) A trust company authorized to act as a fiduciary.
 - (c) An insurance company authorized to do business in this state or a health maintenance organization, fraternal benefit society or a hospital and professional service corporation, all regulated pursuant to title 41, Idaho Code.
 - (d) A broker, insurance agent or agent regulated by the department of insurance or an investment advisor regulated by the department of finance.
 - (e) A certified public accountant licensed to practice in this state pursuant to title 54, Idaho Code.
 - (f) An attorney licensed to practice in this state.
 - (g) An employer if the employer has a self-insured health plan under ERISA.
 - (h) An employer that participates in the medical care savings account program.
 - (i) A third party administrator.
- all
- (2) "Deductible" means the total deductible for an employee and the dependents of that employee for a calendar year.
 - (3) "Dependent" means the spouse of the employee or a child of the employee if the child is any of the following:
 - (a) Under nineteen (19) years of age, or under twenty-three (23) years of age and enrolled as a full-time student at an accredited college or university.
 - (b) Legally entitled to the provisions of proper or necessary subsistence, education, medical care, or other care necessary for his or her health, guidance, or well-being and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States.
 - (c) Mentally or physically incapacitated to the extent that he or she is not self-sufficient.
 - (4) "Domicile" means a place where an individual has his or her true, fixed, and permanent home and principal establishment, to which, whenever absent, he or she intends to return. Domicile continues until another permanent home or principal establishment is established.
 - (5) "Eligible medical expense" means an expense paid by the taxpayer for medical care described in section 213(d) of the Internal Revenue Code.
 - (6) "Employee" means the individual for whose benefit or for the benefit of whose dependents a medical care savings account is established. "Employee" includes a self-employed individual.
 - (7) "ERISA" means the employer retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.
 - (8) "Higher deductible" means a deductible of not less than one thousand dollars (\$1,000) and not more than three thousand dollars (\$3,000) for 1994. This minimum and maximum shall be adjusted annually by rule by the department of insurance to reflect increases in the urban hospital component of the consumer price index published by the United States department of labor.
 - (9) "Medical care savings account" or "account" means an account established in this state pursuant to a medical care savings account

program to pay the eligible medical expenses of an employee and his or her dependents.

(10) "Medical care savings account program" or "program" means a program that includes all of the following:

(a) The purchase by an employer of a qualified higher deductible health plan for the benefit of an employee and his or her dependents or to pay for increases in the cost of insurance or both.

(b) The contribution on behalf of an employee into a medical care savings account by his or her employer of all or part of the premium differential realized by the employer based on the purchase of a qualified higher deductible health plan for the benefit of the employee. An employer that did not previously provide a health coverage policy, certificate, or contract for his or her employees may contribute all or part of the deductible of the plan purchased pursuant to paragraph (a) of this subsection. A contribution under this paragraph shall not exceed three thousand dollars (\$3,000) for 1994. This maximum shall be adjusted annually by the department of insurance to reflect increases in the urban hospital component of the consumer price index published by the United States department of labor.

(c) An account administrator to administer the medical care savings account from which payment of claims is made. Not more than thirty (30) days after an account administrator begins to administer an account, the administrator shall notify, in writing, each employee on whose behalf the administrator administers an account of the date of the last business day of the administrator's business year.

(11) "Qualified higher deductible health plan" means a health coverage policy, certificate, or contract that provides for payments for covered benefits that exceed the higher deductible and that is purchased by an employer for the benefit of an employee for whom the employer makes deposits into a medical care savings account.

41-5303. ESTABLISHMENT OF MEDICAL CARE SAVINGS ACCOUNTS. (1) For tax years beginning after 1993, an employer, except as otherwise provided by statute, contract, or a collective bargaining agreement, may offer a medical care savings account program to the employer's employees.

(2) An employer that offers a medical care savings account program shall inform before making any contributions all employees in writing of the federal tax status of contributions made pursuant to this act.

(3) Except as provided in section 41-5305, Idaho Code, principal contributed to and interest earned on a medical care savings account and money reimbursed to an employee for eligible medical expenses are exempt from taxation under chapter 30, title 63, Idaho Code.

(4) (a) For the purposes of this act, employer includes a self-employed individual.

(b) Insurance companies authorized to do business in the state of Idaho may offer medical savings accounts separately or in conjunction with a policy of insurance.

41-5304. ACCOUNT ADMINISTRATOR. (1) The account administrator

shall utilize the funds held in a medical care savings account solely for the purpose of paying the medical expenses of the employee or his or her dependents or to purchase or pay for increases in the cost of a health coverage policy, certificate, contract or disability insurance contract, if the employee does not otherwise have health insurance coverage. Funds held in a medical care savings account shall not be used to cover medical expenses of the employee or his or her dependents that are otherwise covered including, but not limited to, medical expenses covered pursuant to an automobile insurance policy, worker's compensation insurance policy or self-insurance plan, or another health coverage policy, certificate, contract or disability insurance contract.

(2) The employee may submit documentation of medical expenses paid by the employee in the tax year to the account administrator and the account administrator shall reimburse the employee from the employee's account for eligible medical expenses.

(3) If an employer makes contributions to a medical care savings account program on a periodic installment basis, the employer may advance to an employee, interest free, an amount necessary to cover medical expenses incurred that exceed the amount in the employee's medical care savings account when the expense is incurred if the employee agrees to repay the advance from future installments or when he or she ceases to be an employee of the employer.

41-5305. WITHDRAWALS FROM SAVINGS ACCOUNT. (1) Notwithstanding the provisions of subsection (2) of this section and subject to the provisions of subsection (3) of this section, an employee may withdraw money from his or her medical care savings account for any purpose other than a purpose described in section 41-5304(1), Idaho Code, only on the last business day of the account administrator's business year. Money withdrawn pursuant to this subsection is income for the purposes of chapter 30, title 63, Idaho Code, in the tax year of the withdrawal.

(2) Subject to the provisions of subsection (3) of this section, if the employee withdraws money for any purpose other than a purpose described in section 41-5304(1), Idaho Code, at any other time, all of the following apply:

(a) The amount of the withdrawal is income for the purposes of chapter 30, title 63, Idaho Code, in the tax year of the withdrawal.

(b) The administrator shall withhold and on behalf of the employee shall pay a penalty to the department of treasury equal to ten percent (10%) of the amount of the withdrawal.

(c) Interest earned on the account during the tax year in which a withdrawal under this subsection is made is income for purposes of chapter 30, title 63, Idaho Code.

(3) The amount of a disbursement of any assets of a medical care savings account pursuant to a filing for protection under title 11 of the United States Code, 11 U.S.C. 101 to 1330, by an employee or person for whose benefit the account was established is not considered a withdrawal for purposes of this section. The amount of a disbursement is not subject to taxation under chapter 30, title 63, Idaho Code, and subsection (2) of this section does not apply.

(4) Upon the death of the employee, the account administrator shall distribute the principal and accumulated interest of the medical care savings account to the estate of the employee.

(5) If an employee is no longer employed by an employer that participates in a medical care savings account program and the employee, not more than sixty (60) days after his or her final day of employment, transfers the account to a new account administrator or requests in writing to the former employer's account administrator that the account remain with that administrator and that the account administrator agrees to retain the account, the money in the medical care savings account may be utilized for the benefit of the employee or his or her dependents subject to this chapter and remains exempt from taxation pursuant to this chapter. Not more than thirty (30) days after the expiration of the sixty (60) days, if an account administrator has not accepted the former employee's account, the employer shall mail a check to the former employee, at the employee's last known address, equal to the amount in the account on that day and that amount is subject to taxation pursuant to section 41-5305(1), Idaho Code, but is not subject to the penalty under section 41-5305(2)(b), Idaho Code. If an employee becomes employed with a different employer that participates in a medical care savings account program, the employee may transfer his or her medical care savings account to that new employer's account administrator.

41-5306. REPORT. The director of the department of insurance shall report on or before January 1, 1998, to the house of representatives and the senate the following:

(1) The availability of health care coverage under and market share of medical care savings account programs.

(2) Results of a survey of employer and employee satisfaction with medical care savings account programs.

(3) The results of a loss ratio study relative to medical care savings account programs.

SECTION 3. This act shall be null, void and of no force and effect on and after January 1, 1999.

Approved March 25, 1994.

CHAPTER 187
(S.B. No. 1579)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC HEALTH TRUST FUND FOR THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated \$6,954,800 from the General Fund to be deposited in the Public Health Trust Fund for the period July 1, 1994, through June 30, 1995.

Approved March 25, 1994.

CHAPTER 188
(S.B. No. 1580)

AN ACT

APPROPRIATING MONEYS FOR THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Endowment Fund Investment Board the following amounts, to be expended according to designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|-------------------------------|---------------------------|----------------------------------|--------------------------|------------------|
| FROM: | | | | |
| General Fund | \$234,100 | \$102,400 | \$2,000 | \$338,500 |
| Professional Services Fund | 78,100 | 37,000 | 1,000 | 116,100 |
| TOTAL | <u>\$312,200</u> | <u>\$139,400</u> | <u>\$3,000</u> | <u>\$454,600</u> |

Approved March 25, 1994.

CHAPTER 189
(S.B. No. 1581)

AN ACT

APPROPRIATING MONEYS FOR THE STATE INSURANCE FUND FOR FISCAL YEAR 1995; AND SPECIFYING THE SCOPE OF THE APPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the administration of the State Insurance Fund the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds, for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|-------------------------------------|---------------------------|----------------------------------|--------------------------|--------------------|
| I. WORKERS' COMPENSATION: | | | | |
| FROM: | | | | |
| State Insurance Fund | \$6,343,100 | \$1,774,600 | \$167,300 | \$8,285,000 |
| II. PETROLEUM STORAGE TANKS: | | | | |
| FROM: | | | | |
| Petroleum Clean Water Trust Fund | \$ 605,200 | \$ 406,300 | | \$1,011,500 |
| TOTAL | <u>\$6,948,300</u> | <u>\$2,180,900</u> | <u>\$167,300</u> | <u>\$9,296,500</u> |

SECTION 2. Moneys appropriated in Section 1 for the Petroleum Storage Tanks Program are pursuant to Section 41-4904(5)(a), Idaho Code. Amounts necessary to pay all other expenses, losses and claims incurred related to insuring governmental or private entities against legal liability due to petroleum product releases shall be perpetually appropriated to the manager of the State Insurance Fund as trustee, under the provisions of Section 41-4914, Idaho Code.

Approved March 25, 1994.

CHAPTER 190
(H.B. No. 793)

AN ACT

RELATING TO PRIVATE FOUNDATIONS AND CHARITABLE TRUSTS; AMENDING SECTIONS 68-1201, 68-1202 AND 68-1203, IDAHO CODE, TO CORRECT REFERENCES TO THE INTERNAL REVENUE CODE; REPEALING SECTION 68-1204, IDAHO CODE; AMENDING CHAPTER 12, TITLE 68, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 68-1204, IDAHO CODE, TO PROVIDE FOR THE AMENDMENT OF A TRUST INSTRUMENT BY THE TRUSTEE UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 68-1206, IDAHO CODE, TO CORRECT REFERENCES TO THE INTERNAL REVENUE CODE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 68-1207, IDAHO CODE, TO STRIKE SPECIFIC REFERENCES TO NONPROFIT CORPORATIONS; AND AMENDING SECTION 30-3-13, IDAHO CODE, TO PROVIDE THAT A PRIVATE FOUNDATION SHALL BE AUTHORIZED TO TERMINATE ITS STATUS AS A PRIVATE FOUNDATION.

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

SECTION 1. That Section 68-1201, Idaho Code, be, and the same is hereby amended to read as follows:

68-1201. TRUSTS COVERED BY LAW. This act shall apply only to trusts which are "private foundations" as defined in section 509 of the Internal Revenue Code of 1954~~86~~, "charitable trusts" as described in section 4947(a)(1) of the Internal Revenue Code of ~~1954~~ or 1986 and "split-interest trusts" as described in section 4947(a)(2) of the Internal Revenue Code of ~~1954~~ and to corporations which are "private foundations" ~~as that term is defined by the Internal Revenue Code of 1954~~ 1986.

SECTION 2. That Section 68-1202, Idaho Code, be, and the same is hereby amended to read as follows:

68-1202. PROVISIONS PROHIBITED IN TRUST INSTRUMENTS. The trust instrument of each trust to which this act applies shall be deemed to contain provisions prohibiting the trustee from:

(a) Engaging in any act of "self-dealing" (as defined in section 4941(d) of the Internal Revenue Code of 1954~~86~~), which would give rise to any liability for the tax imposed by section 4941(a) of the Internal Revenue Code of 1954~~86~~;

(b) Retaining any "excess business holdings" (as defined in section 4943(c) of the Internal Revenue Code of 195486), which would give rise to any liability for the tax imposed by section 4943(a) of the Internal Revenue Code of 195486;

(c) Making any investments which would jeopardize the carrying out of any of the exempt purposes of the trust, within the meaning of section 4944 of the Internal Revenue Code of 195486, so as to give rise to any liability for the tax imposed by section 4944(a) of the Internal Revenue Code of 195486; and

(d) Making any "taxable expenditures" (as defined in section 4945(d) of the Internal Revenue Code of 195486), which would give rise to any liability for the tax imposed by section 4945(a) of the Internal Revenue Code of 195486;

Provided, that this section shall not apply either to those split-interest trusts or to amounts thereof which are not subject to the prohibitions applicable to private foundations by reason of the provisions of section 4947 of the Internal Revenue Code of 195486.

SECTION 3. That Section 68-1203, Idaho Code, be, and the same is hereby amended to read as follows:

68-1203. REQUIRED DISTRIBUTIONS. The trust instrument of each trust to which this act applies, except "split-interest" trusts, shall be deemed to contain a provision requiring the trustee to distribute, for the purposes specified in the trust instrument, for each taxable year of the trust, amounts at least sufficient to avoid liability for the tax imposed by section 4942(a) of the Internal Revenue Code of 195486.

SECTION 4. That Section 68-1204, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Chapter 12, Title 68, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 68-1204, Idaho Code, and to read as follows:

68-1204. TRUSTEE MAY AMEND GOVERNING INSTRUMENT UNDER CERTAIN CIRCUMSTANCES. The trustee of a trust may, with the prior consent of the attorney general, amend the terms of the governing instrument to the extent necessary:

(a) To assure conformity of the governing instrument with the requirements for exemption from the taxes imposed in sections 4941 to 4945 of the Internal Revenue Code of 1986, including amendments which broaden, extend, reduce or limit the charitable purposes for which the trust is administered;

(b) To terminate the status of the trust as a private foundation in a manner described in section 507(b)(1) of the Internal Revenue Code of 1986; or

(c) To terminate the trust and transfer its assets to one (1) or more entities described in section 501(c)(3) of the Internal Revenue Code of 1986 because continuation is impractical due to its small size or impractical because of changed circumstances adversely impacting

its purpose or purposes.

Prior to giving consent, the attorney general shall determine that the proposed amendments are necessary or appropriate to achieve the charitable purposes of the trust. If the trust is for the exclusive benefit of one (1) or more charitable organizations, or in the event there are one (1) or more residual beneficiaries, the trustee shall also obtain the prior consent of such organizations or individuals prior to amending the terms of the governing instrument in the manner set forth in this section. Further, notwithstanding the provisions of section 68-1201, Idaho Code, this section shall additionally apply to all trusts described in section 501(c)(3) of the Internal Revenue Code of 1986.

SECTION 6. That Section 68-1206, Idaho Code, be, and the same is hereby amended to read as follows:

68-1206. REFERENCES TO INTERNAL REVENUE CODE OF 1954~~86~~. All references to sections of the Internal Revenue Code of 1954~~86~~ shall refer to that term as it is now and hereafter defined by in section 63-3004, Idaho Code.

SECTION 7. That Section 68-1207, Idaho Code, be, and the same is hereby amended to read as follows:

68-1207. TRUST INSTRUMENTS OR PRIVATE FOUNDATION ARTICLES MAY PROVIDE THAT THIS LAW WILL NOT APPLY. Nothing in this act shall limit the power of a person who creates a trust or the power of a person who has retained or has been granted the right to amend a trust ~~or a person who creates a corporation or not-for-profit corporation which is a private foundation as that term is defined in section 509 of the Internal Revenue Code of 1954~~, to include a specific provision in the trust instrument or an amendment thereto, ~~or articles or amendments thereto as the case may be~~, which provides that some or all of the provisions of this act shall have no application to such trust, ~~corporation or not-for-profit corporation~~.

SECTION 8. That Section 30-3-13, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-13. PRIVATE FOUNDATION. Except where otherwise determined by a court of competent jurisdiction, a corporation that is a private foundation as defined in section 509(a) of the internal revenue code of 1986:

(1) Shall distribute such amounts for each taxable year at such time and in such manner as not to subject the corporation to tax under section 4942 of the code.

(2) Shall not engage in any act of self-dealing as defined in section 4941(d) of the code.

(3) Shall not retain any excess business holdings as defined in section 4943(c) of the code.

(4) Shall not make any taxable expenditures as defined in section 4944 of the code.

(5) Shall not make any taxable expenditures as defined in section

4945(d) of the code.

(6) Shall be authorized to terminate its status as a private foundation in a manner described in section 507(b)(1) of the code.

All references in this section to sections of the code shall be to such sections of the internal revenue code of 1986 as amended from time to time, or to corresponding provisions of subsequent internal revenue laws of the United States.

Approved March 28, 1994.

CHAPTER 191
(S.B. No. 1331)

AN ACT

RELATING TO THE PEACE OFFICERS STANDARDS AND TRAINING ACCOUNT; AMENDING SECTION 19-5116, IDAHO CODE, TO PROVIDE THAT MONEYS IN THE PEACE OFFICERS STANDARDS AND TRAINING ACCOUNT MAY BE EXPENDED TO TRAIN SELF-SPONSORED STUDENTS.

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

SECTION 1. That Section 19-5116, Idaho Code, be, and the same is hereby amended to read as follows:

19-5116. PEACE OFFICERS STANDARDS AND TRAINING ACCOUNT. (a) There is hereby established in the state operating fund, the peace officers standards and training account. All moneys deposited to the account shall be expended by the peace officers standards and training council for the following purposes:

(1) Training peace officers and self-sponsored students, within the state of Idaho, including, but not limited to, sheriffs and their deputies, officers of the Idaho department of law enforcement and conservation officers of the Idaho department of fish and game, and city and county prosecutors and their deputies.

(2) Salaries, costs and expenses relating to such training as provided in subsection (1) of this section;

(3) Such capital expenditures as the peace officers standards and training council may provide, for the acquisition, construction and/or improvement of a peace officers standards and training academy; and

(4) Such expenditures as may be necessary to aid approved peace officers training programs certified as having met the standards established by the peace officers standards and training council.

(b) The peace officers standards and training account shall be funded as provided in section 31-3201B, Idaho Code.

(c) All contributions and other moneys and appropriations which are designated for peace officers standards and training shall be deposited in the peace officers standards and training account.

(d) Moneys received into the account as provided in subsection

(c) of this section, shall be be accounted for separately.

(e) If the fiscal year-end balance in the account pursuant to section 31-3201B, Idaho Code, exceeds five hundred fifty thousand dollars (\$550,000) the excess shall revert to the general account.

Approved March 28, 1994.

CHAPTER 192
(S.B. No. 1336)

AN ACT

RELATING TO PRINTING OF LEGAL NOTICE; AMENDING SECTION 60-106, IDAHO CODE, TO FURTHER DEFINE A NEWSPAPER OF GENERAL CIRCULATION FOR PURPOSES OF PUBLICATION OF NOTICE BY GOVERNMENTAL ENTITIES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 60-106, Idaho Code, be, and the same is hereby amended to read as follows:

60-106. QUALIFICATIONS OF NEWSPAPERS PRINTING LEGAL NOTICES. No legal notice, advertisement or publication of any kind required or provided by the laws of the state of Idaho, to be published in a newspaper, shall be published or have any force or effect, as such, unless the same be published in a newspaper of general interest published in the county in which notice or advertisement is required to be printed; having a general circulation therein state of Idaho, and which said newspaper if published weekly, has been continuously and uninterruptedly published in said the county during a period of seventy-eight (78) consecutive weeks prior to the first publication of said the notice, or advertisement, and, if published daily, has been so published as a daily newspaper in said the county during a period of twelve (12) consecutive months prior to the first publication of said the notice or advertisement; provided that, notwithstanding any other provision of Idaho laws, the term "newspaper of (or having) general circulation," wherever used in Idaho Code as a qualification of newspapers required to be used for the publication of notice, shall mean a "newspaper," as defined in this section, that is published within the boundaries of the governmental entity wherein the notice is required to be published and which newspaper has the largest paid circulation among all newspapers published in that governmental entity as verified by the sworn statement of average total paid or requested circulation for the preceding twelve (12) months that was filed on the annual statement of ownership, management and circulation with the U.S. postal service on the date immediately preceding the date of the required publication of notice; excepting that, where no newspaper is published within the governmental entity required to publish a notice, the term "newspaper of (or having) general circulation" shall mean the newspaper with the largest paid circulation published within any county in which the governmental entity is located, or the newspaper

published nearest to the boundaries of the governmental entity; provided, that nothing in this chapter shall invalidate the publication of such notice or advertisement in any newspaper which has simply changed its name, frequency of publication, suspended publication because of an act of God, or public enemy, fire, strike, or other labor dispute, explosion, flood, government prohibition, government requisition of essential property, preferential government orders, breakdown, legal acts of public authorities or other acts beyond the control of the publisher for a period of not to exceed six (6) months, or changed the place of publication from one part of the county to another part thereof, without breaking the continuity of its regular issues for the required length of time: and, provided further, that this chapter shall not apply to counties in which no newspaper has been published for the required length of time: provided the term "Newspaper" as used in this section shall apply only to such newspapers of general circulation interest made up of at least four (4) pages of at least five (5) columns each, printed from type matter or from "slugs" cast upon the linotype or intertype or similar "slug-casting" machine, or by the process known as "offset," or stereotyped forms of at least seventeen and three-fourths (17 3/4) inches depth; or, if smaller pages, then comprising an equivalent amount of type matter, and which shall have at least two hundred (200) bona fide subscribers living within the county in which the newspaper is published at regular intervals and, in no case, less frequently than once a week; provided that a newspaper produced by the process known as mimeographing or similar methods shall not be deemed a legal newspaper for publications of any kind. And provided further, that any duly qualified newspaper, as hereinbefore defined, shall not forfeit its standing as such by reason of the fact that it has suspended publication for all or any part of the period during which the United States has been or shall be engaged in the prosecution of any war, or for one (1) year following the date of the proclamation of the President of the United States declaring that this nation is no longer at war, or the termination of a state of war shall be otherwise established. And if any such newspaper shall resume regular publication within one (1) year from the date when the termination of the state of war shall be so established, it shall then be as fully qualified to publish any legal notice, advertisement, or publication required to be published by the laws of the state of Idaho, as if such newspaper had not suspended regular publication during the above mentioned period of time.

No newspaper shall qualify under this section unless the same shall hold a valid second class mailing permit from the United States Post Office. Any violations of the previous requirements of this section concerning printing of newspapers other than in the county governmental entity in which a notice or advertisement is required to be printed are hereby excused and any advertisement published in any such newspapers is hereby validated.

Approved March 28, 1994.

CHAPTER 193
(S.B. No. 1352)

AN ACT
RELATING TO PEACE OFFICERS STANDARDS AND TRAINING FEES; AMENDING SECTION 31-3201B, IDAHO CODE, TO INCREASE THE FEE PAID BY PERSONS FOUND GUILTY OF CERTAIN VIOLATIONS.

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

SECTION 1. That Section 31-3201B, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201B. PEACE OFFICERS STANDARDS AND TRAINING -- FEE. The court shall charge a fee of ~~four~~ six dollars (\$~~4~~6.00) for peace officers standards and training purposes to be paid by each person found guilty of any felony or misdemeanor, or found to have committed an infraction or any minor traffic, conservation or ordinance violation, except for cars unlawfully left or parked or when the court orders such fee waived because the person is indigent and unable to pay such fee; provided, however, that the judge or magistrate may in his discretion consolidate separate nonmoving traffic offenses into one (1) offense for purposes of assessing such fee. Such fees shall be in addition to all other fines and fees levied. Such fees shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees into the state treasurer for deposit in the peace officers standards and training account.

Approved March 28, 1994.

CHAPTER 194
(S.B. No. 1356)

AN ACT
RELATING TO THE FOREST, RANGE AND WILDLIFE POLICY ANALYSIS GROUP; AMENDING SECTION 38-714, IDAHO CODE, TO REVISE POWERS AND DUTIES OF THE FOREST, RANGE AND WILDLIFE POLICY ANALYSIS GROUP AND TO INCREASE THE MAXIMUM SIZE OF THE FOREST POLICY ADVISORY COMMITTEE; AND REPEALING SECTION 2, CHAPTER 206, LAWS OF 1989.

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

SECTION 1. That Section 38-714, Idaho Code, be, and the same is hereby amended to read as follows:

38-714. CREATION OF FOREST POLICY ANALYSIS GROUP -- POWERS AND DUTIES. (1) There is hereby created within the Idaho forest, wildlife and range experiment station a "forest, range and wildlife policy analysis group." The forest, range and wildlife policy analysis group shall be under the control of the dean of the college of forestry,

wildlife and range sciences of the university of Idaho and shall have the following powers and duties:

(a) A program of continuing inquiry into such public policy issues as may be suggested by the advisory committee described in this act;

(b) The ability to provide timely, scientific and objective data and analysis pertinent to such resource and land use questions which are of general interest to the people of Idaho and which are suggested as worthy of the group's attention by the advisory committee described herein. Each report of the group shall include a range of actions which might be taken to resolve the issues addressed in the group's inquiries. In developing such alternatives, the director shall consult with a broad array of public agencies and other interests and shall show potential benefits and detrimental effects of each alternative, and;

(c) Analytical and informational services provided on a contractual basis to those public or private entities desiring such services in order to better reach more informed decisions regarding the wise use of Idaho's forest, range and wildlife resources, including fish, wildlife, timber, water, outdoor recreation, forage and aesthetic values. Such contractual services may not be offered at rates less than the college's actual costs for providing them and must adhere to the highest professional and scientific standards for objective, scientific research. The results of such contractual services provided by this group shall be considered to be public knowledge available to the citizens of Idaho.

(2) The dean of the college of forestry, wildlife and range sciences, in a manner consistent with existing practice for hiring and electing faculty members to the college and its departments, shall as soon as practicable subsequent to the passage of this act, name a director of the forest policy analysis group. The director and staff shall have academic training and managerial skills appropriate to the college and the position and shall be compensated at a rate commensurate with their abilities and experience. The director and staff shall enjoy all protections of academic freedom and tenure that are consistent with general policies and practices of the college. Individual projects and analyses will be conducted by the group's staff or members of the college's faculty, or by scientists from other educational institutions or research entities as appropriate.

(3) The dean of the college of forestry, wildlife and range sciences shall name a forest policy advisory committee representative of the entities, both public and private, which have demonstrated interest in the areas of inquiry and conclusions of the group. Members of this committee shall serve without pay and under such terms of service as may be prescribed by the dean. It shall be the responsibility of the committee to review various forest policy issues and suggest the priority, critical focus and appropriateness of these issues for consideration by the forest policy analysis group. The total size of this committee shall not exceed ~~nine~~(9) eleven (11) voting members. The dean shall also name a "technical advisory committee" consisting of faculty members and others with a demonstrated technical knowledge of issues or questions posed to the group to help provide guidance and expertise to each of the group's inquiries.

(4) It shall be the duty of and within the purposes of the forest, wildlife and range experiment station to establish a forest policy analysis series in which to publish all results and findings, whether tentative or conclusive, regarding any and all of the group's studies. Such publication shall be made freely, without prejudice and in a manner consistent with the highest professional, scientific, and ethical standards. In carrying out the provisions of this section, the director and staff of the forest policy analysis group shall seek the counsel and expertise and generally cooperate with other colleges within the state's university system, plus other public or private research efforts.

SECTION 2. That Section 2, Chapter 206, Laws of 1989, be, and the same is hereby repealed.

Approved March 28, 1994.

CHAPTER 195
(S.B. No. 1582)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1995; APPROPRIATING AND TRANSFERRING CERTAIN FUNDS TO THE PARKS AND RECREATION FUND; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE ASHTON TO TETONIA RECREATIONAL TRAIL PROJECT; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED FUNDS.

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

SECTION 1. There is hereby appropriated to the Department of Parks and Recreation the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|------------------------|---------------------------|----------------------------------|--------------------------|---|--------------|
| I. ADMINISTRATION: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 837,600 | \$ 499,500 | \$ 92,500 | | \$ 1,429,600 |
| Indirect Cost Recovery | | | | | |
| Fund | 43,600 | 2,000 | | | 45,600 |
| Parks and Recreation | | | | | |
| Fund | 330,100 | 287,100 | | | 617,200 |
| Recreational | | | | | |
| Fuels | | | | | |
| Fund | | 31,100 | \$ 22,000 | | 53,100 |
| Parks and Recreation | | | | | |
| Registration | | | | | |
| Fund | | 15,700 | | | 15,700 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|--------------|
| Federal Grant | | | | | |
| Fund | 3,100 | 100 | | | 3,200 |
| Miscellaneous Revenue | | | | | |
| Fund | | 27,000 | | | 27,000 |
| TOTAL | \$1,214,400 | \$ 862,500 | \$ 114,500 | | \$ 2,191,400 |
| II. PARK OPERATIONS: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$3,225,900 | \$ 550,400 | | | \$ 3,776,300 |
| Miscellaneous Revenue | | | | | |
| Fund | | 53,200 | | | 53,200 |
| Public Recreation | | | | | |
| Enterprise | | | | | |
| Fund | 125,800 | 268,900 | | | 394,700 |
| Recreational Fuels | | | | | |
| Fund | | | \$ 441,600 | | 441,600 |
| Parks and Recreation | | | | | |
| Fund | 909,600 | 473,900 | | | 1,383,500 |
| Parks and Recreation Expendable Trust | | | | | |
| Fund | 80,400 | 348,100 | | | 428,500 |
| Federal Grant | | | | | |
| Fund | 226,700 | 102,900 | | | 329,600 |
| TOTAL | \$4,568,400 | \$1,797,400 | \$ 441,600 | | \$ 6,807,400 |
| III. PARK DEVELOPMENT: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 213,900 | \$ 35,000 | \$ 159,000 | | \$ 407,900 |
| Parks and Recreation Expendable Trust | | | | | |
| Fund | | | 388,000 | | 388,000 |
| Recreational Fuels | | | | | |
| Fund | 124,300 | | 780,900 | | 905,200 |
| Parks and Recreation | | | | | |
| Fund | 47,000 | 41,300 | | | 88,300 |
| TOTAL | \$ 385,200 | \$ 76,300 | \$1,327,900 | | \$ 1,789,400 |
| IV. RECREATIONAL RESOURCES: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 146,500 | \$ 26,800 | | | \$ 173,300 |
| Parks and Recreation Registration | | | | | |
| Fund | 104,400 | 108,900 | \$ 60,000 | \$3,198,100 | 3,471,400 |
| Recreational Fuels | | | | | |
| Fund | 306,500 | 78,900 | 620,000 | 1,224,900 | 2,230,300 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|-----------------------------------|---------------------------|----------------------------------|--------------------------|---|---------------|
| Parks and Recreation Fund | | 33,200 | | 12,000 | 45,200 |
| Federal Grant Fund | 59,200 | 91,400 | 241,000 | 710,800 | 1,102,400 |
| Indirect Cost Recovery Fund | 101,600 | 3,500 | | | 105,100 |
| TOTAL | \$ 718,200 | \$ 342,700 | \$ 921,000 | \$ 5,145,800 | \$ 7,127,700 |
| V. LAVA HOT SPRINGS FOUNDATION: | | | | | |
| FROM: | | | | | |
| Public Recreation Fund | \$ 501,000 | \$ 318,300 | \$ 79,500 | | \$ 898,800 |
| GRAND | | | | | |
| TOTAL | \$ 7,387,200 | \$ 3,397,200 | \$ 2,884,500 | \$ 5,145,800 | \$ 18,814,700 |

SECTION 2. There is hereby appropriated and transferred to the Parks and Recreation Fund the sum of \$25,000 from the Tourism and Promotion Fund; the sum of \$25,000 from the State Highway Fund; and the sum of \$25,000 from the Recreational Vehicle Fund. These appropriations will provide the matching fund support of the Gateway Visitor Centers in the Administration Program in Section 1 of this act.

SECTION 3. It is legislative intent that with the moneys appropriated in Section 1 of this act for the Ashton to Tetonia "Rails to Trails" project in the recreation program, there will exist certain conditions in establishing this recreation corridor: (a) an advisory board that includes representation from adjacent landowners will be created to work with the Department of Parks and Recreation to insure the success of the project; (b) the advisory board will report to the Idaho Parks and Recreation Board at least annually, and will include in their report an assessment of any vandalism, theft or injury to private property adjacent to the project. The Parks and Recreation Board will include this report in their budget presentation to the Legislature; (c) the Legislature will annually assess the effectiveness of the patrolling of the trail, cost impacts of state ownership of the trail, and will offer first right of purchase to adjacent landowners if at any time the Legislature deems it is in the best interest of the State of Idaho to sell the trail property.

SECTION 4. There is hereby reappropriated to the Department of Parks and Recreation the unexpended and unencumbered balances of the funds appropriated for capital outlay in the Park Development Program for fiscal year 1994, to be used for the Park Development Program for the period July 1, 1994, through June 30, 1995.

Approved March 28, 1994.

CHAPTER 196
(S.B. No. 1584)

AN ACT

APPROPRIATING MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Military Division, the following amounts to be expended for the listed programs from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|---------------------|
| A. MILITARY MANAGEMENT: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$1,066,600 | \$ 734,200 | \$14,000 | | \$ 1,814,800 |
| Federal Grant | | | | | |
| Fund | 70,900 | 660,300 | 2,500 | | 733,700 |
| Miscellaneous | | | | | |
| Revenue | | | | | |
| Fund | 15,600 | 20,600 | | | 36,200 |
| TOTAL | <u>\$1,153,100</u> | <u>\$1,415,100</u> | <u>\$16,500</u> | | <u>\$ 2,584,700</u> |
| B. FEDERAL AND STATE CONTRACTS: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 169,300 | \$ 172,800 | \$ 1,500 | | \$ 343,600 |
| Federal Grant | | | | | |
| Fund | 4,038,400 | 3,533,600 | 10,000 | | 7,582,000 |
| TOTAL | <u>\$4,207,700</u> | <u>\$3,706,400</u> | <u>\$11,500</u> | | <u>\$ 7,925,600</u> |
| C. DISASTER SERVICES: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 361,000 | \$ 78,000 | \$14,200 | | \$ 453,200 |
| Federal Grant | | | | | |
| Fund | 482,000 | 197,600 | 44,200 | \$700,000 | 1,423,800 |
| Indirect Cost | | | | | |
| Recovery | | | | | |
| Fund | 96,800 | 8,300 | | | 105,100 |
| TOTAL | <u>\$ 939,800</u> | <u>\$ 283,900</u> | <u>\$58,400</u> | <u>\$700,000</u> | <u>\$ 1,982,100</u> |
| GRAND | | | | | |
| TOTAL | <u>\$6,300,600</u> | <u>\$5,405,400</u> | <u>\$86,400</u> | <u>\$700,000</u> | <u>\$12,492,400</u> |

Approved March 28, 1994.

CHAPTER 197
(S.B. No. 1585)

AN ACT

APPROPRIATING MONEYS FOR THE STATE LIQUOR DISPENSARY FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the State Liquor Dispensary the following amounts, to be expended according to designated expense classes from the listed fund for the period July 1, 1994, through June 30, 1995:

| | |
|------------------------|--------------------|
| FOR: | |
| Personnel Costs | \$5,144,900 |
| Operating Expenditures | 2,449,900 |
| Capital Outlay | 95,600 |
| TOTAL | <u>\$7,690,400</u> |
| FROM: | |
| Liquor Control Fund | \$7,690,400 |

Approved March 28, 1994.

CHAPTER 198
(S.B. No. 1586)

AN ACT

APPROPRIATING MONEYS FOR THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 1995; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Division of Financial Management the following amounts, to be expended for the named programs from the listed funds for the period July 1, 1994, through June 30, 1995:

I. FINANCIAL MANAGEMENT:

| | |
|----------------------------|--------------------|
| FROM: | |
| General Fund | \$1,371,100 |
| Silver Valley Trust Fund | 193,500 |
| Miscellaneous Revenue Fund | 70,000 |
| TOTAL | <u>\$1,634,600</u> |

II. RURAL DEVELOPMENT COUNCIL:

| | |
|----------------------------|-------------------|
| FROM: | |
| Federal Grant Fund | \$ 133,800 |
| Miscellaneous Revenue Fund | 20,000 |
| TOTAL | <u>\$ 153,800</u> |

| | |
|-------------|-------------|
| GRAND TOTAL | \$1,788,400 |
|-------------|-------------|

SECTION 2. There is hereby reappropriated to the Office of the Governor for the Division of Financial Management, one-half of the unexpended and unencumbered balance of any General Fund appropriation made to the Division of Financial Management for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

Approved March 28, 1994.

CHAPTER 199
(S.B. No. 1587)

AN ACT

APPROPRIATING MONEYS FOR THE COMMISSION FOR THE BLIND FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Commission for the Blind the following amounts, to be expended according to the designated expense classes from the listed funds, for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|--------------------|
| FROM: | | | | | |
| General Fund | \$ 667,100 | \$ 95,100 | \$ 4,000 | \$434,500 | \$1,200,700 |
| Vision Aids and Appliances Fund | | 25,100 | | | 25,100 |
| Randolph Sheppard Fund | 31,400 | 7,900 | | 129,600 | 168,900 |
| Rehabilitation Revenue and Refunds Fund | 41,600 | 32,500 | | 12,400 | 86,500 |
| Federal Grant Fund | 786,700 | 426,500 | 59,000 | 289,000 | 1,561,200 |
| Miscellaneous Revenue Fund | | 16,800 | 3,000 | 8,800 | 28,600 |
| TOTAL | <u>\$1,526,800</u> | <u>\$603,900</u> | <u>\$66,000</u> | <u>\$874,300</u> | <u>\$3,071,000</u> |

Approved March 28, 1994.

CHAPTER 200
(S.B. No. 1588)

AN ACT

APPROPRIATING MONEYS FROM THE PERMANENT BUILDING FUND TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND THE DIVISION OF PUBLIC WORKS FOR THE PURPOSES SPECIFIED; DESIGNATING PROJECTS TO BE UNDERTAKEN

WITH FUNDS TO BE TRANSFERRED TO THE PERMANENT BUILDING FUND; APPROPRIATING MONEYS TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL FOR THE LEWIS-CLARK STATE COLLEGE CENTENNIAL MALL; APPROPRIATING MONEYS TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL FOR DEPARTMENT OF FISH AND GAME PROJECTS; APPROPRIATING MONEYS TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL FOR IDAHO TRANSPORTATION DEPARTMENT PROJECTS; APPROPRIATING MONEYS FOR LEGISLATIVE SPACE REMODELING AND RENOVATION; APPROPRIATING MONEYS FROM THE FISH AND GAME FUND; EXPRESSING LEGISLATIVE INTENT CONCERNING THE USE OF MONEYS APPROPRIATED IN THIS ACT; EXEMPTING THE APPROPRIATIONS FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE PROVISIONS OF SECTION 67-3516, IDAHO CODE; AUTHORIZING THE USE OF TAX ANTICIPATION NOTES; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated from the Permanent Building Fund to the Permanent Building Fund Advisory Council and the Division of Public Works the following amounts, or so much thereof as in each case may be necessary, for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair, of the following buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, named and listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building Account for the purpose of undertaking the construction, renovation, repair and acquisitions herein authorized, without delay, and to determine the priority of construction pursuant to which the work hereunder will be undertaken.

| | |
|--|------------------|
| A. Maintenance Projects in the following areas: | \$12,000,000 |
| (1) Alteration and Repair | |
| (2) Asbestos Abatement | |
| (3) Underground Storage Tank Program | |
| (4) EPA "Green Lights" Program | |
| (5) Statewide ADA Compliance | |
| (6) Building Demolition | |
| B. Idaho State School and Hospital: | |
| Maintenance and storage building | \$ 210,000 |
| C. Department of Administration, Division of Communications: | |
| New building and tower - Snowbank Mountain | \$ 145,800 |
| D. Department of Lands: | |
| St. Maries area office addition | \$ 322,000 |
| E. Department of Correction: | |
| Community work center building and training academy building | \$ 1,600,000 |
| NICI - Cottonwood, equipment and vehicle storage building | \$ 41,300 |
| NICI - Cottonwood, hazardous materials storage building | \$ 28,700 |
| SICI - Boise, maintenance building | <u>\$ 30,000</u> |
| Department Total | \$ 2,377,800 |
| GRAND | |
| TOTAL | \$14,377,800 |

SECTION 2. The following projects are approved to be undertaken with funds to be transferred to the Permanent Building Fund from the respective agencies' funds as indicated below:

A. Lewis-Clark State College:

Centennial Mall \$875,000

B. Department of Fish and Game:

Lewiston, Region 2 Headquarters Building Addition \$ 80,000

McCall, Sixteen-bay Storage Building \$ 75,000

Salmon, Regional Office Remodel \$120,000

C. Idaho Transportation Department:

Boise, Remodel West Wing (Vacated by Law Enforcement) \$150,000

Rigby, Resident Offices Addition \$470,000

Boise, Remodel Headquarters Service Grounds \$300,000

Boise, Remodel East Wing First Floor \$ 90,000

Fleming, Replace State Housing \$200,000

Pocatello, Maintenance Building \$750,000

Boise, District Yard Multipurpose Building \$800,000

Miscellaneous improvements \$360,000

Statewide preventive maintenance \$ 80,000

SECTION 3. There is hereby appropriated from the Permanent Building Fund to the Permanent Building Fund Advisory Council and the Division of Public Works the amount of \$875,000, or as much thereof as may be transferred to the Permanent Building Fund from Lewis-Clark State College for the Centennial Mall Project.

SECTION 4. There is hereby appropriated from the Permanent Building Fund to the Permanent Building Fund Advisory Council and the Division of Public Works the amount of \$275,000, or as much thereof as may be appropriated for the Department of Fish and Game construction projects listed in Section 2 of this act and transferred to the Permanent Building Fund.

SECTION 5. There is hereby appropriated from the Permanent Building Fund to the Permanent Building Fund Advisory Council and the Division of Public Works the amount of \$3,200,000, or as much thereof as may be appropriated for the Idaho Transportation Department construction projects listed in Section 2 of this act and transferred to the Permanent Building Fund.

SECTION 6. There is hereby appropriated to the Permanent Building Fund Advisory Council and the Division of Public Works \$5,000 from the Public Building Endowment Fund for legislative space remodeling and renovation costs.

SECTION 7. There is hereby appropriated \$317,000 from the Fish and Game Fund for deposit in the Permanent Building Fund.

SECTION 8. It is the express intention that the moneys appropriated in this act may be made available for matching any allocation of moneys now in existence or hereafter made available by agencies of the United States and/or private donations; and it is further the express intention of the Legislature to authorize the Division of Public Works

to expend, for the purpose of paying the cost of any land, building, equipment or the rebuilding, renovation or repair of buildings, moneys appropriated for public works to various agencies as part of the respective agency operating budgets; provided the express approval by the Permanent Building Fund Advisory Council is granted to make application for such moneys in each instance. It is further the intention of the Legislature that this authority be effective from the effective date of this act.

SECTION 9. All appropriations made herein shall be exempt from the provisions of Chapter 36, Title 67, and Section 67-3516, Idaho Code, but shall be available for expenditure only after allotment in accordance with the other provisions of Chapter 35, Title 67, Idaho Code, and all appropriations made hereunder shall be subject to the provisions of Section 67-5711, Idaho Code, except as otherwise provided herein.

SECTION 10. The State Treasurer is hereby authorized and directed to anticipate the revenues in the Permanent Building Fund by the issuance of tax anticipation notes in accordance with authority conferred in Sections 63-3201 through 63-3205, Idaho Code, and in accordance with the procedures and subject to the limitations provided in those sections, in the same manner as though the revenues in the General Fund were being anticipated.

SECTION 11. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 28, 1994.

CHAPTER 201
(S.B. No. 1591)

AN ACT

APPROPRIATING MONEYS FOR COMMUNITY COLLEGE SUPPORT FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the State Board of Education for Community College Support the following amount, from the listed fund to be expended for the period July 1, 1994, through June 30, 1995:

FROM:

General Fund

\$9,748,600

Approved March 28, 1994.

CHAPTER 202
(S.B. No. 1594)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 1995; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho State Historical Society the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|----------------|
| A. HISTORICAL PRESERVATION AND EDUCATION: | | | | | |
| FROM: | | | | | |
| General Fund | \$ 886,500 | \$274,900 | \$79,100 | \$ 2,600 | \$1,243,100 |
| Miscellaneous Revenue Fund | 54,500 | 119,800 | | 53,400 | 227,700 |
| Federal Grant Fund | <u>437,900</u> | <u>87,300</u> | <u></u> | <u>40,800</u> | <u>566,000</u> |
| TOTAL | \$1,378,900 | \$482,000 | \$79,100 | \$96,800 | \$2,036,800 |
| B. HISTORIC SITES MAINTENANCE AND INTERPRETATION: | | | | | |
| FROM: | | | | | |
| General Fund | \$ 62,600 | \$ 42,100 | \$12,500 | | \$ 117,200 |
| Miscellaneous Revenue Fund | <u>102,300</u> | <u>53,200</u> | <u>7,800</u> | | <u>163,300</u> |
| TOTAL | \$ 164,900 | \$ 95,300 | \$20,300 | | \$ 280,500 |
| GRAND | | | | | |
| TOTAL | \$1,543,800 | \$577,300 | \$99,400 | \$96,800 | \$2,317,300 |

SECTION 2. There is hereby reappropriated to the State Board of Education for the Idaho State Historical Society, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the Idaho State Historical Society for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 3. The reappropriation granted in Section 2 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is zero, the reappropriation in Section 2 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is greater than zero but less than the total

General Fund reappropriation authority granted to all state agencies, the amount reappropriated for the Idaho State Historical Society in Section 2 of this act shall be in the proportion that the reappropriation bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 28, 1994.

CHAPTER 203
(S.B. No. 1595)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 322, AND SECTION 1, CHAPTER 369, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 322, and Section 1, Chapter 369, Laws of 1993, there is hereby appropriated to the Department of Insurance the following amounts to be expended for the designated programs according to the designated expense classes from the listed fund for the period July 1, 1993, through June 30, 1994:

| | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|-------------------|----------------------------------|--------------------------|-----------|
| A. ADMINISTRATION | | | |
| FROM: | | | |
| Self-Governing | | | |
| Operating Fund | \$ 50,000 | \$100,000 | \$150,000 |
| B. REGULATION | | | |
| FROM: | | | |
| Self-Governing | | | |
| Operating Fund | \$114,400 | | \$114,400 |
| GRAND TOTAL | \$164,400 | \$100,000 | \$264,400 |

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

Approved March 28, 1994.

CHAPTER 204
(S.B. No. 1596)

AN ACT

APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 1995;
AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDI-
TURES.

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

SECTION 1. There is hereby appropriated to the Lieutenant Govern-
or the following amounts, to be expended according to designated
expense classes from the listed fund for the period July 1, 1994,
through June 30, 1995:

FOR:

| | |
|------------------------|---------------|
| Personnel Costs | \$79,400 |
| Operating Expenditures | <u>13,600</u> |
| TOTAL | \$93,000 |

FROM:

| | |
|--------------|----------|
| General Fund | \$93,000 |
|--------------|----------|

SECTION 2. It is legislative intent that an amount, not to exceed
\$1,000 of the amounts appropriated in Section 1, may be used at the
discretion of the Lieutenant Governor to assist in defraying expenses
relating to or resulting from the discharge of the Lieutenant Govern-
or's official duties. Such moneys shall be accounted for according to
the provisions of Chapter 36, Title 67, Idaho Code, and Section
67-3516, Idaho Code.

Approved March 28, 1994.

CHAPTER 205
(S.B. No. 1597)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 1995;
AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDI-
TURES.

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

SECTION 1. There is hereby appropriated to the Secretary of
State, the following amounts, to be expended for the designated pro-
grams according to the designated expense classes from the listed
funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|--------------------|
| A. ADMINISTRATION: | | | | | |
| FROM: | | | | | |
| General Fund | \$ 732,800 | \$ 392,500 | \$ 55,600 | | \$1,180,900 |
| B. CENTRALIZED UNIFORM COMMERCIAL CODE: | | | | | |
| FROM: | | | | | |
| UCC Administrative Fund | \$ 449,300 | \$ 217,900 | \$ 30,000 | | \$ 697,200 |
| C. COMMISSION ON UNIFORM LAWS: | | | | | |
| FROM: | | | | | |
| General Fund | | \$ 16,100 | | | \$ 16,100 |
| D. IDAHO COMMISSION ON THE ARTS: | | | | | |
| FROM: | | | | | |
| General Fund | \$ 297,200 | \$ 184,800 | \$ 23,000 | \$294,500 | \$ 799,500 |
| Federal Grant Fund | 210,900 | 201,500 | | 364,200 | 776,600 |
| Miscellaneous Revenue Fund | | 104,000 | | 15,800 | 119,800 |
| TOTAL | \$ 508,100 | \$ 490,300 | \$ 23,000 | \$674,500 | \$1,695,900 |
| GRAND TOTAL | \$1,690,200 | \$1,116,800 | \$108,600 | \$674,500 | \$3,590,100 |

SECTION 2. It is legislative intent that an amount not to exceed \$1,000 of the amounts appropriated in Section 1, may be used at the discretion of the Secretary of State to assist in defraying expenses relating to or resulting from the discharge of the Secretary of State's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

Approved March 28, 1994.

CHAPTER 206
(S.B. No. 1598)

AN ACT
EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES FOR FISCAL YEAR 1995.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Labor and Industrial Services not exceed the following amount for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|-------------------------------|---------------------------|----------------------------------|--------------------------|-------------|
| FROM: | | | | |
| General Fund | \$ 417,700 | \$ 90,300 | \$ 12,800 | \$ 520,800 |
| Electrical Fund | 1,810,900 | 490,900 | 135,700 | 2,437,500 |
| Building Fund | 641,000 | 127,800 | 28,500 | 797,300 |
| Plumbing Fund | 954,500 | 267,300 | 92,500 | 1,314,300 |
| Manufactured Housing Fund | 40,300 | 15,100 | | 55,400 |
| Federal Grant Fund | 89,900 | 54,400 | | 144,300 |
| Miscellaneous Revenue Fund | 565,100 | 204,800 | 63,000 | 832,900 |
| TOTAL | \$4,519,400 | \$1,250,600 | \$332,500 | \$6,102,500 |

SECTION 2. There is hereby appropriated to the Department of Labor and Industrial Services the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|-------------------------------------|---------------------------|----------------------------------|--------------------------|-------------|
| A. ADMINISTRATION: | | | | |
| FROM: | | | | |
| General Fund | \$ 54,700 | \$ 4,500 | \$ 800 | \$ 60,000 |
| Electrical Fund | 214,000 | 19,900 | 3,900 | 237,800 |
| Building Fund | 82,100 | 8,000 | 1,500 | 91,600 |
| Plumbing Fund | 108,700 | 10,300 | 2,000 | 121,000 |
| Miscellaneous Revenue Fund | 86,800 | 30,000 | 1,400 | 118,200 |
| TOTAL | \$ 546,300 | \$ 72,700 | \$ 9,600 | \$ 628,600 |
| B. SAFETY COMPLIANCE: | | | | |
| FROM: | | | | |
| General Fund | \$ 50,400 | \$ 4,700 | | \$ 55,100 |
| Electrical Fund | 1,596,900 | 471,000 | \$131,800 | 2,199,700 |
| Building Fund | 558,900 | 119,800 | 27,000 | 705,700 |
| Plumbing Fund | 845,800 | 257,000 | 90,500 | 1,193,300 |
| Manufactured Housing Fund | 40,300 | 15,100 | | 55,400 |
| Federal Grant Fund | 47,500 | 29,100 | | 76,600 |
| TOTAL | \$3,139,800 | \$ 896,700 | \$249,300 | \$4,285,800 |
| C. INDUSTRIAL RELATIONS AND SAFETY: | | | | |
| FROM: | | | | |
| General Fund | \$ 312,600 | \$ 81,100 | \$ 12,000 | \$ 405,700 |
| Federal Grant Fund | 42,400 | 25,300 | | 67,700 |
| Miscellaneous Revenue Fund | 478,300 | 174,800 | 61,600 | 714,700 |
| TOTAL | \$ 833,300 | \$ 281,200 | \$ 73,600 | \$1,188,100 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|----------------|---------------------------|----------------------------------|--------------------------|-------------|
| GRAND TOTAL | \$4,519,400 | \$1,250,600 | \$332,500 | \$6,102,500 |

Approved March 28, 1994.

CHAPTER 207
(H.B. No. 521)

AN ACT

RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT; REPEALING CHAPTER 10, TITLE 7, IDAHO CODE; AMENDING TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 10, TITLE 7, IDAHO CODE, TO ADOPT THE UNIFORM INTERSTATE FAMILY SUPPORT ACT, TO DEFINE TERMS, TO DEFINE ENFORCING TRIBUNALS, TO PROVIDE CUMULATIVE REMEDIES, TO GOVERN PROCEEDINGS, TO PROVIDE PROCEDURE WHEN EXERCISING JURISDICTION OVER A NONRESIDENT, TO GOVERN INITIATING AND RESPONDING TRIBUNALS OF THIS STATE, TO GOVERN SIMULTANEOUS PROCEEDINGS IN ANOTHER STATE, TO ESTABLISH CONTINUING, EXCLUSIVE JURISDICTION, TO GOVERN ENFORCEMENT AND MODIFICATION OF A SUPPORT ORDER BY A TRIBUNAL HAVING CONTINUING JURISDICTION, TO PROVIDE RECOGNITION OF A CHILD SUPPORT ORDER, TO GOVERN ENFORCEMENT OF MULTIPLE CHILD SUPPORT ORDERS FOR TWO OR MORE OBLIGEEs, TO PROVIDE CREDIT FOR PAYMENTS, TO GOVERN PROCEEDINGS UNDER THIS CHAPTER, TO GOVERN ACTION BY A MINOR PARENT, TO PROVIDE APPLICATION OF LAW OF THIS STATE, TO PROVIDE DUTIES OF AN INITIATING TRIBUNAL, TO PROVIDE DUTIES AND POWERS OF A RESPONDING TRIBUNAL, TO DEFINE AN INAPPROPRIATE TRIBUNAL, TO PROVIDE DUTIES OF A SUPPORT ENFORCEMENT AGENCY, TO PROVIDE DUTIES OF THE ATTORNEY GENERAL, TO SPECIFY RIGHTS TO PRIVATE COUNSEL, TO DEFINE THE DUTIES OF THE STATE INFORMATION AGENCY, TO PROVIDE FOR PLEADINGS AND ACCOMPANYING DOCUMENTS, TO PROVIDE FOR NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES, TO PROVIDE FOR COSTS AND FEES, TO PROVIDE LIMITED IMMUNITY OF A PETITIONER, TO GOVERN NONPARENTAGE AS A DEFENSE, TO SPECIFY SPECIAL RULES OF EVIDENCE AND PROCEDURE, TO PROVIDE FOR COMMUNICATION BETWEEN TRIBUNALS, TO PROVIDE ASSISTANCE WITH DISCOVERY, TO PROVIDE FOR RECEIPT AND DISBURSEMENT OF PAYMENTS, TO PROVIDE FOR PETITION TO ESTABLISH A SUPPORT ORDER, TO GOVERN RECOGNITION OF INCOME-WITHHOLDING ORDERS OF ANOTHER STATE, TO GOVERN ADMINISTRATIVE ENFORCEMENT OF ORDERS, TO PROVIDE REGISTRATION OF AN ORDER FOR ENFORCEMENT, TO PROVIDE PROCEDURE TO REGISTER AN ORDER FOR ENFORCEMENT, TO DEFINE THE EFFECT OF REGISTRATION FOR ENFORCEMENT, TO SPECIFY CHOICE OF LAW, TO PROVIDE NOTICE OF REGISTRATION OF AN ORDER, TO GOVERN PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF A REGISTERED ORDER, TO PROVIDE FOR CONTEST OF REGISTRATION OR ENFORCEMENT, TO PROVIDE A CONFIRMED ORDER, TO SPECIFY PROCEDURE TO REGISTER A CHILD SUPPORT ORDER OF ANOTHER STATE FOR MODIFICATION, TO SPECIFY THE EFFECT OF REGISTRATION FOR MODIFICATION, TO GOVERN MODIFICATION OF A CHILD SUPPORT ORDER OF ANOTHER STATE, TO SPECIFY

RECOGNITION OF AN ORDER MODIFIED IN ANOTHER STATE, TO GOVERN PROCEEDINGS TO DETERMINE PARENTAGE, TO PROVIDE GROUNDS FOR RENDITION, TO PROVIDE CONDITIONS OF RENDITION, TO PROVIDE UNIFORMITY OF APPLICATION AND CONSTRUCTION, TO PROVIDE A SHORT TITLE AND TO PROVIDE SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 10, Title 7, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 10, Title 7, Idaho Code, and to read as follows:

CHAPTER 10
UNIFORM INTERSTATE FAMILY SUPPORT ACT

7-1001. DEFINITIONS. In this chapter:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(4) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six (6) consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six (6) months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six (6) month or other period.

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by chapter 12, title 7, Idaho Code, to withhold support from the income of the obligor.

(7) "Initiating state" means a state in which a proceeding under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act is filed for forwarding to a responding state.

(8) "Initiating tribunal" means the authorized tribunal in an initiating state.

(9) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) "Initiating tribunal" means the tribunal that issues a sup-

port order or renders a judgment determining parentage.

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(12) "Obligee" means:

(a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(b) A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(c) An individual seeking a judgment determining parentage of the individual's child.

(13) "Obligor" means an individual, or the estate of a decedent:

(a) Who owes or is alleged to owe a duty of support;

(b) Who is alleged but has not been adjudicated to be a parent of a child; or

(c) Who is liable under a support order.

(14) "Register" means to record a support order or judgment determining parentage in the district court.

(15) "Registering tribunal" means a tribunal in which a support order is registered.

(16) "Responding state" means a state to which a proceeding is forwarded under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act.

(17) "Responding tribunal" means the authorized tribunal in a responding state.

(18) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

(19) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes an Indian tribe and includes a foreign jurisdiction that has established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter.

(20) "Support enforcement agency" means a public official or agency authorized to seek:

(a) Enforcement of support orders or laws relating to the duty of support;

(b) Establishment or modification of child support;

(c) Determination of parentage; or

(d) To locate obligors or their assets.

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

7-1002. TRIBUNALS OF THIS STATE. The district courts are the tribunals of this state.

7-1003. REMEDIES CUMULATIVE. Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law.

7-1004. PROCEEDINGS. In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

- (1) The individual is personally served with notice within this state;
- (2) The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
- (3) The individual resided with the child in this state;
- (4) The individual resided in this state and provided prenatal expenses or support for the child;
- (5) The child resides in this state as a result of the acts or directives of the individual;
- (6) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;
- (7) The individual asserted parentage in the registry maintained in this state by the vital statistics unit of the department of health and welfare provided in section 16-1513, Idaho Code; or
- (8) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

7-1005. PROCEDURE WHEN EXERCISING JURISDICTION OVER NONRESIDENT. A tribunal of this state exercising personal jurisdiction over a nonresident under section 7-1004, Idaho Code, may apply section 7-1028, Idaho Code, to receive evidence from another state, section 7-1030, Idaho Code, to obtain discovery through a tribunal of another state. In all other respects, sections 7-1013 through 7-1047, Idaho Code, do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this chapter.

7-1006. INITIATING AND RESPONDING TRIBUNAL OF THIS STATE. Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

7-1007. SIMULTANEOUS PROCEEDINGS IN ANOTHER STATE. (1) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

- (a) The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdic-

tion by the other state;

(b) The contesting party timely challenges the exercise of jurisdiction in the other state; and

(c) If relevant, this state is the home state of the child.

(2) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

(a) The petition or comparable pleading in the other state is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(b) The contesting party timely challenges the exercise of jurisdiction in this state; and

(c) If relevant, the other state is the home state of the child.

7-1008. CONTINUING, EXCLUSIVE JURISDICTION. (1) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(a) As long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(b) Until each individual party has filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(2) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to a law substantially similar to this chapter.

(3) If a child support order of this state is modified by a tribunal of another state pursuant to a law substantially similar to this chapter, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(a) Enforce the order that was modified as to amounts accruing before the modification;

(b) Enforce nonmodified aspects of that order; and

(c) Provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(4) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to a law substantially similar to this chapter.

(5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(6) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclu-

sive jurisdiction over that order under the law of that state.

7-1009. ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER BY TRIBUNAL HAVING CONTINUING JURISDICTION. (1) A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(2) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify that order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply section 7-1028, Idaho Code, to receive evidence from another state and section 7-1030, Idaho Code, to obtain discovery through a tribunal of another state.

(3) A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

7-1010. RECOGNITION OF CHILD SUPPORT ORDERS. (1) If a proceeding is brought under this chapter, and one (1) or more child support orders have been issued in this or another state with regard to an obligor and a child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(a) If only one (1) tribunal has issued a child support order, the order of that tribunal must be recognized;

(b) If two (2) or more tribunals have issued child support orders for the same obligor and child, and only one (1) of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal must be recognized;

(c) If two (2) or more tribunals have issued child support orders for the same obligor and child, and more than one (1) of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order more recently issued must be recognized;

(d) If two (2) or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state may issue a child support order, which must be recognized.

(2) The tribunal that has issued an order recognized under subsection (1) of this section is the tribunal having continuing, exclusive jurisdiction.

7-1011. MULTIPLE CHILD SUPPORT ORDERS FOR TWO OR MORE OBLIGEES. In responding to multiple registrations or petitions for enforcement of two (2) or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one (1) of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.

7-1012. CREDIT FOR PAYMENTS. Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state.

7-1013. PROCEEDINGS UNDER THIS CHAPTER. (1) Except as otherwise provided in this chapter, sections 7-1013 through 7-1031, Idaho Code, apply to all proceedings under the provisions of this chapter.

(2) This chapter provides for the following proceedings:

(a) Establishment of an order for spousal support or child support pursuant to section 7-1032, Idaho Code;

(b) Enforcement of a support order and income-withholding order of another state without registration pursuant to sections 7-1033 and 7-1034, Idaho Code;

(c) Registration of an order for spousal support or child support of another state for enforcement pursuant to sections 7-1035 through 7-1046, Idaho Code;

(d) Modification of an order for child support or spousal support issued by a tribunal of this state pursuant to sections 7-1006 through 7-1009, Idaho Code;

(e) Registration of an order for child support of another state for modification pursuant to sections 7-1035 through 7-1046, Idaho Code;

(f) Determination of parentage pursuant to section 7-1047, Idaho Code; and

(g) Assertion of jurisdiction over nonresidents pursuant to sections 7-1004 and 7-1005, Idaho Code.

(3) An individual petitioner or a support enforcement agency may commence a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.

7-1014. ACTION BY MINOR PARENT. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

7-1015. APPLICATION OF LAW OF THIS STATE. Except as otherwise provided in this chapter, a responding tribunal of this state:

(1) Shall apply the procedural and substantive law, including the rule on choice of law, generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) Shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

7-1016. DUTIES OF INITIATING TRIBUNAL. Upon the filing of a petition authorized in this chapter, an initiating tribunal of this state shall forward three (3) copies of the petition and its accompanying documents:

(1) To the responding tribunal or appropriate support enforcement

agency in the responding state; or

(2) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

7-1017. DUTIES AND POWERS OF RESPONDING TRIBUNAL. (1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to section 7-1013(3), Idaho Code, it shall cause the petition or pleading to be filed and notify the petitioner by first class mail where and when it was filed.

(2) A responding tribunal of this state, to the extent otherwise authorized by law, may do one (1) or more of the following:

- (a) Issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;
- (b) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;
- (c) Order income withholding;
- (d) Determine the amount of any arrearages, and specify a method of payment;
- (e) Enforce orders by civil or criminal contempt, or both;
- (f) Set aside property for satisfaction of the support order;
- (g) Place liens and order execution on the obligor's property;
- (h) Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;
- (i) Issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;
- (j) Order the obligor to seek appropriate employment by specified methods;
- (k) Award reasonable attorney's fees and other fees and costs; and
- (l) Grant any other available remedy.

(3) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

(4) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(5) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order by first class mail to the petitioner and the respondent and to the initiating tribunal, if any.

7-1018. INAPPROPRIATE TRIBUNAL. If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner by first class mail where and when the pleading was sent.

7-1019. DUTIES OF SUPPORT ENFORCEMENT AGENCY. (1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under the provisions of this chapter.

(2) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(a) Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(b) Request an appropriate tribunal to set a date, time and place for a hearing;

(c) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(d) Within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice by first class mail to the petitioner;

(e) Within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by first class mail to the petitioner; and

(f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(3) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

7-1020. DUTY OF ATTORNEY GENERAL. If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

7-1021. PRIVATE COUNSEL. An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

7-1022. DUTIES OF STATE INFORMATION AGENCY. (1) The central registry in the bureau of child support of the department of health and welfare is the state information agency under this chapter.

(2) The state information agency shall:

(a) Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any other support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(b) Maintain a register of tribunals and support enforcement agencies received from other states;

(c) Forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from an initiating tribunal or the state information agency of the initiating state; and

(d) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

7-1023. PLEADINGS AND ACCOMPANYING DOCUMENTS. (1) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under this chapter must verify the petition. Unless otherwise ordered under section 7-1024, Idaho Code, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(2) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

7-1024. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter.

7-1025. COSTS AND FEES. (1) The petitioner may not be required to pay a filing fee or other costs.

(2) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(3) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under sections 7-1035 through 7-1046, Idaho Code, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

7-1026. LIMITED IMMUNITY OF PETITIONER. (1) Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(2) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.

(3) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while present in this state to participate in the proceeding.

7-1027. NONPARENTAGE AS DEFENSE. A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this chapter.

7-1028. SPECIAL RULES OF EVIDENCE AND PROCEDURE. (1) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(2) A verified petition, affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(3) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(4) Copies of bills for testing parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten (10) days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(5) Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(6) In a proceeding under this chapter, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(7) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(8) A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

(9) The defense of immunity based upon the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

7-1029. COMMUNICATIONS BETWEEN TRIBUNALS. A tribunal of this state may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this state may furnish similar information by similar means to a tribunal of another state.

7-1030. ASSISTANCE WITH DISCOVERY. A tribunal of this state may:

(1) Request a tribunal of another state to assist in obtaining discovery; and

(2) Upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

7-1031. RECEIPT AND DISBURSEMENT OF PAYMENTS. A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

7-1032. PETITION TO ESTABLISH SUPPORT ORDER. (1) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state may issue a support order if:

(a) The individual seeking the order resides in another state; or
(b) The support enforcement agency seeking the order is located in another state.

(2) The tribunal may issue a temporary child support order if:

(a) The respondent has signed a verified statement acknowledging parentage;

(b) The respondent has been determined by or pursuant to law to be the parent; or

(c) There is other clear and convincing evidence that the respondent is the child's parent.

(3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 7-1017, Idaho Code.

7-1033. RECOGNITION OF INCOME-WITHHOLDING ORDER OF ANOTHER STATE.

(1) An income-withholding order issued in another state may be sent by first class mail to the person or entity defined as the obligor's employer under the provisions of chapter 12, title 7, Idaho Code, without first filing a petition or comparable pleading or registering the order with a tribunal of this state. Upon receipt of the order, the employer shall:

(a) Treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state;

(b) Immediately provide a copy of the order to the obligor; and

(c) Distribute the funds as directed in the withholding order.

(2) An obligor may contest the validity or enforcement of an income-withholding order issued in another state in the same manner as

if the order had been issued by a tribunal of this state. Section 7-1038, Idaho Code, applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to:

- (a) The person or agency designated to receive payments in the income-withholding order; or
- (b) If no person or agency is designated, the obligee.

7-1034. ADMINISTRATIVE ENFORCEMENT OF ORDERS. (1) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(2) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

7-1035. REGISTRATION OF ORDER FOR ENFORCEMENT. A support order or an income-withholding order issued by a tribunal of another state may be registered in this state for enforcement.

7-1036. PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT. (1) A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the district court in this state:

- (a) A letter of transmittal to the tribunal requesting registration and enforcement;
- (b) Two (2) copies, including one (1) certified copy, of all orders to be registered, including any modification of an order;
- (c) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;
- (d) The name of the obligor and, if known:
 - (i) The obligor's address and social security number;
 - (ii) The name and address of the obligor's employer and any other source of income of the obligor; and
 - (iii) A description and the location of property of the obligor in this state not exempt from execution; and
- (e) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one (1) copy of the documents and information, regardless of their form.

(3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under law of this state may be filed at the same time as the request for registration or later. The pleading must

specify the grounds for the remedy sought.

7-1037. EFFECT OF REGISTRATION FOR ENFORCEMENT. (1) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(2) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(3) Except as otherwise provided in section 7-1035 through 7-1046, Idaho Code, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

7-1038. CHOICE OF LAW. (1) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

(2) In a proceeding for arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies.

7-1039. NOTICE OF REGISTRATION OF ORDER. (1) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by first class, certified, or registered mail or by any means of personal service authorized by the law of this state. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) The notice must inform the nonregistering party:

(a) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) That a hearing to contest the validity or enforcement of the registered order must be requested within twenty (20) days after the date of mailing or personal service of the notice;

(c) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(d) Of the amount of any alleged arrearages.

(3) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to the provisions of chapter 12, title 7, Idaho Code.

7-1040. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED ORDER. (1) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within twenty (20) days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant

to section 7-1041, Idaho Code.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of a registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties by first class mail of the date, time, and place of the hearing.

7-1041. CONTEST OF REGISTRATION OR ENFORCEMENT. (1) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one (1) or more of the following defenses:

(a) The issuing tribunal lacked personal jurisdiction over the contesting party;

(b) The order was obtained by fraud;

(c) The order has been vacated, suspended, or modified by a later order;

(d) The issuing tribunal has stayed the order pending appeal;

(e) There is a defense under the law of this state to the remedy sought;

(f) Full or partial payment has been made; or

(g) The statute of limitation under section 7-1038, Idaho Code, precludes enforcement of some or all of the arrearages.

(2) If a party presents evidence establishing a full or partial defense under subsection (1) of this section, a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(3) If the contesting party does not establish a defense under subsection (1) of this section to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

7-1042. CONFIRMED ORDER. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

7-1043. PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF ANOTHER STATE FOR MODIFICATION. A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register the order in this state in the same manner provided in sections 7-1035 through 7-1038, Idaho Code, if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

7-1044. EFFECT OF REGISTRATION FOR MODIFICATION. A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order

may be modified only if the requirements of section 7-1045, Idaho Code, have been met.

7-1045. MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE. (1) After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if, after notice and hearing, it finds that:

(a) The following requirements are met:

(i) The child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) A petitioner who is a nonresident of the state seeks modification; and

(iii) The respondent is subject to the personal jurisdiction of the tribunal of this state; or

(b) An individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this state may modify the support order and assume continuing, exclusive jurisdiction over the order.

(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(3) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state.

(4) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

(5) Within thirty (30) days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered.

7-1046. RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE. A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state which assumed jurisdiction pursuant to a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall:

(1) Enforce the order that was modified only as to amounts accruing before the modification;

(2) Enforce only nonmodifiable aspects of that order;

(3) Provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and

(4) Recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

7-1047. PROCEEDING TO DETERMINE PARENTAGE. (1) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act, or the

revised uniform reciprocal enforcement of support act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(2) In a proceeding to determine parentage, a responding tribunal of this state shall apply the provisions of chapter 11, title 7, Idaho Code, and the rules of this state on choice of law.

7-1048. GROUNDS FOR RENDITION. (1) For purposes of sections 7-1048 and 7-1049, Idaho Code, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.

(2) The governor of this state may:

(a) Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(b) On the demand by the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(3) A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

7-1049. CONDITIONS OF RENDITION. (1) Before making demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty (60) days previously the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

(2) If, under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(3) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

7-1050. UNIFORMITY OF APPLICATION AND CONSTRUCTION. This chapter shall be applied and construed to effectuate its general purpose to

make uniform the law with respect to the subject of this chapter among the states enacting it.

7-1051. SHORT TITLE. This chapter may be cited as the uniform interstate family support act.

7-1052. SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SECTION 3. This act shall be in full force and effect on and after July 1, 1994.

Approved March 28, 1994.

CHAPTER 208
(H.B. No. 537)

AN ACT

RELATING TO COURT FEES FOR COUNTY COURT FACILITIES; AMENDING SECTION 31-867, IDAHO CODE, TO AUTHORIZE CREATION OF A COUNTY COURT FACILITIES FUND; AND AMENDING SECTION 31-3201, IDAHO CODE, TO PROVIDE AN ADMINISTRATIVE SURCHARGE ON EACH CIVIL CASE AND PROVIDING DISPOSITION OF THE FUNDS.

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

SECTION 1. That Section 31-867, Idaho Code, be, and the same is hereby amended to read as follows:

31-867. SPECIAL LEVY FOR COURTS -- DISTRICT COURT FUND. (1) The board of county commissioners of each county in this state may levy annually upon all taxable property of its county, a special tax not to exceed four hundredths per cent (.04%) of market value for assessment purposes for the purpose of providing for the functions of the district court and the magistrate division of the district court within the county. All revenues collected from such special tax shall be paid into the "district court fund," which is hereby created, and the board may appropriate otherwise unappropriated moneys into the district court fund. Moneys in the district court fund shall be expended for all court expenditures other than courthouse construction or remodeling and for salaries of the deputies of the district court clerk, which salaries shall be expended from the current expense fund.

(2) Balances in the district court fund may be accumulated from year to year sufficient to operate the court functions on a cash basis, but such balances shall not exceed sixty per cent (60%) of the total budget for court functions for the current year.

(3) There is hereby created the county court facilities fund which may be established in each county by resolution adopted at a

public meeting of the board of county commissioners. Moneys in the county court facilities fund shall be expended for planning, remodeling and construction of court facilities. The county court facilities fund shall be separate and distinct from the county current expense fund and county expenditures from the county court facilities fund shall be solely dedicated to the purposes set forth in this section. At the discretion of the board of county commissioners, funds deposited in the county court facilities fund may be accumulated from year to year or expended on a regular basis.

SECTION 2. That Section 31-3201, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201. CLERK OF DISTRICT COURT -- FEES. (1) The clerk of the district court shall lawfully charge, demand and receive the following fees for services rendered by him in discharging the duties imposed upon him by law:

- For filing and docketing abstract or transcript of judgment from another court \$2.00
- For issuing execution upon an abstract or transcript of judgment and filing same on return \$2.00
- For recording execution issued upon abstract or transcript of judgment, per page \$2.00
- For taking affidavits, including jurat \$1.00
- For taking acknowledgments, including seal \$1.00
- For filing and indexing designation of agent of foreign corporation \$2.00
- For filing and indexing notarial statement \$2.00
- For making copy of any file or record, by the clerk, the clerk shall charge and receive, per page \$1.00
- For comparing and conforming a prepared copy of any file or record, the clerk shall charge and receive, per page \$.50
- For certifying the same an additional fee for certificate and seal \$1.00

For all services not herein enumerated, and of him lawfully required, the clerk of the district court shall demand and receive such fees as are herein allowed for similar services.

(2) All fees collected under the provisions of this section shall be paid over to the county treasurer, at the same time and in the same manner as other fees.

(3) In addition to all other fines, forfeitures and costs levied by the court, the clerk of the district court shall collect five dollars (\$5.00) as an administrative surcharge fee on each criminal or infraction case, to be paid over to the county treasurer at the same time and in the same manner as other fees, for the support of the county justice fund, or the current expense fund if no county justice fund has been established, and shall collect five dollars (\$5.00) as an administrative surcharge fee on each civil case, including each appeal, to be paid over to the county treasurer for the support of the county court facilities fund, or to the district court fund if no county court facilities fund has been established.

(4) Provided further, an additional handling fee of two dollars (\$2.00) shall be imposed on each monthly installment of criminal or

infraction fines, forfeitures, and other costs paid on a monthly basis.

Approved March 28, 1994.

CHAPTER 209
(H.B. No. 557, As Amended)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO PROVIDE THAT PERSONS ENROLLED IN AN UNDERGRADUATE, GRADUATE OR VOCATIONAL-TECHNICAL PROGRAM AT AND EMPLOYED BY A STATE COLLEGE, UNIVERSITY, COMMUNITY COLLEGE OR VOCATIONAL-TECHNICAL CENTER WHEN SUCH EMPLOYMENT IS PREDICATED ON STUDENT STATUS ARE NOT EMPLOYEES AND NOT ELIGIBLE FOR PARTICIPATION IN THE PUBLIC EMPLOYEE RETIREMENT SYSTEM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 59-1345 AND 59-1348, IDAHO CODE, TO CORRECT CODE REFERENCES; AND AMENDING SECTION 59-1351, IDAHO CODE, TO CHANGE A REFERENCE FROM TEN DOLLARS TO TWENTY DOLLARS TO PROVIDE CONSISTENCY WITH SECTION 59-1343, IDAHO CODE, AND TO CORRECT A SPELLING ERROR.

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

SECTION 1. That Section 59-1302, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302. DEFINITIONS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) "Active member" means any employee who is not establishing the right to receive benefits through his or her employer's participation in any other retirement system established for Idaho public employees, if such participation is mandated by applicable Idaho statutes other than this chapter. In no case will an employee be entitled to any benefit under this chapter for public service if such employee is establishing retirement benefit entitlements by other Idaho statutes or federal statutes other than military service or social security for that same service.

(3) "Accumulated contributions" mean the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" mean such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to regulations adopted by the retirement board.

(5B) (a) "Base period" means the period of fifty-four (54) consecutive calendar months during which the member earned:

- (i) The highest average salary; and
- (ii) Membership service of at least one-half (1/2) the number of months in the period, excluding months of service attributable to:

- A. Military service;
- B. Service qualifying as minimum benefit pursuant to section 59-1342(5), Idaho Code; and
- C. Workers' compensation income benefits.

(b) Effective October 1, 1993, the consecutive calendar months shall be forty-eight (48). Effective October 1, 1994, the consecutive calendar months shall be forty-two (42). Effective October 1, 1995, the consecutive calendar months shall be thirty-six (36).

(c) Entitlement to a base period shall not vest until the effective date of that base period. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

(d) If no base period exists for a member, the member's average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection.

(e) To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary and base period.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965, or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for disability retirement.

(12) "Disabled" means:

(a) That the member is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country, or from an intentionally self-inflicted injury; and

(b) That the member will remain so disabled permanently and continuously during the remainder of the member's life.

It is not necessary that a person be absolutely helpless or entirely unable to do anything worthy of compensation to be considered disabled. If the person is so disabled that substantially all the avenues of employment are reasonably closed to the person, that condition is within the meaning of "disabled." In evaluating whether a person is

disabled, medical factors and nonmedical factors including, but not limited to, education, economic and social environment, training and usable skills may be considered.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is not disabled. The board shall be empowered to select for such medical examination one (1) or more physicians or surgeons who are licensed to practice medicine and perform surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to undergo such examination more often than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. During such period, the member shall remain classified in the membership category held during the month of final contribution. The total number of months of disabled service credited for a person first becoming disabled after the effective date of this chapter shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(13) "Early retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for early retirement.

(14) (A) "Employee" means:

(a) Any person who normally works twenty (20) hours or more per week for an employer or a school teacher who works half-time or more for an employer and who receives salary for services rendered for such employer; or

(b) Elected officials or appointed officials of an employer who receive a salary; or

(c) A person who is separated from service with less than five (5) months of employment and who is reemployed or reinstated by the same employer within thirty (30) days.

(B) "Employee" does not include employment as:

(a) A pPersons rendering service to an employer in the capacity of an independent business, trade or profession; or

(b) Workers A person whose employment with any employer does not total five (5) consecutive months; or

(c) A pPersons provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such persons; or

(d) An ifnmates of a state institution or persons--enrolled--full time--in-a-state-institution-principally-for-purposes-of-training, whether or not receiving compensation for services performed for the institution; or

(e) A student enrolled in an undergraduate, graduate, or vocational-technical program at and employed by a state college, university, community college or vocational-technical center when such employment is predicated on student status; or

(ef) A pPersons making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that those a persons who receives separate remuneration for work currently performed for an employer and the United States government may elect to be a members of the retirement system in accordance with rules of the board.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this chapter.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1331 through 59-1334, Idaho Code.

(16) "Firefighter" means an employee, including paid firefighters hired on or after October 1, 1980, whose primary occupation is that of preventing and extinguishing fires as determined by the rules of the board.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this chapter.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, any thrift institution or credit union or any investment management firm or individual investment manager selected by the board to hold and/or invest the employers' and members' contributions and pay certain benefits granted under this chapter.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, but for whom a separation benefit has not become payable.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, and military service which occurs after the commencement of such contributions.

(23) "Military service" means active duty service in the armed forces of the United States including the national guard and reserves, under the provisions of title 10, title 32, and title 37, United States code. Provided, however, for the purposes of this chapter, military service SHALL NOT include:

(a) aAny period ended by dishonorable discharge or during which termination of such service is available but not accepted;

(b) aAny period which commences more than ninety (90) days after the person ceases to be an employee or ends more than ninety (90) days before the person again becomes an employee unless such ninety (90) day requirements are waived by the board due to circumstances beyond the employee's control; or

(c) ~~a~~Any active duty service in excess of five (5) years if at the convenience of the United States government, or in excess of four (4) years if not at the convenience of the United States government.

(24) (a) "Police officer" for retirement purposes shall be as defined in section 59-1303, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(25) "Prior service" means any period prior to July 1, 1965, of military service or of employment for the state of Idaho or any political subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for the member's service prior to July 1, 1965, on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of computing such service, no deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1304 and 59-1305, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) "Salary" means the total salary or wages paid to a person who meets the definition of employee by an employer for personal services currently performed, including the cash value of all remuneration in any medium other than cash in the amount reported by the employer for income tax purposes and also including the amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means being shown on an employer's payroll as an employee receiving a salary. Service of fifteen (15) days or more during any calendar month shall be credited as one (1) month of service. Service of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested retirement allowance" means the periodic payment becoming payable upon an inactive member's becoming eligible for vested retirement.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

SECTION 2. That Section 59-1345, Idaho Code, be, and the same is hereby amended to read as follows:

59-1345. ACTIVE MEMBER ELIGIBLE FOR EARLY RETIREMENT. An active member who is not eligible for either service retirement or disability retirement is eligible for early retirement if he has at least five (5) years of credited service including six (6) months of membership service and is within ten (10) years of being eligible for service retirement. Additionally, an active member is eligible for early retirement on termination of disability retirement as provided by section ~~59-1396~~ 59-1354(2), Idaho Code.

SECTION 3. That Section 59-1348, Idaho Code, be, and the same is hereby amended to read as follows:

59-1348. COMPUTATION OF VESTED RETIREMENT ALLOWANCES. The annual amount of initial vested retirement allowance payable to any member shall equal the amount of initial retirement allowance payable pursuant to sections ~~59-13432~~ or ~~59-13476~~, Idaho Code, whichever is applicable, based upon the member's age at vested retirement and the amount of credited service earned to the date of final contribution.

SECTION 4. That Section 59-1351, Idaho Code, be, and the same is hereby amended to read as follows:

59-1351. CONVERSION OF SERVICE RETIREMENT OR EARLY RETIREMENT OR VESTED RETIREMENT ALLOWANCES INTO OPTIONAL RETIREMENT ALLOWANCES -- FORM OF OPTIONAL RETIREMENT. (1) The service retirement allowance, the early retirement allowance or the vested retirement allowance of a member who, at time of retirement, so elects shall be converted into an optional retirement allowance which is the actuarial equivalent of such other allowance. The optional retirement allowance may take one of the forms listed below and shall be in lieu of all other benefits under this chapter except that the provisions of section 59-1361(1), Idaho Code, shall be applicable:

(a) Option 1 provides a reduced retirement allowance payable during the lifetime of the retired member, and a continuation thereafter of such reduced retirement allowance during the lifetime of the member's named contingent annuitant.

(b) Option 2 provides a reduced retirement allowance payable during the lifetime of the retired member, and a continuation thereafter of one-half (1/2) of such reduced retirement allowance during the lifetime of the member's named contingent annuitant.

(c) Option 3, which is available only if the member retires before the date of the social security normal retirement age for that member, provides an increased retirement allowance until such date and a reduced retirement allowance thereafter, the difference between the two (2) amounts approximately equaling the governmental old-age benefit becoming payable at such date as estimated by the board.

(d) Option 4, which is available only if the member retires before the date of the social security normal retirement age for that member, provides either an adjusted option 1 (option 4A) or option 2 (option 4B) retirement allowance until such date and a reduced retirement allowance thereafter, the difference between the two (2) amounts approximately ~~equalling~~ equaling the governmental old-age benefit becoming payable at such date as estimated by the board. The adjusted retirement allowance shall be paid to the retired member during the member's lifetime and the appropriate continuation amount of the adjusted allowance to the member's named contingent annuitant for life thereafter.

(2) Should the named contingent annuitant under option 1 or option 2 predecease a member retiring on or after October 1, 1992, upon notification to the board the member's benefit on the first day of the month following the death of the contingent annuitant will thereafter become an allowance calculated pursuant to section 59-1342 or 59-1346, Idaho Code, whichever was applicable on the date of retirement, in addition to any post retirement allowance adjustments which may have accrued from that time. Should the named contingent annuitant predecease the member under option 4, upon notification to the board, the member's benefit on the first day of the month following the contingent annuitant's death will thereafter become the option 3 allowance to which the member would have been entitled as of the date of the annuitant's death. The benefit changes under this subsection shall be available only to members whose last contribution was made after the effective date of this act.

(3) Option 1 or 2 may not be chosen if initial payments of less than ~~ten~~ twenty dollars (\$±20.00) per month would result.

(4) Application for any optional retirement allowance shall be in writing, duly executed and filed with the board. Such application shall contain all information required by the board, including such proofs of age as are deemed necessary by the board.

(5) A retirement option elected at the time of retirement as provided for in this section may not be changed except by written notice to the retirement board no later than five (5) business days after the receipt of the first retirement allowance.

(6) Not later than one (1) year after the marriage of a retired member, the member may elect option 1, 2 or 4 to become effective one (1) year after the date of such election, provided the member's spouse is named as a contingent annuitant, and either:

(a) The member was not married at the time of the member's retirement; or

(b) The member earlier elected option 1, 2, 4A or 4B, having named the member's spouse as contingent annuitant, and said spouse has died. The retirement allowance to be converted in such a case is that currently being paid.

CHAPTER 210
(H.B. No. 606)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1335, IDAHO CODE, TO PROVIDE THAT EMPLOYEES COVERED BY THE DEPARTMENT OF EMPLOYMENT RETIREMENT PLAN MUST HAVE COMMENCED EMPLOYMENT WITH THE DEPARTMENT BEFORE OCTOBER 1, 1980, AND TO PROVIDE THAT PARTICIPANTS TERMINATING SERVICE MAY ELECT TO ROLL OVER TAX-DEFERRED CONTRIBUTIONS AND INTEREST DIRECTLY TO INDIVIDUAL RETIREMENT ACCOUNTS OR QUALIFIED RETIREMENT PLANS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 72-1335, Idaho Code, be, and the same is hereby amended to read as follows:

72-1335. PERSONNEL. (a) Subject to other provisions of this act, the director is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, employees, and other persons as may be necessary in the performance of his duties under this act. The director may delegate to any such person such power and authority as he deems reasonable and proper for the effective administration of this act, and may, in the time, form and manner as prescribed by chapter 8, title 59, Idaho Code, bond any person handling moneys or signing checks hereunder, such bond to be paid for out of the employment security administration fund.

(b) (1) Subject only to the provisions of this act and such additional provisions consistent therewith as the director shall by regulations prescribe, the director is authorized and directed to establish a group pension plan providing retirement, disability, and death benefits for employees of the department of employment through the means of group contracts negotiated with an insurer, licensed and qualified to do business under the laws of the state of Idaho, on a competitive basis.

(2) Employees covered by the plan shall include all employees (other than temporary and hourly-rated employees) who are in employee status with the department of employment on or after the effective date of the plan and whose employment commenced before October 1, 1980.

(3) Credited service shall mean all service by employees in the employ of the department of employment (exclusive of leaves without pay other than military leave) as follows:

(i) Past service rendered prior to the effective date of the plan by employees; for this purpose prior service shall include service in any of the predecessor, component organizations thereof, as determined appropriate by the director on the effective date, and shall also include leave-of-absence for military service occurring within a period of otherwise continuous service in any such predecessor organizations.

(ii) Future service rendered on and after said effective date.

(iii) An employee of the department placed on loan or special duty with other governmental units may be deemed to be in credited service when the costs of continuing credited service are made reimbursable in accordance with agreement approved by the director.

(4) For each year of credited service each employee covered under the plan shall receive a monthly pension commencing upon retirement at or after age sixty-five (65) and continuing until death, of not less than:

| Pension as % of Earnings | Monthly Earnings |
|-----------------------------|------------------|
| 1% | First \$350.00 |
| 2% | Over 350.00 |

except that with respect to credited service before the effective date of the plan such monthly pension shall be computed at the monthly rate of earnings in effect for the employee as of the effective date of the plan. Appropriate schedules and conditions for early retirement and contingency annuity option shall be included in the insurance plan. Notwithstanding any other provisions of this section to the contrary, the executive director is authorized and directed to negotiate with the insurer to invest any interest, dividends, earnings, or other moneys accruing to the funds financing the employees' retirement program with the insurer to purchase additional retirement benefits. The purchase of said additional benefits shall be contingent upon actuarial appraisals of the plan and shall be based on sound actuarial principles. Total retirement benefits to be provided under the program shall meet the requirements of the Internal Revenue Service for integration purposes.

(5) An employee who becomes totally disabled after having completed at least ten (10) years of service will, upon submission of medical evidence satisfactory to the insuring company, be eligible for a disability annuity which, together with any other form of disability pay, will not exceed on a salary bracket basis approximately one-third (1/3) of his average salary for the two (2) year period immediately preceding the commencement of his disability. Such disablement annuity shall be payable, after a twenty-six (26) week elimination period, until death, recovery, or attainment of age sixty-five (65) (at age sixty-five (65) the employee becomes entitled to his normal retirement pension which has accumulated for service prior to his disablement).

(6) The cost of past service, future service and disability pensions shall be calculated according to sound actuarial principles. Cost of the plan, including funding of past service pensions which shall be funded over a period of time consistent with good insurance practices, shall be paid from the employment security administration fund established by section 72-1347, Idaho Code, of this act. Payments each year from said fund toward the purchase of future service pensions for employees shall not be less than the aggregate amount contributed during the year by employees. Each employee covered under the plan shall by payroll deduction contribute toward the cost of future service pensions at not less than the following rates:

Rate of Monthly
Contribution
3%
6%

Monthly Earnings
First \$350.00
Over 350.00

(7) Upon termination of service, an employee ~~shall~~ may elect to receive the refund of his contributions plus interest or may elect to have the tax-deferred contributions and interest directly rolled over to an individual retirement account or annuity or to another qualified retirement plan that accepts the roll over, pursuant to 26 U.S.C. 402(c). A vested employee, as provided in the insurance contract, who leaves his contributions in the plan will remain entitled to the pension purchased by the employer contributions on his behalf, and all other privileges under the plan.

(8) If an employee dies more than ten (10) years before his normal retirement date, all of his contributions plus interest will be returned to a previously-named beneficiary. The following provisions of this subsection shall be subject to a contingency annuity option. If an employee dies on or after the date ten (10) years prior to his normal retirement date, it will be assumed that he retired on the first day of the month following his date of death, and his beneficiary shall receive, beginning on the assumed retirement date, one hundred twenty (120) monthly pension payments. The amount of monthly pension payable will be based on the credit accrued to that time and the employee's assumed earlier retirement age. If death occurs after retirement but before one hundred twenty (120) monthly pension payments have been made, the monthly pension will be continued to his beneficiary until a total of one hundred twenty (120) monthly payments have been made.

(9) The plan shall become effective on a date agreed upon by the director and the insurer subject to other applicable provisions of the Employment Security Law and the approval of the bureau of employment security, U.S. Department of Labor.

Approved March 28, 1994.

CHAPTER 211
(H.B. No. 662)

AN ACT

RELATING TO CHARITABLE CONTRIBUTIONS; AMENDING SECTION 63-3029A, IDAHO CODE, TO PERMIT INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS TO NONPROFIT PUBLIC OR PRIVATE MUSEUMS OR THEIR FOUNDATIONS.

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

SECTION 1. That Section 63-3029A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit

against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, and to nonprofit public or private museums or their foundations located within the state of Idaho.

1. In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed twenty percent (20%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or fifty dollars (\$50.00), whichever is less.

2. In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or five hundred dollars (\$500), whichever is less.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

- (a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.
- (b) It regularly offers education above the twelfth grade.
- (c) It is accredited by the Northwest Association of Schools and Colleges, or by the state board of education.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the Northwest Association of Schools and Colleges, or by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and approved by the state board of education.

Approved March 28, 1994.

CHAPTER 212
(H.B. No. 669)

AN ACT

RELATING TO LOCAL PLANNING; AMENDING SECTION 67-6508, IDAHO CODE, TO INCLUDE WITHIN THE PLANNING DUTIES OF LOCAL JURISDICTIONS PROVISION FOR THE SITING OF MANUFACTURED HOMES ON INDIVIDUAL LOTS IN

SINGLE-FAMILY RESIDENTIAL AREAS OR IN MOBILE HOME PARKS AS NECESSARY TO ADDRESS THE HOUSING NEEDS OF THE COMMUNITY; AND AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6509A, IDAHO CODE, TO REQUIRE EACH GOVERNING BOARD ON OR BEFORE JULY 1, 1996, TO AMEND ITS COMPREHENSIVE PLAN AND LAND USE REGULATIONS FOR LAND ZONED FOR SINGLE-FAMILY RESIDENTIAL USES TO ALLOW FOR SITING OF MANUFACTURED HOMES, AND TO PROVIDE STANDARDS WHICH MAY BE IMPOSED BY LOCAL JURISDICTIONS FOR THE PLACEMENT OF MANUFACTURED HOMES IN SINGLE-FAMILY RESIDENTIAL AREAS.

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

SECTION 1. That Section 67-6508, Idaho Code, be, and the same is hereby amended to read as follows:

67-6508. PLANNING DUTIES. It shall be the duty of the planning or planning and zoning commission to conduct a comprehensive planning process designed to prepare, implement, and review and update a comprehensive plan, hereafter referred to as the plan. The plan shall include all land within the jurisdiction of the governing board. The plan shall consider previous and existing conditions, trends, desirable goals and objectives, or desirable future situations for each planning component. The plan with maps, charts, and reports shall be based on the following components unless the plan specifies reasons why a particular component is unneeded.

(a) Population -- A population analysis of past, present, and future trends in population including such characteristics as total population, age, sex, and income.

(b) School Facilities and Transportation -- An analysis of public school capacity and transportation considerations associated with future development.

(c) Economic Development -- An analysis of the economic base of the area including employment, industries, economies, jobs, and income levels.

(d) Land Use -- An analysis of natural land types, existing land covers and uses, and the intrinsic suitability of lands for uses such as agriculture, forestry, mineral exploration and extraction, preservation, recreation, housing, commerce, industry, and public facilities. A map shall be prepared indicating suitable projected land uses for the jurisdiction.

(e) Natural Resource -- An analysis of the uses of rivers and other waters, forests, range, soils, harbors, fisheries, wildlife, minerals, thermal waters, beaches, watersheds, and shorelines.

(f) Hazardous Areas -- An analysis of known hazards as may result from susceptibility to surface ruptures from faulting, ground shaking, ground failure, landslides or mudslides; avalanche hazards resulting from development in the known or probable path of snowslides and avalanches, and floodplain hazards.

(g) Public Services, Facilities, and Utilities -- An analysis showing general plans for sewage, drainage, power plant sites, utility transmission corridors, water supply, fire stations and fire fighting equipment, health and welfare facilities, libraries, solid waste disposal sites, schools, public safety facilities and related services.

The plan may also show locations of civic centers and public buildings.

(h) Transportation -- An analysis showing the general locations and widths of a system of major traffic thoroughfares and other traffic ways, and of streets and the recommended treatment thereof. This component may also make recommendations on building line setbacks, control of access, street naming and numbering, and a proposed system of public or other transit lines and related facilities including rights-of-way, terminals, viaducts and grade separations. The component may also include port, harbor, aviation, and other related transportation facilities.

(i) Recreation -- An analysis showing a system of recreation areas, including parks, parkways, trailways, river bank greenbelts, beaches, playgrounds, and other recreation areas and programs.

(j) Special Areas or Sites -- An analysis of areas, sites, or structures of historical, archeological, architectural, ecological, wildlife, or scenic significance.

(k) Housing -- An analysis of housing conditions and needs; plans for improvement of housing standards; and plans for the provision of safe, sanitary, and adequate housing, including provision for the siting of manufactured homes on individual lots in single-family residential areas or in mobile home parks, as appropriate to address the needs of the community.

(l) Community Design -- An analysis of needs for governing landscaping, building design, tree planting, signs, and suggested patterns and standards for community design, development, and beautification.

(m) Implementation -- An analysis to determine actions, programs, budgets, ordinances, or other methods including scheduling of public expenditures to provide for the timely execution of the various components of the plan.

Nothing herein shall preclude the consideration of additional planning components or subject matter.

SECTION 2. That Chapter 65, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6509A, Idaho Code, and to read as follows:

67-6509A. SITING OF MANUFACTURED HOMES IN RESIDENTIAL AREAS -- PLAN TO BE AMENDED. (1) On or before July 1, 1996, by ordinance adopted, amended or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, each governing board shall amend its comprehensive plan and land use regulations for all land zoned for single-family residential uses to allow for siting of manufactured homes as defined in section 39-4105(14), Idaho Code.

(2) Manufactured homes on individual lots zoned for single-family residential uses as provided in subsection (1) of this section shall be in addition to manufactured homes on lots within designated mobile home parks or manufactured home subdivisions.

(3) This section shall not be construed as abrogating a recorded restrictive covenant.

(4) A governing board may adopt any or all of the following placement standards, or any less restrictive standards, for the

approval of manufactured homes located outside mobile home parks:

- (a) The manufactured home shall be multisectional and enclose a space of not less than one thousand (1,000) square feet;
 - (b) The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the home is located not more than twelve (12) inches above grade;
 - (c) The manufactured home shall have a pitched roof, except that no standards shall require a slope of greater than a nominal three (3) feet in height for each twelve (12) feet in width;
 - (d) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority;
 - (e) The manufactured home shall have a garage or carport constructed of like materials. A governing board may require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings;
 - (f) In addition to the provisions of paragraphs (a) through (e) of this subsection, a city or county may subject a manufactured home and the lot upon which it is sited to any development standard, architectural requirement and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subjected.
- (5) Any approval standards, special conditions and the procedures for approval adopted by a local government shall be clear and objective and shall not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

Approved March 28, 1994.

CHAPTER 213
(H.B. No. 671)

AN ACT

RELATING TO COUNTY JAILS; AMENDING CHAPTER 6, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-619, IDAHO CODE, TO AUTHORIZE AN ADMINISTRATIVE FEE, NOT EXCEEDING ONE DOLLAR, FOR AN INMATE TO SEE A DOCTOR OR NURSE, AND TO AUTHORIZE ACTUAL EXPENSES FOR PHARMACEUTICALS FOR NONINDIGENT INMATES.

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

SECTION 1. That Chapter 6, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 20-619, Idaho Code, and to read as follows:

20-619. FEE FOR MEDICAL SERVICE. (1) County sheriff departments administering county jails may charge a nominal fee of one dollar (\$1.00) to any nonindigent inmate who has sufficient funds in his commissary/personal account for the purpose of seeing the jail provided doctor or nurse for a medical complaint. In the event that an inmate is indigent, such service shall be provided by the county at no cost.

(2) The county sheriff departments administering county jails may charge actual costs to any nonindigent inmate who has sufficient funds in his commissary/personal account for pharmaceuticals prescribed or authorized by jail medical staff.

(3) A "nonindigent" inmate, for purposes of this section, is an inmate who has money in his commissary/personal account normally used for the purchase of personal items for the inmate.

Approved March 28, 1994.

CHAPTER 214
(H.B. No. 728)

AN ACT

RELATING TO SOLICITATION; AMENDING CHAPTER 20, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-2005, IDAHO CODE, TO PROVIDE THE FELONY CRIME OF SOLICITATION TO HALT, IMPEDE, OBSTRUCT OR INTERFERE WITH LAWFUL FOREST PRACTICES.

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

SECTION 1. That Chapter 20, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-2005, Idaho Code, and to read as follows:

18-2005. SOLICITATION TO HALT OR IMPEDE LAWFUL FOREST PRACTICES. Any person who solicits any other person, or conspires with any other person to commit any crime against property or person with the specific intent to halt, impede, obstruct or interfere with the lawful management, cultivation or harvesting of trees or timber shall be guilty of a felony.

Approved March 28, 1994.

CHAPTER 215
(H.B. No. 729)

AN ACT

RELATING TO INTERPRETERS IN COURT ACTIONS; AMENDING SECTION 9-205, IDAHO CODE, TO PROVIDE THAT COSTS FOR INTERPRETERS IN COURT ACTIONS SHALL BE PAID FROM THE DISTRICT COURT FUND.

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

SECTION 1. That Section 9-205, Idaho Code, be, and the same is hereby amended to read as follows:

9-205. INTERPRETERS. In any civil or criminal action in which any witness or a party does not understand or speak the English language, or who has a physical handicap which prevents him from fully hearing or speaking the English language, then the court shall appoint a qualified interpreter to interpret the proceedings to and the testimony of such witness or party. Upon appointment of such interpreter, the court shall cause to have the interpreter served with a subpoena as other witnesses, and such interpreter shall be sworn to accurately and fully interpret the testimony given at the hearing or trial to the best of his ability before assuming his duties as an interpreter. The court shall determine a reasonable fee for all such interpreter services which shall be paid out of the ~~general--county--funds~~ district court fund.

Approved March 28, 1994.

CHAPTER 216
(H.B. No. 732)

AN ACT

RELATING TO UNLAWFUL ENTRY MISDEMEANORS; AMENDING SECTION 18-7034, IDAHO CODE, TO EXPAND THE SCOPE OF THE TYPES OF BUILDINGS, MOBILE UNITS AND TANGIBLE PERSONAL PROPERTY IN WHICH A PERSON WHO ENTERS IS GUILTY OF UNLAWFUL ENTRY.

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

SECTION 1. That Section 18-7034, Idaho Code, be, and the same is hereby amended to read as follows:

18-7034. UNLAWFUL ENTRY A MISDEMEANOR. Every person, except under landlord-tenant relationship, who enters any dwelling house, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, closed vehicle, closed trailer, airplane, railroad car or outbuilding without the consent of the owner of such property or his agent or any person in lawful possession thereof, is guilty of a misdemeanor.

Approved March 28, 1994.

CHAPTER 217
(H.B. No. 751, As Amended)

AN ACT

RELATING TO DIETITIANS; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 35, TITLE 54, IDAHO CODE, ADOPTING LICENSURE OF DIETITIANS, PROVIDING A STATEMENT OF PURPOSE, PROVIDING DEFINITIONS, REQUIRING LICENSURE OF PERSONS WHO USE THE DESIGNATION OF DIETICIAN OR SIMILAR TERMS, CREATING A DIETETIC LICENSURE BOARD TO BE APPOINTED BY THE STATE BOARD OF MEDICINE, PROVIDING POWERS AND DUTIES OF THE DIETETIC LICENSURE BOARD AND THE STATE BOARD OF MEDICINE, PROVIDING REQUIREMENTS FOR LICENSURE, REQUIRING EXAMINATION FOR LICENSURE, AUTHORIZING WAIVER OF REQUIREMENTS, PROVIDING FOR EXPIRATION AND RENEWAL OF LICENSURE, ESTABLISHING GROUNDS FOR SUSPENSION OR REVOCATION OF LICENSES, ESTABLISHING PENALTIES FOR VIOLATION OF THE PROVISIONS OF THIS CHAPTER, AND PROVIDING INAPPLICABILITY OF THE CHAPTER; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 35, Title 54, Idaho Code, and to read as follows:

CHAPTER 35
DIETITIANS

54-3501. PURPOSE. The legislature finds and declares that the provision of medical and therapeutic nutritional services affects the public health, safety, and welfare. The legislature further finds that it is in the public interest to aid in the provision of medical and therapeutic nutritional services of high quality to the people of Idaho. To aid in fulfilling these purposes, this chapter provides for the licensure and regulation of dietitians within the state of Idaho.

54-3502. DEFINITIONS. As used in this chapter:

- (1) "Board" means the Idaho state board of medicine.
- (2) "Dietitian" or "dietician" are interchangeable terms and means a person licensed under the provisions of this chapter.
- (3) "Licensure board" means the dietetic licensure board established by this chapter.
- (4) "Provisionally licensed dietitian" means a person provisionally licensed under the provisions of this chapter.

54-3503. LICENSE REQUIRED. (1) From and after the 1st day of January, 1995, it is unlawful for any person to assume or use the title or designation of "dietitian," "certified dietitian," "registered dietitian," or any other combination of terms which include the title "dietitian," unless such person has been issued a license pursuant to this chapter and the license is in good standing pursuant to rules of the board. Nothing contained herein shall be construed to prohibit the use of the term "dietetic" or "diet" as a descriptive term in con-

nection with a person's occupation or employment.

(2) No person shall use any other title, designation, words, letters, abbreviations, or sign, card or device which indicates to the public that such person is a dietitian or has been issued a temporary permit pursuant to this chapter unless the person is so licensed or has been issued such permit, and the license or permit is in good standing pursuant to rules of the board.

(3) A person who is a registered dietitian, as determined by the commission on dietetic registration of the American dietetic association, or, who is credentialed as a dietitian by any other association which is also recognized by the national commission for health certifying agencies, may continue to use such credential without being licensed pursuant to this chapter as long as the person does not engage in activities set forth in section 54-3505(3), Idaho Code.

54-3504. DIETETIC LICENSURE BOARD CREATED -- APPOINTMENT -- TERMS. (1) A dietetic licensure board is hereby created and the members thereof shall be appointed by the Idaho state board of medicine within sixty (60) days following the effective date of this chapter.

(2) The dietetic licensure board shall consist of four (4) members, three (3) of whom shall be dietitians and one (1) member shall be a member of the public with an interest in the rights of the consumer of health care services.

(3) In making appointments to the dietetic licensure board, the board shall give consideration to recommendations made by the Idaho dietetic association, other professional organizations and dietitians and physicians.

(4) All members of the dietetic licensure board shall be current residents of the state of Idaho and have been residents of the state of Idaho for a minimum of three (3) years immediately preceding appointment.

(5) The initial three (3) dietitian members of the dietetic licensure board shall be persons registered by the commission on dietetic registration, American dietetic association, who are eligible to become licensed pursuant to this chapter, and who shall, within such time, as may be established by the board, become licensed pursuant to this chapter.

(6) The initial dietetic licensure board shall be appointed for staggered terms, the longer of which will not exceed four (4) years. After the initial appointments, all terms shall be four (4) years, and a member may be reappointed. In the event of death, resignation, or removal of any member before the expiration of the term to which appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(7) The board may, upon recommendation of the dietetic licensure board, or upon its own motion, remove any member of the dietetic licensure board, for cause, prior to the expiration of the member's term.

(8) The dietetic licensure board shall, within thirty (30) days after its appointment, and at least annually thereafter, hold a meeting and elect a chairperson. The licensure board may hold additional meetings on the call of the chairperson or at the written request of any two (2) members of the licensure board. The licensure board may

appoint such committees as it considers necessary to carry out its duties. A majority of the members of the licensure board shall constitute a quorum.

(9) Each member of the licensure board shall be compensated as provided in section 59-509(h), Idaho Code.

54-3505. BOARD OF MEDICINE AND DIETETIC LICENSURE BOARD -- POWERS AND DUTIES -- FUNDS. (1) The board of medicine shall administer, coordinate, and enforce the provisions of this chapter, and, for that purpose, may hire such employees as may be necessary. The dietetic licensure board shall make recommendations to, and consult with, the board concerning qualification of applicants for licensure, issuance of licenses, revocation of licenses and rules to be promulgated under this chapter.

(2) The board of medicine shall, upon recommendation of the dietetic licensure board, adopt rules, pursuant to chapter 52, title 67, Idaho Code, necessary to implement the provisions of this chapter including, but not limited to, rules relating to professional licensure, examination, the establishment of ethical standards of practice, disciplinary proceedings, license suspension or revocation for persons holding a license to practice dietetics in this state.

(3) The board of medicine, in performing its duties pursuant to this chapter, shall, for the purpose of providing for the determination of the qualifications of applicants for licensure, as it relates to the educational, preprofessional practice programs or dietetic internships, or as it relates to the examination requirements for applicants, the establishment of ethical standards of practice, or the conducting or determining disciplinary proceedings, consider the following definitions to apply to such applicants and to persons licensed pursuant to this chapter:

(a) "Dietetic practice," "practice of dietetics," or "practice dietetics," means the integration and application of principles derived from the sciences of nutrition, biochemistry, food physiology, management, and behavioral and social sciences to achieve and maintain human health through the provision of medical nutrition services and the development of therapeutic nutrition care plans to assist in the maintenance of health and the prevention and treatment of disorders of body functions, systems or organs.

(b) "Medical nutrition services" means nutritional assessment, the design and implementation of therapeutic nutrition care plans, and nutrition therapy counseling.

(c) "Nutritional assessment" means the evaluation of nutritional needs of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data which is necessary to determine nutrient needs and to recommend appropriate enteral or parenteral nutritional intake.

d) "Therapeutic nutrition care plan" means:

(i) Design and implementation of nutrition goals and objectives for individuals and groups for the maintenance of health and prevention of disease;

(ii) Design and implementation of therapeutic nutrition regimens, including enteral and parenteral nutrition for the treatment of disorders of body functions, systems or organs;

(iii) Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints;

(iv) Developing, implementing, and managing nutrition care systems; or

(v) Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition care services.

(e) "Nutrition therapy counseling" means advising or assisting individuals or groups on appropriate nutrient intake by integrating information from the nutritional assessment and therapeutic nutrition care plan with information on food and other sources of nutrients and meal preparation consistent with health needs, disease state, psychosocial status, cultural background, and available resources.

(4) The dietetic licensure board shall hold meetings, conduct hearings and keep records and minutes as are necessary to carry out its functions.

(5) All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the state board of medicine fund created in section 54-1809, Idaho Code, and all costs and expenses incurred by the board and dietetic licensure board under the provisions of this chapter shall be a charge against and paid from said fund for such purposes, and the funds collected hereunder shall be immediately available for the administration of this chapter. In no instance shall the state board of medicine fund be obligated to pay any claims which, in aggregate with claims already allowed, exceed the income to the state board of medicine fund which has been derived from the application of this chapter. Money paid into the state board of medicine fund pursuant to this chapter is hereby continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and dietetic licensure board in carrying out and enforcing the provisions of this chapter.

54-3506. REQUIREMENTS FOR LICENSURE. A person applying for a license shall file a written application provided by the board showing to the satisfaction of the board that such person meets the following requirements:

(1) Has successfully completed the academic requirements of an education program in dietetics approved by the licensure board; and

(2) Has successfully completed a dietetic internship or preprofessional practice program, coordinated program, or such other equivalent experience as may be approved by the licensure board.

(3) Has passed an examination as provided in section 54-3507, Idaho Code.

54-3507. EXAMINATION FOR LICENSURE. (1) Each applicant for licensure shall be examined in such manner as the licensure board may require to determine the applicant's fitness to practice dietetics.

(2) Applicants for licensure shall be examined at a time and place and under such supervision as the licensure board may require. Examinations shall be given at least twice each year at such places as the board may determine.

54-3508. WAIVER OF REQUIREMENTS. (1) The licensure board shall grant a license to any person who, on the effective date of this chapter, is registered as a dietitian by and with the commission on dietetic registration for the American dietetic association, a member of the national commission for health certifying agencies.

(2) The licensure board may waive the examination, education, or experience requirements and grant a license to any person registered by the commission after the effective date of this chapter if the board determines the requirements for such registration to be equivalent to the requirements for licensure set forth in this chapter.

(3) The licensure board may waive the examination, education, or experience requirements and grant a license to any applicant who shall present proof of current licensure to engage in the practice of dietetics in another state, the District of Columbia, or territory of the United States which requires standards for licensure considered by the board to be equivalent to the requirements for licensure pursuant to this chapter.

54-3509. LICENSE EXPIRATION AND RENEWAL. (1) A license issued under the provisions of this chapter shall be subject to annual renewal and shall expire unless renewed in the manner prescribed by the rules of the licensure board, upon payment of a renewal fee.

(2) The board shall establish the following fees relating to licensing, which fees shall be established in an amount which is sufficient to defray all costs necessary for the administration of this chapter:

- (a) Initial license and examination fee;
- (b) Renewal of license fee;
- (c) Inactive license fee;
- (d) Limited permit fee;
- (e) Late renewal fees.

(3) No license which has been expired for more than twenty-four (24) months, may be renewed. The applicant shall comply with the requirements of section 54-3506, Idaho Code, for obtaining an initial license.

54-3510. SUSPENSION AND REVOCATION OF LICENSE. The board, in accordance with the requirements of chapter 52, title 67, Idaho Code, may, upon recommendation of the licensure board, refuse to issue a license or permit, refuse to renew a license or permit, or may suspend or revoke a license or permit, under such conditions as the board may determine, if the licensee, permittee or applicant for license:

(1) Has been convicted of a felonious act, or crime involving moral turpitude;

(2) Obtained a license or permit pursuant to this chapter by means of fraud, misrepresentation or concealment of material facts;

(3) Engaged in the practice of dietetics in a manner which does not meet the generally accepted standards for the practice of dietetics within the state of Idaho;

(4) Has failed to maintain the confidentiality of medical records or other medical information pertaining to identifiable patients, except as required or authorized by law;

(5) Engaged in any conduct which constitutes an abuse or exploi-

tation of a patient arising out of the trust and confidence placed in the dietitian by the patient.

54-3511. PENALTIES. (1) A person who violates any provision of this chapter shall, upon conviction, be guilty of a misdemeanor.

(2) The representation to another person that a person is licensed pursuant to this chapter, when such representation is untrue, constitutes the using of a method, act, or practice which is declared to be unlawful under the provisions of chapter 66, title 48, Idaho Code.

54-3512. INAPPLICABILITY OF CHAPTER. (1) This chapter shall not be construed to prevent any person from engaging in activities set forth in section 54-3505(3), Idaho Code, or from rendering advice, guidance or counsel regarding medical nutrition service, therapeutic nutrition care, nutritional assessments, nutrition therapy counseling, weight control services, or from providing nutrition information in connection with the marketing and distribution of a food product, dietary supplement, or wellness/exercise program.

(2) This chapter shall not be construed to prevent any person licensed or registered in this state, pursuant to any other law of the state, from engaging in the profession or occupation for which such person is licensed or registered.

SECTION 2. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

Approved March 28, 1994.

CHAPTER 218
(H.B. No. 775)

AN ACT

RELATING TO WILDLIFE DEPREDATION AND CONTROL DAMAGE; AMENDING SECTION 36-1108, IDAHO CODE, TO ESTABLISH ELIGIBILITY FOR SUBMISSION OF CLAIMS FOR DAMAGES CAUSED BY ELK, DEER OR MOOSE, TO PROVIDE FOR INVESTIGATION OF ALLEGED LOSSES AND TO PROVIDE FOR ARBITRATION; AMENDING SECTION 36-1109, IDAHO CODE, TO PROVIDE FOR COMPENSATION FOR DAMAGES CAUSED BY BLACK BEARS OR MOUNTAIN LIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 36-1110, IDAHO CODE, TO PROVIDE FOR IMPLEMENTING A MUTUALLY AGREEABLE METHOD OF DETERMINING FORAGE UTILIZATION AND DAMAGE LOSS DUE TO WILDLIFE THROUGH THE USE OF CAGES AND OTHER DEVICES AND TO DEFINE FORAGE DAMAGE; AMENDING SECTION 36-106, IDAHO CODE, TO PROVIDE THAT PRIOR TO THE OPENING OF ANY DEPREDATION HUNT, THE DIRECTOR SHALL BE AUTHORIZED TO PROVIDE PERMITS FOR BIG GAME ANIMALS TO THE LAND HOLDERS OF PRIVATELY OWNED LAND WITHIN THE HUNT AREA; AMENDING SECTION 36-104, IDAHO CODE, TO PROVIDE FOR CONTROLLED HUNT PERMIT APPLICATION FEES, TO PROVIDE FOR ESTABLISHMENT OF AND DISTRIBUTION OF THE SECONDARY DEPREDATION ACCOUNT AND TO PROVIDE LIMITS ON FUNDING THE

ACCOUNT. AMENDING SECTION 36-114, IDAHO CODE, TO PROVIDE CORRECT REFERENCES, TO PROVIDE FOR DAMAGES TO BERRIES OR HONEY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 36-115, IDAHO CODE, TO PROVIDE CORRECT REFERENCES AND TO LOWER CERTAIN DEDUCTIBLE LIMITS.

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

SECTION 1. That Section 36-1108, Idaho Code, be, and the same is hereby amended to read as follows:

36-1108. CONTROL OF DAMAGE BY ANTELOPE, ELK, DEER OR MOOSE -- COMPENSATION FOR DAMAGES. (a) Prevention of depredation shall be a priority management objective of the department, and it is the obligation of landowners to take all reasonable steps to prevent property loss from wildlife or to mitigate damages by wildlife. When any antelope, elk, deer or moose is doing damage to or is destroying any property or is likely about to do so, the owner or lessee thereof may make complaint and report the facts to the director or his designee who shall, within seventy-two (72) hours, investigate the conditions complained of. If it appears that the complaint is well founded and the property of the complainant is being or is likely to be damaged or destroyed by such antelope, elk, deer or moose, the director may:

1. Send a representative onto the premises to control, trap, and/or remove such animals as will stop the damage to said property. Any animals so taken shall remain the property of the state and shall be turned over to the director.

2. Grant properly safeguarded permission to the complainant to control, trap and/or remove such animals. Any animals so taken shall remain the property of the state and shall be turned over to the director.

~~(b)~~3. Make an agreement with the owner or lessee to allow continued use of lands by the animals where damage by them has occurred to stored, growing or matured crops on private property whether owned or leased. This agreement may be transacted only after department attempts to resolve the problem by other means have proven unsuccessful. The agreement made under the provisions of this subsection may provide for financial compensation to the owner or lessee. If made, financial compensation under the provisions of this subsection shall be governed by the provisions of section 36-114, Idaho Code, and shall not be in addition to any payments for crop losses from any other source. Compensation for damages under the provisions of this subsection shall be available for damages done to private lands, whether owned or leased, if the owner or lessee allowed hunters reasonable access to the property or through the property to public lands for hunting purposes during the preceding hunting season. This provision shall not negate the provisions of section 36-1602, Idaho Code, relating to the necessity of obtaining permission to enter private land. If necessary, the arbitration panel provided for in subsection (cb) of this section shall determine the reasonableness of access allowed.

(cb) 1. ~~If there is no agreement made under the provisions of subsection (b) of this section, then persons suffering crop damages on privately owned or leased land caused by antelope, elk,~~

~~deer or moose must so notify the department's regional office within seventy-two (72) hours.~~ In order to establish eligibility for submission of claims for damages, persons suffering crop damages on privately owned or leased land caused by antelope, elk, deer or moose must:

(A) Notify the department within seventy-two (72) hours of discovery of damage.

(B) Follow up verbal notification with a written notice within ten (10) days of the discovery of damages.

(C) The department shall not be held liable or accountable for any damages occurring more than ten (10) days prior to the initial notification of damage. However, the department may extend the period up to thirty (30) days under exceptional circumstances.

The owner or lessee must have allowed hunters reasonable access to the property or through the property to public lands for hunting purposes during the preceding hunting season or the claim for damages shall be disallowed. Compensation for crop damages' claims shall not be in addition to any payments for crop losses from any other source and shall not include fence or other types of property damage. While fences and irrigation equipment are not subject to claim for payment, the department is allowed to provide support and assistance, including provision of materials to design, construct, and maintain fences for control of depredation. The notice of damages caused must be in written form, shall be in the form of a claim for damages substantially the same as required by section 6-907, Idaho Code, shall be attested to by the claimant under oath, and the claim shall be at least one thousand dollars (\$1,000). The claim shall not be amended after it is filed. The department shall prepare and make available suitable forms for notice and claim for damages. Claims may be submitted only for the fiscal year (July 1 through June 30) in which they occurred. Any person submitting a fraudulent claim shall be punished prosecuted for a felony as provided in section 18-2706, Idaho Code. For purposes of this subsection, crop damages shall mean damage to plants grown or stored for profit and exclude ornamental plants.

22. Upon receipt by the department, the department shall review the claim, and if approved, pay it as provided in section 36-114, Idaho Code, or order it paid as provided in section 36-115, Idaho Code. Failure on the part of the owner or lessee to allow on-site access for inspection and investigation of alleged losses shall negate void the claim for damages.

23. If the department finds that damage has indeed occurred, the department may pay the amount of the damages as claimed, or, may make a counter offer to pay damages within thirty (30) days of the written claim. If the owner rejects the department's offer, which rejection or refusal must be in writing, the provisions of paragraph 24. shall apply. Any offer which is not accepted within thirty (30) days of receipt shall be deemed to be rejected.

24. Within five (5) working days of the owner's or lessee's refusal to accept or reject rejection of an offer to pay damages, or within five (5) working days after the department finds that no damage has in fact been sustained, the director must appoint con-

vene an arbitration panel to review the claim for damages. To convene an arbitration panel, the director must, within five (5) working days, appoint the department's representative and notify the landholder of the appointment. The landholder(s) shall, within the next five (5) working days following such notice from the department, appoint his representative and notify the department of the appointment. Within the next five (5) working days, the department representative and the landholder must mutually appoint the third arbitrator. The arbitration panel shall consist of three (3) members, as follows:

(A) The director of the department of fish and game or his designee;

(B) The owner or his designee, or the lessee or his designee;

(C) One (1) member selected by the two (2) members above.

The panel shall convene at the call of the owner or his designee within thirty (30) days of the selection of the third arbitrator, and render its decision within fourteen (14) days after the hearing. When convened, the arbitration panel shall have the same authority to make on-site inspections as the department. The owner or lessee shall be responsible for payment of the expenses of his appointee; the director shall pay the expenses of his appointee from the big game primary depredation account; and the expenses of the third member shall be a joint responsibility of the owner or lessee, and the department. The panel shall consider the claim submitted by the owner or lessee, and the estimate of damages determined by the department, and shall select one (1) amount or the other as being the closest to the actual damages sustained by the claimant. The arbitration panel shall report its decision in writing to both the owner or lessee and to the department within ten (10) days of appointment the decision, and the decision of the panel shall be binding on the owner or lessee and the department. The fish and game advisory committee shall develop guidelines to govern arbitration procedures in accordance with chapter 52, title 67, Idaho Code.

(dc) Any claim received by the department under the provisions of subsection (cb) of this section must be finally decided processed by the department within sixty (60) calendar days of receipt by the department. If the claim is approved for payment, payment must be made within forty-five (45) calendar days of such approval. If the claim is arbitrated, the arbitration must be completed within one hundred eighty (180) calendar days of filing the claim for such damages.

SECTION 2. That Section 36-1109, Idaho Code, be, and the same is hereby amended to read as follows:

36-1109. CONTROL OF DAMAGE BY BLACK BEARS OR MOUNTAIN LIONS — COMPENSATION FOR DAMAGE. (a) Prevention of depredation depredation shall be a priority management objective of the department, and it is the obligation of landowners to take all reasonable steps to prevent property loss from black bears or mountain lions or to mitigate damage by such. The director, or his representative, will consult with appropriate land management agencies and landusers before transplanting or

relocating any black bear or mountain lion.

(b) When any black bear or mountain lion has done damage to or is destroying livestock on public, state, or private land, whether owned or leased, or when any black bear has done damage to or is destroying berries or honey on private land, the owner or his representative of such livestock shall, for the purposes of filing a claim, report such loss to a representative of the U.S. department of agriculture animal plant and health inspection services/animal damage control (APHIS/ADC) who shall, within seventy-two (72) hours, investigate the conditions complained of. For purposes of this section, livestock shall be defined as domestic cattle and sheep. If it appears that the complaint is well founded and livestock, berries or honey of the complainant has been damaged or destroyed by such black bear or mountain lion, APHIS/ADC shall so inform the director or the department's regional office of the extent of physical damage or destruction in question. The physical damages, without establishing a monetary value thereon, as determined by the APHIS/ADC representative shall be final, and shall be binding upon the owner or his representative and on the department.

(c) Any claim for damages must be in written form, shall be in the form of a claim for damages substantially the same as required in section 6-907, Idaho Code, shall be attested to by the claimant under oath, and the claim shall be for an amount of at least five one thousand dollars (\$51,000) in damages per occurrence. The department shall prepare and make available suitable forms for claims for damages. Claims may be submitted only for the fiscal year (July 1 through June 30) in which they occurred. Any person submitting a fraudulent claim shall be punished prosecuted for a felony as provided in section 18-2706, Idaho Code.

1. Upon receipt by the department, the department shall review the claim, and if approved, pay it as provided in section 36-115, Idaho Code. Failure on the part of the owner or representative to allow on-site access shall negate the claim for damages.

2. If the department accepts the claim for damages as submitted by the owner or his representative, the department may approve the claim for payment, or may make a counter offer. If the owner or his representative rejects the department's counter offer, this rejection or refusal must be in writing and submitted within five (5) working days. The value of the damage or destruction will then be determined by arbitration as set forth in section 36-1108, Idaho Code. Any claim received by the department under the provisions of this section must be finally decided within sixty (60) calendar days of receipt by the department. If the claim is approved for payment, the claim must be immediately forwarded to the department of administration for payment.

SECTION 3. That Section 36-1110, Idaho Code, be, and the same is hereby amended to read as follows:

36-1110. CONTROL OF DAMAGE BY GRAZING WILDLIFE -- COMPENSATION FOR DAMAGE. (a) Prevention of depredation shall be a priority management objective of the department, and it is the obligation of landowners to take all reasonable steps to prevent property loss from grazing

wildlife on private lands, whether owned or leased, or to mitigate damage by such. When any grazing wildlife is doing damage to or is destroying forage on private lands, whether owned or leased, the owner or lessee thereof may make a complaint and report the facts to the director or his designee who shall, within seventy-two (72) hours, investigate the conditions complained of. If it appears that the complaint is well founded and the forage is being or is likely to be damaged or destroyed or consumed by grazing wildlife, the owner or lessee shall contract with a qualified range management consultant to prepare an estimate of depredation based on his inspection. The cost of the consultant shall be paid by the owner or lessee. After the initial complaint, it shall be the responsibility of both the department and the owner or lessee to jointly design and implement a mutually agreeable method of determining forage utilization and damage or loss due to wildlife through the use of enclosure cages or other devices. For purposes of this subsection, "forage damage" shall mean growing or matured plants grown for livestock feed.

(b) Claims submitted under the provisions of this section shall be limited to loss of forage on private lands, whether owned or leased, and shall be submitted and processed under the provisions of section 36-1108(eb), Idaho Code, and approved claims shall be paid under the provisions of section 36-115(f), Idaho Code.

SECTION 4. That Section 36-106, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

(e) Duties and Powers of Director.

1. The director shall have general supervision and control of all activities, functions, and employees of the department of fish and game, under the supervision and direction of the commission, and shall enforce all the provisions of the laws of the state, and rules and regulations of the commission relating to wild animals, birds, and fish and, further, shall perform all the duties prescribed by section 67-2405, Idaho Code, and other laws of the state not inconsistent with this act, and shall exercise all necessary powers incident thereto not specifically conferred on the commission.
2. The director is hereby authorized to appoint as many classified employees as the commission may deem necessary to perform administrative duties, to enforce the laws and to properly implement management, propagation, and protection programs established for carrying out the purposes of the Idaho fish and game code.
3. The appointment of such employees shall be made by the director in accordance with the Idaho personnel commission act and rules promulgated pursuant to chapter 53, title 67, Idaho Code, and they shall be compensated as provided therein. Said employees shall be bonded to the state of Idaho in the time, form, and manner prescribed by chapter 8, title 59, Idaho Code.
4. The director is hereby authorized to establish and maintain fish hatcheries for the purpose of hatching, propagating, and distributing all kinds of fish.
5. (A) The director, or any person appointed by him in writing to do so, may take wildlife of any kind, dead or alive, or import the same, subject to such conditions, restrictions and regulations as he may provide, for the purpose of inspection, cultivation, propagation, distribution, scientific or other purposes deemed by him to be of interest to the fish and game resource of the state.
(B) The director shall have supervision over all of the matters pertaining to the inspection, cultivation, propagation and distribution of the wildlife propagated under the provisions of title 36, Idaho Code. He shall also have the power and authority to obtain, by purchase or otherwise, wildlife of any kind or variety which he may deem most suitable for distribution in the state and may have the same properly cared for and distributed throughout the state of Idaho as he may deem necessary.
(C) The director is hereby authorized to issue a license/tag/permit to a nonresident landowner who resides in a contiguous state for the purpose of taking one (1) animal during an emergency depredation hunt which includes the land owner's Idaho property subject to such conditions, restrictions or regulations as the director may provide. The fee for this license/tag/permit shall be equal to the costs of a resident hunting license, a resident tag fee and a resident depredation permit.
6. (A) The director shall have the power, at any time when it is desired to introduce any new species, or if at any time any species of wildlife of the state of Idaho shall be threatened with excessive shooting, trapping, or angling or

otherwise, to close any open season for such time as he may designate; in the event an emergency is declared to exist such closure shall become effective forthwith upon written order of the director; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.

(B) In order to protect property from damage by wildlife, the fish and game commission may delegate to the director or his designee the authority to declare an open season upon that particular species of wildlife to reduce its population. The director or his designee shall make an order embodying his findings in respect to when, under what circumstances, in which localities, by what means, and in what amounts, numbers and sex the wildlife subject to the hunt may be taken. In the event an emergency is declared to exist such open season shall become effective forthwith upon written order of the director or his designee; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.

(C) Any order issued under authority hereof shall be published in at least one (1) newspaper of general circulation in the area affected by the order for at least once a week for two (2) consecutive weeks, and such order shall be posted in public places in each county as the director may direct.

(D) During the closure of any open season or the opening of any special depredation season by the director all provisions of laws relating to the closed season or the special depredation season on such wildlife shall be in force and whoever violates any of the provisions shall be subject to the penalties prescribed therefor.

(E) Prior to the opening of any special depredation hunt, the director or his designee shall be authorized to provide up to a maximum of fifty percent (50%) of the available permits for such big game to the landholder(s) of privately owned land within the hunt area or his designees. If the landholder(s) chooses to designate hunters, he must provide a written list of the names of designated individuals to the department. If the landholder(s) fails to designate licensed hunters, then the department will issue the total available permits in the manner set by rule. All hunters must have a current hunting license and shall have equal access to both public and private lands within the hunt boundaries. It shall be unlawful for any landholder(s) to receive any form of compensation from a person who obtains or uses a depredation controlled hunt permit.

7. The director shall make an annual report to the governor, the legislature, and the secretary of state, of the doings and conditions of his office, which report shall be made in accordance with section 67-2509, Idaho Code.

8. The director may sell or cause to be sold publications and materials in accordance with section 59-1012, Idaho Code.

9. Any deer, elk, antelope, moose, bighorn sheep or bison imported or transported by the department of fish and game shall be tested for the presence of certain communicable diseases that can be transmitted to domestic livestock. Those communicable dis-

eases to be tested for shall be arrived at by mutual agreement between the department of fish and game and the department of agriculture. Any moneys expended by the department of fish and game on wildlife disease research shall be mutually agreed upon by the department of fish and game and the department of agriculture.

In addition, a comprehensive animal health program for all deer, elk, antelope, moose, bighorn sheep, or bison imported into, transported, or resident within the state of Idaho shall be implemented after said program is mutually agreed upon by the department of fish and game and the department of agriculture.

In order to enhance and protect the health of wildlife within the state, as well as safeguard the health of livestock resources, the director of the department of agriculture shall employ at least one (1) veterinarian licensed in Idaho whose duties shall include, but not be limited to, addressing wildlife disease issues and coordinating disease prevention work between the department of fish and game and the department of agriculture. The employing of said veterinarian shall be by mutual agreement of the director of the department of fish and game and of the director of the department of agriculture. The veterinarian shall be on the staff of the division of animal industries, department of agriculture. The salary or compensation to be paid said veterinarian or veterinarians shall be divided equally between the department of fish and game and the department of agriculture, and the department of fish and game's portion shall be deposited directly into the livestock disease control account. The veterinarian shall be employed on and after July 1, 1989.

10. In order to monitor and evaluate the disease status of wildlife and to protect Idaho's livestock resources, any suspicion by fish and game personnel of a potential communicable disease process in wildlife shall be reported within twenty-four (24) hours to the department of agriculture. All samples collected for disease monitoring or disease evaluation of wildlife shall be submitted to the division of animal industries, department of agriculture.

SECTION 5. That Section 36-104, Idaho Code, be, and the same is hereby amended to read as follows:

36-104. GENERAL POWERS AND DUTIES OF COMMISSION. (a) Organization -- Meetings. The members of the commission shall annually meet at their offices in the city of Boise and organize by electing from their membership a chairman, who shall hold office for a period of one (1) year, or until his successor has been duly elected. In addition to the regular annual meeting, to be held in January, said commission shall hold other regular quarterly meetings in April, July and October of each year at such places within the state as the commission shall select for the transaction of business. Special meetings may be called at any time and place by the chairman or a majority of the members of the commission. Notice of the time, place and purpose of any and all special meetings shall be given by the secretary to each member of the commission prior to said meeting.

(b) Authorization for Commission Powers and Duties. For the purpose of administering the policy as declared in section 36-103, Idaho

Code, the commission is hereby authorized and empowered to:

1. Investigate and find facts regarding the status of the state's wildlife populations in order to give effect to the policy of the state hereinbefore announced.

2. Hold hearings for the purpose of hearing testimony, considering evidence and determining the facts as to when the supply of any of the wildlife in this state will be injuriously affected by the taking thereof, or for the purpose of determining when an open season may be declared for the taking of wildlife. Whenever said commission determines that the supply of any particular species of wildlife is being, or will be, during any particular period of time, injuriously affected by depletion by permitting the same to be taken, or if it should find a longer or different season, or different bag limit should be adopted for the better protection thereof, or if it finds that an open season may be declared without endangering the supply thereof, then it shall make a rule embodying its findings in respect to when, under what circumstances, in which localities, by what means, what sex, and in what amounts and numbers the wildlife of this state may be taken.

3. Whenever it finds it necessary for the preservation, protection, or management of any wildlife of this state, by reason of any act of God or any other sudden or unexpected emergency, declare by temporary rule the existence of such necessity, and the cause thereof, and prescribe and designate all affected areas or streams, and close the same to hunting, angling or trapping, or impose such restrictions and conditions upon hunting, angling or trapping as said commission shall find to be necessary. Every such temporary rule shall be made in accordance with the provisions of chapter 52, title 67, Idaho Code.

4. At any time it shall deem necessary for the proper management of wildlife on any game preserve in the state of Idaho, declare an open season in any game preserve as it deems appropriate.

5. (A) Upon notice to the public, hold a public drawing giving to license holders, under the wildlife laws of this state, the privilege of drawing by lot for a controlled hunt permit authorizing the person to whom issued to hunt, kill, or attempt to kill any species of wild animals or birds designated by the commission under such rules as it shall prescribe.

(B) The commission may, under rules as it may prescribe, authorize the director to issue additional controlled hunt permits and collect fees therefor authorizing owners, lessees in control of land valuable for habitat or propagation purposes of deer, elk or antelope, or members of their immediate families, to hunt deer, elk or antelope in controlled hunt units containing the eligible land owned or controlled by those individuals in areas where permits for deer, elk or antelope are limited.

(C) ~~There shall be no fee charged to any individual for submitting an application to participate in a controlled hunt; provided, however, a permit fee of not to exceed three dollars (\$3.00) for deer, ten dollars (\$10.00) for moose, sheep and goat and five dollars (\$5.00) for elk, antelope and such~~

~~other species as may be determined in the future, shall be charged for the privilege of participating in a controlled hunt. All procedures under this section shall be under the control and in the discretion of the director of the department of fish and game. No person shall transfer any such permit to any other person nor shall any person make use of such permit issued to any other person. A nonrefundable fee of five dollars (\$5.00) shall be charged each applicant for a controlled hunt permit; provided however, there shall be no fees charged for controlled hunt permits subsequently issued to successful applicants. The department shall include a checkoff form to allow applicants to designate one dollar (\$1.00) of such five dollar (\$5.00) fee for transmittal to the reward fund of citizens against poaching, inc., an Idaho nonprofit corporation. From the net proceeds generated by the nonrefundable fee, the director shall transfer from the fish and game account to the big game secondary depredation account each fiscal year an amount that equals two hundred fifty thousand dollars (\$250,000) less the amount of earned interest transferred in accordance with section 36-115(b), Idaho Code, or two hundred thousand dollars (\$200,000), whichever is less, until the total of all transfers from the fish and game account to the big game secondary depredation account equals one million two hundred fifty thousand dollars (\$1,250,000) as certified by the state auditor. When the department's total transfers to the big game secondary depredation account equals or exceeds one million two hundred fifty thousand dollars (\$1,250,000), the net proceeds from the nonrefundable fee shall be deposited in the fish and game account and none of the net proceeds shall be used to purchase lands.~~

6. Adopt rules pertaining to the importation, exportation, release, sale, possession or transportation into, within or from the state of Idaho of any species of live, native or exotic wildlife or any eggs thereof.

7. Acquire for and on behalf of the state of Idaho, by purchase, condemnation, lease, agreement, gift, or other device, lands or waters suitable for the purposes hereinafter enumerated in this paragraph. Whenever the commission proposes to purchase a tract of land in excess of fifteen (15) acres, the commission shall notify the board of county commissioners of the county where this land is located of the intended action. The board of county commissioners shall have ten (10) days after official notification to notify the commission whether or not they desire the commission to hold a public hearing on the intended purchase in the county. The commission shall give serious consideration to all public input received at the public hearing before making a final decision on the proposed acquisition. Following any land purchase, the fish and game commission shall provide, upon request by the board of county commissioners, within one hundred twenty (120) days, a management plan for the area purchased that would address noxious weed control, fencing, water management and other important issues raised during the public hearing. When considering purchasing lands pur-

suant to this paragraph, the commission shall first make a good faith attempt to obtain a conservation easement, as provided in chapter 21, title 55, Idaho Code, before it may begin proceedings to purchase, condemn or otherwise acquire such lands. If the attempt to acquire a conservation easement is unsuccessful and the commission then purchases, condemns or otherwise acquires the lands, the commission shall record in writing the reasons why the attempt at acquiring the conservation easement was unsuccessful and then file the same in its records and in a report to the joint finance-appropriations committee. The commission shall develop, operate, and maintain the lands, waters or conservation easements for said purposes, which are hereby declared a public use:

(A) For fish hatcheries, nursery ponds, or game animal or game bird farms;

(B) For game, bird, fish or fur-bearing animal restoration, propagation or protection;

(C) For public hunting, fishing or trapping areas to provide places where the public may fish, hunt, or trap in accordance with the provisions of law, or the regulation of the commission;

(D) To extend and consolidate by exchange, lands or waters suitable for the above purposes.

8. Enter into cooperative agreements with educational institutions, and state, federal, or other agencies to promote wildlife research and to train students for wildlife management.

9. Enter into cooperative agreements with state and federal agencies, municipalities, corporations, organized groups of landowners, associations, and individuals for the development of wildlife rearing, propagating, management, protection and demonstration projects.

10. In the event owners or lawful possessors of land have restricted the operation of motor-propelled vehicles upon their land, the commission, upon consultation with all other potentially affected landowners, and having held a public hearing, if requested by not less than ten (10) residents of any county in which the land is located, may enter into cooperative agreements with those owners or possessors to enforce those restrictions when the restrictions protect wildlife or wildlife habitat. Provided, however, the commission shall not enter into such agreements for lands which either lie outside or are not adjacent to any adjoining the proclaimed boundaries of the national forests in Idaho.

(A) The landowners, with the assistance of the department, shall cause notice of the restrictions, including the effective date thereof, to be posted on the main traveled roads entering the areas to which the restrictions apply. Provided, however, that nothing in this subsection shall allow the unlawful posting of signs or other information on or adjacent to public highways as defined in subsection (5) of section 40-109, Idaho Code.

(B) Nothing in this section authorizes the establishment of any restrictions that impede normal forest or range management operations.

(C) No person shall violate such restrictions on the use of

motor-propelled vehicles or tear down or lay down any fencing or gates enclosing such a restricted area or remove, mutilate, damage or destroy any notices, signs or markers giving notice of such restrictions. The commission may promulgate rules to administer the restrictions and cooperative agreements addressed in this subsection.

11. Capture, propagate, transport, buy, sell or exchange any species of wildlife needed for propagation or stocking purposes, or to exercise control of undesirable species.
12. Adopt rules pertaining to the application for, issuance of and administration of a lifetime license certificate system.
13. Adopt rules governing the application and issuance of permits for and administration of fishing contests on waters under the jurisdiction of the state.

(c) Limitation on Powers. Nothing in this title shall be construed to authorize the commission to change any penalty prescribed by law for a violation of its provisions, or to change the amount of license fees or the authority conferred by licenses prescribed by law.

(d) Organization of Work. The commission shall organize the department, in accordance with the provisions of title 67, Idaho Code, into administrative units as may be necessary to efficiently administer said department. All employees of the department except the director shall be selected and appointed by the director in conformance with the provisions of chapter 53, title 67, Idaho Code.

SECTION 6. That Section 36-114, Idaho Code, be, and the same is hereby amended to read as follows:

36-114. BIG GAME PRIMARY DEPREDATION ACCOUNT. (a) The big game primary depredation account is hereby established in the dedicated fund. Moneys in the account are subject to appropriation for the purposes recited in section 36-1108, Idaho Code. Interest earned on investment of idle moneys in the account shall be paid to the fish and game account.

(b) The state auditor shall annually, as soon after July 1 of each year as practical, transfer into the account two hundred thousand dollars (\$200,000) from the fish and game account. Unexpended and unencumbered balances in the big game primary depredation account existing on June 30 shall revert to the fish and game account.

(c) Moneys in the account may be appropriated only to:

1. Honor payment agreements made pursuant to section 36-1108(b)(a)3., Idaho Code.
2. Make depredation damages payments pursuant to section 36-1108(c), Idaho Code.
3. Provide for reimbursement of expenses for members of the advisory committee established by in section 36-122, Idaho Code.

(d) Any payment for damages pursuant to section 36-1108(c), Idaho Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director may order not more than one-third (1/3) of the amount of the approved claim that is to be paid from the

big game primary depreciation account to be paid immediately, if, in the judgment of the director, such payment is within the estimated total claims liability for that fiscal year from the big game primary depreciation account.

(B) The balance of all unpaid approved claim amounts shall be accumulated to a total as of June 30. If the balance in the big game primary depreciation account is sufficient to pay the balance of all approved claims, the director shall promptly pay them. If the balance is not sufficient to pay the balance of all approved claims, the director shall pay a proportionate share to each claimant.

(C) The director shall encumber the balance of the moneys in the account, or moneys sufficient to pay the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For each such statement, the following conditions and requirements apply:

(A) The amount of one thousand dollars (\$1,000) must be deducted from each such statement. This deductible is a net loss to the owner or lessee, and will not be compensated for from either the big game primary depreciation account or the big game secondary depreciation account.

(B) The total amount that may be paid from the big game primary depreciation account shall not exceed nine thousand dollars (\$9,000) per approved claim.

(C) Approved claims that exceed ten thousand dollars (\$10,000) total (one thousand dollars (\$1,000) deductible and nine thousand dollars (\$9,000) payment from the big game primary depreciation account) shall be processed under the provisions of section 36-115, Idaho Code.

(D) Approved claims of any amount that involve damage to livestock, berries or honey by black bear or mountain lion shall be processed under the provisions of section 36-115, Idaho Code.

(E) Approved claims of any amount that involve damage to forage by antelope, deer, elk or moose shall be processed under the provisions of section 36-115, Idaho Code.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

SECTION 7. That Section 36-115, Idaho Code, be, and the same is hereby amended to read as follows:

36-115. BIG GAME SECONDARY DEPRECIATION ACCOUNT. (a) The big game secondary depreciation account is hereby created in the dedicated fund. Moneys in the account are subject to appropriation for the purposes recited in section 36-1108(eb), Idaho Code, section 36-114(d), Idaho

Code, section 36-1109 and section 36-1110, Idaho Code. Moneys in the account shall be invested as provided in section 67-1210, Idaho Code, and interest earned on investment of idle moneys in the account shall be paid to the account. The big game secondary deprecation account shall be under the administrative direction of the director of the department of administration.

(b) In addition to any moneys appropriated to the account from other sources, the state auditor shall transfer the earned interest not to exceed two hundred and fifty thousand dollars (\$250,000) from the fish and game account to the big game secondary deprecation account each fiscal year until a total of one million two hundred fifty thousand dollars (\$1,250,000) has been transferred to the account.

(c) The principal amount in the account shall not be appropriated, but only the interest earned on investment of the moneys in the account shall be available for appropriation. The director of the department of administration shall annually report to the legislature, the division of financial management, the state auditor, the director of the department of agriculture and the director of the department of fish and game the amount of interest earnings and the availability of such earnings for appropriation. However, should the balance in the account ever exceed three million dollars (\$3,000,000), interest earnings that exceed the amount appropriated for any fiscal year shall be transferred to the fish and game set-aside account for habitat rehabilitation. Transferred funds shall be spent pursuant to an appropriation for the set-aside account.

(d) Any payment for damages pursuant to sections 36-1108(eb) and 36-114(d), Idaho Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director of the department of administration may order not more than one-third (1/3) of the amount of the approved claim that is to be paid from the big game secondary deprecation account to be paid immediately, if, in the judgment of the director of the department of administration, such payment is within the estimated total claims liability for that fiscal year from the big game secondary deprecation account.

(B) The balance of all unpaid approved claim amounts, including claims submitted under the provisions of sections 36-1109 and 36-1110, Idaho Code, shall be accumulated to a total as of June 30. If the balance in the big game secondary deprecation account appropriation is sufficient to pay the balance of all approved claims, the director of the department of administration shall promptly pay them. If the balance is not sufficient to pay the balance of all approved claims, the director of the department of administration shall pay a proportionate share to each claimant.

(C) The director of the department of administration shall encumber the balance of moneys appropriated from the big game secondary deprecation account, or moneys sufficient to pay

the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For each such statement, the following conditions and requirements apply:

(A) The amount of one thousand dollars (\$1,000) must be deducted from each such statement. This deductible is a net loss to the owner or lessee, and will not be compensated for from either the big game primary depredation account or from the big game secondary depredation account, but the owner or lessee is required to absorb only a single one thousand dollar (\$1,000) deductible per claim, whether the claim is paid solely from the big game primary depredation account or from both depredation accounts.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

(e) Any claim for damages pursuant to section 36-1109, Idaho Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director of the department of administration may order that not more than one-third (1/3) of the amount of the approved claim to be paid immediately, if, in the judgment of the director of the department of administration, such payment is within the estimated total claims liability for that fiscal year from the big game secondary depredation account.

(B) The balance of all unpaid approved claim amounts shall be accumulated to a total as of June 30. If the balance in the big game secondary depredation account appropriation is sufficient to pay all approved claims, the director of the department of administration shall promptly pay them. If the balance is not sufficient to pay the balance of all approved claims, the director of the department of administration shall pay a proportionate share to each claimant.

(C) The director of the department of administration shall encumber the balance of the appropriation, or moneys sufficient to pay the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For each such statement, the following conditions and requirements apply:

(A) The amount of five one thousand dollars (\$51,000) must be deducted from each such statement. This deductible is a net loss to the owner or caretaker, and will not be compensated for from the big game secondary depredation account.

(B) The total amount of all claims that may be paid from the big game secondary depredation account for domestic sheep or cattle losses shall not exceed twenty-five thousand dollars

(\$25,000) in any one (1) fiscal year.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

(f) Any claim for damages to forage pursuant to section 36-1110, Idaho Code, is limited by the following conditions and requirements:

1. The full amount of any approved claim will not be paid at the time of approval, but shall be subject to the following conditions and requirements:

(A) The director of the department of administration may order not more than one-third (1/3) of the amount of the approved claim to be paid immediately, if, in the judgment of the director of the department of administration, such payment is within the estimated total claims liability for that fiscal year from the big game secondary deprecation account.

(B) The balance of all unpaid approved claim amounts shall be accumulated to a total as of June 30. If the balance in the big game secondary deprecation account appropriation is sufficient to pay all approved claims, the director of the department of administration shall promptly pay them. If the balance is not sufficient to pay the balance of all approved claims, the director of the department of administration shall pay a proportionate share to each claimant.

(C) The director of the department of administration shall encumber the balance of the appropriation, or moneys sufficient to pay the approved claims, whichever is the lesser.

2. Each claimant must submit a statement of total damages sustained per occurrence. For such statement, the following conditions and requirements apply:

(A) The amount of one thousand dollars (\$1,000) must be deducted from each statement. This deductible is a net loss to the owner or lessee, and will not be compensated for from the big game secondary deprecation account.

(B) The total amount of all claims for damages to forage that may be paid from the big game secondary deprecation account shall not exceed twenty-five per cent (25%) of the amount of interest earned from investments of moneys in that account in any one (1) fiscal year.

3. Each approved claim must contain a certification by the director of the department of fish and game, or his designee, that:

(A) All statutory requirements leading up to approval for payment have been met.

(B) The claimant has certified that he will accept the amount approved as payment in full for the claim submitted, subject to the conditions and requirements of this subsection.

CHAPTER 219
(H.B. No. 789)

AN ACT

RELATING TO ARSON AND FRAUD REPORTING; AMENDING SECTION 41-250, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE A PENALTY FOR INTENTIONAL FAILURE TO REPORT A CLAIM WHERE FACTS SUPPORT A BELIEF THAT IT IS FRAUDULENT; REPEALING SECTION 41-252, IDAHO CODE; AMENDING SECTION 41-270, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO FURTHER DEFINE TERMS; AMENDING SECTION 41-271, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REQUIRE CERTAIN DISCLOSURE BY INSURERS, TO REQUIRE DISCLOSURE TO THE DEPARTMENT OF INSURANCE AND TO CLARIFY PROVISIONS FOR IMMUNITY FOR REPORTS; AMENDING SECTION 41-1325, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO FURTHER DEFINE INSURANCE FRAUD; AMENDING SECTION 41-1326, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PENALTIES; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-295, IDAHO CODE, TO SPECIFY DUTIES OF THE INVESTIGATION SECTION OF THE DEPARTMENT OF INSURANCE; AMENDING SECTION 41-272, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO GOVERN CONFIDENTIALITY OF INFORMATION; AMENDING SECTION 41-273, IDAHO CODE, TO REDESIGNATE THE SECTION, TO GOVERN DISCLOSURE REQUIREMENTS AND TO PROVIDE ADDITIONAL PENALTIES; AND AMENDING SECTION 41-274, IDAHO CODE, TO REDESIGNATE THE SECTION AND CORRECT CITATIONS.

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

SECTION 1. That Section 41-250, Idaho Code, be, and the same is hereby amended to read as follows:

~~41-250290. COMPANY--REPORTING--INVESTIGATION--OF--CASES FRAUDULENT CLAIMS.~~ Any insurer which believes has facts to support a belief that a fraudulent claim is being or has been made shall, within sixty (60) days of the receipt of such notice, send to the director of insurance, on a form prescribed by the director, the information requested and such additional information relative to the claim and the parties claiming loss or damages as the director may require. The director of the department of insurance shall review such reports and select such claims as, in his judgment, may require further investigation. He shall then cause an independent examination of the facts surrounding such claim to be made to determine the extent, if any, to which fraud, deceit, or intentional misrepresentation of any kind exists in the submission of the claim. The director of the department of insurance shall report any alleged violations of law which his investigations disclose to the appropriate licensing agency and prosecuting authority having jurisdiction with respect to any such violation.

If, upon examination, the director of the department of insurance determines that an insurer has intentionally not reported a claim when the insurer had facts to support a belief that the claim was fraudulent in accordance with the provisions of this chapter, the director may impose fines and penalties pursuant to section 41-327, Idaho Code, for each unreported suspected fraudulent claim.

SECTION 2. That Section 41-252, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 41-270, Idaho Code, be, and the same is hereby amended to read as follows:

41-270~~291~~. DEFINITIONS. As used in this chapter:

(1) Sections 41-270~~290~~ through 41-274~~298~~, Idaho Code, shall be known as the Idaho Arson and Fraud Reporting-Immunity Act.

(2) "Authorized agencies" shall mean:

(a) The director, department of law enforcement;

(b) The prosecuting attorney responsible for prosecution in the county where the fire or fraud occurred;

(c) The attorney responsible for the prosecution in the county where the fire or fraud occurred as designated by the attorney general;

(d) The department of insurance;

(3) Solely for the purpose of section 41-271~~92~~(1), Idaho Code, "authorized agencies" shall also include:

(a) The United States attorney's office when authorized or charged with investigation or prosecution of the fire or fraud in question;

(b) The federal bureau of investigation or any other federal agency, charged with investigation or prosecution of the fire or fraud in question;

(4) "Relevant" means information having any tendency to make the existence of any fact that is of consequence to the investigation or determination of the issue more probable or less probable than it would be without the evidence.

(5) Material will be "deemed important," if within the sole discretion of the "authorized agency," such material is requested by the "authorized agency."

(6) "Action," as used in this statute, shall include nonaction or the failure to take action.

(7) "Immune, Immunity" ~~as used in section 41-271, Idaho Code, shall mean that neither a no civil action nor a criminal prosecution may arise from any action taken against any person for furnishing information pursuant to sections 41-248, 41-250, 41-252, 41-258, 41-271, 41-272 or 41-273, 41-290, 41-292, 41-296 or 41-297, Idaho Code, where actual malice on the part of the insurance company, department of insurance, state fire marshal, authorized agency, their employees or agents, is not present.~~

(8) "Financial loss" includes, but is not limited to, loss of earnings, out-of-pocket and other expenses, repair and replacement costs and claims payments.

(9) "Person" means a natural person, company, corporation, unincorporated association, partnership, professional corporation and any other legal entity.

(10) "Practitioner" means a licensee of this state authorized to practice medicine and surgery, psychology, chiropractic, law or any other licensee of the state whose services are compensated, directly or indirectly, by insurance proceeds, or a licensee similarly licensed in other states and nations or the practitioner of any nonmedical

treatment rendered in accordance with a recognized religious method of healing.

(11) "Statement" includes, but is not limited to, any notice statement, any statement submitted on applications for insurance, proof of claim, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bills for services, diagnosis, prescription, hospital or doctor records, X-rays, test results or other evidence of loss, injury or expense, whether oral, written or computer generated.

SECTION 4. That Section 41-271, Idaho Code, be, and the same is hereby amended to read as follows:

41-~~271~~292. DISCLOSURE OF INFORMATION BY INSURERS. (1) The director of the department of insurance, state fire marshal or any authorized agency may, in writing, require the insurance company at interest to release to the requesting agency any or all relevant information or evidence deemed important to the authorized agency, director or state fire marshal which the company may have in its possession, relating to the loss in question. Relevant information may include, without limitation herein:

- (a) Pertinent insurance policy information relevant to a loss under investigation and any application for such a policy;
- (b) Policy premium payment records which are available;
- (c) History of previous claims made by the insured;
- (d) Material relating to the investigation of the loss, including statements of any person, proof of loss, and any other evidence relevant to the investigation.

(2) (a) When an insurance company has reason facts to believe support a belief that a loss in which it has an interest may be of other than accidental cause, then, for the purpose of notification and for having such loss investigated, the company shall, in writing, notify the director of the department of insurance, the state fire marshal and any other authorized agency and provide any or all material developed from the company's inquiry into the loss.

(b) When an insurance company provides the director of the department of insurance or the state fire marshal with notice of a loss, it shall be sufficient notice for the purpose of this act.

(c) Nothing in section 41-~~271(a)~~292(1), Idaho Code, shall abrogate or impair the rights or powers created under section 41-~~271(a)~~292(2), Idaho Code.

(3) The director of the department of insurance, the state fire marshal or the authorized agency provided with information pursuant to sections 41-248, ~~41-250~~, 41-258, 41-290 or 41-~~271~~292(1) or (2), Idaho Code, and in furtherance of its own purposes, may release or provide such information to any of the other authorized agencies.

(4) Any insurance company providing information to an authorized agency or agencies pursuant to sections ~~41-250~~, 41-258, 41-290 or 41-~~271~~292(1) or (2), Idaho Code, shall have the right to request relevant information relative to the loss in question and to receive, within a reasonable time, not to exceed thirty (30) days, the information requested, if the information is not otherwise privileged by law.

(5) Any insurance company, or person acting in its behalf, or the

state--fire-marshal,--authorized-agency-or-person-acting-in-its-behalf, who-releases-information-whether-oral-or-written, pursuant-to-sections 41-250, 41-258 and 41-271, Idaho-Code, shall-be-immune-from-any-liability-arising-out-of-a-civil-action, or-penalty-resulting-from-a-criminal-prosecution. In the absence of fraud or malice, no person shall be subject to civil liability for libel, slander or any other relevant tort cause of action by virtue of filing reports or furnishing other information required by this statute or required by the director of the department of insurance under the authority granted in this statute, and no civil cause of action of any nature shall arise against such person:

(a) For any information relating to suspected fraudulent insurance acts furnished to or received from law enforcement officials, their agents and employees; or

(b) For any information relating to suspected fraudulent insurance acts furnished to or received from other persons subject to the provisions of this chapter; or

(c) For any such information furnished in reports to the department of insurance frauds bureau, national association of insurance commissioners, national insurance crime bureau or any organization established to detect and prevent fraudulent insurance acts, their agents, employees or designees, nor shall the director or any employee of the department of insurance frauds bureau, acting without malice in the absence of fraud, be subject to civil liability for libel, slander of any other relevant tort and no civil cause of action of any nature shall arise against such person by virtue of the publication of any report or bulletin related to the official activities of the department of insurance frauds bureau. Nothing herein is intended to abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person.

(6) For purposes of subsection (5) of this section, there shall exist a rebuttable presumption that the person has acted without fraud or malice.

SECTION 5. That Section 41-1325, Idaho Code, be, and the same is hereby amended to read as follows:

41-1325293. FALSE--INFORMATION INSURANCE FRAUD. Insurance fraud includes:

(1) (a) Any person who, with the intent to defraud or deceive an insurer for the purpose of obtaining any money or benefit presents or causes to be presented to any insurer, a purported insurer, broker or agent, any written or oral statement including computer-generated documents as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that such statement contains false, incomplete, or misleading information concerning any fact or thing material to such claim; or

(2b) Any person who, with intent to defraud or deceive an insurer assists, abets, solicits, or conspires with another to prepare or make any written or oral statement that is intended to be presented to any insurer, purported insurer, broker or agent, in con-

nection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy or contract, knowing that such statement contains false, incomplete, or misleading information concerning any fact or thing material to such claim;

(c) Any insurance agent or other person who with intent to defraud or deceive an insurer presents or causes to be presented to or by an insurer, a purported insurer or agent, a materially false or altered application of insurance;

(d) Any insurance agent or other person who with intent to defraud or deceive willfully takes premium money knowing that coverage will not be affected;

(e) Any medical practitioner who willfully submits a false or altered bill, with the intent of deceiving an insurer;

(f) Anyone willfully making a false statement or material misrepresentation, with the intent of deceiving an insurer, to obtain or extend workers' compensation benefits;

(g) Anyone who offers or accepts a direct or indirect inducement to file a false statement of claim, with intent of deceiving an insurer.

(2) Any violator of this section is guilty of a felony and shall be subject to a term of imprisonment not to exceed five fifteen (15) years, or a fine not to exceed five fifteen thousand dollars (\$15,000), or both and shall be ordered to make restitution to the insurer or any other person for any financial loss sustained as a result of a violation of this section. Each instance of violation may be considered a separate offense.

SECTION 6. That Section 41-1326, Idaho Code, be, and the same is hereby amended to read as follows:

41-1326294. DAMAGE TO OR DESTRUCTION OF INSURED PROPERTY. Any person who willfully burns or in any other manner injures or destroys any property which is at the time insured against loss or damage, with intent to defraud or prejudice the insurer or for personal gain, whether the same be the property of, or in possession of, such person or any other, is guilty of a felony punishable by imprisonment in the state prison not less than one (1) year nor more than ten fifteen (105) years.

SECTION 7. That Chapter 2, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-295, Idaho Code, and to read as follows:

41-295. DUTIES OF THE INVESTIGATION SECTION. The investigation section of the department of insurance shall have the following duties:

(1) To conduct civil or criminal investigations within or outside this state as deemed necessary to determine whether any person has violated any provision of title 41, Idaho Code.

(2) For purposes of any investigation under this code, the director, or any officer designated by him, may administer oaths and affirmations, subpoena bank records, subpoena witnesses and compel their

attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents the director deems relevant or material to the investigation.

(3) The investigation section shall furnish all papers, documents, reports, complaints, or other facts of evidence to any police, sheriff or other law enforcement agency, when so requested, and will assist and cooperate with such law enforcement agencies.

(4) The investigation section shall refer criminal violations of the code to the attorney general or county prosecutor having jurisdiction of any such violation. The attorney general or county prosecutor shall promptly institute such action or proceedings against such person as the information may require or justify.

(5) The investigation section shall have such other duties as the director of the department of insurance shall assign or as contained elsewhere in title 41, Idaho Code.

(6) The investigation section shall be permitted to seek court ordered restitution as reimbursement, for the cost of investigation from those individuals successfully prosecuted under section 41-293, Idaho Code.

(7) There is hereby created an account in the agency asset fund in the state treasury, to be designated as the fraud investigation and prevention account. The account shall be used by the director of the department of insurance for enforcement of this chapter, investigation of cases of insurance fraud and related violations of laws of this state.

(8) All claims against the account shall be examined, audited and allowed in the manner now or hereafter provided by law. All moneys placed in the account are hereby perpetually appropriated to the department of insurance for the purposes of the provisions of this section.

(9) Pending use for the purposes of the provisions of this section, moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the account.

SECTION 8. That Section 41-272, Idaho Code, be, and the same is hereby amended to read as follows:

41-272296. EVIDENCE CONFIDENTIALITY -- COMPULSORY TESTIMONY.

(1) The department of insurance, state fire marshal, or authorized agency and--insurance--company described in section 41-270291, Idaho Code, who which has receives received any information furnished pursuant to sections 41-250, 41-258, 41-290 or 41-271292, Idaho Code, shall hold the information and the information shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(2) Any authorized agency referred to in section 41-270291, Idaho Code, or their personnel, may be required to testify in any litigation in which the insurance company at interest is named as a party, if such testimony is not otherwise privileged by law.

SECTION 9. That Section 41-273, Idaho Code, be, and the same is hereby amended to read as follows:

41-273297. ENFORCEMENT DISCLOSURE REQUIREMENTS. (1) No person or agency shall intentionally or knowingly refuse to release any information requested pursuant to section 41-271292(1) or (3), Idaho Code.

(2) No person shall intentionally or knowingly refuse to provide authorized agencies relevant information pursuant to section 41-271292(2), Idaho Code.

(3) No person shall fail to hold in confidence information required to be held in confidence by section 41-272296, Idaho Code.

(4) Whoever violates subsection 41-273 (1), (2) or (3), Idaho Code of this section, is guilty of a misdemeanor, and upon conviction, shall be punished by a fine not to exceed one thousand dollars (\$1,000). In addition to any criminal penalty, if the person is an insurance company or other person licensed by or regulated by the director of insurance, the director may, after hearing thereon, impose an administrative penalty on the violator not to exceed five thousand dollars (\$5,000).

SECTION 10. That Section 41-274, Idaho Code, be, and the same is hereby amended to read as follows:

41-274298. HOME--RULE-AND-COMMON-LAW JURISDICTION -- CONSTRUCTION OF PROVISIONS. (1) The provisions of this chapter shall not be construed to affect or repeal any ordinance of any municipality relating to fire prevention or the control or of arson or fraud, but the jurisdiction of the state fire marshal, the director, department of insurance, and the director, department of law enforcement, in such municipality is to be concurrent with that of the municipal and county authorities.

(2) With the exception of section 41-270291(7), Idaho Code, all other provisions of this chapter shall not be construed to impair any existing statutory or common law rights or powers.

Approved March 28, 1994.

CHAPTER 220
(H.B. No. 798)

AN ACT

RELATING TO THE IDAHO ABANDONED HARDROCK MINE RECLAMATION ACT; AMENDING TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 17, TITLE 47, IDAHO CODE, TO PROVIDE THE PURPOSE OF THE ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE FOR FUNDING, TO PROVIDE DEFINITIONS, TO PROVIDE THE RESPONSIBILITY OF THE STATE BOARD OF LAND COMMISSIONERS, TO PROVIDE THE DUTIES AND POWERS OF THE BOARD, TO PROVIDE PRIORITIES FOR EXPENDITURE OF FUNDS AND TO PROVIDE FOR INTERAGENCY COORDINATION.

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

SECTION 1. That Title 47, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and des-

igned as Chapter 17, Title 47, Idaho Code, and to read as follows:

CHAPTER 17
IDAHO ABANDONED HARDROCK MINE RECLAMATION ACT

47-1701. PURPOSE OF ACT. It is the purpose of this act to provide for the reclamation of abandoned hardrock mines on state and federal lands and on certain private lands, thereby protecting human health, safety and welfare, conserving natural resources, aiding in the protection of wildlife, aquatic resources, domestic animals, and reducing soil erosion.

47-1702. SHORT TITLE. This act may be known and cited as the "Idaho Abandoned Hardrock Mine Reclamation Act."

47-1703. FUNDING. This act shall govern the use of state and federal moneys specifically appropriated for abandoned hardrock mine reclamation. This act shall not require the state to expend or appropriate state moneys. The board may receive federal funds, state funds, and any other funds, and, within the limits imposed by a specific grant, expend them as directed by this act. All grants, funds, fees, fines, penalties and other uncleared money which has been or will be paid to the state for abandoned hardrock mine reclamation shall be placed in the state treasury and credited to the abandoned hardrock mine reclamation account, which is hereby created. This account shall be available to the board, by legislative appropriation, and shall be expended for the reclamation of lands affected by hardrock mining operations. Any unencumbered and unexpended balance of this account remaining at the end of a fiscal year shall not lapse but shall be carried forward for the purposes of this chapter until expended or until modified by subsequent statute.

47-1704. DEFINITIONS. (1) "Abandoned hardrock mine" means a hardrock mine deserted by the operator, having no regular maintenance, and not covered by a valid mining claim.

(2) "Affected land" means the land adjacent to an eligible mine that is, or may be, adversely affected by past mining operations.

(3) "Board" means the state board of land commissioners or such department, commission, or agency as may lawfully succeed to the powers and duties of such board.

(4) "Director" means the head of the department of lands or such officer as may lawfully succeed to the powers and duties of said director.

(5) "Eligible mine" means an abandoned hardrock mine located on land owned by the state or federal government or an abandoned hardrock mine located on private land when the owner of the private land has requested, and the board has granted, designation as an eligible mine.

(6) "Hardrock mine" means an area where minerals were extracted from the earth and includes all associated development areas including, but not limited to, milling and processing areas, overburden disposal areas, stockpiles, roads, tailings ponds and other areas disturbed at the mining operation site.

(7) "Mineral" means any mineral not subject to disposition under

the mineral leasing act (30 U.S.C. 181 et seq.), the geothermal steam act of 1970 (30 U.S.C. 1001 et seq.), the materials act of 1947 (30 U.S.C. 601 et seq.) or the mineral leasing act for acquired lands (30 U.S.C. 351 et seq.).

(8) "Operator" means any person or persons, any partnership, limited partnership, or corporation, or any association of persons, either natural or artificial including, but not limited to, every public or governmental agency engaged in hardrock mining or mineral exploration operations, whether individually, jointly, or through subsidiaries, agents, employees, or contractors and shall mean every governmental agency owning or controlling the use of any hardrock mine when the mineral extracted is to be used by or for the benefit of such agency. It shall not include any governmental agency with respect to those hardrock mining or mineral exploration operations as to which it grants mineral leases or prospecting permits or similar contracts, but nothing herein shall relieve the operator acting pursuant to a mineral lease, prospecting permit or similar contract from the terms of this act.

47-1705. RESPONSIBILITY OF STATE BOARD OF LAND COMMISSIONERS. The state board of land commissioners is charged with the responsibility of administering this act in accordance with the purpose of the act and the intent of the legislature. The director of the department of lands shall, upon authorization of the board, exercise the powers and discharge the duties vested in the board by this act.

47-1706. DUTIES AND POWERS OF BOARD. In addition to the other duties and powers of the board prescribed by law, the board is granted and shall be entitled to exercise the following authority and powers and perform the following duties:

(1) To reclaim any eligible mine and affected lands. Reclamation on federal lands shall be completed only upon consent of the federal agency responsible for the administration of those lands. Reclamation activities may include:

(a) The reclamation and restoration of abandoned surface mined areas;

(b) The reclamation of abandoned milling and processing areas;

(c) The sealing, filling, and grading of abandoned deep mine entries;

(d) The planting of land adversely affected by past mining to prevent erosion and sedimentation;

(e) The prevention, abatement, treatment, and control of water pollution created by abandoned mine drainage;

(f) The control of surface subsidence due to abandoned deep mines; and

(g) Such other reclamation activities as may be necessary to accomplish the purposes of this act.

(2) To administer and enforce the provisions of this act and the rules and orders promulgated thereunder as provided in this act.

(3) To conduct and promote the coordination and acceleration of research, studies, surveys, experiments, demonstrations and training in carrying out the provisions of this act. In carrying out the activities authorized in this section, the board may enter into contracts

with and make grants to institutions, agencies, organizations and individuals, and shall collect and make available any information obtained therefrom.

(4) To adopt and promulgate reasonable rules respecting the administration of this act and such rules as may be necessary to carry out the intent and purposes of this act. All such rules shall be adopted in accordance with and subject to the provisions of chapter 52, title 67, Idaho Code.

(5) To enter upon eligible mines and affected lands at reasonable times, for inspection purposes and to determine whether the provisions of this act are being complied with. Inspections on private lands shall be conducted in the presence of the landowner or his duly authorized employees or representatives, or with written permission of the landowner.

47-1707. PRIORITIES. Expenditure of funds from the abandoned hardrock mine reclamation account shall reflect the following priorities in the order stated:

(1) The protection of public health, safety, and general welfare from the adverse effects of past hardrock mining practices.

(2) The restoration of land and water resources previously degraded by the adverse effects of past hardrock mining practices.

47-1708. INTERAGENCY COORDINATION. The board shall recognize other governmental, educational, and private organizations or agencies which have expertise and information regarding abandoned hardrock mines and affected lands. The board shall characterize, prioritize, and complete reclamation of eligible mines and affected lands in coordination with these agencies. In addition, the board may reasonably compensate them from the abandoned hardrock mine reclamation account for services that the board requests they provide.

Approved March 28, 1994.

CHAPTER 221
(H.B. No. 820)

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING SECTION 63-120, IDAHO CODE, RELATING TO THE AMOUNT OF RELIEF AVAILABLE UNDER THE CIRCUIT BREAKER TAX RELIEF PROGRAM, TO DELETE OBSOLETE INFORMATION AND TO PROVIDE A REFERENCE TO BASE VALUES USED FOR INDEXING VALUES BY THE STATE TAX COMMISSION; AND AMENDING SECTION 63-612, IDAHO CODE, TO REQUIRE THE STATE TAX COMMISSION TO MAIL ITS CERTIFIED STATEMENT SHOWING ALL THE CHANGES IN THE ASSESSMENT BY THE STATE TAX COMMISSION BY CERTIFIED RATHER THAN BY REGISTERED MAIL.

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

SECTION 1. That Section 63-120, Idaho Code, be, and the same is hereby amended to read as follows:

63-120. AMOUNT OF TAX REDUCTION. (1) Each claimant qualifying for and applying for a reduction in taxes under the provisions of sections 63-117 through and including 63-125, Idaho Code, shall be allowed a reduction in taxes on his homestead for the current year only, in the amounts provided by subsection (4) of this section.

(2) All taxes continue to be the responsibility of the individual taxpayer, all taxes continue to be liens against the property against which assessed, and all taxes may be collected and enforced in the usual manner, if the taxpayer does not receive any tax reduction as provided under the provisions of sections 63-117 through and including 63-125, Idaho Code, or if the taxpayer receives less tax reduction than the whole amount of taxes he is charged with.

(3) The claimant property owner's tax reduction shall be based upon the current year's assessed value and the current year's levy.

(4) Tax reductions qualified under this act shall be allowed as set out in section 2, chapter 59, Laws of 1992, and adjusted for cost of living fluctuations as provided in section 63-120A, Idaho Code.
follows:

| | | |
|---|------------------|------------------------------------|
| When the claimant's household income is: | ----- | The reduction may be: |
| \$6,390, or under | ----- | \$800, or actual taxes, |
| | | whichever is less; |
| \$6,391, but not more than \$6,680 | ----- | \$780, or actual taxes, |
| | | whichever is less; |
| \$6,681, but not more than \$6,940 | ----- | \$760, or actual taxes, |
| | | whichever is less; |
| \$6,941, but not more than \$7,220 | ----- | \$740, or actual taxes, |
| | | whichever is less; |
| \$7,221, but not more than \$7,490 | ----- | \$720, or actual taxes, |
| | | whichever is less; |
| \$7,491, but not more than \$7,750 | ----- | \$700, or actual taxes, |
| | | whichever is less; |
| \$7,751, but not more than \$8,020 | ----- | \$680, or actual taxes, |
| | | whichever is less; |
| \$8,021, but not more than \$8,300 | ----- | \$660, or actual taxes, |
| | | whichever is less; |
| \$8,301, but not more than \$8,580 | ----- | \$640, or actual taxes, |
| | | whichever is less; |
| \$8,581, but not more than \$8,840 | ----- | \$620, or actual taxes, |
| | | whichever is less; |
| \$8,841, but not more than \$9,120 | ----- | \$600, or actual taxes, |
| | | whichever is less; |
| \$9,121, but not more than \$9,380 | ----- | \$580, or actual taxes, |
| | | whichever is less; |
| \$9,381, but not more than \$9,650 | ----- | \$560, or actual taxes, |
| | | whichever is less; |
| \$9,651, but not more than \$9,920 | ----- | \$540, or actual taxes, |
| | | whichever is less; |
| \$9,921, but not more than \$10,200 | ----- | \$520, or actual taxes, |
| | | whichever is less; |
| \$10,201, but not more than \$10,460 | ----- | \$500, or actual taxes, |

| | | |
|---|------------------------|-------------------------------|
| | | whichever is less† |
| \$10,461, but not more than \$10,740 | -----\$480, | or actual taxes, |
| | | whichever is less† |
| \$10,741, but not more than \$11,010 | -----\$460, | or actual taxes, |
| | | whichever is less† |
| \$11,011, but not more than \$11,290 | -----\$440, | or actual taxes, |
| | | whichever is less† |
| \$11,291, but not more than \$11,560 | -----\$420, | or actual taxes, |
| | | whichever is less† |
| \$11,561, but not more than \$11,840 | -----\$400, | or actual taxes, |
| | | whichever is less† |
| \$11,841, but not more than \$12,110 | -----\$380, | or actual taxes, |
| | | whichever is less† |
| \$12,111, but not more than \$12,390 | -----\$360, | or actual taxes, |
| | | whichever is less† |
| \$12,391, but not more than \$12,670 | -----\$340, | or actual taxes, |
| | | whichever is less† |
| \$12,671, but not more than \$12,930 | -----\$320, | or actual taxes, |
| | | whichever is less† |
| \$12,931, but not more than \$13,210 | -----\$300, | or actual taxes, |
| | | whichever is less† |
| \$13,211, but not more than \$13,470 | -----\$280, | or actual taxes, |
| | | whichever is less† |
| \$13,471, but not more than \$13,740 | -----\$260, | or actual taxes, |
| | | whichever is less† |
| \$13,741, but not more than \$14,010 | -----\$240, | or actual taxes, |
| | | whichever is less† |
| \$14,011, but not more than \$14,280 | -----\$220, | or actual taxes, |
| | | whichever is less† |
| \$14,281, but not more than \$14,550 | -----\$200, | or actual taxes, |
| | | whichever is less† |
| \$14,551, but not more than \$14,820 | -----\$180, | or actual taxes, |
| | | whichever is less† |
| \$14,821, but not more than \$15,090 | -----\$160, | or actual taxes, |
| | | whichever is less† |
| \$15,091, but not more than \$15,360 | -----\$140, | or actual taxes, |
| | | whichever is less† |
| \$15,361, but not more than \$15,640 | -----\$120, | or actual taxes, |
| | | whichever is less† |
| \$15,641, but not more than \$15,920 | -----\$100, | or actual taxes, |
| | | whichever is less† |

SECTION 2. That Section 63-612, Idaho Code, be, and the same is hereby amended to read as follows:

63-612. CERTIFICATE BY EXECUTIVE OFFICER -- CHANGES IN ASSESSMENT. On or before the first Monday of September in each year, the state tax commission's executive officer must transmit by registered certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient, to the county auditor of each county in the state, a certified statement showing all the changes in the assessment of any class or all classes of property, or

in the aggregate value of all property in said county, and the total increase or decrease as result of all changes made by the state tax commission in the assessment of property in said county, and the county auditor shall, upon receipt of such certified statement, file the same in his office.

Approved March 28, 1994.

CHAPTER 222
(H.B. No. 859)

AN ACT

RELATING TO THE HISTORIC ALBION STATE NORMAL SCHOOL CAMPUS; AMENDING SECTION 33-3301, IDAHO CODE, TO REVISE PURPOSES FOR WHICH MONEYS MAY BE EXPENDED FROM THE NORMAL SCHOOL FUND; AMENDING SECTION 33-3302, IDAHO CODE, TO PROVIDE FOR FIFTY PERCENT OF THE NORMAL SCHOOL FUND TO BE APPROPRIATED FOR THE SUPPORT AND MAINTENANCE OF LEWIS-CLARK STATE COLLEGE; AMENDING SECTION 33-3303, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REDUCE THE APPROPRIATION TO BE UTILIZED FOR THE DEPARTMENT OF EDUCATION AT IDAHO STATE UNIVERSITY UPON CERTAIN CONDITIONS; AMENDING CHAPTER 33, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3303, IDAHO CODE, TO PROVIDE FOR AN APPROPRIATION FROM THE NORMAL SCHOOL FUND FOR MAINTENANCE AND PRESERVATION OF THE FORMER ALBION STATE NORMAL SCHOOL CAMPUS AS AN ALBION NORMAL SCHOOL FIELD INSTITUTE WITHIN AN IDAHO STATE PARK; AND AMENDING CHAPTER 33, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3305, IDAHO CODE, TO PROVIDE FOR ASBESTOS REMOVAL AND BUILDING DEMOLITION UPON CERTAIN EVENTS OCCURRING.

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

SECTION 1. That Section 33-3301, Idaho Code, be, and the same is hereby amended to read as follows:

33-3301. NORMAL SCHOOL FUND. A fund which shall be known as the normal school fund is hereby created and established. All moneys now in, or credited to, that certain fund designated on the books in the offices of the state auditor and the state treasurer as the normal school fund and all moneys which may accrue from the investment of the proceeds of the sale of any of the lands granted to the state of Idaho by the United States government under the provisions of the Act of Congress of July 3, 1890, entitled "An act to provide for the admission of the state of Idaho into the Union," for state normal schools or of any of the timber growing thereon and also any and all moneys which may be received on account of any rentals charged for the use of any of such lands and all moneys which may be received by the state treasurer on account of interest upon deferred payments on such of said lands as may have been sold by the state, shall be credited to, placed in and constitute the said normal school fund.

No moneys shall ever be appropriated out of this normal school fund for any purpose whatsoever other than the support and the mainte-

nance of the department of education at Idaho State University, and the support and maintenance of Lewis-Clark State College, and the support and maintenance of the Albion Normal School Field Institute if incorporated within an Albion State Normal School state park complex. Not more than one-half-(1/2) fifty percent (50%) of all the moneys accruing to this fund shall ever be appropriated for the support and maintenance of either of-such-institutions Lewis-Clark State College or the department of education at Idaho State University.

SECTION 2. That Section 33-3302, Idaho Code, be, and the same is hereby amended to read as follows:

33-3302. APPROPRIATION FOR LEWIS-CLARK STATE COLLEGE. One-half (1/2) Fifty percent (50%) of all moneys that now are in or which may hereafter accrue to the said normal school fund are perpetually appropriated and set apart for the support and maintenance of the Lewis-Clark State College, the same to be available for such purpose immediately upon their being credited to the said fund.

SECTION 3. That Section 33-3303, Idaho Code, be, and the same is hereby amended to read as follows:

33-33034. APPROPRIATION FOR THE DEPARTMENT OF EDUCATION AT IDAHO STATE UNIVERSITY. One-half-(1/2) Fifty percent (50%) of all the moneys that now are in or which may hereafter accrue to the said normal school fund are hereby appropriated and set apart for the support and maintenance of the department of education at Idaho State University, the same to be available for such purpose immediately upon their being credited to the said fund. Should the legislature, by adoption of a concurrent resolution in both houses, approve a memorandum of understanding negotiated by the Idaho department of parks and recreation between the city of Albion and other public or private agencies interested in cooperative management of an Albion Normal School Field Institute within an Albion State Normal School state park complex, the percentage share for the department of education at Idaho State University shall be reduced from fifty percent (50%) to forty-seven percent (47%). In the event that the memorandum of understanding is not approved, section 33-3305, Idaho Code, shall apply.

SECTION 4. That Chapter 33, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-3303, Idaho Code, and to read as follows:

33-3303. APPROPRIATION FOR SUPPORT AND MAINTENANCE OF AN ALBION NORMAL SCHOOL FIELD INSTITUTE. Subject to legislative approval by adoption of a concurrent resolution in both houses approving a department of parks and recreation memorandum of understanding negotiated between the Idaho department of parks and recreation and the city of Albion and other public or private agencies interested in cooperative management of an Albion Normal School Field Institute within an Albion State Normal School state park complex, the appropriately designated state agency shall receive three percent (3%) of all moneys that are

now in or which may hereafter accrue to said normal school fund, the same to be set apart for support and maintenance of the Albion Normal School Field Institute. The memorandum of understanding negotiated by the Idaho department of parks and recreation and the city of Albion and other public or private agencies interested in cooperative management of an Albion Normal School Field Institute within an Albion State Normal School state park complex shall be negotiated in accordance with guidelines established in the Idaho department of parks and recreation's Albion Campus General Development Plan.

SECTION 5. That Chapter 33, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-3305, Idaho Code, and to read as follows:

33-3305. APPROPRIATION FOR ASBESTOS REMOVAL AND BUILDING DEMOLITION OF ALL ALBION STATE NORMAL SCHOOL BUILDINGS NOT OF PRACTICAL VALUE TO THE CITY OF ALBION. In the event that the memorandum of understanding of section 33-3303, Idaho Code, as negotiated by the Idaho department of parks and recreation between the city of Albion and other public and private agencies interested in cooperative management of an Albion Normal School Field Institute that is within an Albion State Normal School state park complex is not approved by the legislature, separate legislative appropriation by joint finance appropriations committee action shall be given due consideration by the legislature for the express purpose of asbestos removal and building demolition of all campus buildings not of practical value to the city of Albion.

Approved March 28, 1994.

CHAPTER 223
(H.B. No. 907)

AN ACT

APPROPRIATING MONEYS FOR GENERAL EDUCATION PROGRAMS AT BOISE STATE UNIVERSITY, IDAHO STATE UNIVERSITY, LEWIS-CLARK STATE COLLEGE, THE UNIVERSITY OF IDAHO AND FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1995; LIMITING THE APPROPRIATION FOR THE OFFICE OF THE STATE BOARD OF EDUCATION; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE AMOUNT OF THE GENERAL FUND APPROPRIATION THAT IS TO BE SPENT FOR RESEARCH; MAKING CERTAIN CODE PROVISIONS SPECIFICALLY AVAILABLE TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho for Boise State University, Idaho State University, Lewis-Clark State Col-

lege, the University of Idaho, and the Office of the State Board of Education the following amount, to be expended for the designated program from the listed funds for the period July 1, 1994, through June 30, 1995:

| | |
|---------------------------------------|----------------------|
| FOR: | |
| General Education Programs | \$210,485,300 |
| FROM: | |
| General Fund | \$162,767,200 |
| State Endowment Funds | 7,019,800 |
| Interagency Billing and Receipts Fund | 40,698,300 |
| TOTAL | <u>\$210,485,300</u> |

SECTION 2. The appropriation for the Office of the State Board of Education in Section 1 of this act is to be used for system-wide needs and shall not exceed \$75,000 of the General Fund for the period July 1, 1994, through June 30, 1995.

SECTION 3. It is legislative intent that \$2,100,000 within the General Fund appropriation be limited to specific research funding, matching awards, research centers and infrastructure, with commercial application as a goal.

SECTION 4. The provisions of Sections 67-3608, 67-3609, 67-3610 and 67-3611, Idaho Code, are hereby specifically made available to the State Board of Education and the Board of Regents of the University of Idaho for the period of July 1, 1994, through June 30, 1995, the provisions of Section 67-3516(1), (3) and (4), Idaho Code, notwithstanding.

SECTION 5. There is hereby reappropriated to the State Board of Education and the Board of Regents of the University of Idaho for Boise State University, Idaho State University, Lewis-Clark State College and the University of Idaho, subject to the provisions of Section 6 of this act, the unexpended and unencumbered balance of any General Fund appropriation contained in Section 1, Chapter 147, Laws of 1993, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 6. The reappropriation granted in Section 5 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is zero, the reappropriation in Section 5 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 5 of this act shall be in the proportion that the reappropriation for Boise State University, Idaho State University, Lewis-Clark State College and the University of Idaho bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 28, 1994.

CHAPTER 224
(H.B. No. 916)

AN ACT

APPROPRIATING MONEYS FOR THE SPECIAL PROGRAMS FOR FISCAL YEAR 1995; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION; AND EXPRESSING LEGISLATIVE INTENT.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education for the Special Programs the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|-------------|
| A. FOREST UTILIZATION RESEARCH: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$404,300 | \$ 47,800 | | | \$ 452,100 |
| B. GEOLOGICAL SURVEY: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$547,400 | \$ 54,200 | \$ 2,200 | | \$ 603,800 |
| C. SCHOLARSHIPS AND GRANTS: | | | | | |
| FROM: | | | | | |
| General Fund | | | | | |
| Scholarship Fund | | \$ 800 | | \$2,044,900 | \$2,044,900 |
| Federal Fund | | | | 9,800 | 10,600 |
| TOTAL | | \$ 800 | | 325,200 | 325,200 |
| | | | | \$2,379,900 | \$2,380,700 |
| D. MUSEUM OF NATURAL HISTORY: | | | | | |
| FROM: | | | | | |
| General Fund | | | | | |
| | | \$410,200 | \$28,600 | | \$ 438,800 |
| E. SMALL BUSINESS DEVELOPMENT CENTERS: | | | | | |
| FROM: | | | | | |
| General Fund | | | | | |
| | | | | \$ 239,900 | \$ 239,900 |
| GRAND TOTAL | | | | | |
| | \$951,700 | \$513,000 | \$30,800 | \$2,619,800 | \$4,115,300 |

SECTION 2. There is hereby reappropriated to the Board of Regents of the University of Idaho for the Forest Utilization Research Program, subject to the provisions of Section 5 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the Forest Utilization Research Program for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 3. There is hereby reappropriated to the Board of Regents of the University of Idaho for the Geological Survey Program, subject to the provisions of Section 5 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the Geological Survey Program for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 4. There is hereby reappropriated to the State Board of Education for the Museum of Natural History, subject to the provisions of Section 5 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the Museum of Natural History for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 5. The reappropriation granted in Sections 2 through 4 of this act shall be subject to the following conditions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is zero, the reappropriations in Sections 2 through 4 are declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is greater than zero but less than the total reappropriation authority granted to all state agencies, the amounts reappropriated in Sections 2 through 4 shall be in the proportion that the reappropriation for each program bears to the total reappropriation authority granted to all state agencies.

SECTION 6. It is legislative intent that no student participating in the College Work Study Program receives more than four annual awards.

Approved March 28, 1994.

CHAPTER 225
(H.B. No. 917)

AN ACT

APPROPRIATING MONEYS TO THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 1995; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service Program the following amounts from the listed funds, to be expended according to the designated expense classes for the period July 1, 1994, through June 30, 1995:

FROM:

| | |
|----------------------------|----------------|
| General Fund | \$19,300,600 |
| Equine Education Fund | 135,000 |
| Hatch Fund | 1,352,800 |
| Regional Research Fund | 561,900 |
| Farm Safety Fund | 20,000 |
| Smith-Lever Fund | 2,338,400 |
| Miscellaneous Revenue Fund | <u>237,500</u> |
| TOTAL | \$23,946,200 |

FOR:

| | |
|------------------------|----------------|
| Personnel Costs | \$21,036,400 |
| Operating Expenditures | 2,718,600 |
| Capital Outlay | <u>191,200</u> |
| TOTAL | \$23,946,200 |

SECTION 2. There is hereby reappropriated to the Agricultural Research and Cooperative Extension Service Program, one-half of the unexpended and unencumbered balance of any General Fund appropriation made to the Agricultural Research and Cooperative Extension Service Program for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

Approved March 28, 1994.

CHAPTER 226
(H.B. No. 918)

AN ACT

APPROPRIATING MONEYS TO THE LOTTERY COMMISSION FOR FISCAL YEAR 1995;
AND EXPRESSING LEGISLATIVE INTENT TO CLARIFY THE SCOPE OF THE
APPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Lottery Commission in the Department of Self-Governing Agencies the following amounts, to be expended for administrative costs according to the designated expense classes from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:

| | |
|------------------------|----------------|
| Personnel Costs | \$1,811,500 |
| Operating Expenditures | 6,142,400 |
| Capital Outlay | <u>576,500</u> |
| TOTAL | \$8,530,400 |

FROM:

| | |
|--------------------|-------------|
| State Lottery Fund | \$8,530,400 |
|--------------------|-------------|

SECTION 2. It is legislative intent that amounts necessary to pay prizes, retailer commissions, advertising and promotional costs shall be continuously appropriated to the Lottery Commission under the provisions of Section 67-7428, Idaho Code.

Approved March 28, 1994.

CHAPTER 227
(H.B. No. 922)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 1995; AUTHORIZING AN AMOUNT FOR PAYMENT OF BANK SERVICE FEES; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES.

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

SECTION 1. There is hereby appropriated to the State Treasurer the following amounts from the listed funds, to be expended according to designated expense classes for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|-----------------------|---------------------------|----------------------------------|--------------------------|--------------------|
| FROM: | | | | |
| General Fund | \$ 78,000 | \$202,400 | | \$ 280,400 |
| Professional Services | | | | |
| Fund | <u>655,100</u> | <u>262,700</u> | <u>\$17,700</u> | <u>935,500</u> |
| TOTAL | <u>\$733,100</u> | <u>\$465,100</u> | <u>\$17,700</u> | <u>\$1,215,900</u> |

SECTION 2. Of the amount appropriated for Operating Expenditures in Section 1, \$306,000 or so much thereof as is necessary is to be used solely and only for the payment of bank service fees for the period July 1, 1994, through June 30, 1995, any other provisions of law notwithstanding.

SECTION 3. It is legislative intent that an amount, not to exceed \$1,000 of the amount appropriated in Section 1, may be used at the discretion of the State Treasurer to assist in defraying expenses relating to or resulting from the discharge of the State Treasurer's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

Approved March 28, 1994.

CHAPTER 228
(H.B. No. 929)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the Department of Finance the following amount, to be expended according to the designated expense classes from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:

| | |
|------------------------|---------------|
| Personnel Costs | \$2,172,500 |
| Operating Expenditures | 405,600 |
| Capital Outlay | <u>10,500</u> |
| TOTAL | \$2,588,600 |

FROM:

| | |
|-----------------------|-------------|
| State Regulatory Fund | \$2,588,600 |
|-----------------------|-------------|

Approved March 28, 1994.

CHAPTER 229
(H.B. No. 901)

AN ACT

RELATING TO TECHNOLOGY APPLICATIONS IN EDUCATION; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 48, TITLE 33, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO STATE LEGISLATIVE FINDINGS, TO DEFINE TERMS, TO CREATE A STATE COUNCIL FOR TECHNOLOGY IN LEARNING AND PROVIDE FOR APPOINTMENT OF MEMBERS, TO PROVIDE RESPONSIBILITIES OF THE COUNCIL AND TO PROVIDE STAFF, TO PROVIDE FOR PUBLIC SCHOOL TECHNOLOGY GRANTS, TO PROVIDE FOR EVALUATIONS AND AUDITS AND TO PROVIDE SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 48, Title 33, Idaho Code, and to read as follows:

CHAPTER 48
IDAHO EDUCATIONAL TECHNOLOGY INITIATIVE

33-4801. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Educational Technology Initiative of 1994."

33-4802. FINDINGS. The legislature hereby finds, determines and

declares that the state of Idaho recognizes the importance of applying technology to meet the public need for an improved and thorough public education system for both elementary and secondary education, postsecondary and higher education and public libraries.

33-4803. DEFINITIONS. As used in this chapter:

(1) "Educational segments" are, individually, the public elementary and secondary school system, the vocational education system, the community colleges, and the four-year colleges and universities.

(2) "IPBS" means the Idaho public broadcasting service.

(3) "Instructional video service providers" means publicly and privately funded television agencies that offer instructional video programming and services without commercial advertising.

(4) "Libraries" means district, city, and school/community libraries as described in chapters 26 and 27, title 33, Idaho Code.

(5) "Technology" means technology-based materials, equipment, systems, and networks.

33-4804. STATE COUNCIL FOR TECHNOLOGY IN LEARNING CREATED -- MEMBERSHIP. (1) There is hereby created and established the state council for technology in learning under the state board of education, referred to herein as the council.

(2) The council shall consist of fifteen (15) members who shall be appointed as follows:

(a) The superintendent of public instruction, or his designee.

(b) The governor shall appoint one (1) practicing public school administrator, one (1) business representative with experience in applications of technology, one (1) representative of the division of vocational education, one (1) vocational/applied technology teacher, one (1) practicing public school teacher, one (1) public librarian, one (1) public school media specialist, one (1) member of the state board of education, and one (1) member of the faculty of a public higher education institution.

(c) The president pro tempore of the Idaho senate shall appoint two (2) members of the senate, one (1) from each of the two (2) largest political parties.

(d) The speaker of the house of representatives shall appoint two (2) members of the house of representatives, one (1) from each of the two (2) largest political parties.

(e) The chair of the state board of education's telecommunications council.

(3) Members appointed by the governor and legislative leadership shall serve at the pleasure of the appointing official.

(4) Members of the council shall receive compensation as provided in section 59-509(b), Idaho Code.

33-4805. RESPONSIBILITIES OF THE COUNCIL -- COUNCIL STAFF. Staff support for the council shall be drawn from the agencies and institutions under and affiliated with the state board of education including, but not limited to, the colleges and universities, community colleges, technical colleges, division of vocational education, department of education, Idaho public television, state library and office of the state board of education.

The council shall have the following responsibilities:

- (1) Make recommendations to the state board of education on educational technology plans, policies, programs and activities.
- (2) Subject to the approval of the state board of education, administer and develop standards and criteria for the public school technology grants program provided for in section 33-4806, Idaho Code.
- (3) Ensure that the recommendations made in "Telecomm 92" are considered in implementing educational technology programs pursuant to this chapter.
- (4) Collaborate with educational institutions, including libraries, public schools, higher education, technical and community colleges, professional education associations, and businesses in recommending priorities for funding and in identifying needs for technology use in education.
- (5) Recommend to the state board of education, standards and procedures for the administration of this act, including, but not limited to, standards for technology-based resources, projects, programs, practices or products to be adopted or adapted, and standards and criteria by which to evaluate the technology-based programs.
- (6) Recommend exemplary programs, practices, or products based on the criteria established in subsection (5) of this section.
- (7) Recommend priorities for uses of educational technology.
- (8) Work with representatives of the governing bodies of the educational segments to develop recommendations or strategies for the coordination, administration, and evaluation of educational technology programs and resources.
- (9) Work with representatives of the governing bodies of the educational segments to identify strategies to coordinate statewide voice, video, and data telecommunications systems that may be accessed by the educational segments.
- (10) To review, evaluate and build upon the educational technology projects in public schools funded through other state initiatives.

33-4806. PUBLIC SCHOOL TECHNOLOGY GRANTS. There is hereby established the public school technology grant program, which shall make available grants for schools to provide Idaho classrooms with the equipment and resources necessary to integrate information age technology with instruction and to further connect those classrooms with external telecommunications services. Grant applications shall include a project plan that describes proposed equipment and software purchases; how the proposed equipment and software will be used effectively in the classroom; provision for training teachers to make optimal use of the technology; provision for local matching funds as prescribed by the council; and other elements as prescribed by the council.

33-4807. EVALUATIONS AND AUDITS. On or before July 1, 1995, the legislative services office shall initiate an interim evaluation of the relative impact, costs and benefits of each of the programs conducted pursuant to the appropriations made for the Idaho educational technology initiative during the second regular session of the fifty-second legislature. The evaluation results shall be reported to the governor, legislature, and state board of education on or before Janu-

ary 1, 1996. On or before July 1, 1996, the legislative services office shall initiate a comprehensive evaluation of the relative impact, costs and benefits of each of the programs conducted pursuant to the appropriations made for the Idaho educational technology initiative during the second regular session of the fifty-second legislature. The evaluation results shall be reported to the governor, legislature, and state board of education on or before July 1, 1997.

33-4808. SEVERABILITY. The provisions of this chapter are hereby declared severable, and in the event that any word, phrase, sentence, clause, paragraph or section of this chapter be determined by a court of competent jurisdiction to be invalid for any reason, such partial invalidity shall not affect the validity of the remainder of this chapter.

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

Approved March 30, 1994.

CHAPTER 230
(S.B. No. 1599)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 1995; APPROPRIATING \$500,000 FROM THE GENERAL FUND, SPECIFYING CERTAIN CONDITIONS AND EXPRESSING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY FOR SECTION 3.

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

SECTION 1. It is legislative intent that the appropriation for the Division of Vocational Rehabilitation not exceed the following amount for the period July 1, 1994, through June 30, 1995:

FROM:

| | |
|---|---------------------|
| General Fund | \$ 3,026,600 |
| Federal Grants Fund | 10,277,200 |
| Rehabilitation Revenue and Refunds Fund | 275,000 |
| Miscellaneous Revenue Fund | 315,800 |
| Business and Industry Services Fund | 39,500 |
| TOTAL | <u>\$13,934,100</u> |

SECTION 2. There is hereby appropriated to the State Board of Education for the Division of Vocational Rehabilitation the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

A. RENAL DISEASE:

FROM:

| | |
|--------------|------------|
| General Fund | \$ 474,600 |
|--------------|------------|

FOR:

| | |
|------------------------------|------------|
| Trustee and Benefit Payments | \$ 474,600 |
|------------------------------|------------|

B. VOCATIONAL REHABILITATION:

FROM:

| | |
|--------------|--------------|
| General Fund | \$ 2,469,100 |
|--------------|--------------|

| | |
|---------------------|------------|
| Federal Grants Fund | 10,127,700 |
|---------------------|------------|

| | |
|---|---------|
| Rehabilitation Revenue and Refunds Fund | 275,000 |
|---|---------|

| | |
|----------------------------|---------|
| Miscellaneous Revenue Fund | 310,500 |
|----------------------------|---------|

| | |
|-------------------------------------|---------------|
| Business and Industry Services Fund | <u>39,500</u> |
|-------------------------------------|---------------|

TOTAL

| | |
|--|--------------|
| | \$13,221,800 |
|--|--------------|

FOR:

| | |
|-----------------|--------------|
| Personnel Costs | \$ 5,066,700 |
|-----------------|--------------|

| | |
|------------------------|---------|
| Operating Expenditures | 795,000 |
|------------------------|---------|

| | |
|----------------|---------|
| Capital Outlay | 142,100 |
|----------------|---------|

| | |
|------------------------------|------------------|
| Trustee and Benefit Payments | <u>7,218,000</u> |
|------------------------------|------------------|

TOTAL

| | |
|--|--------------|
| | \$13,221,800 |
|--|--------------|

C. EPILEPSY SERVICES:

FROM:

| | |
|--------------|-----------|
| General Fund | \$ 69,000 |
|--------------|-----------|

FOR:

| | |
|------------------------------|-----------|
| Trustee and Benefit Payments | \$ 69,000 |
|------------------------------|-----------|

D. INDEPENDENT LIVING COUNCIL:

FROM:

| | |
|--------------|-----------|
| General Fund | \$ 13,900 |
|--------------|-----------|

| | |
|---------------------|---------|
| Federal Grants Fund | 149,500 |
|---------------------|---------|

| | |
|----------------------------|--------------|
| Miscellaneous Revenue Fund | <u>5,300</u> |
|----------------------------|--------------|

TOTAL

| | |
|--|------------|
| | \$ 168,700 |
|--|------------|

FOR:

| | |
|-----------------|-----------|
| Personnel Costs | \$ 35,100 |
|-----------------|-----------|

| | |
|------------------------|--------|
| Operating Expenditures | 83,000 |
|------------------------|--------|

| | |
|------------------------------|---------------|
| Trustee and Benefit Payments | <u>50,600</u> |
|------------------------------|---------------|

TOTAL

| | |
|--|------------|
| | \$ 168,700 |
|--|------------|

GRAND TOTAL

| | |
|--|--------------|
| | \$13,934,100 |
|--|--------------|

SECTION 3. There is hereby appropriated from the General Fund to the Division of Vocational Rehabilitation an amount not to exceed \$500,000 for the period from the effective date of this section through June 30, 1995. This appropriation is for the purpose of acquiring residential units to be used as "transitional independent living facilities" for persons with disabilities. The appropriation shall be administered by the division as a "challenge grant," with the state General Funds being matched on a dollar-for-dollar basis by private donations.

It is legislative intent that the Division shall determine one organization, CARF-accredited in integrated community living, to participate in this program and shall disburse the General Funds to that organization upon certification that the private donations have been pledged by June 30, 1994. The Division is not entitled to any administrative fees.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 3 of this act shall be in full force and effect on and after its passage and approval.

Approved March 30, 1994.

CHAPTER 231
(S.B. No. 1583)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 1995; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CERTAIN TRANSFERS BEING CONTINUOUSLY APPROPRIATED; AND APPROPRIATING CERTAIN MONEYS FROM THE STATE HIGHWAY FUND FOR DISTRIBUTION TO CITIES, COUNTIES AND HIGHWAY DISTRICTS.

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

SECTION 1. There is hereby appropriated to the Idaho Transportation Department the following amount, to be expended for designated Divisions according to designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|-------------------------------------|---------------------------|----------------------------------|--------------------------|---|---------------|
| A. GENERAL SUPPORT DIVISION: | | | | | |
| (1) MANAGEMENT SERVICES | | | | | |
| FROM: | | | | | |
| State Highway | | | | | |
| Fund | \$ 5,226,100 | \$ 1,992,200 | \$ 1,054,800 | \$ 752,900 | \$ 9,026,000 |
| (2) SUPPORT SERVICES | | | | | |
| FROM: | | | | | |
| State Highway | | | | | |
| Fund | 3,884,200 | 1,733,100 | 105,500 | | 5,722,800 |
| (3) MOTOR VEHICLE SERVICES | | | | | |
| FROM: | | | | | |
| State Highway | | | | | |
| Fund | 6,865,300 | 3,956,600 | 340,400 | | 11,162,300 |
| TOTAL | \$15,975,600 | \$ 7,681,900 | \$ 1,500,700 | \$ 752,900 | \$ 25,911,100 |
| B. HIGHWAYS DIVISION: | | | | | |
| (1) PROJECT DEVELOPMENT | | | | | |
| FROM: | | | | | |
| State Highway | | | | | |
| Fund | \$ 4,319,600 | \$ 497,500 | \$ 134,300 | | \$ 4,951,400 |
| (2) HIGHWAY OPERATIONS | | | | | |
| FROM: | | | | | |
| State Highway | | | | | |
| Fund | 5,636,100 | 1,216,400 | 512,500 | | 7,365,000 |
| Highway Safety | | | | | |
| Fund | | | | \$1,161,000 | 1,161,000 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|---------------|
| (3) DISTRICT OPERATIONS | | | | | |
| FROM: | | | | | |
| State Highway | | | | | |
| Fund | 50,115,900 | 32,874,600 | 9,648,100 | 407,500 | 93,046,100 |
| (4) CONTRACT CONSTRUCTION | | | | | |
| FROM: | | | | | |
| State Highway | | | | | |
| Fund | | | 131,955,000 | | 131,955,000 |
| (5) CAPITAL FACILITIES | | | | | |
| FROM: | | | | | |
| State Highway | | | | | |
| Fund | | | 3,200,000 | | 3,200,000 |
| TOTAL | \$60,071,600 | \$34,588,500 | \$145,449,900 | \$1,568,500 | \$241,678,500 |
| C. AERONAUTICS DIVISION: | | | | | |
| FROM: | | | | | |
| State Aeronautics | | | | | |
| Fund | \$ 594,800 | \$ 381,700 | \$ 29,500 | \$ 300,000 | \$ 1,306,000 |
| D. PUBLIC TRANSPORTATION DIVISION: | | | | | |
| FROM: | | | | | |
| State Highway | | | | | |
| Fund | \$ 290,300 | \$ 97,500 | \$ 4,800 | \$3,172,800 | \$ 3,565,400 |
| E. INTERDEPARTMENTAL SERVICES DIVISION: | | | | | |
| FROM: | | | | | |
| State Aeronautics | | | | | |
| Fund | \$ 93,400 | \$ 297,400 | 100,000 | | \$ 490,800 |
| State Highway | | | | | |
| Fund | 67,800 | 739,900 | | | 807,700 |
| TOTAL | \$ 161,200 | \$ 1,037,300 | \$ 100,000 | | \$ 1,298,500 |
| GRAND | | | | | |
| TOTAL | \$77,093,500 | \$43,786,900 | \$147,084,900 | \$5,794,200 | \$273,759,500 |

SECTION 2. It is legislative intent that all moneys transferred to the Local Bridge Inspection Fund, to the Local Highway Needs Assessment Fund, and to the Railroad Grade Crossing Protection Fund are hereby continuously appropriated to the Idaho Transportation Department for that purpose.

~~*SECTION 3. There is hereby appropriated the sum of \$10,000,000 from the State Highway Fund, which sum shall be distributed to cities, counties and highway districts according to the existing statutory distribution formula contained in Section 40-709, Idaho Code, and such appropriation shall be used exclusively for road and bridge maintenance and construction improvement projects.~~

Approved March 30, 1994.

*Section 3 was line item vetoed March 30, 1994.

CHAPTER 232
(H.B. No. 615)

AN ACT

RELATING TO THE PRACTICE OF NURSING; AMENDING SECTION 54-1402, IDAHO CODE, TO FURTHER DEFINE THE PRACTICE OF NURSING TO INCLUDE REGISTERED NURSE ANESTHETIST AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1402, Idaho Code, be, and the same is hereby amended to read as follows:

54-1402. DEFINITIONS. As used in this act:

(a) "Board" means the board of nursing.

(b) "Practice of nursing" means assisting individuals or groups of individuals to promote, maintain or restore optimal health throughout the life process by assessing and evaluating their health status, planning and implementing a strategy of care to accomplish defined goals, and evaluating responses to care and treatment.

(1) "Licensed professional nurse" means a person who practices nursing by:

- a. Assessing the health status of individuals and groups of individuals;
- b. Identifying health care problems that are amenable to nursing intervention;
- c. Establishing goals to meet identified health care needs;
- d. Planning a strategy of care;
- e. Prescribing nursing interventions to implement the strategy of care;
- f. Implementing the strategy of care, including administering medications and treatments as prescribed by those health care providers authorized to prescribe medication;
- g. Authorizing nursing interventions that may be performed by others and that do not conflict with this act;
- h. Maintaining safe and effective nursing care rendered directly or indirectly;
- i. Evaluating responses to interventions;
- j. Teaching the theory and practice of nursing;
- k. Managing the practice of nursing; and
- l. Collaborating with other health professionals in the management of health care.

(2) "Licensed practical nurse" means a person who practices nursing by:

- a. Functioning at the direction of a licensed professional nurse, licensed physician, or licensed dentist;
- b. Contributing to the assessment of the health status of individuals and groups of individuals;
- c. Participating in the development and modification of the strategy of care;
- d. Implementing the appropriate aspects of the strategy of care as defined by the board, including administering

medications and treatments as prescribed by those health care providers authorized to prescribe medication;
 e. Maintaining safe and effective nursing care rendered directly or indirectly;
 f. Participating in the evaluation of responses to interventions; and
 g. Delegating nursing interventions that may be performed by others and that do not conflict with this act.

(c) "Nursing education program" means a course of instruction offered and conducted to prepare persons for the practice of nursing, or to increase the knowledge and skills of the practicing nurse.

(d) "Nurse practitioner" means a licensed professional nurse having specialized skill, knowledge and experience authorized, by rules and--regulations jointly promulgated by the Idaho state board of medicine and the Idaho board of nursing and implemented by the Idaho board of nursing, to perform designated acts of medical diagnosis, prescription of medical therapeutic and corrective measures and delivery of medications.

(e) "Registered nurse anesthetist" means a licensed professional nurse who has graduated from a nationally accredited nurse anesthesia program, passed a qualifying examination recognized by the Idaho board of nursing and, has current initial certification or current active recertification from a national group recognized by the board of nursing. Registered nurse anesthetists who meet these qualifying requirements and are registered by the board, may, in collaboration with a physician, dentist or podiatrist authorized to practice in Idaho, provide anesthesia care services as defined by the rules promulgated by the board of nursing. The scope of practice for registered nurse anesthetists shall incorporate acts identified in board of nursing rules, including selecting, ordering and administering medications, appropriate for rendering anesthesia care services.

Approved March 30, 1994.

CHAPTER 233
 (S.B. No. 1355, As Amended)

AN ACT

RELATING TO COMMUNITY SERVICE; AMENDING CHAPTER 32, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3201C, IDAHO CODE, TO PROVIDE FOR ASSESSMENT OF A COMMUNITY SERVICE FEE TO PROVIDE WORKER'S COMPENSATION INSURANCE; AMENDING SECTION 16-1814, IDAHO CODE, TO PROVIDE FOR ASSESSMENT OF A COMMUNITY SERVICE FEE TO PROVIDE WORKER'S COMPENSATION INSURANCE; AND AMENDING SECTION 16-1807A, IDAHO CODE, TO PROVIDE FOR A COMMUNITY SERVICE FEE TO PROVIDE WORKER'S COMPENSATION INSURANCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Chapter 32, Title 31, Idaho Code, be, and the

same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-3201C, Idaho Code, and to read as follows:

31-3201C. COMMUNITY SERVICE FEE. The court shall charge a fee of sixty cents (60¢) per hour of community service to be remitted to the state insurance fund for purposes of providing worker's compensation insurance for persons performing community service. This per hour fee shall be paid by each person found guilty of any felony or misdemeanor and community service is provided as part of the sanction or as a condition of a withheld judgment or probation. The court may waive such fee if it determines the person is indigent and unable to pay such fee. Such fees shall be in addition to all other fines and fees levied. Such fees shall be paid to the county treasurer who shall pay such fees to the state insurance fund with their worker's compensation premium.

SECTION 2. That Section 16-1814, Idaho Code, be, and the same is hereby amended to read as follows:

16-1814. DISPOSITION HEARING. (1) Upon the entry of an order finding the child is within the purview of the act, the court shall then hold a disposition hearing in the manner prescribed by the Idaho juvenile rules to determine the treatment, rehabilitation or detention sentence that will best serve the needs of the child and the public interest. Prior to the entry of an order disposing of the case, other than an order of discharge or dismissal, the court shall request and shall receive a report containing the results of an inquiry into the home environment, past history, rehabilitation or prevention of out of home placement services provided, social, physical and mental condition of the child. The court shall not consider or review the report prior to the entry of an order of adjudication. Upon presentation and consideration of the report by the court, the court may proceed to the disposition of the case as follows:

1. Place the child on formal probation for a period not to exceed three (3) years from the date of the order;
2. Commit the child to a period of detention, pursuant to this act, for a period of time not to exceed thirty (30) days for each unlawful or criminal act the child is found to have committed, if the unlawful or criminal act would be a misdemeanor if committed by an adult, or where the child has been adjudicated as an habitual status offender;
3. If the child has committed an unlawful or criminal act which would be a felony if committed by an adult, the court may commit the child to detention for a period not to exceed thirty (30) days with up to ninety (90) additional days detention suspended for each unlawful or criminal act. If the child violates conditions of probation, the court may commit the child to detention for all or a portion of the period originally suspended;
4. If the child has committed an unlawful or criminal act which would be a felony if committed by an adult and if the child has previously been found by a court to be within the purview of this chapter and has had all or a portion of the sentence suspended,

the court may commit the child to detention for a period not to exceed one hundred twenty (120) days. Whenever a court commits a child to a period of detention it shall notify the school district where the detention facility is located. No child who is found to come within the purview of the act for the commission of a status offense shall be sentenced to detention in a jail facility unless such an adjudication has been made that the child is an habitual status offender;

5. Commit the child to detention and suspend the sentence on specific probationary conditions;

6. Commit the child to the legal custody of the department of health and welfare for an indeterminate period of time not to exceed his or her twenty-first birthday, unless extended jurisdiction is necessary to complete the rehabilitation goals of the department;

7. The court shall encourage the development of employment, work or community service programs, to enable children to fulfill their obligations under subsection (3) of this section and for other purposes when deemed desirable by the court;

8. The court may suspend the child's driving privileges for such periods of time as the court deems necessary, and the court may take possession of the child's driver license. The child may request restricted driving privileges during the period of suspension, which the court may allow if the child shows by a preponderance of evidence that driving privileges are necessary for his employment or for family health needs;

9. The court may order that the child be examined or treated by a physician, surgeon, psychiatrist or psychologist, or that he receive other special care, or that he submit to an alcohol or drug evaluation, if needed, and for such purposes may place the child in a hospital or other suitable facility;

10. In support of an order under the provisions of this section, the court may make an additional order setting forth reasonable conditions to be complied with by the parents, the child, his legal guardian or custodian, or any other person who has been made a party to the proceedings including, but not limited to restrictions of visitation by the parents or one (1) parent, restrictions on the child's associates, occupation and other activities, and requirements to be observed by the parents, guardian or custodian;

11. The court may order that a petition be filed pursuant to chapter 20, title 16, Idaho Code, for the termination of parental rights;

12. The court may make any other reasonable order which is in the best interest of the child or is required for the protection of the public, except that no person under the age of eighteen (18) may be committed to jail, prison or a secure facility which does not meet the standards set forth in section 16-1812A, Idaho Code, unless jurisdiction over the individual is in the process of being waived or has been waived pursuant to sections 16-1806 and 16-1806A, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

13. An order under the provisions of this section for probation or placement of a child with an individual or an agency shall

include a date certain for a review of the case by the court, with a new date to be set upon each review;

14. Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

15. Order the case and all documents and records connected therein transferred to the magistrate division of the district court for the county where the child and/or parents reside if different than the county where the child was charged and found to have committed the unlawful or criminal act, for the entry of a dispositional order;

16. Order such other terms, conditions, care or treatment as appears to the court will best serve the interests of the child and the community;

17. The court shall assess a ten dollar (\$10.00) charge against the child for every petition filed where there has been an adjudication that the child is within the purview of this chapter. All moneys raised pursuant to this subsection shall be transmitted by the court for deposit in the youth corrections account which is created in section 16-1849, Idaho Code.

18. Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community service against the child for every petition filed where there has been an adjudication that the child is within the purview of this chapter and the court is ordering community service. Such fee is to be remitted by the court to the state insurance fund for purposes of providing worker's compensation insurance for persons performing community service pursuant to this chapter.

19. Notwithstanding any other provision of this section, a court may not commit a youth offender under the age of ten (10) years to a period of detention or to the custody of the department of health and welfare for placement in secure confinement.

(2) When an order is entered pursuant to this section, the child shall be transported to the facility or program so designated by the court or the department, as applicable, by the sheriff of the county where the child resides or is committed, or by an appointed agent. Any order of commitment to the department to a program other than a secure facility shall be subject to review at least once every six (6) months. When committing a child to the department, or another entity, the court shall at once forward to the department or entity a certified copy of the order of commitment.

(3) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order the child or his parents or both to pay restitution to or make whole any victim who suffers an economic loss as a result of the child's conduct in accordance with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code.

SECTION 3. That Section 16-1807A, Idaho Code, be and the same is hereby amended to read as follows:

16-1807A. DIVERSION OR INFORMAL DISPOSITION OF THE PETITION.

(1) Prior to the filing of any petition under this act, the prosecuting attorney may request a preliminary inquiry from the juvenile pro-

bation department to determine whether the interest of the public or the juvenile requires a formal court proceeding. If court action is not required, the prosecuting attorney may utilize the diversion process and refer the case directly to the juvenile probation department, the department of health and welfare, or a community based-diversion program for informal probation and counseling, where exists a contract for probation services. If community service is going to be utilized pursuant to this subsection, the prosecuting attorney shall collect a fee of sixty cents (60¢) per hour for each hour of community service work the juvenile is going to perform and remit the fee to the state insurance fund for the purpose of securing worker's compensation insurance for the juvenile performing community service.

(2) After the petition has been filed and where, at the admission or denial hearing, the juvenile admits to the allegations contained in the petition, the court may decide to make an informal adjustment of the petition. Informal adjustment includes, but is not limited to:

- (a) Reprimand of the juvenile;
- (b) Informal supervision with the probation department;
- (c) Community service work;
- (d) Restitution to the victim;
- (e) Participation in a community-based diversion program.

Such informal adjustment of the petition shall be conducted in the manner prescribed by the Idaho juvenile rules. When an informal adjustment is made pursuant to this section and the juvenile is to perform community service work, the court shall assess the juvenile a fee of sixty cents (60¢) per hour for each hour of community service work the juvenile is to perform. This fee shall be remitted by the court to the state insurance fund for the purpose of securing worker's compensation insurance for the juvenile performing community service.

Approved March 30, 1994.

CHAPTER 234
(S.B. No. 1450)

AN ACT

RELATING TO A MOTORCYCLE ENDORSEMENT ON A DRIVER'S LICENSE; AMENDING SECTION 49-105, IDAHO CODE, TO PROVIDE FOR A MOTORCYCLE ENDORSEMENT ON A DRIVER'S LICENSE; AMENDING SECTION 49-114, IDAHO CODE, TO DEFINE "MOPED"; AMENDING SECTION 49-301, IDAHO CODE, TO REQUIRE THAT MOTORCYCLE OPERATORS BE LICENSED AND POSSESS A MOTORCYCLE ENDORSEMENT; AMENDING SECTION 49-302, IDAHO CODE, TO PROVIDE THAT NONRESIDENT MOTORCYCLE OPERATORS ARE EXEMPT FROM OBTAINING AN IDAHO MOTORCYCLE ENDORSEMENT UNDER CERTAIN CONDITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 3, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-304, IDAHO CODE, TO PROVIDE FOR A MOTORCYCLE ENDORSEMENT; AMENDING SECTION 49-305, IDAHO CODE, TO PROVIDE FOR A MOTORCYCLE ENDORSEMENT INSTRUCTION PERMIT AND TO PROVIDE PENALTIES FOR VIOLATIONS; AMENDING SECTION 49-306, IDAHO CODE, TO PROVIDE FEES FOR A MOTORCYCLE ENDORSEMENT, FOR A MOTORCYCLE ENDORSEMENT INSTRUCTION PERMIT AND FOR A MOTORCYCLE ENDORSE-

MENT SKILLS TEST, TO PROVIDE FOR DISTRIBUTION OF FEES COLLECTED AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-313, IDAHO CODE, TO PROVIDE FOR EXAMINATION OF APPLICANTS FOR A MOTORCYCLE ENDORSEMENT AND TO PROVIDE CONDITIONS FOR A WAIVER OF THE SKILLS TEST REQUIREMENT; AMENDING SECTION 49-314, IDAHO CODE, TO CLARIFY THAT THE DEPARTMENT OF EDUCATION SHALL APPOINT SKILLS EXAMINERS FOR THE SKILLS TEST COMPONENT OF THE MOTORCYCLE ENDORSEMENT REQUIREMENTS; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 48, TITLE 33, IDAHO CODE, TO PROVIDE COOPERATION BETWEEN THE IDAHO TRANSPORTATION DEPARTMENT AND THE DEPARTMENT OF EDUCATION, TO ESTABLISH A MOTORCYCLE SAFETY PROGRAM, TO PROVIDE AUTHORITY TO THE DEPARTMENT OF EDUCATION FOR IMPLEMENTATION OF THE MOTORCYCLE SAFETY PROGRAM, TO ESTABLISH A MOTORCYCLE SAFETY PROGRAM FUND, TO ESTABLISH A PROGRAM ADVISORY COMMITTEE AND TO PROVIDE PROGRAM ACCOUNTABILITY BY THE DEPARTMENT OF EDUCATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-105, Idaho Code, be, and the same is hereby amended to read as follows:

49-105. DEFINITIONS -- D.

(1) "Dealer" means every person in the business of buying, selling or exchanging five (5) or more new or used vehicles, new or used motorcycles, snow machines or motor scooters, travel trailers, all-terrain vehicles or motor homes in any calendar year, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, or who has an established place of business for the sale, lease, trade, or display of these vehicles. No insurance company, bank, finance company, public utilities company, or other person coming into possession of any vehicle, as an incident to its regular business, who shall sell that vehicle under any contractual rights it may have, shall be considered a dealer. See also "salvage pool", section 49-120, Idaho Code.

(2) "Dealer's selling agreement." (See "Franchise", section 49-107, Idaho Code)

(3) "Department" means the Idaho transportation department acting directly or through its duly authorized officers and agents, except in chapters 6 and 9, title 49, Idaho Code, where the term means the Idaho department of law enforcement, except as otherwise specifically provided.

(4) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a vehicle dealership who, in the event of the owner's death, is entitled to inherit the ownership interest in the dealership under the same terms of the owner's will, or who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a dealership, has been appointed by a court as the legal representative of the dealer's property.

(5) "Director" means the director of the Idaho transportation department, except in chapters 6, 9 and 22, title 49, Idaho Code, where the term means the director of the Idaho department of law

enforcement.

(6) "Disqualification" as defined in 49 CFR part 383, means withdrawal by the department of commercial vehicle driving privileges.

(7) "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of vehicles to distribute vehicles in this state, and who in whole or in part sells or distributes new vehicles to dealers or who maintains distributor representatives.

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

(9) "Distributor representative" means any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vehicles for the purpose of making or promoting the sale of vehicles, or for supervising or contacting dealers or prospective dealers.

(10) "District" means:

(a) Business district. The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

(b) Residential district. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred (300) feet or more is in the main improved with residences, or residences and buildings in use for business.

(c) Urban district. The territory contiguous to and including any highway which is built up with structures devoted to business, industry or dwelling houses.

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

(12) "Drag race" means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of the vehicles within a certain distance or time limit.

(13) "Driver" means every person who drives or is in actual physical control of a vehicle.

(14) "Driver's license" means a license or permit issued by the department or by any other jurisdiction to an individual which authorizes the individual to operate a motor vehicle or commercial motor vehicle on the highways in accordance with the requirements of title 49, Idaho Code.

(15) "Driver's license - classes of" are issued for the operation of a vehicle based on the size of the vehicle or the type of load and mean:

(a) Class A. This license shall be issued and valid for the operation of any combination of motor vehicles with a manufacturer's

gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the manufacturer's gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Persons holding a valid class A license may also operate vehicles requiring a class B, C, or D license for operation, with any appropriate endorsements.

(b) Class B. This license shall be issued and valid for the operation of any single vehicle with a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds, or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight rating (GVWR). Persons holding a valid class B license may also operate vehicles requiring a class C license, with any appropriate endorsements, and vehicles requiring a class D license.

(c) Class C. This license shall be issued and valid for the operation of any single vehicle or combination of vehicles that does not meet the definition of class A or class B, as defined in this section, but that either is designed to transport sixteen (16) or more people, including the driver, or is placarded for hazardous materials. Persons holding a valid class C license may also operate vehicles requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in section 49-123, Idaho Code.

(e) "Seasonal driver's license" means a special restricted class B or C driver's license to operate certain commercial vehicles in farm-related industries under restrictions imposed by the department. As used in this definition, "farm-related industry" shall mean custom harvesters, farm retail outlets and suppliers, agricultural businesses and livestock feeders. Seasonal driver's licenses are not valid for driving vehicles carrying any quantities of hazardous material requiring placarding, except for diesel fuel in quantities of one thousand (1,000) gallons or less, liquid fertilizers, i.e., plant nutrients, in vehicles or implements of husbandry with total capacities of three thousand (3,000) gallons or less, and solid fertilizers, i.e., solid plant nutrients, that are not mixed with any organic substance.

(16) "Driver's license endorsements" mean special authorizations that are required to be displayed on a driver's license which permit the driver to operate certain types of commercial vehicles or commercial vehicles hauling certain types of cargo, or to operate a motor-cycle.

(a) "Endorsement T - Double/triple trailer" means this endorsement is required on a class A license to permit the licensee to operate a vehicle authorized to tow more than one (1) trailer.

(b) "Endorsement H - Hazardous material" means this endorsement is required on a class A, B or C license if the driver is operating a vehicle transporting a hazardous material that is required to be placarded under the hazardous materials transportation act and by rules and regulations of the U.S. department of transportation.

(c) "Endorsement P - Passenger" means this endorsement is required on a class A, B or C license to permit the licensee to

operate a vehicle designed to transport sixteen (16) or more people, including the driver.

(d) "Endorsement N - Tank vehicle" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle which is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle. This definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons.

(e) "Endorsement M - Motorcycle" means this endorsement is required on a driver's license to permit the driver to operate a motorcycle.

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

(18) "Dromedary tractor" means every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer.

SECTION 2. That Section 49-114, Idaho Code, be, and the same is hereby amended to read as follows:

49-114. DEFINITIONS -- M.

(1) "Major component part" means a rear clip, cowl, frame or inner structure forward of the cowl, body, cab, front end assembly, front clip or such other part which is critical to the safety of the vehicle.

(2) "Manifest" means a form used for identifying the quantity, composition, origin, routing, waste or material identification code and destination of hazardous material or hazardous waste during any transportation within, through, or to any destination in this state.

(3) "Manufactured home." (See section 39-4105, Idaho Code)

(4) "Manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered at an established place of business in this state. The term, for purposes of sections 49-1613 through 49-1615, 49-1617, 49-1622 and 49-1623, Idaho Code, shall include a distributor and other factory representatives.

(5) "Manufacturer's year designation" means the model year designated by the vehicle manufacturer, and not the year in which the vehicle is, in fact, manufactured.

(6) "Maximum gross weight" means the scale weight of a vehicle, equipped for operation, to which shall be added the maximum load to be carried as declared by the owner in making application for registration. When a vehicle against which a registration or use fee is assessed is a combination of vehicles, the term "maximum gross weight" means the combined maximum gross weights of all vehicles in the combination.

(7) "Metal tire." (See "Tires," section 49-121, Idaho Code)

(8) "Moped" means a limited-speed motor-driven cycle which is not capable of propelling the vehicle at a speed in excess of thirty (30) miles per hour on level ground, whether two (2) or three (3) wheels are in contact with the ground during operation. If an internal com-

bustion engine is used, the displacement shall not exceed fifty (50) cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(9) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor and moped.

(910) "Motor driven cycle" means every motorcycle, motor scooter, or motorized bicycle having an engine with less than one hundred fifty (150) cubic centimeters displacement or with five (5) brake horsepower or less.

(101) "Motor home" means a vehicular unit designed to provide temporary living quarters, built into an integral part or permanently attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the American National Standards Institute (ANSI) A119.7 Standard for Recreational Vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or ice box, self-contained toilet, heating and/or air conditioning, a portable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

(112) "Motorized wheelchair" means a motor vehicle with a speed not in excess of eight (8) miles per hour, designed for and used by a handicapped person.

(123) "Motor number." (See "Identifying number", section 49-110, Idaho Code)

(134) "Motor vehicle." (See "Vehicle", section 49-123, Idaho Code)

(145) "Motor vehicle liability policy" means an owner's or operator's policy of liability insurance, certified as provided in section 49-1210 or 49-1211, Idaho Code, as proof of financial responsibility, and issued, except as otherwise provided in section 49-1211, Idaho Code, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

SECTION 3. That Section 49-301, Idaho Code, be, and the same is hereby amended to read as follows:

49-301. DRIVERS TO BE LICENSED. (1) No person, except those expressly exempted by the provisions of this chapter, shall drive any motor vehicle upon a highway unless the person has a valid Idaho driver's license. No person shall operate a motorcycle upon a highway unless he has a motorcycle endorsement on his valid driver's license. No person shall operate a commercial motor vehicle as defined in section 49-123, Idaho Code, upon a highway unless he has a seasonal or class A, B or C driver's license with required endorsements. No person shall receive a driver's license unless and until he surrenders to the department all driver's licenses in his possession issued to him by Idaho or any other jurisdiction, or until he executes an affidavit that he does not possess a driver's license. No person shall be permitted to have more than one (1) driver's license at any time.

(2) All operator's and chauffeur's licenses issued shall remain valid until expired, except a chauffeur's or operator's license will not remain valid after April 1, 1992, for operation of a commercial motor vehicle.

SECTION 4. That Section 49-302, Idaho Code, be, and the same is hereby amended to read as follows:

49-302. WHAT PERSONS ARE EXEMPT FROM LICENSE. The following persons are exempt from licensing if driving privileges are not suspended, cancelled, revoked, disqualified, denied or refused:

(1) Any person while driving or operating any special mobile equipment, farm tractor, or implement of husbandry moved on a highway.

(2) Farmers are exempt from obtaining a class A, B or C driver's license to operate a commercial motor vehicle which is:

(a) Controlled and operated by a farmer; and

(b) Used to transport either agricultural products, farm machinery, farm supplies, or both, to or from a farm; and

(c) Not used in the operations of a common or contract motor carrier; and

(d) Used within one hundred fifty (150) miles of the person's farm.

(3) Any person is exempt from obtaining a class A, B or C driver's license for the operation of fire fighting or other emergency equipment used in response to emergencies involving the preservation of life or property.

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

(5) A nonresident who is at least fifteen (15) years of age and who has in his immediate possession a valid driver's license issued to him in his home state or country may operate a motor vehicle in Idaho only as a class D operator with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age, and only if Idaho residency is not established.

(6) A nonresident who is at least fifteen (15) years of age and who has in his possession a valid driver's license with a motorcycle endorsement or who has a valid motorcycle driver's license issued to him in his home state or country may operate a motorcycle in Idaho with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age.

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

(78) A nonresident who is at least eighteen (18) years of age, whose home state or country does not require the licensing of operators, may operate a motor vehicle as a class D operator only, for a period of not more than ninety (90) days in any calendar year, if the motor vehicle is currently registered in the home state or country of the nonresident.

(89) A nonresident on active duty in the armed forces of the United States who has a valid driver's license issued by his home

jurisdiction, and such nonresident's spouse or dependent son or daughter who has a valid driver's license issued by such person's home jurisdiction.

(910) Any active duty military personnel, and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians who as civilians are required to wear military uniforms and are subject to the code of military justice, are exempt from obtaining a commercial driver's license to operate military vehicles.

SECTION 5. That Chapter 3, 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 49-304, Idaho Code, and to read as follows:

49-304. MOTORCYCLE ENDORSEMENT. The department shall issue a motorcycle "M" endorsement on a driver's license to applicants who complete the requirements to operate a motorcycle.

(1) Any person who holds a valid Idaho driver's license on September 1, 1994, may operate a motorcycle without a motorcycle "M" endorsement until that driver's license expires.

(2) Any person who applies for a driver's license or renewal of a license after September 1, 1994, may also apply for a motorcycle "M" endorsement. Until September 1, 1998, the requirements for obtaining a motorcycle "M" endorsement are:

(a) The applicant shall be tested by written examination for his knowledge of safe motorcycle operating practices and traffic laws specific to the operation of motorcycles upon payment of the fee specified in section 49-306, Idaho Code.

(b) Upon successful completion of the knowledge test and upon payment of the fee required for an "M" endorsement, the applicant shall obtain a motorcycle "M" endorsement on his driver's license.

(3) After September 1, 1996, no person under the age of twenty-one (21) years may apply for or obtain a motorcycle "M" endorsement on his driver's license unless he has successfully completed a motorcycle rider training course approved under the provisions of chapter 48, title 33, Idaho Code, in addition to satisfying the requirements specified in subsection (2) of this section. The provisions of this subsection shall not be effective unless and until the motorcycle rider training course is fully implemented by the department of education.

(4) Any person who applies for a motorcycle endorsement on a driver's license after September 1, 1998, in addition to the requirements specified in subsection (2) of this section, may also be required to pass the motorcycle "M" skills test before he can obtain the motorcycle "M" endorsement.

SECTION 6. That Section 49-305, Idaho Code, be, and the same is hereby amended to read as follows:

49-305. INSTRUCTION PERMITS AND TEMPORARY LICENSES. (1) Upon passage of a knowledge test for the license class type, the department may issue an instruction permit for the type of vehicle(s) the person

will be operating, entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of at least one hundred eighty (180) days. That person must be accompanied by an adult licensed driver who holds at least the same class of driver's license and who is actually occupying a seat beside the driver.

(a) Any person who has reached the age of fifteen (15) years, and who has successfully completed an approved driver training course may apply for a class D instruction permit with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age. The restriction of daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

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

(c) Until October 1, 1993, direct, uninterrupted audio or audiovisual electronic communication between the holder of a class A, B or C instruction permit and a driver instructor may be substituted for the driver instructor's physical presence in the vehicle if:

(i) The driver instructor holds the same or higher class of driver's license; and

(ii) The behind-the-wheel instruction is administered pursuant to a driver training program that is formally recognized and operated within the state according to state standards for such programs; and

(iii) The behind-the-wheel instruction occurs solely within the boundaries of the state and within the radius of uninterrupted electronic communication between the permit holder and the driver instructor as long as the distance between the two (2) parties does not exceed one (1) mile; and

(iv) The behind-the-wheel training occurs while the vehicle is used for training purposes exclusively and not for purposes of transporting passengers or property; and

(v) The vehicle being driven is not of a type whose operator would require an endorsement on his driver's license for double/triple trailers, tank vehicles or hazardous material.

(d) On and after April 1, 1992, federal highway administration rules and regulations concerning instruction permits, as specified in 49 CFR part 383, will be in effect for commercial motor vehicles.

(2) The department may, in its discretion, issue a temporary class D driver's license to an applicant for a class D driver's license permitting him to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary license must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's driver's license has been issued or for good cause has been refused.

(3) Upon application for a motorcycle endorsement upon his valid driver's license and upon successful completion of the motorcycle riders knowledge test, in addition to payment of the appropriate fees, the department may issue a motorcycle endorsement instruction permit.

The permit entitles the applicant, while having the permit in his immediate possession and while riding under the direct supervision of any person eighteen (18) years or older who possesses a valid driver's license, and after September 1, 1998, who also possesses a motorcycle endorsement, to operate a motorcycle upon the highways for a period not to exceed one hundred eighty (180) days. If the permittee passes the skills test for a motorcycle endorsement within one hundred eighty (180) days of issuance of the motorcycle endorsement instruction permit, he shall not be required to pay the motorcycle endorsement fee. "Direct supervision" means that any person eighteen (18) years of age or older who possesses a valid driver's license, and after September 1, 1998, who also possesses a motorcycle endorsement, is within two hundred (200) feet of the permittee at all times during the permittee's operation of a motorcycle. A person holding a motorcycle instruction permit shall not carry any passenger while operating a motorcycle, shall not operate a motorcycle except during the hours of daylight only and shall not operate a motorcycle upon any interstate highway system.

A violation of the conditions of a motorcycle endorsement instruction permit is a misdemeanor. The department shall cancel the permit whether or not such violation results in conviction of the misdemeanor.

SECTION 7. That Section 49-306, Idaho Code, be, and the same is hereby amended to read as follows:

49-306. APPLICATION FOR DRIVER'S LICENSE OR INSTRUCTION PERMIT.

(1) Every application for an instruction permit or for a driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit or driver's license shall be accompanied by the following fee, none of which is refundable:

| | |
|--|----------------|
| (a) Class A, B, C license with endorsements | \$23.50 |
| (b) Class D license | \$19.50 |
| (c) Class A, B, C instruction permit | \$15.50 |
| (d) Class D instruction permit | \$11.50 |
| (e) Duplicate driver's license or permit issued under section 49-318, Idaho Code | \$11.50 |
| (f) Driver's license extension issued under section 49-319, Idaho Code | \$ 6.50 |
| (g) License classification change (upgrade) | \$15.50 |
| (h) Endorsement addition | \$11.50 |
| (i) Class A, B, C skills tests | \$35.00 |
| (j) Class D skills test | \$ 3.00 |
| (k) <u>Motorcycle endorsement skills test</u> | <u>\$ 5.00</u> |
| (l) Knowledge test | \$ 3.00 |
| (lm) Seasonal driver's license | \$23.50 |
| (n) <u>Motorcycle "M" endorsement</u> | <u>\$20.00</u> |
| (o) <u>Motorcycle endorsement instruction permit</u> | <u>\$20.00</u> |

(2) Every application shall state the full name, date of birth, place of birth, sex, Idaho residence address and mailing address, if

different, of the applicant, height, weight, hair color, and eye color, and for a class A, B, or C driver's license or seasonal driver's license the applicant's social security number as verified by the applicant's social security card. A driver's license or instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners. Every application shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, cancelled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature. The applicant may be required to submit proof of identity and date and place of birth as set forth in a certified copy of his birth certificate and other satisfactory evidence to satisfy the issuing officer or the department.

(3) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(4) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(5) The department shall notify the commercial driver license information system of the proposed application for a class A, B or C driver's license to insure identification of the person and to obtain clearance to issue the license.

(6) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars (\$5.00) from each driver's license or instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement in the current expense fund; and

(b) Deposit two dollars and fifty cents (\$2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and

(c) Deposit an amount equal to three dollars (\$3.00) from each fee for a knowledge test or class D skills test in the current expense fund; and

(d) Deposit an amount equal to five dollars (\$5.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the five dollar (\$5.00) fee; and

(e) Remit the remainder to the state treasurer.

(7) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(8) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars (\$2.00) of each fee for a driver's license or seasonal driver's license shall be deposited in the emergency medical services account II created in section 39-146A, Idaho Code; and

(b) Sixteen dollars and fifty cents (\$16.50) of each fee for a seasonal or class A, B, or C driver's license shall be deposited in the state highway account; and

(c) Ten dollars and fifty cents (\$10.50) of each fee for a class A, B, or C instruction permit or driver's license classification change shall be deposited in the state highway account; and

(d) Six dollars and fifty cents (\$6.50) of each fee for a duplicate seasonal or class A, B, or C driver's license, class A, B, or C driver's license extension, or additional endorsement shall be deposited in the state highway account; and

(e) Four dollars (\$4.00) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway account; and

(f) Five dollars and thirty cents (\$5.30) of each fee for a class D driver's license shall be deposited in the driver training account; and

(fg) Seven dollars and twenty cents (\$7.20) of each fee for a class D driver's license shall be deposited in the highway distribution account; and

(gh) Two dollars and sixty cents (\$2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training account; and

(hi) Three dollars and ninety cents (\$3.90) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution account; and

(ij) Five dollars (\$5.00) of each fee for a class A, B, or C skills test shall be deposited in the state highway account; and

(k) Thirteen dollars and fifty cents (\$13.50) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the motorcycle safety program fund established in section 33-4804, Idaho Code.

(9) The contractor administering the skills test shall be entitled to thirty dollars (\$30.00) of the skills test fee. A contractor administering the skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) The department may issue seasonal class B or C driver's licenses that:

(a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;

(b) Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days

in a twelve (12) month period;

(c) May only be obtained twice in a driver's lifetime;

(d) Are valid only within a one hundred-fifty (150) mile radius of the place of business or farm being serviced; and

(e) Will be valid only in conjunction with valid class D driver's licenses.

(11) The department may issue seasonal class B or C driver's licenses to drivers who:

(a) Have not violated the single license provisions of 49 CFR part 383;

(b) Have not had any license suspensions, revocations or cancellations;

(c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or 49-335(2), Idaho Code, or any one (1) serious traffic offense;

(d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and

(e) Are at least sixteen (16) years old.

SECTION 8. That Section 49-313, Idaho Code, be, and the same is hereby amended to read as follows:

49-313. EXAMINATION OF APPLICANTS. (1) The sheriff or deputy shall examine every applicant for an instruction permit, seasonal driver's license, or a driver's license or a motorcycle endorsement, except as otherwise provided by law. It shall include a test of the applicant's eyesight and hearing, his ability to read and understand highway signs regulating, warning, and directing traffic. At the discretion of the examiner, a skills test which constitutes an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle for a class D driver's license or in the operation of a motorcycle for a motorcycle endorsement may be required, and a skills test shall be required for an applicant not previously licensed or endorsed for operation of a motorcycle. In addition, the applicant's knowledge of traffic laws of this state and a motorcycle endorsement applicant's knowledge of safe motorcycle operating practices and traffic laws specifically relating to motorcycle operation shall be tested by a written examination, except as provided in section 49-319, Idaho Code. At the discretion of the examiner, the prescribed written examination may be conducted orally.

(2) The knowledge and skill examinations for applicants for driver's licenses in class A, B or C shall be conducted in compliance with 49 CFR part 383.

(3) The skill test for a class A, B, C or D driver's license or for any endorsement other than a motorcycle endorsement shall be given by the department or its authorized agents. The skills examiner for a motorcycle endorsement shall be certified by the department of education.

(4) Any person who has successfully completed an approved driver training course and who applies for a driver's license more than three (3) months after completion of the driver training course shall be required to retake the skill test in addition to any other tests required upon application for a driver's license.

(5) The department shall not issue a tank, double/triple trailer, or hazardous material endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge test. The department shall not issue a passenger endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge and skills test.

(6) Any person failing to pass a knowledge or skill test for a class A, B, C or D driver's license or any endorsement may not retake the test within one (1) week of the failure.

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

(8) A skill examination for a class A, B or C driver's license may be waived for an applicant who certifies within the preceding two (2) years:

(a) He has not violated the single license provisions of 49 CFR part 383;

(b) He has not had any license suspension, revocation or cancellation;

(c) He has not had any conviction for any type of motor vehicle for any of the disqualification offenses contained in 49 CFR part 383.51;

(d) He has not had any violation of state or local laws relating to motor vehicle traffic control, arising in connection with any traffic accident, and has no record of an accident in which he was at fault; and

(e) He is regularly employed in a job requiring operation of a commercial motor vehicle; and

(f) He has previously taken and passed a skills test given by a state classified licensing and testing system and that the test was behind-the-wheel in a representative vehicle for that applicant's driver's license classification; or

(g) He has operated, for at least two (2) years immediately preceding application for a commercial driver's license, a vehicle representative of the commercial motor vehicle he operates or expects to operate.

(9) The motorcycle skills test for a motorcycle endorsement shall be waived by the department:

(a) If the applicant presents satisfactory evidence of successful completion of a recognized motorcycle rider training course approved by the department of education;

(b) If the applicant presents evidence of a motorcycle endorsement on his current license by a state or province which requires a motorcycle skills test equivalent to that required by Idaho law as determined by the department of education;

(c) Until September 1, 1998.

(10) At the discretion of the department, an alternate skills test for the motorcycle endorsement may be administered when the endorsement is for operation of a three-wheeled motorcycle only.

(911) The department or its authorized agents may refuse to give an applicant a skills test if there are reasonable grounds to believe that the safety of the applicant, public, or the examiner would be jeopardized by doing so. Reasonable grounds would include, but not be

limited to, the applicant's inability to pass the eye test, written tests, or a statement by a licensed physician stating the applicant is not physically able to drive a motor vehicle.

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

(1+3) Skill examinations for seasonal driver's licenses shall be waived.

SECTION 9. That Section 49-314, Idaho Code, be, and the same is hereby amended to read as follows:

49-314. LOCAL EXAMINERS APPOINTED BY DEPARTMENT. (1) The department shall appoint the sheriff in each county and may appoint any deputy sheriff, chief of police, or other officials or private citizens whom the department deems qualified as examiners, who shall be agents of the department and shall perform duties prescribed in this title.

(2) The department shall appoint at least one (1) employee in the department who shall be skilled and highly qualified in the method of giving driver's license examinations, who shall have authority, and it shall be this person's duty to instruct the examiners appointed by the department in the method of giving driver's license examinations and acquaint them with the use of equipment and forms needed in examining applicants for licensure.

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

(4) Agents of the department appointed to administer the skills test for a motorcycle endorsement shall be certified by the department of education.

SECTION 10. That Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 48, Title 33, Idaho Code, and to read as follows:

CHAPTER 48 MOTORCYCLE SAFETY PROGRAM

33-4801. COOPERATION BETWEEN DEPARTMENTS. In conjunction with its supervision of traffic on public highways, the Idaho transportation department is directed to cooperate with the department of education in its establishment of a motorcycle rider safety program for the state of Idaho.

33-4802. MOTORCYCLE SAFETY PROGRAM. (1) The department of education shall develop standards for, establish and administer the Idaho motorcycle safety program.

(2) The department of education shall establish standards for the motorcycle rider training course, including standards for course curriculum and student evaluation and testing, and shall meet or exceed established national standards for motorcycle rider training courses in effect as of September 1, 1994.

(3) The program shall include activities to increase motorcyclists' alcohol and drug effects awareness, motorcycle rider improvement efforts, program promotion activities, and other efforts to enhance motorcycle safety through education, including enhancement of public awareness of motorcycles.

(4) The superintendent of public instruction shall appoint a program coordinator to oversee and direct the program.

(5) The department of education shall establish standards for the training and approval of motorcycle rider training instructors and skills examiners which shall meet or exceed established national standards for such instructors and skills examiners in effect as of September 1, 1994.

33-4803. IMPLEMENTING AUTHORITY. (1) The department of education shall adopt rules which are necessary to carry out the motorcycle safety program.

(2) The department of education may enter into contracts with public or private entities for course delivery and for the provision of services or materials necessary for administration and implementation of the program.

(3) The department of education may offer motorcycle rider training courses directly and may approve courses offered by public or private entities as authorized program courses if they are administered and taught in full compliance with standards established for the state program.

(4) The department of education may establish reasonable enrollment fees to be charged for persons who participate in a motorcycle rider training course.

(5) The department of education may utilize available program funds to defray expenses in offering motorcycle rider training courses and may reimburse entities which offer approved courses for the expenses incurred in offering the courses in order to minimize any course enrollment fee charged to the students.

33-4804. MOTORCYCLE SAFETY PROGRAM FUND. (1) The motorcycle safety program fund is established in the state treasury and appropriated on a continual basis to the department of education which shall administer the moneys. Money in the fund shall only be used for administration and implementation of the program, including reimbursement of entities which offer approved motorcycle rider training courses.

(2) At the end of each fiscal year, moneys remaining in the motorcycle safety program fund shall be retained in said fund and shall not revert to any other general fund. The interest and income earned on money in the fund, after deducting any applicable charges, shall be credited to and remain in the motorcycle safety program fund.

(3) Revenue credited to the fund shall include thirteen dollars and fifty cents (\$13.50) of each fee assessed for a motorcycle endorsement instruction permit and a motorcycle endorsement as provided in section 49-306, Idaho Code.

33-4805. ADVISORY COMMITTEE. The superintendent of public instruction shall establish a program advisory committee consisting of five (5) persons representing various interests in motorcycle safety

including, but not limited to, motorcycle riding enthusiasts, dealers and law enforcement personnel. Committee members shall advise the program coordinator in developing, establishing and maintaining the program. The committee shall monitor program implementation and report to the superintendent as necessary with recommendations. Members of the committee shall serve without compensation but may be reimbursed for their reasonable expenses while engaged in committee business.

33-4806. ANNUAL REPORT ON THE PROGRAM. The department of education shall prepare a public report annually. The report shall be completed with the assistance of the program coordinator and the program advisory committee. The report shall include the number and location of various courses offered, the number of instructors approved, the number of students trained in various courses, other information about program implementation as deemed appropriate, and an assessment of the overall impact of the program on motorcycle safety in the state. The report shall also provide a complete accounting of revenue receipts of the motorcycle safety program fund and of all moneys expended under the program.

SECTION 11. This act shall be in full force and effect on and after September 1, 1994.

Approved March 30, 1994.

CHAPTER 235
(H.B. No. 932)

AN ACT

APPROPRIATING MONEYS FOR THE OFFICE ON AGING FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Office on Aging the following amounts, to be expended according to the designated expense classes from the listed funds, for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|-------------------------------|---------------------------|----------------------------------|---|------------------|
| FROM: | | | | |
| General Fund | \$310,600 | \$ 36,600 | \$2,399,000 | \$2,746,200 |
| Miscellaneous Revenue Fund | | 16,000 | | 16,000 |
| Federal Grant Fund | <u>345,100</u> | <u>132,800</u> | <u>4,890,900</u> | <u>5,368,800</u> |
| TOTAL | \$655,700 | \$185,400 | \$7,289,900 | \$8,131,000 |

Approved March 30, 1994.

CHAPTER 236
(H.B. No. 485, As Amended)

AN ACT

RELATING TO CHILD SUPPORT GUIDELINES; AMENDING SECTION 32-706A, IDAHO CODE, TO EXTEND THE SUNSET DATE ON CHILD SUPPORT GUIDELINES.

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

SECTION 1. That Section 32-706A, Idaho Code, be, and the same is hereby amended to read as follows:

32-706A. PURPOSE -- AUTHORIZATION TO ADOPT GUIDELINES -- GUIDELINES TO BE PRESUMPTIVE. A. The purpose of this act is to provide compliance with recent federal action whereby the congress of the United States has enacted 42 USC 667 as amended by public law 100-485, 102 STAT 2343, which measure requires that, effective October 13, 1989, as a condition to having a state plan for the receipt of federal aid for dependent children funds approved, a state must establish child support guidelines, which are to have a rebuttable presumption of being the correct amount for purposes of setting the level of child support, unless in a particular case the court finds, under criteria established by the legislature of the state that application of the guidelines would be unjust or inappropriate. In addition, the purpose of this act is to recognize and give presumptive effect to the child support guidelines which have been adopted by the supreme court of the state of Idaho, to be effective on and after April 1, 1989, which guidelines have been declared by the supreme court to be advisory, as an aid for the litigants and the courts to evaluate the needs of the children and the resources of the parents in determining the appropriate level of child support.

B. The legislature hereby authorizes and encourages the supreme court of the state of Idaho to adopt and to periodically review for modification, guidelines to promote uniform and adequate child support awards, to supplement the factors set forth in section 32-706, Idaho Code, to be used as an aid and a structure for litigants and courts to evaluate the individual circumstances of the needs of children and the resources of parents, in determining the levels of child support, and in evaluating the evidentiary circumstances of each individual case.

C. In arriving at the amount to be ordered as child support, the court, in addition to considering the factors described in section 32-706, Idaho Code, shall also apply the guidelines adopted by the supreme court of the state of Idaho on January 27, 1989, and as those guidelines are from time to time amended. There shall be a rebuttable presumption that the amount of the award which would result from the application of the guidelines is the amount of child support to be awarded, unless evidence is presented in a particular case which indicates that an application of the guidelines would be unjust or inappropriate. If the court determines that circumstances exist to permit a departure from the guidelines, the judge making the determination shall make a written or specific finding on the record that the application of the guidelines would be unjust or inappropriate in the par-

ticular case before the court.

D. The provisions of this section shall be null, void and of no force and effect on and after July 1, 1994⁵.

Approved March 30, 1994.

CHAPTER 237
(H.B. No. 519)

AN ACT

RELATING TO PROCEDURES GOVERNING ESTABLISHMENT OF PATERNITY; AMENDING SECTION 7-1106, IDAHO CODE, TO PROVIDE THAT A VOLUNTARY ACKNOWLEDGMENT OF PATERNITY SHALL CREATE A REBUTTABLE PRESUMPTION, TO PROVIDE FOR AN ORDER OF SUPPORT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 7-1116, IDAHO CODE, TO PROVIDE NOTICE REQUIREMENTS RELATIVE TO A BLOOD TEST; AMENDING CHAPTER 11, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 7-1124, IDAHO CODE, TO PROVIDE THAT A VOLUNTARY ACKNOWLEDGMENT OR DETERMINATION BY A COURT OR ADMINISTRATIVE BODY OF PATERNITY SHALL BE DETERMINATIVE AND ENTITLED TO FULL FAITH AND CREDIT; AMENDING SECTION 10-1301, IDAHO CODE, TO FURTHER DEFINE A FOREIGN JUDGMENT; AND AMENDING SECTION 10-1302, IDAHO CODE, TO REQUIRE A CERTIFIED COPY OF A FOREIGN JUDGMENT.

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

SECTION 1. That Section 7-1106, Idaho Code, be, and the same is hereby amended to read as follows:

7-1106. VOLUNTARY ACKNOWLEDGMENTS -- APPROVAL BY COURT -- EFFECT.

(1) In lieu of contested paternity proceedings, a verified voluntary acknowledgment of parentage executed jointly by the father and the mother of a child may be filed with a court of competent jurisdiction and proper venue. A voluntary acknowledgment executed after July 1, 1994, shall be admissible as evidence of paternity and shall create a rebuttable presumption of paternity. After filing, either parent may, upon notice to the other parent, move the court for entry of an order of filiation. Upon notice to both parents, the ~~state of Idaho~~ department of health and welfare may move the court for entry of an order of filiation if the child who is the subject of the acknowledgment is or was a recipient of public assistance.

(2) The voluntary acknowledgment of parentage may also contain agreements regarding custody, support and visitation. Such agreements, if approved by the court, shall have the same force and effect as a judgment of the court. However, the court shall have the same power to investigate the facts regarding custody, support and visitation prior to entering an order relative to those issues as it would have if no agreement had been filed; and provided further, that an agreement regarding the issues of child support, custody, or visitation shall be approved only if the court finds it to be in the best interest of the child. The court may enter an order for the support of a child upon

execution of a voluntary acknowledgment without further proceedings to establish paternity.

SECTION 2. That Section 7-1116, Idaho Code, be, and the same is hereby amended to read as follows:

7-1116. BLOOD TESTS. (1) The court may, and upon request of a party shall, require the child, mother, alleged father, or any male witness who testifies or will testify about his sexual relations with the mother at a possible time of conception to submit to blood tests. The tests shall be performed by an expert qualified as an examiner of genetic markers present on blood cells and components, appointed by the court. Verified documentation of the chain of custody of the blood is competent evidence to establish chain of custody. Verified experts' report shall be admitted at trial unless a challenge to the testing procedures or the blood analysis has been made twenty-one (201) days before trial. The blood test report must be served upon the defendant party at least twenty-eight (28) days before a trial together with a notice that the blood test will be admitted unless a challenge to the testing procedures or the blood analysis has been made by a party at least twenty-one (21) days before trial. A blood test result with a probability of paternity of ninety-eight percent (98%) shall create a rebuttable presumption of paternity.

(2) The court, upon reasonable request by a party, shall order that independent tests be performed by other experts qualified as examiners of genetic markers present on blood cells and components. Additional tests performed by other experts of the same qualifications may be ordered by the court at the expense of the party requesting additional testing.

(3) In all cases, the court shall determine the number and qualifications of the experts.

(4) The requesting party shall pay the expense of blood testing; however, the cost of blood testing shall be recovered by the prevailing party in the action.

(5) Whenever the results of the tests exclude any male witness from possible paternity, the tests shall be conclusive evidence of nonpaternity of the male witness. The refusal of any party to submit to the blood tests shall be disclosed to the court and is subject to the sanctions within the jurisdiction of the court. If the action was brought by the child's mother, but she refuses to submit herself or the child to blood tests, the action shall be dismissed.

(6) Any party calling a male witness for the purpose of testifying that he had sexual intercourse with the mother at any possible time of conception shall provide all other parties with the name and address of the witness twenty (20) days before the trial or pretrial hearing. If a male witness is produced at the hearing for the purpose stated in this subsection, but the party calling the witness failed to provide the twenty (20) day notice, the court may adjourn the proceeding for the purpose of taking a blood test of the witness prior to hearing the testimony of the witness if the court finds that the party calling the witness acted in good faith.

SECTION 3. That Chapter 11, Title 7, Idaho Code, be, and the same

is hereby amended by the addition thereto of a NEW SECTION to be known and designated as Section 7-1124, Idaho Code, and to read as follows:

7-1124. FULL FAITH AND CREDIT. A voluntary acknowledgment of paternity or a determination of paternity by a court or administrative body of any state must be accepted as determinative by the courts of this state and shall be entitled to full faith and credit.

SECTION 4. That Section 10-1301, Idaho Code, be, and the same is hereby amended to read as follows:

10-1301. "FOREIGN JUDGMENT" DEFINED. In this act "foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court or an order of an administrative body of any state regarding the support of a child, spouse, or former spouse or the establishment of paternity which is entitled to full faith and credit in this state.

SECTION 5. That Section 10-1302, Idaho Code, be, and the same is hereby amended to read as follows:

10-1302. FILING OF FOREIGN JUDGMENT WITH CLERK OF DISTRICT COURT -- EFFECT OF FILING. A copy of any foreign judgment authenticated certified in accordance with the act of congress or the statutes of this state may be filed in the office of the clerk of any district court of any county of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of a district court of this state and may be enforced or satisfied in like manner, with the following exceptions:

(1) The terms of a judgment providing for the custody of a minor child may not be modified, vacated, reopened nor stayed unless the court has assumed jurisdiction of the case under the uniform child custody jurisdiction act, chapter 11, title 32, Idaho Code.

(2) The terms of a judgment providing for the support of a minor child may not be modified, vacated, reopened nor stayed unless the court has personal jurisdiction over all the parties; and the registration of a judgment providing for the support of a minor child for the purposes of enforcing that judgment shall not constitute submitting to the personal jurisdiction of the court.

Approved March 30, 1994.

CHAPTER 238
(H.B. No. 567, As Amended)

AN ACT

RELATING TO TOW TRUCKS; AMENDING SECTION 61-801, IDAHO CODE, TO EXEMPT WRECKERS (TOW TRUCKS) FROM PUBLIC UTILITIES COMMISSION REGULATION UNDER THE MOTOR CARRIER ACT AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 61-801, Idaho Code, be, and the same is hereby amended to read as follows:

61-801. DEFINITIONS OF TERMS. The following definitions shall apply to this chapter:

a. The term "person" means any individual, firm, copartnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

b. The term "commission" means the Idaho public utilities commission.

c. The term "permit" means a permit issued under this chapter to any motor carrier.

d. The term "highway" means the public roads, highways, streets, and ways of the state.

e. The term "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highway in the transportation of passengers and/or property but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails.

f. The term "common carrier" means any person, which holds itself out to the general public to engage in the transportation by motor vehicle in commerce in the state of Idaho of passengers or property or any class or classes thereof for compensation, whether over regular or irregular routes, or by scheduled or unscheduled service.

g. The term "contract carrier" means any person which, under individual contracts or agreements, engages in the transportation, other than transportation referred to in paragraph ~~(g)~~ f. of this section, by motor vehicle of passengers or property in commerce in the state for compensation.

h. The term "private carrier" means any person not included in the terms "common carrier" or "contract carrier" who or which transports in commerce in the state by motor vehicle property of which such person is the owner, lessee, or bailee, when such property is for the purpose of sale, lease, rent, or bailment, or in the furtherance of any commercial enterprise; provided, that a motor vehicle of a private carrier, not in excess of eight thousand (8,000) pounds gross vehicle weight, not engaged in the transport of a hazardous substance, shall be exempt from the provisions of this act.

i. The term "motor carrier" means common carrier, contract carrier or private carrier.

j. The term "transportation" includes all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contract, express or implied, together with all services, facilities and property furnished, operated or controlled by any carrier or carriers and used in the transportation of passengers and/or property in commerce in the state.

k. Exemptions. Notwithstanding the definition of "motor carrier" as defined in this section, the following transportation shall be exempt from regulation by and payment of fees to the commission:

(1) motor vehicles employed solely in transporting school chil-

dren and teachers to or from school or to and from approved school activities, when the motor vehicles are either:

- (i) wholly owned and operated by such school; or
 - (ii) leased or contracted by such school and the motor vehicle is not used in the furtherance of any other commercial enterprise; or
- (2) taxicabs or other motor vehicles performing a licensed or franchised taxicab service, having a seating capacity of not more than seven (7) passengers within twenty-five (25) miles of the boundaries of the licensing or franchising jurisdiction; or
 - (3) motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroads or airports or other common carrier stations; or
 - (4) motor vehicles controlled and operated by any farmer when used in the transportation of his farm equipment or in the transportation of supplies to his farm; or
 - (5) motor vehicles used exclusively in the distribution of newspapers; or
 - (6) transportation of persons or property by motor vehicle at an airport when incidental to transportation by aircraft or other transportation in substitution for scheduled airline service when the carrier cannot provide the scheduled service because of weather and/or mechanical conditions and the transportation is arranged for and paid by the affected airlines; or
 - (7) transportation of persons and/or property, including mobile and modular houses manufactured with wheels and undercarriage as part of the substructure, but not transportation of other houses, buildings or structures within a municipality or territory contiguous to such municipality if such operation outside such municipality be a part of a service maintained within the limits of the municipality with the privilege of transfer of passengers to vehicles within the municipality without additional fare; or
 - (8) the transportation of agricultural products (including fresh fruits and vegetables) or livestock and livestock feed; or
 - (9) motor propelled vehicles for the sole purpose of carrying United States mail or property belonging to the United States; or
 - (10) motor carriers transporting products of the forest; or
 - (11) motor carriers transporting products of the mine including sand, gravel and aggregates thereof, except petroleum products; or
 - (12) motor carriers transporting household goods as defined by the interstate commerce commission; or
 - (13) vehicles properly equipped, designed and customarily used for the transportation of disabled or abandoned vehicles by means of a crane, hoist, tow bar, dolly or roll bed, which vehicle shall be known as a "wrecker (tow truck)".

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

Approved March 30, 1994.

CHAPTER 239
(H.B. No. 621)

AN ACT

RELATING TO INSURANCE PREMIUM TAXES; AMENDING SECTION 41-4313, IDAHO CODE, TO PROVIDE THAT AN INSURER'S OFFSET AGAINST ITS PREMIUM TAX LIABILITY OF AN ASSESSMENT IMPOSED FOR THE IDAHO LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION IS ALLOWABLE TO THE EXTENT OF TWENTY PERCENT OF THE AMOUNT OF THE ASSESSMENT FOR EACH OF THE FIVE CALENDAR YEARS FOLLOWING THE CALENDAR YEAR IN WHICH THE ASSESSMENT WAS PAID AND PROHIBITING ANY CARRYOVER OF AN ALLOWABLE OFFSET NOT USED IN ANY CALENDAR YEAR; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 41-4313, Idaho Code, be, and the same is hereby amended to read as follows:

41-4313. CREDITS FOR ASSESSMENTS PAID. (1) A member insurer may offset against its premium tax liability to this state an assessment described in subsection (8) of section 41-4309, Idaho Code. An offset is allowable to the extent of one-hundred twenty percent (±020%) of the amount of such assessment. The offset, or any remaining portion thereof, will be allowed for any each of the five (5) calendar years following the year in which such assessment was paid. An allowable offset, or portion thereof, not used in any calendar year cannot be carried over or back to any other year.

(2) Any sums acquired by refund, pursuant to subsection (6) of section 41-4309, Idaho Code, from the association which have theretofore been written off by contributing insurers and offset against premium taxes as provided in subsection (1) of this section, and are not then needed for purposes of this act, shall be paid by the association to the director and by him deposited with the state treasurer for credit to the general account of the state operating fund.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactive to January 1, 1994, except that any assessments, or portions thereof, imposed prior to January 1, 1994, shall continue to be administered under provisions of the Idaho Code in effect on December 31, 1993.

Approved March 30, 1994.

CHAPTER 240
(H.B. No. 622, As Amended)

AN ACT

RELATING TO SOLVENCY OF INSURANCE COMPANIES; AMENDING SECTION 41-313, IDAHO CODE, TO INCREASE THE CAPITAL AND SURPLUS REQUIREMENTS FOR INSURANCE COMPANIES OPERATING IN IDAHO; AMENDING SECTION 41-316, IDAHO CODE, TO INCREASE THE DEPOSIT REQUIREMENT FOR INSURERS

INCLUDING TITLE INSURANCE COMPANIES AND TO GOVERN APPLICATION TO FOREIGN OR ALIEN INSURERS; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-316A, IDAHO CODE, TO REQUIRE THAT DOMESTIC INSURANCE COMPANIES DEPOSIT REQUIREMENTS EQUAL THEIR CAPITAL AND SURPLUS REQUIREMENTS; REPEALING SECTIONS 41-318 AND 41-732, IDAHO CODE; AMENDING SECTION 41-701, IDAHO CODE, TO ESTABLISH INVESTMENT STANDARDS FOR ALL INSURANCE COMPANIES; AMENDING SECTION 41-2652, IDAHO CODE, TO INCREASE THE CAPITAL AND SURPLUS REQUIREMENTS FOR MORTGAGE GUARANTY INSURERS; AMENDING SECTION 41-3102A, IDAHO CODE, TO PROVIDE EXCEPTIONS TO CAPITAL, SURPLUS AND DEPOSIT REQUIREMENTS FOR CERTAIN MUTUAL INSURERS; AMENDING SECTION 41-802, IDAHO CODE, TO REVISE DEPOSIT REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-803, IDAHO CODE, TO INCORPORATE AND DELETE CITATIONS REGARDING SECURITIES ELIGIBLE FOR DEPOSIT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-810, IDAHO CODE, TO INCORPORATE AND DELETE CITATIONS REGARDING CLAIMANT'S RIGHT TO LEVY UPON DEPOSITS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-2703, IDAHO CODE, TO INCORPORATE AND DELETE CITATIONS REGARDING APPLICABILITY TO TITLE INSURERS; AMENDING SECTION 41-4933, IDAHO CODE, TO INCORPORATE A CITATION REGARDING THE CLEAN WATER TRUST FUND; PROVIDING APPLICATION OF SECTION 36, CHAPTER 194, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 41-313, Idaho Code, be, and the same is hereby amended to read as follows:

41-313. CAPITAL FUNDS REQUIRED -- FOREIGN INSURERS AND NEW DOMESTIC INSURERS. (1) To qualify for and maintain authority to transact any one (1) kind of insurance (as defined in chapter 5) or combination of kinds of insurance as shown below, a foreign insurer, or a domestic insurer shall possess and thereafter maintain unimpaired paid-up capital stock (if a stock insurer) or unimpaired basic surplus (if a mutual insurer or reciprocal insurer), and shall possess and thereafter maintain additional funds in surplus as follows:

| Kind or kinds of insurance | Paid-up capital stock or basic surplus | Additional surplus |
|---------------------------------|---|-----------------------|
| Life | \$41,000,000 | \$41,000,000 |
| Disability | 41,000,000 | 41,000,000 |
| Life and disability | 51,000,000 | 51,000,000 |
| Property | 41,000,000 | 41,000,000 |
| General casualty | 51,000,000 | 51,000,000 |
| Marine and transportation | 451,000,000 | 451,000,000 |
| Vehicle | 41,000,000 | 41,000,000 |
| Surety | 51,000,000 | 51,000,000 |

Any two of the following
kinds of insurance:

| | | |
|---|-------------|-------------|
| Property, marine and transportation, general casualty, vehicle, surety, disability | 551,000,000 | 551,000,000 |
|---|-------------|-------------|

| | | |
|--|-------------|-------------|
| Title | ±500,000 | ±500,000 |
| Multiple lines (all insurance except life and title insurance) | 651,000,000 | 651,000,000 |
| Mortgage guaranty insurance | 1,500,000 | 1,500,000 |

(2) An insurer holding a valid certificate of authority to transact insurance in this state shall comply with the paid-up capital stock or basic surplus and additional surplus requirements set forth in subsection (1) of this section. The director shall not grant such an insurer authority to transact any other or additional kinds of insurance unless it then fully complies with the requirements as to paid-up capital stock and additional surplus (if a stock insurer) or basic surplus and additional surplus (if a mutual or foreign reciprocal insurer) as applied to all the kinds of insurance which it then proposes to transact.

(3) Capital and surplus requirements are based upon all the kinds of insurance transacted by the insurer in any and all areas in which it operates or proposes to operate, whether or not only a portion of such kinds are to be transacted in this state.

(4) As to surplus required for qualification to transact one or more kinds of insurance and thereafter to be maintained, domestic mutual insurers are also subject to chapter 28 of this code and domestic reciprocal insurers are also subject to chapter 29.

(5) An insurance company holding a valid certificate of authority to transact insurance in this state immediately prior to January 1, 1995, shall have a period of three (3) years from and after that date within which to comply with the increase in capital and surplus requirements.

SECTION 2. That Section 41-316, Idaho Code, be, and the same is hereby amended to read as follows:

41-316. DEPOSIT -- ~~GENERAL-REQUIREMENT~~ FOREIGN OR ALIEN INSURERS.

(1) This section shall apply as to all foreign and alien insurers ~~other than title insurers.~~

(2) The director shall not authorize any foreign or alien insurer to transact insurance in this state unless it makes and thereafter maintains in trust in this state through the director for the protection of all its policyholders or of all its policyholders and creditors, a deposit of cash or securities eligible for deposit under section 41-803, Idaho Code, in the amount of ~~two-hundred-thousand one million~~ dollars (\$21,000,000), except that:

(a) As to foreign insurers, in lieu of such Idaho deposit, the director shall accept the certificate in proper form of the public official having supervision over insurers in any other state that:

(i) A like deposit by such insurer is being maintained in public custody or control for the protection generally of the insurer's policyholders or its policyholders and creditors; and

(ii) The insurer is a member in good standing of such state's insurance guaranty association or other legal entity created for the same purpose; or

~~(iii)~~ If a life or health insurer, the insurer is a member

in good standing of such state's insurance guaranty association or other legal entity created for the same purpose, and such guaranty association does and shall provide protection for its own state's residents.

(b) As to alien insurers, in lieu of such deposit or part thereof in this state, the director shall accept evidence satisfactory to him that the insurer maintains within the United States by way of trust deposits with public depositaries, or in trust institutions acceptable to the director, assets available for discharge of its United States insurance obligations, which assets shall be in an amount not less than the outstanding liabilities of the insurer arising out of its insurance transactions in the United States together with a surplus equal to the larger of the following sums:

- (i) The largest deposit required by this code to be made by a foreign insurer transacting like kinds of insurance; or
- (ii) ~~Three---hundred---thousand~~ One million dollars (\$1,000,000). Such surplus shall for all purposes under this code be deemed to be the "capital" or "surplus" of the insurer.

(3) Deposits of foreign or alien insurers in another state shall be in cash and/or securities of substantially as high quality as those eligible for deposit in this state under section 41-803, Idaho Code.

(4) All such deposits in this state are subject to the applicable provisions of chapter 8 (administration of deposits), title 41, Idaho Code, except that the release and return of deposits brought about by changes to section 41-316(2), Idaho Code, effective July 1, 1987, shall not require a hearing thereon as required under section 41-812(2), Idaho Code.

(5) Any foreign or alien insurer which requires that its agents maintain a separate trust account for transactions involving that insurer shall make and thereafter maintain in trust in this state, through the director, for the protection of all its policyholders and agents, a deposit of cash or securities eligible for deposit under section 41-803, Idaho Code, in the amount of twenty per cent (20%) of its gross written premiums, upon which such insurer is subject to the premium tax of this state under section 41-402, Idaho Code.

SECTION 3. That Chapter 3, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-316A, Idaho Code, and to read as follows:

41-316A. DEPOSIT -- GENERAL REQUIREMENT -- DOMESTIC INSURERS. This section shall apply to all domestic insurers.

(1) The director shall not authorize the formation of a new domestic insurer or the redomestication to this state of an insurer unless it makes and thereafter maintains in trust in this state through the director for the protection of all its policyholders and creditors, a deposit of cash or securities eligible for deposit under section 41-803, Idaho Code, in an amount of the minimum capital for a stock insurer and basic surplus of a mutual or reciprocal insurer, as required in sections 41-313 and 41-2652, Idaho Code.

(2) A domestic insurer holding a valid certificate of authority

to transact insurance in this state immediately prior to January 1, 1994, shall have a period of three (3) years from and after that date within which to comply with any increase in deposit requirements.

SECTION 4. That Sections 41-318 and 41-732, Idaho Code, be, and the same are hereby repealed.

SECTION 5. That Section 41-701, Idaho Code, be, and the same is hereby amended to read as follows:

41-701. SCOPE--OF--CHAPTER INVESTMENTS. Except--as--to--section 41-732, this chapter shall apply to domestic insurers only. (1) Funds of a domestic insurer shall be invested, reinvested and used in the manner and subject to the conditions, restrictions and limitations set forth in this chapter.

(2) Investments of a foreign or alien insurer which would be authorized for a like domestic insurer shall be allowed as assets in any determination of its financial condition. Other investments of a foreign or alien insurer which are authorized by the laws of its domicile may be so allowed at the discretion of the director.

(3) The director may adopt rules establishing standards and limitations for investments by insurers that are not otherwise specifically permitted or prohibited in this chapter. In the absence of a rule prohibiting such, all assets shall be valued according to rules promulgated by the national association of insurance commissioners (NAIC), NAIC's valuation of securities office or by NAIC's financial condition subcommittee.

SECTION 6. That Section 41-2652, Idaho Code, be, and the same is hereby amended to read as follows:

41-2652. AUTHORITY TO TRANSACT BUSINESS. Mortgage guaranty insurance may be transacted only by a stock insurer while possessing and maintaining paid-in capital stock of not less than one million five hundred thousand dollars (\$1,0500,000) and surplus of not less than one million five hundred thousand dollars (\$1,0500,000) and duly authorized to transact insurance in this state. The insurer shall not transact in any jurisdiction any kind of insurance other than mortgage guaranty insurance.

SECTION 7. That Section 41-3102A, Idaho Code, be, and the same is hereby amended to read as follows:

41-3102A. CONVERSION INTO DOMESTIC MUTUAL. (1) A county mutual insurer upon affirmative vote of not less than two-thirds (2/3) of its members who vote on such conversion, pursuant to due notice, and the approval of the director of the terms therefor, may be converted to a domestic mutual insurer.

(2) Such--resulting A domestic mutual insurer which has converted from a county mutual insurer shall be subject to the same capital--or surplus requirements and shall have the same rights as a like domestic insurer transacting like kinds of insurance, except that:

(a) Prior to January 1, 2000, surplus as regards policyholders

may be maintained at a level equal to seventy-five percent (75%) net written premium in the twelve (12) months preceding, with a minimum set at one million dollars (\$1,000,000).

(b) Prior to January 1, 2000, such mutual insurer shall fulfill the deposit requirement of section 41-316A, Idaho Code, by depositing cash or securities eligible for deposit under section 41-803, Idaho Code, in an amount equal to one-half (1/2) net written premium in the twelve (12) months preceding, with a minimum set at five hundred thousand dollars (\$500,000).

(c) A domestic mutual insurer who converts from a county mutual insurer after January 1, 1994, shall be subject to the surplus and deposit requirements as set forth in paragraphs (2)(a) and (2)(b) of this section, for a period of up to six (6) years after conversion.

(3) The director shall not approve any plan for such conversion which is inequitable to members.

SECTION 8. That Section 41-802, Idaho Code, be, and the same is hereby amended to read as follows:

41-802. PURPOSE OF DEPOSIT. Such deposits shall be held for purposes as follows:

(1) Deposits made in this state under sections 41-316, Idaho Code, (general foreign and alien insurance deposit requirements), 41-316A, Idaho Code, (domestic insurance deposit requirements), and 41-317, Idaho Code, (special deposit, workmen's compensation insurer's), and--41-318--(deposit of title insurer) shall be held for the purposes stated in the respective sections.

(2) A deposit made in this state by a domestic insurer transacting insurance in another state, province or country, and as required by the laws of such state, province or country, shall be held for the purpose or purposes specified pursuant to such laws.

(3) Deposits of foreign insurers required pursuant to the retaliatory provision, section 41-340, Idaho Code, shall be held for such purposes as are required by such law, and as specified by the director's order by which the deposit is required.

SECTION 9. That Section 41-803, Idaho Code, be, and the same is hereby amended to read as follows:

41-803. SECURITIES ELIGIBLE FOR DEPOSIT. (1) All such deposits required under sections 41-316, 41-316A and 41-317 and--41-318, Idaho Code, for authority to transact insurance in this state shall consist of certificates of deposit issued by solvent banks, or any combination of securities the market value of which is readily ascertainable and, if negotiable by delivery or assignment, of the kinds described in the following sections:

- (a) Section 41-707 (public obligations);
- (b) Section 41-708 (securities of certain federal agencies);
- (c) Section 41-709 (irrigation district obligations);
- (d) Section 41-710 (international bank);
- (e) Section 41-711 (corporate obligations);
- (f) Section 41-717 (equipment trust obligations); and

(g) Section 41-720 (savings and share accounts).

(2) Except that the director shall accept as a security eligible for deposit and recognize as part of the deposit any particular valid and enforceable real estate mortgage already lawfully so on deposit at the effective date of this code, so long as the mortgage continues to qualify for investment of the insurer's funds therein as under chapter 7 of this code and is not in default in any particular.

(3) All such deposits required of a domestic insurer pursuant to the laws of another state, province or country shall be comprised of securities, if negotiable by delivery or assignment, of the kind or kinds required or permitted by the laws of such state, province or country, except stocks, mortgages of any kind and real estate.

(4) Deposits of foreign insurers made in this state under the retaliatory provision, section 41-340, Idaho Code, shall consist of such securities or assets as are required by the director pursuant to such provision.

SECTION 10. That Section 41-810, Idaho Code, be, and the same is hereby amended to read as follows:

41-810. LEVY UPON DEPOSIT. (1) No judgment creditor or other claimant of an insurer shall have the right to levy upon any of the assets or securities of the insurer held on deposit in this state pursuant to section 41-316 (~~deposit,--general--requirement~~) or 41-316A, Idaho Code.

(2) As to deposits made in this state pursuant to the retaliatory provision, section 41-340, Idaho Code, levy thereupon shall be permitted only if expressly so provided in the director's order under which the deposit is required.

(3) As to the special deposit of a workmen's compensation insurer ~~pursuant to section 41-317, and or~~ the deposit of a title insurer ~~pursuant to section 41-318~~, if upon expiration of thirty (30) days after the judgment became final the insurer has failed to satisfy in full any final judgment rendered against it by a court of this state and arising out of any contract of insurance or guaranty issued by it if a title insurer, or out of any contract of workmen's compensation insurance issued by it if a workmen's compensation insurer, the judgment may be enforced against the insurer's deposit. For the purposes of this provision a judgment shall be deemed to have become final upon expiration of the period permitted by law for an appeal, or, if an appeal is taken, upon dismissal of the appeal or affirmance of the judgment.

(4) To obtain the enforcement referred to in subsection (3) ~~above~~ of this section, the judgment creditor shall petition the court in the same cause in which the judgment was obtained, setting forth the facts referred to in subsection (3) ~~above~~ of this section, and the court shall direct issuance of a special execution directed to the sheriff of Ada county of this state requiring the sheriff to sell the assets and securities of the insurer on deposit or so much thereof as may be necessary to satisfy the judgment. The court's order authorizing the special execution shall direct that a copy of the judgment, petition, and writ of execution shall be served upon the director, and also upon the state treasurer in the case of a levy upon the special deposit of

an insurer made pursuant to section 41-317, Idaho Code, within five (5) days thereafter. Upon receipt of such service the director shall forthwith notify the insurer of the levy and, in all cases other than as to the special deposit of an insurer under section 41-317, Idaho Code, require the insurer within such period as may be specified in the notice, which period shall be not less than ten (10) nor more than thirty (30) days after the date of the notice, to have its president or other duly authorized representative to attend with the insurer's key and the director to the opening of the box in which the insurer's deposit is kept. Upon the box being so opened the director shall extract therefrom and deliver to the sheriff for sale on execution deposited assets or securities of the insurer in amount, up to the full amount so on deposit, not less than as required for the satisfaction of the judgment. In case of a levy upon the special deposit of an insurer made under section 41-317, Idaho Code, and failure of the insurer fully to pay and discharge such judgment within forty (40) days after the date of notice by the director, the state treasurer shall deliver to the sheriff for sale on execution so much of the insurer's securities or assets so on deposit as may be required to cover the judgment and attendant costs. All proceedings for the enforcement of the writ of execution against the deposit shall conform as nearly as may be to the practice in ordinary cases except as in this subsection specially provided.

(5) If the insurer, after notice by the director as required under subsection (4) above of this section, wilfully fails to attend to the opening of the box in which its deposit is kept, or wilfully fails to permit the director to extract therefrom assets or securities as in subsection (4) above of this section provided, the director shall after hearing held thereon forthwith revoke the insurer's certificate of authority and institute proceedings for the rehabilitation or liquidation of the insurer under chapter 33 of this code. In any such proceedings the judgment with respect to which execution was issued and leading to the insurer's failure as herein referred to, shall have a first and prior right and claim as to the assets and securities of the insurer constituting its deposit as levied against, as of the date of service upon the director of the copy of the judgment, petition, and writ of execution as provided for in subsection (4) above of this section.

SECTION 11. That Section 41-2703, Idaho Code, be, and the same is hereby amended to read as follows:

41-2703. OTHER PROVISIONS ESPECIALLY APPLICABLE. The following other provisions of this code are, among other provisions, especially applicable as to title insurers:

- (1) Insuring powers, sections 41-312(3) and 41-508.
- (2) Capital funds required, sections 41-313 and ~~41-314~~.
- (3) Deposit of title insurer, sections 41-3186 and 41-316A.
- (4) Premium tax, section 41-402.
- (5) Definition of "title insurance", section 41-508.
- (6) Reserve for losses, unearned premiums, section 41-611.
- (7) Special investments by title insurer, section 41-726.
- (8) Levy upon deposit of the insurer, section 41-810.

SECTION 12. That Section 41-4933, Idaho Code, be, and the same is hereby amended to read as follows:

41-4933. EXISTING INSURANCE LAWS TO APPLY TO THE TRUST FUND WITH CERTAIN EXCEPTIONS. The trust fund shall comply with all of the applicable provisions of title 41, Idaho Code, with certain exceptions as follows:

(1) The creation of the trust fund by act of the legislature shall not be deemed to be an ownership, control or operation of an insurer by a governmental entity, as referred to in section 41-309, Idaho Code, and the surplus funds of the trust fund shall be considered to be dedicated and held in reserve for the purpose of providing funds for the payment of claims arising out of the discharge of petroleum products from tanks covered by a contract of insurance issued to the tank owner or operator by the trust fund as provided for in section 41-4905, Idaho Code. The absolute control of the trust fund shall be vested in the manager of the state insurance fund as trustee.

(2) The provisions of this chapter shall be construed to be contained in the document of organization and bylaws of the trust fund for purposes of sections 41-319, 41-320 and 41-322, Idaho Code, and the director shall issue a certificate of registration to and in the name of the trust fund upon his finding that it has met all other appropriate provisions of the Idaho Code, including sections 41-313, and 41-316 and 41-316A, Idaho Code.

(3) Section 41-337, Idaho Code, shall not apply to contracts of insurance issued by the trust fund.

(4) Section 41-1030, Idaho Code, shall not apply to employees of the state insurance fund or the trust fund.

(5) Section 41-1103, Idaho Code, shall not apply to employees of the state insurance fund or the trust fund, provided the employees restrict their claims adjusting and investigation operations only to those contracts issued by the trust fund.

(6) Except as otherwise provided in this chapter, chapter 28, title 41, Idaho Code, and chapter 14, title 30, Idaho Code, shall not apply to the trust fund nor shall this trust fund be construed to be a domestic mutual insurer, nor a reciprocal insurer, nor any other type of insurer currently regulated by title 41, Idaho Code, and the only organizational requirements of this trust fund shall be those enumerated in this chapter.

SECTION 13. Nothing contained in the provisions of this act is intended or shall repeal Section 36 of Chapter 194, Laws of 1993.

SECTION 14. An emergency existing 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 30, 1994.

CHAPTER 241
(H.B. No. 637)

AN ACT

RELATING TO JUDICIAL REVIEW OF DECISIONS BY THE BOARD OF COUNTY COMMISSIONERS; AMENDING SECTION 31-1509, IDAHO CODE, TO REQUIRE THAT APPEAL TIME LIMITS ON BOARD DECISIONS BE MANDATORY; REPEALING SECTIONS 31-1512 AND 31-1513, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-1509, Idaho Code, be, and the same is hereby amended to read as follows:

31-1509. JUDICIAL REVIEW OF BOARD DECISIONS. (1) Unless otherwise provided by law, judicial review of any act, order or proceeding of the board ~~may~~ shall be initiated by any person aggrieved thereby within the same time and in the same manner as provided in chapter 52, title 67, Idaho Code, for judicial review of actions.

(2) Venue for judicial review of board actions shall be in the district court of the county governed by the board.

SECTION 2. That Sections 31-1512 and 31-1513, Idaho Code, be, and the same are hereby repealed.

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 30, 1994.

CHAPTER 242
(H.B. No. 670)

AN ACT

RELATING TO INCREASED BID OPPORTUNITIES FOR IDAHO SUPPLIERS; AMENDING SECTION 67-5718, IDAHO CODE, TO PROVIDE A HIGHER BID AMOUNT AND TO INCREASE THE NUMBER OF REQUIRED BIDS FROM BIDDERS WITH SIGNIFICANT IDAHO ECONOMIC PRESENCE.

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

SECTION 1. That Section 67-5718, Idaho Code, be, and the same is hereby amended to read as follows:

67-5718. REQUISITIONS FOR PROPERTY -- NOTICE -- FORM -- GUARANTEE -- PROCEDURE FOR BIDDING. The administrator of the division of purchasing shall not make or cause to be made any acquisition until a requisition for the property to be acquired has been filed in his office, and such requisition must bear the certificate of the head of

the agency making the requisition that there are proper funds or sufficient balance in appropriations out of which the amount of the requisition may lawfully be paid, except as provided to the contrary under provisions of this chapter allowing emergency purchases.

If the property to be acquired may reasonably be expected to cost in excess of ten twenty-five thousand dollars (\$1025,000) if purchased, or five-hundred one thousand dollars (\$51,000) per month if procured, there must be accompanying the requisition a copy of the specifications proposed for use in the acquisition. Upon receipt of the requisition, notice must be commenced within a reasonable period of time and must allow not less than ten (10) days from notice to bid opening date.

Provided, however, that in cases where the total value of the property to be acquired is not in excess of ten twenty-five thousand dollars (\$1025,000) if purchased, or five-hundred one thousand dollars (\$51,000) per month if procured, the administrator shall notify registered vendors in such manner as he deems appropriate. To enhance small business bidding opportunities, the administrator shall seek a minimum of two three (23) bids from registered vendors having a significant Idaho economic presence as defined in the Idaho Code. If he finds that it is impractical or impossible to obtain two three (23) bids for the proposed transaction, he may acquire the property in any manner he deems best. For any acquisition not otherwise requiring specifications, the same may be required by regulation drawn by the administrator.

Provided further, however, that in connection with the award of any contract for the placement of any order for state printing, binding, engraving or stationery work, the provisions of sections 60-101 and 60-103, Idaho Code, shall apply to the extent that the same may be inconsistent with any requirements contained in this section.

Notice shall be sent to each registered vendor of the property to be acquired, except that if there are more than ten (10) registered vendors for the property to be acquired, the administrator of the division of purchasing may, in his discretion, limit the notices sent to ten (10). Nothing shall prevent all registered vendors from bidding on the property to be acquired. The administrator shall cause all invitations to bid to be posted in a conspicuous place in his office.

The notice shall describe the property to be acquired in sufficient detail to apprise a bidder of the exact nature or functionality of the property required; and shall give the time when, and the place where, bids will be opened. The bid opening date shall be set forth in the specifications. Each bid shall be in writing, sealed and marked, "sealed bid for . . . , to be opened . . . , 19.." and shall be mailed or delivered to the office of the administrator of the division of purchasing at Boise, Idaho.

All sealed bids received shall be opened at the time and place specified in the invitation for bids, and in the public view, and a record of each bid shall then and there be made. Contracts shall be awarded to and orders placed with the lowest responsible bidder. The administrator shall have the right to reject any and all bids pursuant to rules and regulations established for the division.

Where both the bids and quality of property offered are the same, preference shall be given to property of local and domestic production

and manufacture or from bidders having a significant Idaho economic presence as defined in the Idaho Code.

Approved March 30, 1994.

CHAPTER 243
(H.B. No. 674)

AN ACT

RELATING TO DISTRIBUTION OF WINE TAX REVENUES; AMENDING SECTION 23-1319, IDAHO CODE, TO DISTRIBUTE A PORTION OF WINE TAX REVENUES TO THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION ACCOUNT AND TO MAKE TECHNICAL CORRECTIONS.

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

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

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

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

(b) When wine has been destroyed by breakage or has spoiled or otherwise become unfit for beverage purposes prior to payment of taxes on it, the distributor, upon satisfactory proof of destruction or spoilage, shall be entitled to deduct from existing inventories, subject to tax, the amount of wine so destroyed or spoiled.

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

(d) No credit or refund shall be allowed or made after three (3) years from the time the payment was made, unless before the expiration

of that period a claim is filed by the taxpayer. The three (3) year period allowed by this subsection for making refunds or credit claims shall not apply in cases where the tax commission asserts a deficiency of tax imposed by law, and taxpayers desiring to appeal or otherwise seek a refund of amounts paid in obedience to deficiencies must do so within the time limits elsewhere prescribed by law.

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

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

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

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

(bii) Five percent (5%) shall be distributed to the Idaho grape growers and wine producers commission account; and

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

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

Approved March 30, 1994.

CHAPTER 244
(H.B. No. 691)

AN ACT

RELATING TO LICENSES FOR THE SALE OF WINE; AMENDING SECTION 23-1306, IDAHO CODE, TO PROVIDE THAT A LICENSED WINERY SHALL ALSO BE CONSIDERED AS HOLDING, FOR THE PURPOSES OF SELLING A PRODUCT PROCESSED AND BOTTLED BY OR FOR THAT WINERY, A CURRENT WINE DISTRIBUTOR'S AND IMPORTER'S LICENSE.

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

SECTION 1. That Section 23-1306, Idaho Code, be, and the same is hereby amended to read as follows:

23-1306. LICENSES REQUIRED -- APPLICATION -- ISSUANCE OR REFUSAL. Before any person shall manufacture, import into this state, manufacture, bottle or broker for resale within this state, possess for resale, or distribute or sell wine within the state of Idaho, he shall apply to the director for a license to so do. The application form shall be prescribed and furnished by the director and require that the applicant therein show that he possesses all of the qualifications and none of the disqualifications of a licensee. A person may apply for

and receive a license as both a distributor and importer, if otherwise qualified therefor, and shall pay the license fee required pursuant to this chapter for each license. A winery licensed under this chapter shall also be considered as holding, for the purposes of selling a product processed and bottled by or for that winery, a current wine distributor's and importer's license, without further application or fee. If the director is satisfied that the applicant possesses the qualifications and none of the disqualifications for such license, he shall issue a license for each classification applied for, subject to the restrictions of and upon the conditions specified in this act. The license or licenses issued shall be at all times prominently displayed in the place of business of the licensee. If the director determines that the applicant is not properly qualified, he shall refuse to issue a license and shall forthwith so notify the applicant and shall return to the applicant with such notification, three-fourths (3/4) of the license fee remitted with the application. A separate retail wine by the drink license, and wine distributor's license shall be required for each premises. Provided, however, nothing herein shall prohibit a distributor or retailer or wine by the drink licensee from possessing licenses for more than one (1) premises.

Approved March 30, 1994.

CHAPTER 245
(H.B. No. 759, As Amended)

AN ACT

RELATING TO LOCAL PLANNING; AMENDING SECTION 67-6502, IDAHO CODE, TO PROVIDE ADDITIONAL LEGISLATIVE PURPOSE TO THE LOCAL PLANNING ACT; AND AMENDING SECTION 67-6508, IDAHO CODE, TO INCLUDE PROVISION FOR LOW-COST CONVENTIONAL HOUSING, MANUFACTURED HOUSING AND MOBILE HOMES IN AN ANALYSIS OF HOUSING CONDITIONS AND NEEDS.

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

SECTION 1. That Section 67-6502, Idaho Code, be, and the same is hereby amended to read as follows:

67-6502. PURPOSE. The purpose of this act shall be to promote the health, safety, and general welfare of the people of the state of Idaho as follows:

(a) To protect property rights and enhance property values while making accommodations for other necessary types of development such as low-cost housing and mobile home parks.

(b) To ensure that adequate public facilities and services are provided to the people at reasonable cost.

(c) To ensure that the economy of the state and localities is protected and enhanced.

(d) To ensure that the important environmental features of the state and localities are protected and enhanced.

(e) To encourage the protection of prime agricultural, forestry,

and mining lands for production of food, fibre, and minerals.

(f) To encourage urban and urban-type development within incorporated cities.

(g) To avoid undue concentration of population and overcrowding of land.

(h) To ensure that the development on land is commensurate with the physical characteristics of the land.

(i) To protect life and property in areas subject to natural hazards and disasters.

(j) To protect fish, wildlife, and recreation resources.

(k) To avoid undue water and air pollution.

(l) To allow local school districts to participate in the community planning and development process so as to address public school needs and impacts on an ongoing basis.

SECTION 2. That Section 67-6508, Idaho Code, be, and the same is hereby amended to read as follows:

67-6508. PLANNING DUTIES. It shall be the duty of the planning or planning and zoning commission to conduct a comprehensive planning process designed to prepare, implement, and review and update a comprehensive plan, hereafter referred to as the plan. The plan shall include all land within the jurisdiction of the governing board. The plan shall consider previous and existing conditions, trends, desirable goals and objectives, or desirable future situations for each planning component. The plan with maps, charts, and reports shall be based on the following components unless the plan specifies reasons why a particular component is unneeded.

(a) Population -- A population analysis of past, present, and future trends in population including such characteristics as total population, age, sex, and income.

(b) School Facilities and Transportation -- An analysis of public school capacity and transportation considerations associated with future development.

(c) Economic Development -- An analysis of the economic base of the area including employment, industries, economies, jobs, and income levels.

(d) Land Use -- An analysis of natural land types, existing land covers and uses, and the intrinsic suitability of lands for uses such as agriculture, forestry, mineral exploration and extraction, preservation, recreation, housing, commerce, industry, and public facilities. A map shall be prepared indicating suitable projected land uses for the jurisdiction.

(e) Natural Resource -- An analysis of the uses of rivers and other waters, forests, range, soils, harbors, fisheries, wildlife, minerals, thermal waters, beaches, watersheds, and shorelines.

(f) Hazardous Areas -- An analysis of known hazards as may result from susceptibility to surface ruptures from faulting, ground shaking, ground failure, landslides or mudslides; avalanche hazards resulting from development in the known or probable path of snowslides and avalanches, and floodplain hazards.

(g) Public Services, Facilities, and Utilities -- An analysis showing general plans for sewage, drainage, power plant sites, utility

transmission corridors, water supply, fire stations and fire fighting equipment, health and welfare facilities, libraries, solid waste disposal sites, schools, public safety facilities and related services. The plan may also show locations of civic centers and public buildings.

(h) Transportation -- An analysis showing the general locations and widths of a system of major traffic thoroughfares and other traffic ways, and of streets and the recommended treatment thereof. This component may also make recommendations on building line setbacks, control of access, street naming and numbering, and a proposed system of public or other transit lines and related facilities including rights-of-way, terminals, viaducts and grade separations. The component may also include port, harbor, aviation, and other related transportation facilities.

(i) Recreation -- An analysis showing a system of recreation areas, including parks, parkways, trailways, river bank greenbelts, beaches, playgrounds, and other recreation areas and programs.

(j) Special Areas or Sites -- An analysis of areas, sites, or structures of historical, archeological, architectural, ecological, wildlife, or scenic significance.

(k) Housing -- An analysis of housing conditions and needs; plans for improvement of housing standards; and plans for the provision of safe, sanitary, and adequate housing, including the provision for low-cost conventional housing, manufactured housing and mobile homes in subdivisions and parks and on individual lots which are sufficient to maintain a competitive market for each of those housing types.

(l) Community Design -- An analysis of needs for governing landscaping, building design, tree planting, signs, and suggested patterns and standards for community design, development, and beautification.

(m) Implementation -- An analysis to determine actions, programs, budgets, ordinances, or other methods including scheduling of public expenditures to provide for the timely execution of the various components of the plan.

Nothing herein shall preclude the consideration of additional planning components or subject matter.

Approved March 30, 1994.

CHAPTER 246
(H.B. No. 772)

AN ACT

RELATING TO THE MOTOR VEHICLE CODE; AMENDING SECTION 49-411, IDAHO CODE, TO SPECIFY THE DISTRIBUTION OF DEALER AND MANUFACTURER PLATE FEES TO THE STATE HIGHWAY ACCOUNT; AMENDING SECTION 49-412, IDAHO CODE, TO SPECIFY THE DISTRIBUTION OF VEHICLE DEALER LOANER PLATE FEES TO THE STATE HIGHWAY ACCOUNT; AMENDING SECTION 49-434, IDAHO CODE, TO SPECIFY THE DISPOSITION OF ADMINISTRATIVE FEES TO THE STATE HIGHWAY ACCOUNT; AMENDING SECTION 49-435, IDAHO CODE, TO SPECIFY THE DISPOSITION OF IDENTIFICATION FEES TO THE STATE HIGHWAY ACCOUNT; AND AMENDING SECTION 49-436, IDAHO CODE, TO SPECIFY

THE DISPOSITION OF THE REINSTATEMENT FEES TO THE STATE HIGHWAY ACCOUNT AND REMOVE THE MAXIMUM TWENTY-FOUR PERCENT PENALTY.

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

SECTION 1. That Section 49-411, Idaho Code, be, and the same is hereby amended to read as follows:

49-411. DEALER AND MANUFACTURER PLATE -- FEES. (1) Any person conducting the business of manufacturing, buying, selling or dealing in vehicles, and licensed as a manufacturer of or a dealer in vehicles, and owning and operating any such vehicle upon any highway may, in lieu of registering each vehicle obtain from the department upon application on the proper form and payment of the required fee, and attach to each vehicle, one (1) number plate as required for different classes of vehicles in section 49-434, Idaho Code. The special number plate shall bear a distinctive number assigned to the manufacturer or dealer, the name of this state, which may be abbreviated, and the year for which the plate is issued, together with words which may be abbreviated or a distinguishing symbol indicating that the plate is issued to a manufacturer or dealer.

(2) The fee for a dealer or manufacturer number plate or registration sticker shall be five dollars (\$5.00) for each plate or sticker.

(3) All such fees shall be paid to the state treasurer and deposited to the state highway account.

SECTION 2. That Section 49-412, Idaho Code, be, and the same is hereby amended to read as follows:

49-412. VEHICLE DEALER LOANER PLATE. (1) A dealer, owning a vehicle may obtain, upon application to the department upon a proper form and payment of the fee required, and display on a vehicle loaned to a customer, a loaner vehicle number plate. The plate shall be the same design and numbering system as the plate issued for passenger vehicles or motorcycles.

(2) The fee for each loaner plate or registration sticker shall be as provided in section 49-402(1), Idaho Code, for new vehicles.

(3) All such fees shall be paid to the state treasurer and deposited to the state highway account.

SECTION 3. That Section 49-434, Idaho Code, be, and the same is hereby amended to read as follows:

49-434. OPERATING FEES. (1) There shall be paid on all commercial vehicles, noncommercial vehicles, and on all farm vehicles having a maximum gross weight not in excess of sixty thousand (60,000) pounds, an annual registration fee in accordance with the following schedule.

| Maximum Gross Weight (Pounds) | Annual Registration Fee | |
|----------------------------------|------------------------------------|------------------------|
| | Noncommercial and Farm Vehicles | Commercial Vehicles |
| 8,001-16,000 inc. | \$ 31.08 | \$ 30.60 |
| 16,001-26,000 inc. | 61.08 | 143.40 |

| | | |
|-------------------------|--------|--------|
| 26,001-30,000 inc. | 91.68 | 223.80 |
| 30,001-40,000 inc. | 130.08 | 291.60 |
| 40,001-50,000 inc. | 188.28 | 360.00 |
| 50,001-60,000 inc. | 311.88 | 515.40 |

(2) There shall be paid on all commercial vehicles, irrespective of body type, and on all farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, an annual registration fee in the amount of one hundred twenty dollars (\$120).

In addition, an annual registration fee shall be required for each trailer or semitrailer in a combination of vehicles in the amount of fifteen dollars (\$15.00). An annual registration fee of eight dollars (\$8.00) shall be required for each rental utility trailer having a maximum laden or gross weight of up to two thousand (2,000) pounds, or fifteen dollars (\$15.00) for each rental utility trailer having a maximum laden or gross weight in excess of two thousand (2,000) pounds. For a fee of fifteen dollars (\$15.00) per year for each trailer or semitrailer, or a fee of eight dollars (\$8.00) or fifteen dollars (\$15.00) per year, as applicable, for each rental utility trailer, the department may issue a trailer, rental utility trailer or semitrailer license plate that shall remain valid for a period of five (5) years. The license plate shall become void if the owner's interest in the trailer, rental utility trailer or semitrailer changes during the five (5) year period. If the owner fails to enter the licensed trailer, rental utility trailer or semitrailer on the annual renewal application during the five (5) year period, the registration record shall be purged. Any unrenewed, unexpired plate shall be returned to the department if it is not entered on the renewal application.

(3) An administrative fee of four dollars (\$4.00) shall be paid and deposited to the state highway account on all registrations completed by the department under this section.

(4) In addition to the registration and license fees provided by subsections (1) and (2) of this section, there shall be paid on all commercial vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a use fee based upon the registered maximum gross weight in accordance with the following schedule. The use fees shall be calculated by multiplying the mills per mile, determined from the mills per mile schedule table, times the reported mileage for the vehicle, subject to the provisions of this section.

| Maximum Gross Weight of Vehicle (Pounds) | Mills per Mile |
|--|----------------|
| 60,001-62,000 | 30.05 |
| 62,001-64,000 | 31.35 |
| 64,001-66,000 | 32.60 |
| 66,001-68,000 | 33.90 |
| 68,001-70,000 | 35.15 |
| 70,001-72,000 | 36.40 |
| 72,001-74,000 | 38.55 |
| 74,001-76,000 | 40.65 |
| 76,001-78,000 | 42.75 |
| 78,001-80,000 | 44.90 |
| 80,001-82,000 | 47.00 |
| 82,001-84,000 | 49.10 |

| | |
|-----------------|-------|
| 84,001-86,000 | 51.20 |
| 86,001-88,000 | 53.30 |
| 88,001-90,000 | 55.40 |
| 90,001-92,000 | 57.50 |
| 92,001-94,000 | 59.60 |
| 94,001-96,000 | 61.70 |
| 96,001-98,000 | 63.80 |
| 98,001-100,000 | 65.90 |
| 100,001-102,000 | 68.00 |
| 102,001-104,000 | 70.10 |
| 104,001-106,000 | 72.20 |

For each additional two thousand (2,000) pounds or fraction thereof in excess of one hundred six thousand (106,000) pounds add 2.1 mills per mile.

(5) In addition to the registration and license fees of this section, there shall be paid on all farm vehicles, and any commercial vehicle exclusively engaged in the transportation of logs, pulp wood, stull, poles, piling, rough lumber, ores, ore concentrates, sand and gravel aggregates in bulk, livestock and vehicles used for the sole purpose of transporting milk from the farm to processing plant, having a maximum gross weight in excess of sixty thousand (60,000) pounds, a use fee in accordance with the following schedule. The use fees shall be calculated by multiplying the mills per mile, determined from the mills per mile schedule table, times the reported mileage for the vehicle, subject to the provisions of this section.

| Maximum Gross Weight of Vehicle (Pounds) | Mills per Mile |
|--|----------------|
| 60,001-62,000 | 22.45 |
| 62,001-64,000 | 22.45 |
| 64,001-66,000 | 22.45 |
| 66,001-68,000 | 22.45 |
| 68,001-70,000 | 22.45 |
| 70,001-72,000 | 22.45 |
| 72,001-74,000 | 22.45 |
| 74,001-76,000 | 22.45 |
| 76,001-78,000 | 22.45 |
| 78,001-80,000 | 22.45 |
| 80,001-82,000 | 24.55 |
| 82,001-84,000 | 26.65 |
| 84,001-86,000 | 28.75 |
| 86,001-88,000 | 30.85 |
| 88,001-90,000 | 32.95 |
| 90,001-92,000 | 35.05 |
| 92,001-94,000 | 37.15 |
| 94,001-96,000 | 39.25 |
| 96,001-98,000 | 41.35 |
| 98,001-100,000 | 43.45 |
| 100,001-102,000 | 45.55 |
| 102,001-104,000 | 47.65 |
| 104,001-106,000 | 49.75 |

For each additional two thousand (2,000) pounds or fraction thereof in excess of one hundred six thousand (106,000) pounds add 2.1 mills per

mile.

(6) If any vehicle, or combinations of vehicles move on the highways of the state, and the vehicle or combination exceeds its registered maximum gross weight there shall be paid for that vehicle, the fees provided for in either subsection (4) or (5) of this section, as applicable, for the actual gross weight of the vehicle or combination of vehicles for the miles traveled at the heavier weight.

(7) If any vehicle or combinations of vehicles haul nonreducible loads, as authorized under the provisions of section 49-1004, Idaho Code, then and in that event there shall be paid for that vehicle, in addition to the other fees required in this section, an additional use fee of 2.1 mills per mile for each two thousand (2,000) pounds or fraction thereof of the maximum gross weight in excess of those set forth in section 49-1001, Idaho Code.

(8) Any owner operating vehicle combinations may apply to the department for authority to report multiple weights and pay use fees based upon the maximum gross weight of each configuration in the combination being operated. The owner shall declare a maximum gross weight for each configuration being operated but not more than three (3) maximum gross weights for a vehicle combination may be declared. Any owner who receives authority to report and pay use fees at multiple maximum gross weights shall register the motor vehicle in a combination at the highest maximum gross weight of the vehicle. Any owner who reports vehicle combinations at multiple weights and fails to maintain records and furnish said records to the department upon request which show the configuration of the combination of vehicles and the trailer and unit number for all miles and trip segments traveled shall have all miles assessed at the highest maximum gross weight of the combination of vehicles.

(9) An applicant for registration of a commercial vehicle, a non-commercial vehicle or a farm vehicle shall set forth the maximum gross weight of the vehicle or combination of vehicles and the applicant shall pay any annual registration fees and any annual license fees on trailers and semitrailers required at the time he makes application for registration subject to the provisions of subsections (1) and (2) of this section. No part of the registration or license fees shall be subject to refund. The use fee payment required shall be computed according to the schedule in either subsection (4) or (5) of this section on the mileage operated over the highways of the state of Idaho and the owner of any vehicle against which a use fee is assessed, shall at the time of making his next quarterly report pay the use fee, if any, for the three (3) calendar months immediately prior. In determining the mileage subject to the use fee, there shall be deducted the miles traveled on roadways maintained with private funds by agreement with the public agency or agencies having jurisdiction over them. In no event shall the total money credited to the owner for the mileage exceed the actual cost of maintenance expended by him.

(10) Any owner who operates or intends to operate non-Idaho based vehicles in Idaho that are subject to the use fee required under the provisions of this section shall apply for a use fee account before operating the vehicles in Idaho. In lieu of establishing a use fee account the owner may purchase a trip permit under the provisions of section 49-432 or 49-433, Idaho Code, as applicable. The department

shall develop rules to administer the use fee account. Any owner who has not established a use fee account or has not purchased a trip permit prior to operating in Idaho shall have committed an infraction.

SECTION 4. That Section 49-435, Idaho Code, be, and the same is hereby amended to read as follows:

49-435. PROPORTIONAL REGISTRATION OF COMMERCIAL VEHICLES. (1) Any owner engaged in operating one or more fleets may, in lieu of the registration fees imposed by section 49-434, Idaho Code, register each fleet for operation in this state by filing an application with the department which shall contain the following information and such other information pertinent to vehicle registration as the department may require:

(a) Total fleet miles. This shall be the total number of miles operated in all jurisdictions during the preceding year by the motor vehicles in a fleet during the year.

(b) In-state miles. This shall be the total number of miles operated in this state during the preceding year by motor vehicles in the fleets during the year.

(c) A description and identification of each vehicle of the fleet which is to be operated in this state during the registration year for which proportional fleet registration is requested, and, as determined by the department, the vehicle unit number of each fleet vehicle as assigned by the owner.

(2) The application for each fleet shall, at the time and in the manner required by the department, be supported by a fee payment computed as follows:

(a) Divide in-state miles by total fleet miles.

(b) Determine the total amount necessary to register each and every vehicle in the fleet for which registration is required based on the regular annual fees prescribed by section 49-434, Idaho Code.

(c) Multiply the sum obtained under subsection (2)(b) of this section, by the quotient obtained under subsection (2)(a) of this section.

(3) The applicant for proportional registration of any fleet, the motor vehicles of which are operated by him in jurisdictions in addition to those in which the applicant's fleet motor vehicles are operated, may state those motor vehicles separately in his application and compute and pay the fees in accordance with the separate statement, as to which "total miles" shall be the total miles of highway operation determined from miles of power units, whether prorated or not, operated in combination with prorated trailers in all jurisdictions during the preceding year.

(4) The department shall register the vehicle so described and identified and may issue license plates or distinctive sticker or other suitable identification device for each vehicle listed in the application upon payment of the fees required under subsection (2) and an additional identification charge of eight dollars (\$8.00) per vehicle. The fees collected for the additional identification shall be deposited to the state highway account. A registration card shall be issued for each proportionally registered vehicle appropriately iden-

tifying it which shall be carried in or upon the vehicle identified at all times.

(5) Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type of movement or operation, except that, in those instances in which a grant of authority is required for intrastate movement or operation, no vehicle shall be operated in intrastate commerce in this state unless the owner has been granted intrastate authority or rights by the public utilities commission and unless the vehicle is being operated in conformity with such authority or rights.

(6) The right to the privilege and benefits of proportional registration of fleet vehicles extended by this section, or by any contract, agreement, arrangement or declaration made under the authority provided in section 49-201, Idaho Code, shall be subject to the condition that each fleet vehicle proportionally registered shall also be proportionally or otherwise properly registered in at least one other jurisdiction during the period for which it is proportionally registered in this state.

(7) Vehicles acquired by the owner after the commencement of the registration year and subsequently added to a proportionally registered fleet shall be proportionally registered by applying the mileage percentage used in the original application for the fleet for that registration period to the annual registration fees due with respect to those vehicles for the remainder of the registration year.

(8) If any vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered, the owner of the fleet shall so notify the department on appropriate forms to be prescribed by the department. The department may require the owner to surrender proportional registration cards and other identification devices which have been issued with respect to the vehicle as the department may deem advisable.

(9) The initial application for proportional registration of a fleet shall state the mileage data with respect to the fleet for the preceding year in this and other jurisdictions. If no operations were conducted with the fleet during the preceding year, the application shall contain a full statement of the proposed method of operation and estimates of annual mileage in this state and other jurisdictions. The department shall determine the in-state and total fleet miles to be used in computing the fee payment for the fleet. The department may evaluate and adjust the estimate in the application if it is not satisfied as to the correctness submitted.

(10) The department may refuse to accept proportional registration applications for the registration of vehicles based in another jurisdiction if it shall find that the other jurisdiction does not grant similar registration privileges to fleet vehicles based in or owned by residents of this state.

(11) Any owner whose application for proportional registration has been accepted shall preserve the records on which the application is based for a period of four (4) years following the year of application. The owner shall agree to make his records accessible to the department for audit as to accuracy of computations, payments and assessments of deficiencies or allowances for credit. The department shall make arrangements with agencies of other jurisdictions adminis-

tering motor vehicle registration laws for joint audits of any owner or exchange of audit information. No assessment for deficiency or claim for credit may be made for any period for which records are no longer required. Any sums found to be due and owing upon audit shall bear interest of six per cent (6%) from the date when they should have been paid until the date of actual payment. If the audit discloses a deliberate and willful intent to evade the requirements of appropriate payment under subsection (2)(b) of this section, an additional penalty of ten per cent (10%) shall also be assessed.

(12) No provision of this section relating to proportional registration of fleet vehicles shall be construed as requiring any vehicle to be proportionally registered if it is otherwise registered in this state for the operation in which it is engaged including regular registration or temporary trip permit.

(13) Proportionally registered vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds shall pay a use fee in accordance with section 49-434(4), (5), (6) and (7), Idaho Code, as applicable.

SECTION 5. That Section 49-436, Idaho Code, be, and the same is hereby amended to read as follows:

49-436. QUARTERLY REPORTS -- MAINTAINING RECORDS -- PENALTIES -- DEPOSIT OR BOND TO SECURE PAYMENT OF FEES -- APPEAL. (1) Not later than the last day of April, and on the last day of each third calendar month thereafter, each owner of a commercial or farm vehicle having a maximum combined gross weight in excess of sixty thousand (60,000) pounds, shall file with the department a statement of the gross miles each vehicle has traveled over the highways of the state of Idaho for the preceding calendar months of the year for which that report is made. Each report shall be cumulative of all miles traveled during all calendar months in that year for which the report is made.

(2) Every owner whose fees are computed as specified in section 49-434, Idaho Code, shall maintain records and permit the department to inspect the records upon request to substantiate the following:

(a) The actual miles traveled over Idaho highways.

(b) Identification of the commodities hauled if using the schedule in section 49-434(5), Idaho Code.

(c) Reporting at multiple weights pursuant to section 49-434, Idaho Code.

(d) If an owner registers a vehicle or combination of vehicles at a weight in excess of sixty thousand (60,000) pounds and the registered maximum gross weight is less than the weight allowable under the provisions of section 49-1001, Idaho Code, for that vehicle or combination of vehicles, then the owner must maintain and provide to the department on demand records of the vehicle or combination of vehicles actual gross weight and the configuration of the combination of vehicles for all miles traveled. If the owner fails to maintain and produce such records then all miles for the vehicle or combination of vehicles will be assessed at the highest weight the vehicle or combination of vehicles could legally operate pursuant to section 49-1001, Idaho Code. If an owner registers a vehicle or combination of vehicles at a weight

in excess of sixty thousand (60,000) pounds and the registered maximum gross weight is equal to or exceeds the weight allowable under the provisions of section 49-1001, Idaho Code, for that vehicle or combination of vehicles then the owner is not required to maintain actual gross weight records of the vehicle or combination of vehicles. Owners may voluntarily report quarterly the weight hauled in excess of registered maximum gross weight and may pay use fees for such voluntarily reported weight without penalty.

(e) Overweight travel authorization fees as set forth in section 49-1001, Idaho Code, and use fees accrued through overweight citations as provided in this section shall be remitted quarterly.

(3) When the records are maintained outside this state by owners engaged in transportation in this state, the owner shall reimburse the department for reasonable expenses incurred by the department in making audits of those records and accounts at the out-of-state location. The owner or the department may request that the records be presented at a place within the state designated by the department. The records must be presented by a representative of the owner familiar with the records and who is responsible for the safekeeping of the records. Every owner is required to maintain records for four (4) years from the due date of the quarterly report unless the department and the owner agree in writing to shorten or lengthen the time period. The amount of fees imposed in this chapter shall be assessed within four (4) years after the due date of the quarterly report unless the department and owner agree in writing to lengthen the time period. If an assessment has been made, such fees may be collected by a proceeding in court within a period of three (3) years after the assessment or a final order entered pursuant to subsection (10) of this section.

(4) Owners of commercial and farm vehicles using the registration fee schedules in section 49-434(1), Idaho Code, are subject to audit to determine if the proper schedule is being used. If the weight classification being used is found to be understated, the difference between the registration fees paid and the registration fees due will become due and payable. If the vehicles are found to be operating in excess of sixty thousand (60,000) pounds gross weight, the difference between the registration fees paid under section 49-434(1), Idaho Code, and the amount that would have been due under the use fee schedule in section 49-434(4) or (5), Idaho Code, will be determined and the balance due, if any, will be collected. If an owner registers a vehicle or combination of vehicles at a weight less than the weight allowable under the provisions of section 49-1001, Idaho Code, for that vehicle or combination of vehicles then the owner must maintain vehicle gross weight records in addition to the mileage records and allow the department to inspect the vehicle gross weight and mileage records.

(5) Owners using the use fee schedules in section 49-434(4) and (5), Idaho Code, are subject to audit to determine if the proper use fee schedule and weight classification is being used and if all miles traveled on Idaho highways have been reported. If the operating weight, as determined from citations issued for exceeding weight limitations specified in title 49, Idaho Code, exceeds the registered maximum gross weight, the additional use fees for the miles traveled at the heavier weight, if not already paid, shall become due and payable.

(6) An owner who fails to maintain records as required by the provisions of this section may have the registration of all vehicles registered under sections 49-434 and 49-435, Idaho Code, suspended until such time as adequate records as required by the provisions of this section are provided. In the event that the owner does not produce records, the department may make an assessment of fees due based on an estimate of the operation. The department shall promulgate rules specifying the methodology used to determine an assessment based on an estimate of the operation. There shall be added to every such estimated assessment a penalty of two percent (2%) per month or fraction thereof after the report was required to be filed or the fee became due up to a maximum penalty of thirty-six percent (36%) of the fee due. Upon payment of the estimated assessment and all other fees due and owing including the reinstatement fee the owner's registration shall be reinstated.

(7) An owner who fails to file any reports or pay any fees or penalties due is subject to suspension of their vehicle registrations. An order suspending the vehicle registrations shall be mailed to the owner upon discovery of the deficiency by the department. The suspension shall be lifted if the reports are filed and the payments due are made, along with a reinstatement fee of forty dollars (\$40.00) per carrier within fifteen (15) days after receipt of the suspension order. The reinstatement fees shall be deposited to the state highway account. The owner shall have the right to appeal the suspension by petitioning the department for a hearing within ten (10) days after receipt of the suspension order. If the suspension is set aside the reinstatement fee shall not be due.

(8) An owner failing to file a mileage report or pay any fee due within the time required as specified in this section, shall in addition to the amount of the fee pay a penalty of ten percent (10%) of the amount of fee determined to be due, plus the interest of one percent (1%) of the amount of the use fees due for each month or fraction thereof after the report was required to be filed or the fee became due, but the department may remit all or any part of the penalty if satisfied that the delay was excusable ~~up to a maximum of twenty-four percent (24%)~~. The department shall promulgate rules specifying when the penalty may be held in abeyance or forgiven.

(9) (a) If the department finds it necessary in order to ensure the collection of any fees or penalties imposed upon an owner, it may at the time and as a condition of granting a registration or to reinstate a registration require an owner to deposit and keep on deposit with the department a sum equal to the estimated fees computed under the schedule in section 49-434, Idaho Code, for a period of not to exceed three (3) months. In determining the necessity for an applicant or owner to maintain a deposit the department shall consider the applicant or owner's financial capability and responsibility and prior experience, if any, in collecting fees or penalties from the applicant, owner or any person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the registration.

(b) The department may accept in lieu of a deposit a bond to secure payment of sums payable by the owner. The total amount of

the deposit or bond shall be determined by the department in a manner as it shall deem proper, taking into account the nature and scope of the owner's operations. The amount may be increased or reduced at any time.

(c) If an owner ceases to be registered under the provisions of this chapter, the department, upon receipt of all payments due, shall refund to the owner all deposits remaining to the owner's credit and shall release the surety on any bond given under this section.

(d) Any applicant or owner required to make a deposit to secure the payment of fees or penalties may by proper petition demand a hearing on the necessity of the deposit or the reasonableness of the amount required. A hearing shall be granted and held within ten (10) days after the demand. The decision of the director shall become final ten (10) days after service of the order upon the applicant or owner concerned. Notice shall be served personally or by certified mail addressed to the applicant or owner at his address as it appears in the records of the department. An appeal may be taken from any decision of the department as from the decision of the magistrate's division to the district court.

(10) An owner wishing to contest an assessment made by the department may within thirty (30) days from receipt of the assessment file an appeal with the department. Upon receipt of an appeal the director or his authorized representative shall schedule an informal conference between the owner and a representative of the department. The informal conference must be conducted within twenty (20) days from the date of receipt of notice of intent to appeal from the owner. The owner and the representative of the department shall reduce all conclusions, agreements and decisions to writing, if an informal conference is held, but attendance at and participation in the informal conference is at the option of the owner. If an informal conference is held, the written report of the results of that conference shall be provided to the director within ten (10) days. If the results of the informal conference are not satisfactory to the owner, he may continue with the appeal by informing the director in writing, and the director or his authorized representative shall appoint a hearing officer to conduct a contested case hearing in accordance with chapter 52, title 67, Idaho Code. The hearing officer may subpoena witnesses and evidence and administer oaths. The hearing officer shall prepare written findings of fact and conclusions of law for the director or his authorized representative. Upon receipt of findings of fact and conclusions of law the director or his authorized representative shall issue a final order affirming, modifying or reversing the original assessment. All final orders rendered by the director or his authorized representative shall be appealable in accordance with chapter 52, title 67, Idaho Code.

Approved March 30, 1994.

CHAPTER 247
(H.B. No. 832)

AN ACT

RELATING TO THE INCOME TAXATION OF CORPORATIONS; AMENDING SECTION 63-3022, IDAHO CODE, DEFINING TAXABLE INCOME TO CLARIFY ADJUSTMENTS TO FEDERAL TAXABLE INCOME AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3027, IDAHO CODE, RELATING TO ALLOCATION AND APPORTIONMENT OF INCOME OF MULTISTATE CORPORATIONS AND UNITARY GROUPS OF CORPORATIONS TO CHANGE AND CLARIFY THE ALLOCATION AND APPORTIONMENT RULES APPLICABLE TO CORPORATIONS INCLUDED IN A COMBINED REPORT OF INCOME; AMENDING SECTION 63-3027B, IDAHO CODE, RELATING TO ELECTIONS TO FILE COMBINED RETURNS ON A "WATER'S EDGE" BASIS TO INCLUDE IN THE COMBINED RETURNS ALL CORPORATIONS ELIGIBLE TO BE INCLUDED IN A FEDERAL CONSOLIDATED RETURN; AMENDING SECTION 63-3027C, IDAHO CODE, RELATING TO ELECTIONS TO FILE COMBINED RETURNS ON A "WATER'S EDGE" BASIS TO PROVIDE MORE DETAILED RULES FOR INCLUSION AND EXCLUSION OF DIVIDENDS RECEIVED BY A CORPORATION OR UNITARY GROUP OF CORPORATIONS; AMENDING SECTION 63-3027E, IDAHO CODE, TO CORRECT A CROSS REFERENCE; AMENDING SECTION 63-3029B, IDAHO CODE, RELATING TO INVESTMENT TAX CREDITS TO CLARIFY PREVIOUS LEGISLATIVE INTENT BY CLARIFYING THE MANNER BY WHICH THE CREDIT IS CLAIMED BY CORPORATIONS INCLUDED IN A COMBINED REPORT OF INCOME; DECLARING AN EMERGENCY, PROVIDING A RETROACTIVE EFFECTIVE DATE AND PROVIDING APPLICATION.

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

SECTION 1. That Section 63-3022, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022. TAXABLE INCOME. The term "taxable income" means "taxable income" as defined in section 63 of the Internal Revenue Code, adjusted as provided in this chapter, including adjustments under and subject to the provisions of ~~subsections--(s)--and--(u)--of sections 63-3027, Idaho Code, and sections 63-3027B through 63-3027E, Idaho Code:~~

(a) Add interest and dividends received or accrued during the taxable year from foreign securities and from securities issued by states and other political subdivisions, other than those issued by the state of Idaho, its cities and political subdivisions, exempt from federal income tax under the Internal Revenue Code, less applicable amortization.

(1) In the case of a corporation whose income is taxable under this chapter, no deduction shall be allowed for interest on indebtedness incurred or continued to purchase after January 1, 1983, or to carry obligations acquired after January 1, 1983, the interest of which is wholly exempt from the taxes imposed under this chapter. The amount of interest on indebtedness thus incurred or continued shall be an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable

year as the taxpayer's average adjusted basis of the obligations mentioned in the preceding sentence bears to such average adjusted basis for all assets of the taxpayer, or, at the option of the taxpayer, an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's interest income from the obligations mentioned in the preceding sentence bears to the taxpayer's total income for the taxable year.

(2) In the case of a corporation whose income is computed pursuant to section 63-3027, Idaho Code, the interest expense deductible shall be an amount equal to interest and dividend income subject to apportionment, plus the amount, if any, by which the balance of interest expense exceeds interest and dividend income not subject to apportionment. Interest expense not included in the preceding sentence shall be directly offset against interest and dividend income not subject to apportionment. This provision shall not apply to dividend income excluded pursuant to section 63-3027C(c) and (e), Idaho Code.

(b) Add any state taxes, measured by net income, paid or accrued during the taxable year adjusted for state tax refunds used in arriving at taxable income as defined in section 63 of the Internal Revenue Code.

(c) Add the net operating loss deduction used in arriving at taxable income as defined in section 63 of the Internal Revenue Code.

(d) (1) A net operating loss for any taxable year commencing on or after January 1, 1983, but prior to January 1, 1990, shall be a net operating loss carryover to each of the ten (10) taxable years following the taxable year of such loss; provided, however, such net operating loss shall be subtracted in each succeeding year in order but the total subtracted in the succeeding taxable years shall not exceed the total of such net operating loss; provided, further, that a net operating loss not to exceed one hundred thousand dollars (\$100,000) arising in a taxable year commencing on or after January 1, 1983, but prior to January 1, 1990, may, at the election of the taxpayer, be carried back to the three (3) immediately preceding taxable years, and if such loss is not entirely absorbed by the income of those years, the amount of loss not exhausted may be subtracted from taxable income arising in the next ten (10) years succeeding the taxable year in which the loss arises in order until exhausted. A net operating loss for any taxable year commencing on and after January 1, 1990, shall be a net operating loss carryback not to exceed one hundred thousand dollars (\$100,000) to the three (3) immediately preceding taxable years, and any loss not entirely absorbed by the income of those years may be subtracted from taxable years arising in the next fifteen (15) years succeeding the taxable year in which the loss arises in the order until exhausted. At the election of the taxpayer, the three (3) year carryback may be foregone and the loss subtracted from taxable years arising in the next fifteen (15) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b)(3)(c) of the Internal Revenue Code. An election under this

subsection must be in the manner prescribed in the regulations of the state tax commission and once made is irrevocable for the year in which it is made. In the event that the taxpayer elects to carryback any loss arising in a year commencing on or after January 1, 1983, but prior to January 1, 1990, any loss not exhausted may be subtracted from taxable income arising in the next succeeding ten (10) taxable years in order until exhausted.

(2) Net operating losses incurred by a corporation during a year in which such corporation had no Idaho business situs may not be subtracted. Net operating losses incurred by a person, other than a corporation, in business activities not taxable by Idaho may not be subtracted.

(e) In the case of a corporation, add the amount deducted under the provisions of sections 243(a) and (c), 244, 245 and 246A of the Internal Revenue Code (relating to dividends received by corporations) as limited by section 246(b)(1) of said code.

(f) In the case of a corporation, subtract an amount determined under section 78 of the Internal Revenue Code to be taxable as dividends.

(g) Subtract the amount of any income received or accrued during the taxable year which is exempt from taxation by this state, under the provisions of any other law of this state or a law of the United States, if not previously subtracted in arriving at taxable income, as defined by section 63 of the Internal Revenue Code.

(h) In the case of a corporation with more than fifty per cent (50%) of its income taxable within this state, the salary, fee or other compensation of its nonresident officers or directors shall be treated as income from sources within the state. Whether or not any personal services have been performed by such nonresident officers or directors in this state, they shall be deemed to have a business situs in this state. If such salary, fee or other compensation is not reported to this state as income, such corporation shall not deduct as part of its expenses for the taxable year any part of such salary, fee or other compensation in computing taxable income. When the salary, fee or other compensation paid to such nonresident officer is reported to this state as income by such nonresident officer, it shall be apportioned by applying to the total of such income the apportionment factor of the corporation paying the salary, fee or other compensation, as such factor is reported on the corporation's income tax return computed pursuant to section 63-3027, Idaho Code, or as subsequently modified. Provided, however, reasonable compensation paid to such nonresident officers or directors for personal services actually performed outside the state of Idaho shall not be included as income earned from Idaho sources.

(i) For the purpose of determining the taxable income of the beneficiary of a trust or of an estate, distributable net income as defined for federal tax purposes shall be corrected for the other adjustments required by this section. In the event that a nonresident beneficiary of a trust or estate fails to file an Idaho income tax return reporting all or any part of distributable net income taxable in Idaho or fails to pay any tax due thereon, the trust or estate making the payment or distribution shall be taxable upon the amount of such distribution or payment at the rates established by section

63-3024, Idaho Code.

(j) In the case of an individual who is on active duty as a full-time officer, enlistee or draftee, with the armed forces of the United States, which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more, deduct compensation paid for services performed outside this state by the armed forces of the United States, only to the extent such income is included in "taxable income," as defined in section 63 of the Internal Revenue Code, and provided that appropriate adjustments shall be made in his standard deduction amount and exemptions as described in section 63-3027A, Idaho Code.

(k) In the case of a corporation, add any capital loss deducted which loss was incurred during any year in which such corporation had no Idaho business situs. In the case of persons, other than corporations, add any capital loss deducted which was incurred in business activities not taxable by Idaho at the time such loss was incurred. In the case of a corporation having income from Idaho sources and having elected to file federal income tax returns thereon pursuant to Subchapter-S of the Internal Revenue Code, or a partnership having income from Idaho sources, salaries, wages, fees, and other compensation paid to nonresident shareholders or partners, and the items of income, loss, deduction, and credit allocated to each nonresident shareholder or partner shall be treated as having sources within the state. Whether or not any personal services have been performed in this state by such nonresident shareholders or partners, they shall be deemed to have a business situs in this state. When the salaries, wages, fees, and other compensations paid to such nonresident shareholders or partners or items of income, loss, deduction, and credit, or allocated to such shareholders or partners is reported to this state as taxable income pursuant to this subsection, such income shall be apportioned by applying to the total of such income the apportionment factor of the corporation or partnership. The apportionment factor of the corporation or partnership shall be computed pursuant to the provisions of section 63-3027, Idaho Code. If such items of income, loss, deduction, or credit, salaries, wages, fees or other compensation are not reported to this state by the nonresident shareholders or partners, such corporation or partnership shall report the same to this state and be taxable thereon at the corporate rate. Provided, however, reasonable compensation paid to such nonresident shareholders or partners for personal services actually performed outside the state of Idaho shall not be included as income earned from Idaho sources. In computing the income taxable to the corporation or partnership under this subsection, deduction shall not be allowed for a carryover or carryback of a net operating loss provided for in subsection (d) of this section or a capital loss provided for in section 1212 of the Internal Revenue Code.

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

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

income, plus

b. Itemized expenditures of not to exceed one thousand dollars (\$1,000) per cared for member incurred in providing personal care services to or for an immediate member of the taxpayer's family; such services may be provided either in the taxpayer's home or the family member's home; personal care services shall be as defined in chapter 56, title 39, Idaho Code, but the cared for member need not be medicaid eligible for the purposes of this section only, if he substantially meets all of the other requirements of chapter 56, title 39, Idaho Code; in order for the deduction under this paragraph to be allowed, the expenditures claimed must not have been reimbursed by medicare, medicaid or private insurance, and such expenditures must not have been previously subtracted in arriving at taxable income.

(2) a. Itemized deductions as defined in section 63 of the Internal Revenue Code except state income taxes as specified in section 164 of the Internal Revenue Code, plus

b. Contributions made to the state of Idaho for credit to the medical assistance account, if such contributions were not previously subtracted in arriving at taxable income, plus

c. Itemized expenditures of not to exceed one thousand dollars (\$1,000) per cared for member incurred in providing personal care services to or for an immediate member of the taxpayer's family; such services may be provided either in the taxpayer's home or the family member's home; personal care services shall be as defined in chapter 56, title 39, Idaho Code, but the cared for member need not be medicaid eligible for the purposes of this section only, if he substantially meets all of the other requirements of chapter 56, title 39, Idaho Code; in order for the deduction under this paragraph c. to be allowed, the expenditures claimed must not have been reimbursed by medicare, medicaid or private insurance, and such expenditures must not have been previously subtracted in arriving at taxable income.

(m) Deduct any amounts added to gross income under section 87 of the Internal Revenue Code for tax credits allowable to the taxpayer under section 40 of the Internal Revenue Code.

(n) Add the taxable amount of any lump sum distribution deducted from gross income pursuant to section 402(e)(3) of the Internal Revenue Code. The taxable amount will include the ordinary income portion and the amount eligible for the capital gain election.

(o) Deduct any amounts included in gross income under the provisions of section 86 of the Internal Revenue Code relating to certain social security and railroad benefits.

(p) In the case of a self-employed individual, deduct the actual cost of premiums paid to secure worker's compensation insurance for coverage in Idaho, if such cost has not been deducted in arriving at taxable income.

(q) Add the amount claimed as a credit under section 63-3029G, Idaho Code, if previously deducted in arriving at taxable income.

SECTION 2. That Section 63-3027, Idaho Code, be, and the same is

hereby amended to read as follows:

63-3027. COMPUTING TAXABLE INCOME OF CORPORATIONS. The Idaho taxable income of any corporation with a business situs in this state shall be computed and taxed in accordance with the rules set forth in this section:

(a) As used in this section, unless the context otherwise requires:

(1) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from the acquisition, management, or disposition of tangible and intangible property when such acquisition, management, or disposition constitute integral or necessary parts of the taxpayer's trade or business operations. Gains or losses and dividend and interest income from stock and securities of any foreign or domestic corporation shall be presumed to be income from intangible property, the acquisition, management, or disposition of which constitute an integral part of the taxpayer's trade or business; such presumption may only be overcome by clear and convincing evidence to the contrary.

(2) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(3) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(4) "Nonbusiness income" means all income other than business income.

(5) "Sales" mean all gross receipts of the taxpayer not allocated under subsections (d) through (h) of this section.

(6) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(b) Any taxpayer having income from business activity which is taxable both within and without this state shall allocate and apportion such net income as provided in this section.

(c) For purposes of allocation and apportionment of income under this section, a taxpayer is taxable in another state if:

(1) In that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or

(2) That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(d) Rents and royalties from real or tangible personal property, capital gains interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (e) through (h) of this section.

(e) (1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocable to this state:

(i) if and to the extent that the property is utilized in

this state, or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(f) (1) Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) the property had a situs in this state at the time of the sale, or

(ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state, unless such gains and losses constitute business income as defined in this section.

(g) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state unless such interest or dividends constitute business income as defined in this section.

(h) (1) Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the payer in this state, or

(ii) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patent product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of

utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(i) All business income shall be apportioned to this state under subsection (j) of this section by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3).

(j) (1) In the case of a corporation or group of corporations combined under subsection (t) of this section, taxable income or loss of the corporation or combined group which is to be attributed to Idaho shall be determined as follows:

(i) from the income or loss of the corporation or combined group of corporations, subtract any nonbusiness income, and add any nonbusiness loss, included in the total,

(ii) multiply the amounts determined under paragraph (1)(i) of this subsection by the Idaho apportionment percentage defined in subsection (i) of this section, taking into account, where applicable, the property, payroll and sales of all corporations, wherever incorporated, which are included in the combined group. The resulting product shall be the amount of business income or loss apportioned to Idaho.

(2) To the amount determined as apportioned business income or loss under paragraph (1)(ii) of this subsection, add nonbusiness income allocable entirely to Idaho under the provisions of this section or subtract nonbusiness loss allocable entirely to Idaho under this section. The resulting figure is the Idaho taxable income or loss for a corporation.

(k) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(kl) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(lm) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period, but the state tax commission may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(mn) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

(no) Compensation is paid in this state if:

(1) The individual's service is performed entirely within the state; or

(2) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

- (3) Some of the service is performed in the state and
- (i) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or
 - (ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(op) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

(pq) Sales of tangible personal property are in this state if:

- (1) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale, or
- (2) The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and
 - (i) the purchaser is the United States government or
 - (ii) the taxpayer is not taxable in the state of the purchaser.

(qr) Sales, other than sales of tangible property, are in this state, if:

- (1) The income-producing activity is performed in this state; or
- (2) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(rs) If the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the state tax commission may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- (1) Separate accounting, provided that only that portion of general expenses clearly identifiable with Idaho business operations shall be allowed as a deduction;
- (2) The exclusion of any one (1) or more of the factors;
- (3) The inclusion of one (1) or more additional factors which will fairly represent the taxpayer's business activity in this state; or
- (4) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(st) For purposes of this chapter section and sections 63-3027B through 63-3027E, Idaho Code, the income of two (2) or more corporations, wherever incorporated, the voting stock of which is more than fifty percent (50%) owned directly or indirectly by a common owner or owners may, when necessary to accurately reflect income, be considered shall be allocated or apportioned as if the group of corporations were a single corporation, in which event:

- (1) The "taxable income" to be attributed to this state of any corporation subject to taxation in this state shall be determined by use of a combined report which includes the income, determined under subparagraph (2) of this subsection, of all corporations

which are members of a unitary business, allocated and apportioned using apportionment factors for all corporations included in the combined report and methods set out in this section. The use of a combined report does not disregard the separate corporate identities of the members of the unitary group. Each corporation which has business situs in this state is responsible for its apportioned share of the combined business income plus its nonbusiness income or loss allocated to Idaho, minus its net operating loss carryover or carryback.

(2) The income of a corporation to be included in a combined report shall be determined as follows:

(i) for a corporation incorporated in the United States or included in a consolidated federal corporation income tax return, the income to be included in the combined report shall be the taxable income for the corporation as defined in section 63-3022, Idaho Code;

(ii) for a corporation incorporated outside the United States, but not included in subsection (t)(2)(i) of this section, the income to be included in the combined report shall be the net income before income taxes of such corporation stated on the profit and loss statements of such corporation which are included within the consolidated profit and loss statement prepared for the group of related corporations of which the corporation is a member, which statement is prepared for filing with the United States securities and exchange commission. If the group of related companies is not required to file such profit and loss statement with the United States securities and exchange commission, the profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor may be used to obtain net income before income taxes. In the alternative, and subject to reasonable substantiation and consistent application by the group of related companies, adjustments may be made to the profit and loss statements of the corporation incorporated outside the United States, if necessary, to conform such statements to tax accounting standards as required by the Internal Revenue Code as if such corporation were incorporated in the United States and required to file a federal income tax return, subject to appropriate adjustments under the provisions of section 63-3022, Idaho Code; and

(iii) if the income computation for a group under paragraphs (i) and (ii) of this subsection results in a loss, such loss shall be taken into account in other years, subject to the provisions of subsections (c) and (d) of section 63-3022, Idaho Code.

(tu) If compensation is paid in the form of a reasonable cash fee for the performance of management services directly for the United States government at the Idaho national engineering laboratory, separate accounting for that part of the business activity without regard to other activity of the taxpayer in the state of Idaho or elsewhere shall be required; provided that only that portion of general expenses clearly identifiable with Idaho business operations of that activity shall be allowed as a deduction.

~~(u) In the case of a corporation subject to this section, including a group of corporations considered to be a single corporation under the provisions of subsection (s) of this section, taxable income or loss shall be determined as follows:~~

~~(1) From the amount of taxable income otherwise determined under this section for such corporation, subtract nonbusiness income, or add nonbusiness loss, whichever is applicable.~~

~~(2) Multiply the amounts determined under paragraph (1) of this subsection by the Idaho apportionment percentage defined in subsection (i) of this section, taking into account, where applicable, the property, payroll and sales of all corporations, wherever incorporated, which are included in a combined report. The resulting product shall be the apportioned business income or loss.~~

~~(3) To the amount determined as apportioned business income or loss under paragraph (2) of this subsection, add nonbusiness income allocable entirely to Idaho under the provisions of this section or subtract nonbusiness loss allocable entirely to Idaho under this section. The resulting figure is the taxable income or loss for a corporation subject to the provisions of this section.~~

SECTION 3. That Section 63-3027B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3027B. WATER'S-EDGE ELECTION. (a) Notwithstanding the provisions of subsections (r) and (s) of section 63-3027, Idaho Code, a qualified taxpayer, as defined in paragraph (3) of subsection (b) of this section whose income is subject to the tax imposed under this chapter, may elect to determine its income derived from or attributable to sources within this state pursuant to a water's-edge election in accordance with the provisions of this chapter, as modified by sections 63-3027B through 63-3027E, Idaho Code. A taxpayer who makes a water's-edge election shall take into account the income and apportionment factors of only affiliated corporations in a unitary relationship with the taxpayer, other than corporations filing elections under section 936 of the Internal Revenue Code, and which either file a federal income tax return under the Internal Revenue Code or are ~~eligible to be~~ included in a federal consolidated return.

(b) For purposes of this section:

(1) The phrase "over fifty per cent (50%) of the voting stock directly or indirectly owned or controlled" shall be substituted for the phrase "at least eighty per cent (80%)" each place it appears in section 1504 of the Internal Revenue Code.

(2) Any combined return shall include only corporations the voting stock of which is more than fifty per cent (50%) owned directly or indirectly by a common owner or owners.

(3) A "qualified taxpayer" is a corporation which files, with the state income tax return on which the water's-edge election is made, a consent to the reasonable production of documents within the taxing jurisdiction. The consent shall remain in effect so long as the water's-edge election is in effect.

(4) "Water's-edge combined group" shall mean all corporations or entities properly includable in the election of a taxpayer in subsection (a) of this section.

(5) The only income of a foreign sales corporation to be taken into account shall be the income subject to federal taxation, taking into account the provisions of section 921 of the Internal Revenue Code.

(c) A water's-edge election may be disregarded, and the income of the taxpayer determined without regard to the provisions of this section pursuant to those conditions which may be required by the state tax commission under subsection (b) of section 63-3027C, Idaho Code, if any corporation fails to comply with:

- (1) The domestic disclosure spreadsheet filing requirements defined in section 63-3027E, Idaho Code; or
- (2) This state's legal and procedural requirements.

SECTION 4. That Section 63-3027C, Idaho Code, be, and the same is hereby amended to read as follows:

63-3027C. ELECTION IS BINDING -- TREATMENT OF DIVIDENDS. (a) A water's-edge election shall be made in the original return for a year and shall be binding for all years thereafter, except as follows:

(1) If, in the future, the United States supreme court or the supreme court of the state of Idaho rules that there is a state or federal constitutional right for a group of corporations to use the worldwide unitary method, a water's-edge combined group of corporations may, without permission of the tax commission, change its future filing to the worldwide unitary method.

(2) Any changes to use of the water's-edge method or any other changes beyond those described in paragraph (1) of this subsection may only occur with the written permission of the tax commission.

(3) No water's-edge election shall be made for an income year beginning prior to the operative date of sections 63-3027B through 63-3027E, Idaho Code.

(b) When disregarding an election or granting a change of election, the tax commission shall impose conditions which are necessary to prevent the avoidance of tax or to clearly reflect income for the period the election was made.

(c) For purposes of this section:

(1) Dividends received from payors incorporated outside the fifty (50) states and District of Columbia, to the extent taxable, shall be treated as income subject to apportionment.

(2) The net income of corporations filing elections under section 936 of the Internal Revenue Code shall be deemed dividends received from payors incorporated outside the fifty (50) states and District of Columbia.

(3) Eighty-five per cent (85%) of all such dividends described in subsection (c)(1) or (c)(2) of this section shall be excluded from income subject to apportionment.

(4) The dividends subject to apportionment shall be in lieu of any expenses attributable to such dividend income.

(5) Any actual dividend received from a corporation filing an election under section 936 of the Internal Revenue Code shall be eliminated from income.

(d) Any dividend from any payor required to be combined under the water's-edge election shall be eliminated from the calculation of

apportionable income. Dividends received from a corporation described in section 922 of the Internal Revenue Code (defining "FSC") will be treated as follows:

(1) Dividends received from an FSC will be eliminated in the proportion that FSC federal taxable income for the year, out of which the dividend was paid, bears to the total FSC income before taxes for such year.

(2) The portion of FSC dividend not eliminated under paragraph (1) of this subsection will be subject to the eighty-five per cent (85%) exclusion provided for in subsection (c)(3) of this section.

(e) For purposes of this section:

(1) Amounts included in income by reference to subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code shall constitute dividends from payors outside the fifty (50) states and District of Columbia; and

(2) Deemed distributions defined by Section 78 of the Internal Revenue Code shall be excluded from the income of the water's-edge combined group.

SECTION 5. That Section 63-3027E, Idaho Code, be, and the same is hereby amended to read as follows:

63-3027E. OPERATIVE DATES. (a) Sections 63-3027B through 63-3027E, Idaho Code, shall be operative for the computation of taxes for the earlier of either of the following:

(1) Taxable years beginning on or after January 1, 1988.

(2) Taxable years beginning on or after January 1 of the year after the year in which the board of examiners, upon advice of the attorney general, certifies to the tax commission that action has been taken by the United States, whether by statute, regulation, executive order, or any other means as may be appropriate, to comply substantially with the following:

(A) A requirement that any corporation required to file a United States tax return or which could be included in a consolidated federal tax return be required to file with the Internal Revenue Service a domestic disclosure spreadsheet if its payroll, property, or sales in a foreign country exceeds one million dollars (\$1,000,000). The spreadsheet shall provide for full disclosure as to the income reported to each state, the state tax liability, and the method used for apportioning or allocating income to the states, and any other information as provided for by regulations as may be necessary to determine properly the amount of taxes due to each state and to identify the water's-edge corporate group and those of its affiliates of which more than twenty per cent (20%) of the voting stock is directly or indirectly owned or controlled by a common owner or owners.

(B) That the information filed pursuant to paragraph (2)(A) of this subsection will be available to qualified states. A "qualified state" is any state that does not require the use of the worldwide unitary method of taxation except in circumstances substantially similar to those authorized in subsection (c) of section 63-3027B, Idaho Code.

(C) That qualified states are authorized access to all material developed by the Internal Revenue Service in its examination of multinational operations.

(b) If sections 63-3027B through 63-3027E, Idaho Code, become operative pursuant to paragraph (1) of subsection (a) of this section, the tax commission may require, and taxpayers described in this subsection must file with the Idaho income tax return, a spreadsheet to provide full disclosure as to the income reported to each state for the year, the tax liability for each state, and the method used for allocating or apportioning income to the states, and to identify the water's-edge corporate group and those of its affiliates of which more than twenty per cent (20%) of the voting stock is directly or indirectly owned or controlled by a common owner or owners. The provisions of this subsection shall apply only to corporations which both make a water's-edge election and have during the taxable year, payroll, property or sales in a foreign country which exceeds one million dollars (\$1,000,000). Notwithstanding the requirement to file a spreadsheet in any tax year, a taxpayer may forego filing such a spreadsheet by submitting to the state tax commission a written declaration of its intention to forego filing such spreadsheet for such year. In the event such declaration is filed in any tax year, no spreadsheet shall be required of such taxpayer and the percentage to be applied under section 63-3027C(c)(2) for such year shall be eighty per cent (80%) rather than eighty-five per cent (85%).

SECTION 6. That Section 63-3029B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029B. INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) At the election of the taxpayer there shall be allowed, subject to the applicable limitations provided herein as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to the sum of:

(a) the tax credit carry-overs; and

(b) the tax credit for the taxable year.

(2) The maximum allowable amount of the credit for the current taxable year shall be three percent (3%) of the amount of qualified investments made during the taxable year.

(3) As used in this section "qualified investment" means certain depreciable property which:

(a) is eligible for the federal investment tax credit, as defined in sections 46(c) and 48 of the internal revenue code subject to the limitations provided for certain regulated companies in section 46(f) of the internal revenue code and is not purchased as replacement for existing property for reasons other than technical obsolescence and is not a motor vehicle under eight thousand (8,000) pounds gross weight;

(b) is acquired, constructed, reconstructed, erected or placed into service after December 31, 1981; and

(c) has a situs in Idaho.

(4) Notwithstanding the provisions of subsections (1) and (2), the amount of the credit allowed shall not exceed fifty percent (50%) of the tax liability of the taxpayer.

(5) If the sum of credit carry-overs from the credit allowed by subsection (2) and the amount of credit for the taxable year from the credit allowed by subsection (2) exceed the limitation imposed by subsection (4) for the current taxable year, the excess attributable to the current taxable year's credit shall be an investment credit carry-over to the five (5) succeeding taxable years. In the case of a group of corporations filing a combined report under section 63-3027, Idaho Code, or sections 63-3027B through 63-3027E, Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group, up to that member's limitation under the provisions of subsection (4) of this section, instead of carried over. The entire amount of unused credit shall be carried forward to the earliest of the succeeding years, wherein the oldest available unused credit shall be used first, so long as the qualified investment property for which the unused credit was granted still maintains Idaho situs. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member who earned the credit is no longer included in the combined group.

(6) Any recapture of the credit allowed by subsection (2) of this section on property disposed of or ceasing to qualify, prior to the close of its useful life, shall be determined according to the applicable recapture provisions of the internal revenue code. No recapture of the credit allowed by subsection (2) of this section shall be required in regard to property ceasing to qualify by reason of an involuntary conversion within the meaning of section 1033 of the internal revenue code. In the case of a unitary group of corporations, the increase in tax due to the recapture of investment tax credit must be reported by the member of the group who earned the credit regardless of which member claimed the credit against tax.

(7) For the purpose of determining whether property placed in service is a "qualified investment" as defined in subsection (3) of this section, the provisions of section 49 of the internal revenue code shall be disregarded.

(8) For purposes of this section, property has a situs in Idaho during a taxable year if it is used in Idaho at any time during the taxable year. Property not used in Idaho during a taxable year does not have a situs in Idaho in the taxable year during which the property is not used in Idaho or in any subsequent taxable year. No credit or carry-over of credit is permitted under this section if the credit or carry-over relates to property that does not have a situs in Idaho during the taxable year for which the credit or carry-over is claimed. The Idaho situs of property must be established by records maintained by the taxpayer which are created reasonably contemporaneously with the use of the property.

(9) In the case of property used both in and outside Idaho, the taxpayer, electing to claim the credit provided in this section, must elect to compute the qualified investment in property with a situs in Idaho for all such investments first qualifying during that year in one, but only one, of the following ways:

(a) the amount of each qualified investment in a specific asset shall be separately computed based on the percentage of the actual use of the property in Idaho by using a measure of the use, such as total miles or total machine hours, that most accurately

reflects the beneficial use during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service; provided, that the asset is placed in service more than ninety (90) days before the end of the taxable year. In the case of assets acquired, constructed, reconstructed, erected or placed into service within ninety (90) days prior to the end of the taxable year in which the investment first qualifies, the measure of the use of that asset within Idaho for that year shall be based upon the percentage of use in Idaho during the first ninety (90) days of use of the asset;

(b) the total investment in qualified property used both inside and outside Idaho during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service shall be multiplied by a factor equal to the Idaho property factor determined pursuant to section 63-3027(j) through (l), Idaho Code, for the same year.

(10) Only for the purposes of subsections (3)(a) and (7) of this section, references to sections of the "internal revenue code" mean the sections referred to as they existed in the internal revenue code of 1986 prior to November 5, 1990.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 1993, provided further that in regard to taxpayers that file a written election provided in Section 7, Chapter 284, Laws of 1993, for taxable years beginning prior to January 1, 1993, this act shall apply to such taxpayers for all taxable years as to which the period of limitations for assessment and collection of tax had not expired on the date the election was filed and had not expired on January 1, 1994.

Approved March 30, 1994.

CHAPTER 248
(H.B. No. 849)

AN ACT

RELATING TO COUNTY JAILS; AMENDING CHAPTER 26, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-2608, IDAHO CODE, TO PROVIDE FOR A GOVERNMENTAL AGENCY TO CHARGE FOR BREATH OR BODILY FLUID TESTING OF PROBATIONERS.

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

SECTION 1. That Chapter 26, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-2608, Idaho Code, and to read as follows:

19-2608. PAYMENT OF COURT ORDERED TESTS OF BREATH OR BODILY FLUIDS. Whenever a court orders testing of breath or bodily fluids as a

condition of probation, such costs for the tests shall be paid for by the probationer to the governmental agency providing the testing, provided the court may waive this requirement upon a showing of cause.

Approved March 30, 1994.

CHAPTER 249
(H.B. No. 895)

AN ACT

RELATING TO THE TAYLOR GRAZING ACT; AMENDING SECTION 57-1203, IDAHO CODE, TO REVISE THE PURPOSES FOR WHICH MONEYS DEPOSITED IN THE RANGE IMPROVEMENT FUND OF ANY COUNTY OR PAID TO ANY GRAZING DISTRICT TREASURER MAY BE EXPENDED FOR; AND AMENDING CHAPTER 12, TITLE 57, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 57-1204 AND 57-1205, IDAHO CODE, TO AUTHORIZE THE CREATION OF STATE BOARDS FOR EACH BUREAU OF LAND MANAGEMENT GRAZING DISTRICT, TO PROVIDE FOR MEMBERSHIP ON THE BOARDS, TO PROVIDE PROCEDURES, TO PROVIDE FOR COMPENSATION, TO PROVIDE FOR MEETINGS, TO ALLOW DISTRICT GRAZING BOARDS TO ESTABLISH A CENTRAL COMMITTEE, TO PROVIDE PROCEDURES FOR SUCH CENTRAL COMMITTEE AND TO PROVIDE POWERS OF THE CENTRAL COMMITTEE.

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

SECTION 1. That Section 57-1203, Idaho Code, be, and the same is hereby amended to read as follows:

57-1203. EXPENDITURE OF FUNDS -- PURPOSES. The money deposited in the range improvement fund of any county, or paid to any grazing district treasurer pursuant to the provisions of sections 57-1201 and 57-1202, Idaho Code, shall be expended ~~within such county~~, as ~~may~~ be directed by the board of district advisors of such grazing district for range improvements and maintenance, predatory animal control, rodent control, poisonous or noxious weed extermination, or for any similar other purpose that is deemed to be most beneficial to the permittees from whom the funds are derived and for the counties involved in each district.

SECTION 2. That Chapter 12, Title 57, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 57-1204 and 57-1205, Idaho Code, and to read as follows:

57-1204. STATE GRAZING DISTRICTS AND BOARDS AUTHORIZED AND CREATED. (1) For the purpose of receiving, directing and guiding the disposition of the range improvement fund of each grazing district concerned, in those manners most beneficial to the permittees from whom the funds are derived and to the counties concerned, there is hereby created a state board for each bureau of land management grazing district established and existing in Idaho on January 1, 1994, under the

provisions of the Taylor grazing act.

(2) Each state board shall be known respectively as the Idaho state grazing board of district no..... in accordance with the following designations:

- (a) Boise district;
- (b) Burley district;
- (c) Idaho Falls district;
- (d) Salmon district;
- (e) Shoshone district.

(3) (a) The members and the chairman of each of the state grazing boards for the year 1994, shall be the members and chairmen of each of the boards of district advisers of each grazing district elected, qualified and serving on January 1, 1994, under the provisions of the Taylor grazing act and the regulations promulgated under the provisions of that act. Each board shall be governed for the remainder of 1994, by the existing charter in place on January 1, 1994. Such members shall serve until their successors are elected and qualified as provided in this section.

(b) On and after January 1, 1995, each state grazing board shall consist of not less than five (5) nor more than twelve (12) stockmen who graze livestock upon the public lands within the grazing district for which such state grazing board is created. Each state grazing board may adopt its own charter, or rules and regulations, governing the conduct of the board. Officers and directors of corporations and partners of partnerships which conduct such grazing are qualified to be elected to serve on such boards on behalf of such corporation or partnership. The term of each member is two (2) years, beginning on January 1, next after his election.

(c) In November of 1994 and in November of each second year thereafter, each state grazing board shall specify the number of members to serve on that state grazing board for the following term. Thereafter, the board shall conduct an election of the members to serve for that term.

(d) If a new grazing district is established, the central committee of Idaho state grazing boards shall, within ninety (90) days from the declared establishment of said district, specify the number of members to serve on the state grazing board for the new district. Thereafter the central committee of the Idaho state grazing boards shall conduct an election of the board members to serve for the balance of the current two (2) year term.

(e) If any vacancy occurs on a state grazing board for any reason, the remaining board members shall elect a qualified successor to fill the vacancy for the unexpired term.

(f) A duly qualified person elected to serve as a member of a state district grazing board shall assume office after taking an oath for the performance of his duties. The permittees holding section 3, Taylor grazing act permits to graze livestock on the public lands within the grazing district served by a state district grazing board shall elect the members to serve on that state district grazing board, and each permittee or his designated representative is entitled to one (1) vote.

(g) Each state district grazing board shall appoint a chairman

and a nominating committee representative of each geographical area serving on the board, but not including any members of the board, and the committee shall make nominations to fill the expiring positions on the board. Nominations, together with appropriate space for write-in candidates, shall be circulated to the permittees within the district, so that each member may cast his vote for each vacancy on the board. Upon expiration of the balloting period, ballots will be counted in the presence of a disinterested third party and the top vote recipients will be notified. Where two (2) or more nominees receive the same number of votes, selection will be made through a drawing by the third party.

(h) Each state district grazing board shall select its own chairman and vice chairman. The secretary, treasurer, and any other employees may be appointed or hired by each board. The board shall set the remuneration of each employee and the remuneration shall be considered as administrative expense of the board concerned. The members of each state district grazing board shall be compensated as provided in section 59-509(b), Idaho Code.

(i) Meetings of a state district grazing board may be called at any time by the chairman or a majority of the members of the board. The board shall meet at least twice each year. Each board may adopt its own rules and regulations for the calling and holding of meetings, but a majority of each board constitutes a quorum for the transaction of business by the board. Action by each board shall be determined by a majority vote of the members present.

57-1205. GRAZING BOARD CENTRAL COMMITTEE -- POWERS AND DUTIES.

(1) State district grazing boards may establish a central committee to act together in matters of common interest which shall be known as the central committee of Idaho state grazing boards. The central committee shall consist of two (2) members selected by and from the membership of each of the state district grazing boards. The members so selected shall serve at the pleasure of their respective state district grazing boards.

(2) The central committee shall:

(a) Select its own officers, secretary, advisers and consultants and have such committees as it may deem necessary;

(b) Adopt its own rules for the calling and holding of meetings and the carrying out of such instructions as may be received from a majority of the state district grazing boards.

(3) State district grazing boards are authorized and empowered to make such use of the central committee as they deem proper. The central committee shall not engage in any activity or project except when and as authorized by a majority of the state district grazing boards. The central committee shall not incur any expense incident to its duties and activities except as authorized by a majority of the state district grazing boards.

Approved March 30, 1994.

CHAPTER 250
(H.B. No. 919)

AN ACT
APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR THE LEGISLATIVE
SERVICES OFFICE FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the Legislative Council for the Legislative Services Office the following amounts from the listed funds for the period July 1, 1994, through June 30, 1995:

FROM:

| | |
|----------------------------|--------------------|
| General Fund | \$2,991,600 |
| Miscellaneous Revenue Fund | 42,300 |
| Professional Services Fund | <u>900,000</u> |
| TOTAL | <u>\$3,933,900</u> |

Approved March 30, 1994.

CHAPTER 251
(H.B. No. 928)

AN ACT
EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE ATTORNEY
GENERAL FOR FISCAL YEAR 1995; EXPRESSING LEGISLATIVE INTENT WITH
RESPECT TO CERTAIN EXPENDITURES; REAPPROPRIATING CERTAIN UNEX-
PENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR
THE REAPPROPRIATION.

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

SECTION 1. It is legislative intent that the expenditures for the Attorney General not exceed the following amount for the period July 1, 1994, through June 30, 1995:

FOR:

| | |
|------------------------|--------------------|
| Personnel Costs | \$7,995,700 |
| Operating Expenditures | 1,723,000 |
| Capital Outlay | <u>93,600</u> |
| TOTAL | <u>\$9,812,300</u> |

FROM:

| | |
|----------------------------|--------------------|
| General Fund | \$4,600,300 |
| Federal Grant Fund | 239,800 |
| Consumer Protection Fund | 193,700 |
| Professional Services Fund | <u>4,778,500</u> |
| TOTAL | <u>\$9,812,300</u> |

SECTION 2. There is hereby appropriated to the Attorney General

the following amount, to be expended for designated programs according to designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|---------------------------------|---------------------------|----------------------------------|--------------------------|------------------|
| I. STATE LEGAL SERVICES: | | | | |
| FROM: | | | | |
| General Fund | \$2,999,900 | \$ 406,800 | \$93,600 | \$3,500,300 |
| Federal Grant Fund | 205,000 | 34,800 | | 239,800 |
| Consumer Protection Fund | 112,100 | 81,600 | | 193,700 |
| Professional Services Fund | <u>4,678,700</u> | <u>99,800</u> | | <u>4,778,500</u> |
| TOTAL | \$7,995,700 | \$ 623,000 | \$93,600 | \$8,712,300 |
| II. SPECIAL LITIGATION: | | | | |
| FROM: | | | | |
| General Fund | | \$1,100,000 | | \$1,100,000 |
| GRAND | | | | |
| TOTAL | \$7,995,700 | \$1,723,000 | \$93,600 | \$9,812,300 |

SECTION 3. It is legislative intent that an amount, not to exceed \$1,000, of the amounts appropriated in Section 2, may be used at the discretion of the Attorney General to assist in defraying expenses relating to or resulting from the discharge of the Attorney General's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 4. There is hereby reappropriated to the Attorney General for the Special Litigation Program, subject to the provision of Section 5 of this act, the unexpended and unencumbered balance of any appropriation made to the Attorney General for the Special Litigation Program for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 5. The reappropriation granted in Section 4 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is zero, the General Fund reappropriation in Section 4 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the General Fund reappropriated in Section 4 of this act shall be in the proportion that the General Fund reappropriation for the Special Litigation Program bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 30, 1994.

CHAPTER 252
(H.B. No. 933)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL FUND TO THE OFFICE OF THE GOVERNOR FOR DEPOSIT IN THE GOVERNOR'S EMERGENCY FUND.

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

SECTION 1. There is hereby appropriated from the General Fund to the Office of the Governor the following amount for deposit in the Governor's Emergency Fund to be expended according to Section 57-1601, Idaho Code:

FOR:

| | |
|------------------------------|----------|
| Trustee and Benefit Payments | \$80,000 |
|------------------------------|----------|

FROM:

| | |
|--------------|----------|
| General Fund | \$80,000 |
|--------------|----------|

Approved March 30, 1994.

CHAPTER 253
(H.B. No. 935)

AN ACT

APPROPRIATING MONEYS FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR FISCAL YEAR 1995; AND EXPRESSING LEGISLATIVE INTENT.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Public Employee Retirement System the following amounts, to be expended according to the designated expense classes from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:

| | |
|-----------------|-------------|
| Personnel Costs | \$1,649,200 |
|-----------------|-------------|

| | |
|------------------------|------------------|
| Operating Expenditures | <u>1,031,800</u> |
|------------------------|------------------|

TOTAL

| |
|-------------|
| \$2,681,000 |
|-------------|

FROM:

| | |
|--|-------------|
| Public Employee Retirement Administration Fund | \$2,681,000 |
|--|-------------|

SECTION 2. It is legislative intent that the Public Employee Retirement System investigate options allowing counties, cities, and hospitals out of the Public Employee Retirement System or future enhancements of the Public Employee Retirement System at the discretion of those entities.

Approved March 30, 1994.

CHAPTER 254
(H.B. No. 936)

AN ACT
APPROPRIATING MONEYS FOR THE HUMAN RIGHTS COMMISSION FOR FISCAL YEAR
1995.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Human Rights Commission the following amounts, to be expended according to the designated expense classes from the listed funds, for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|-------------------------------|---------------------------|----------------------------------|--------------------------|------------------|
| FROM: | | | | |
| General Fund | \$302,500 | \$115,800 | \$2,500 | \$420,800 |
| Federal Grant Fund | 99,400 | 69,600 | 2,500 | 171,500 |
| Miscellaneous Revenue Fund | | 6,500 | | 6,500 |
| TOTAL | <u>\$401,900</u> | <u>\$191,900</u> | <u>\$5,000</u> | <u>\$598,800</u> |

Approved March 30, 1994.

CHAPTER 255
(H.B. No. 937)

AN ACT
APPROPRIATING MONEYS FOR THE COMMISSION ON WOMEN'S PROGRAMS FOR FISCAL
YEAR 1995.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Commission on Women's Programs the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | TOTAL |
|-------------------------------|---------------------------|----------------------------------|-----------------|
| FROM: | | | |
| General Fund | \$20,500 | \$12,600 | \$33,100 |
| Miscellaneous Revenue Fund | | 6,500 | 6,500 |
| TOTAL | <u>\$20,500</u> | <u>\$19,100</u> | <u>\$39,600</u> |

Approved March 30, 1994.

CHAPTER 256
(H.B. No. 938)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE PERSONNEL COMMISSION FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Personnel Commission the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|---------------------------|---------------------------|----------------------------------|--------------------------|--------------------|
| FROM: | | | | |
| Personnel Commission | | | | |
| Fund | \$1,641,000 | \$451,000 | \$77,100 | \$2,169,100 |
| Seminars and Publications | | | | |
| Fund | | 55,800 | | 55,800 |
| TOTAL | <u>\$1,641,000</u> | <u>\$506,800</u> | <u>\$77,100</u> | <u>\$2,224,900</u> |

Approved March 30, 1994.

CHAPTER 257
(H.B. No. 939)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR FISCAL YEAR 1995; EXPRESSING LEGISLATIVE INTENT; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Law Enforcement not exceed the following amounts for the period July 1, 1994, through June 30, 1995:

| | |
|---|--------------|
| FROM: | |
| General Fund | \$12,662,300 |
| Idaho Law Enforcement Fund | 11,472,800 |
| Idaho Law Enforcement Telecommunications Fund | 430,100 |
| Drug Donation Fund | 497,800 |
| Federal Grant Fund | 4,864,600 |
| Hazardous Materials/Waste Enforcement Fund | 287,900 |
| Idaho State Racing Commission Fund | 796,300 |
| Pari-mutuel Distributions Fund | 375,000 |

| | |
|-----------------------------|---------------------|
| Indirect Cost Recovery Fund | 55,200 |
| State Brand Board Fund | 1,996,300 |
| Miscellaneous Revenue Fund | 543,800 |
| Peace Officers Fund | 932,100 |
| TOTAL | <u>\$34,914,200</u> |

SECTION 2. There is hereby appropriated to the Department of Law Enforcement the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|----------------|
| I. CENTRAL ADMINISTRATION: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 1,362,200 | \$ 425,100 | \$ 25,000 | | \$ 1,812,300 |
| Idaho Law Enforcement | | | | | |
| Fund | | 33,200 | | | 33,200 |
| Peace Officers | | | | | |
| Fund | | 22,700 | | | 22,700 |
| Hazardous Materials/ Waste Enforcement | | | | | |
| Fund | | 800 | | | 800 |
| Idaho Law Enforcement | | | | | |
| Telecommunications | | | | | |
| Fund | | 1,200 | | | 1,200 |
| Federal Grant | | | | | |
| Fund | | 11,700 | | | 11,700 |
| Indirect Cost Recovery | | | | | |
| Fund | <u>49,200</u> | <u>6,000</u> | | | <u>55,200</u> |
| TOTAL | \$ 1,411,400 | \$ 500,700 | \$ 25,000 | | \$ 1,937,100 |
| II. POLICE SERVICES: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 4,960,100 | \$1,934,900 | \$ 130,000 | | \$ 7,025,000 |
| Idaho Law Enforcement | | | | | |
| Telecommunications | | | | | |
| Fund | 167,700 | 261,200 | | | 428,900 |
| Drug Donation | | | | | |
| Fund | | 405,700 | 87,100 | | 492,800 |
| Federal Grant | | | | | |
| Fund | 531,400 | 479,900 | 220,000 | \$1,720,000 | 2,951,300 |
| Miscellaneous Revenue | | | | | |
| Fund | <u>184,600</u> | <u>348,200</u> | | | <u>532,800</u> |
| TOTAL | \$ 5,843,800 | \$3,429,900 | \$ 437,100 | \$1,720,000 | \$11,430,800 |
| III. IDAHO STATE POLICE: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 1,704,200 | \$ 29,100 | \$1,281,900 | | \$ 3,015,200 |
| Idaho Law Enforcement | | | | | |
| Fund | 8,998,800 | 2,345,800 | 95,000 | | 11,439,600 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|--------------|
| Drug Donation | | | | | |
| Fund | | | 5,000 | | 5,000 |
| Hazardous Materials/ Waste Enforcement | | | | | |
| Fund | 159,500 | 60,800 | | \$ 66,800 | 287,100 |
| Federal Grant | | | | | |
| Fund | 1,005,400 | 646,200 | 250,000 | | 1,901,600 |
| TOTAL | \$11,867,900 | \$3,081,900 | \$1,631,900 | \$ 66,800 | \$16,648,500 |
| IV. BRAND INSPECTION: | | | | | |
| FROM: | | | | | |
| State Brand Board | | | | | |
| Fund | \$ 1,727,600 | \$ 241,700 | \$ 27,000 | | \$ 1,996,300 |
| V. RACING COMMISSION: | | | | | |
| FROM: | | | | | |
| Idaho State Racing Commission | | | | | |
| Fund | \$ 308,900 | \$ 447,400 | \$ 40,000 | | \$ 796,300 |
| Pari-mutuel Distributions | | | | | |
| Fund | | | | \$ 375,000 | 375,000 |
| TOTAL | \$ 308,900 | \$ 447,400 | \$ 40,000 | \$ 375,000 | \$ 1,171,300 |
| VI. ALCOHOL BEVERAGE CONTROL: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 670,500 | \$ 127,300 | \$ 12,000 | | \$ 809,800 |
| Miscellaneous Revenue | | | | | |
| Fund | | 1,000 | | | 1,000 |
| TOTAL | \$ 670,500 | \$ 128,300 | \$ 12,000 | | \$ 810,800 |
| VII. POST ACADEMY: | | | | | |
| FROM: | | | | | |
| Peace Officers | | | | | |
| Fund | \$ 408,600 | \$ 334,600 | \$ 98,000 | \$ 68,200 | \$ 909,400 |
| Miscellaneous Revenue | | | | | |
| Fund | | 5,000 | 5,000 | | 10,000 |
| TOTAL | \$ 408,600 | \$ 339,600 | \$ 103,000 | \$ 68,200 | \$ 919,400 |
| GRAND TOTAL | \$22,238,700 | \$8,169,500 | \$2,276,000 | \$2,230,000 | \$34,914,200 |

SECTION 3. It is legislative intent that all state funds appropriated for the Idaho State Police be used for traffic enforcement, accident investigation, and motorist assistance on highways in Idaho, and to assist local law enforcement agencies when requested, except for those moneys necessary for administrative and dispatch services.

SECTION 4. There is hereby reappropriated to the Department of Law Enforcement for the Central Administration Program, subject to the provisions of Section 5 of this act, the unexpended and unencumbered balance of any appropriation made to the Department of Law Enforcement

for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures for the new Department of Law Enforcement/POST Academy Complex only for the period July 1, 1994, through June 30, 1995.

SECTION 5. The reappropriation granted in Section 4 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is zero, the General Fund reappropriation in Section 4 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the General Fund reappropriated in Section 4 of this act shall be in the proportion that the General Fund reappropriation for the Department of Law Enforcement bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 30, 1994.

CHAPTER 258
(H.B. No. 941)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES, VETERANS SERVICES, AND INDEPENDENT COMMISSIONS AND COUNCILS FOR FISCAL YEAR 1995; PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL FUND; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AUTHORIZED OR MANDATED SERVICES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AND AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Indirect Support Services, Veterans Services, and the Independent Commissions and Councils the following amounts to be expended for the designated programs according to the designated expense classes from the various funds listed for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|-------------------------------|---------------------------|----------------------------------|--------------------------|---|--------------|
| I. INDIRECT SUPPORT SERVICES: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 5,573,100 | \$ 4,143,100 | | | \$ 9,716,200 |
| Cooperative | | | | | |
| Welfare Fund | | | | | |
| (Other) | | 124,600 | | | 124,600 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|------------------|
| Cooperative | | | | | |
| Welfare Fund | | | | | |
| (Federal) | <u>4,988,700</u> | <u>3,594,900</u> | | | <u>8,583,600</u> |
| TOTAL | \$10,561,800 | \$ 7,862,600 | | | \$18,424,400 |
| II. VETERANS SERVICES: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 2,443,900 | \$ 426,100 | | \$ 50,700 | \$ 2,920,700 |
| Cooperative | | | | | |
| Welfare Fund | | | | | |
| (Other) | 3,837,900 | 1,155,700 | \$10,700 | | 5,004,300 |
| Idaho Veterans Home | | | | | |
| Income Fund | | 427,000 | 36,600 | 1,000 | 464,600 |
| Cooperative | | | | | |
| Welfare Fund | | | | | |
| (Federal) | <u>1,966,000</u> | <u>587,300</u> | <u>6,000</u> | | <u>2,559,300</u> |
| TOTAL | \$ 8,247,800 | \$ 2,596,100 | \$53,300 | \$ 51,700 | \$10,948,900 |
| III. INDEPENDENT COMMISSIONS AND COUNCILS: | | | | | |
| A. DOMESTIC VIOLENCE COUNCIL: | | | | | |
| FROM: | | | | | |
| Domestic | | | | | |
| Violence | | | | | |
| Fund | \$ 87,200 | \$ 81,900 | \$ 300 | \$ 344,300 | \$ 513,700 |
| Cooperative | | | | | |
| Welfare Fund | | | | | |
| (Federal) | <u>8,900</u> | | | <u>668,900</u> | <u>677,800</u> |
| TOTAL | \$ 96,100 | \$ 81,900 | \$ 300 | \$1,013,200 | \$ 1,191,500 |
| B. DEVELOPMENTAL DISABILITIES COUNCIL: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 45,900 | \$ 20,600 | | \$ 11,200 | \$ 77,700 |
| Cooperative | | | | | |
| Welfare Fund | | | | | |
| (Federal) | <u>237,700</u> | <u>86,600</u> | | <u>119,000</u> | <u>443,300</u> |
| TOTAL | \$ 283,600 | \$ 107,200 | | \$ 130,200 | \$ 521,000 |
| C. COMMISSION ON ALCOHOL AND DRUG ABUSE: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 65,300 | \$ 38,900 | | | \$ 104,200 |
| D. COUNCIL FOR THE DEAF AND HEARING IMPAIRED: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 61,400 | \$ 30,000 | | | \$ 91,400 |
| DIVISION | | | | | |
| TOTAL | \$ 506,400 | \$ 258,000 | \$ 300 | \$1,143,400 | \$ 1,908,100 |
| GRAND | | | | | |
| TOTAL | \$19,316,000 | \$10,716,700 | \$53,600 | \$1,195,100 | \$31,281,400 |

SECTION 2. As appropriated, the State Auditor shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. Notwithstanding any other provision of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources.

SECTION 4. There is hereby reappropriated to the Department of Health and Welfare for Indirect Support Services, Veterans Services, and the Independent Commissions and Councils any unexpended and unencumbered balances of the Cooperative Welfare Fund moneys as appropriated for Indirect Support Services, Veterans Services, and the Independent Commissions and Councils for fiscal year 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 5. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for Indirect Support Services, Veterans Services, and the Independent Commissions and Councils is hereby authorized to expend all receipts collected in Indirect Support Services, Veterans Services, and the Independent Commissions and Councils as noncognizable funds for the period July 1, 1994, through June 30, 1995.

Approved March 30, 1994.

CHAPTER 259
(H.B. No. 942)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 1995, AND IDENTIFYING PROGRAM ENHANCEMENTS; PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM VARIOUS FUNDS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AUTHORIZED OR MANDATED SERVICES; SUPERSEDING THE PROVISIONS OF SECTION 39-3606, IDAHO CODE; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Division of Environmental Quality, the following amounts to be expended for the designated programs according to the designated expense classes from the various funds listed for the period July 1, 1994, through June 30, 1995, and identifying program enhancements:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|---|---------------------------|----------------------------------|--------------------------|---|------------------|
| I. DIVISION OF ENVIRONMENTAL QUALITY: | | | | | |
| A. INEL OVERSIGHT: | | | | | |
| FROM: | | | | | |
| Hazardous | | | | | |
| Waste Training, Emergency, and Monitoring Fund | \$ 214,900 | \$ 17,400 | \$ 10,000 | | \$ 242,300 |
| Cooperative | | | | | |
| Welfare Fund (Federal) | <u>1,584,400</u> | <u>674,400</u> | <u>312,600</u> | <u>\$ 796,400</u> | <u>3,367,800</u> |
| TOTAL | \$ 1,799,300 | \$ 691,800 | \$322,600 | \$ 796,400 | \$ 3,610,100 |
| B. PLANNING AND SUPPORT SERVICES: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 149,100 | \$ 113,900 | \$ 21,200 | | \$ 284,200 |
| Cooperative | | | | | |
| Welfare Fund (Other) | 83,900 | 26,000 | | | 109,900 |
| Water | | | | | |
| Pollution Control Fund | 516,300 | 566,400 | 68,100 | | 1,150,800 |
| Hazardous | | | | | |
| Waste Training, Emergency, and Monitoring Fund | 336,800 | 382,400 | 7,600 | | 726,800 |
| Air Quality | | | | | |
| Permitting Fund | 116,500 | 197,400 | | | 313,900 |
| Cooperative | | | | | |
| Welfare Fund (Federal) | <u>1,062,200</u> | <u>552,700</u> | | | <u>1,614,900</u> |
| TOTAL | \$ 2,264,800 | \$1,838,800 | \$ 96,900 | | \$ 4,200,500 |
| C. PERMITS AND ENFORCEMENT: | | | | | |
| FROM: | | | | | |
| General | | | | | |
| Fund | \$ 428,300 | \$ 78,700 | \$ 25,700 | | \$ 532,700 |
| Cooperative | | | | | |
| Welfare Fund (Other) | 367,800 | 14,300 | | | 382,100 |
| Water | | | | | |
| Pollution Control Fund | 449,100 | 57,300 | | | 506,400 |

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|---|--------------|
| Hazardous Waste Training, Emergency, and Monitoring Fund | 470,700 | 110,600 | | | 581,300 |
| Air Quality Permitting Fund | 826,900 | 232,600 | 26,000 | | 1,085,500 |
| Cooperative Welfare Fund (Federal) | 1,071,800 | 106,000 | | | 1,177,800 |
| TOTAL | \$ 3,614,600 | \$ 599,500 | \$ 51,700 | | \$ 4,265,800 |
| D. COMMUNITY PROGRAMS: | | | | | |
| FROM: | | | | | |
| General Fund | \$ 274,600 | \$ 102,300 | \$ 60,600 | | \$ 437,500 |
| Cooperative Welfare Fund (Other) | 813,600 | 187,700 | | \$ 11,000 | 1,012,300 |
| Water Pollution Control Fund | 1,936,900 | 2,965,200 | \$209,900 | \$11,035,600 | 16,147,600 |
| Hazardous Waste Training, Emergency, and Monitoring Fund | 748,600 | 197,300 | 7,500 | | 953,400 |
| Air Quality Permitting Fund | 232,400 | 92,800 | 53,900 | 189,000 | 568,100 |
| State Agricultural Smoke Management Fund | | 30,400 | | | 30,400 |
| Resource Conservation and Development Fund | 48,500 | 451,500 | | | 500,000 |
| Cooperative Welfare Fund (Federal) | 4,219,500 | 1,108,400 | | 1,003,700 | 6,331,600 |
| TOTAL | \$ 8,274,100 | \$5,135,600 | \$331,900 | \$12,239,300 | \$25,980,900 |
| DIVISION | | | | | |
| TOTAL | \$15,952,800 | \$ 8,265,700 | \$803,100 | \$13,035,700 | \$38,057,300 |

The appropriation in this section for Community Programs contains the following program enhancements:

(1) The Legislature finds that one-time funds were provided in fiscal year 1994, to begin implementation of a Mid-Snake Water Plan,

but ongoing funds are needed to work with industry groups to facilitate plan implementation and enforcement, to provide evaluation of plan effectiveness and to revise the plan as needed. Therefore, up to \$480,000 from the Water Pollution Control Fund is included to provide the necessary technical assistance, inspections, research, et cetera, in order to assist with implementation of industry-specific components of the plan.

(2) In order to address the water quality criteria that has been developed for mineral extraction and other industries in the upper South Fork Coeur d'Alene River while simultaneously maintaining water quality standards of the river, up to \$170,000 from the Water Pollution Control Fund is included for the development of water quality criteria specific to the South Fork of the Coeur d'Alene River. The criteria will be developed for those metals of concern that are present in the river and shall be utilized in the application of the forthcoming state rules on water toxins.

(3) The Division of Environmental Quality will provide the City of McCall with up to a \$1,000,000 challenge grant from the Water Pollution Control Fund to offset costs for the conversion of the existing secondary treatment system to a state-of-the-art treatment system designed for nutrient reduction of effluent discharge. This grant will be awarded to the City of McCall over a one to three year period with the stipulation that the city's contribution of phosphorus to the North Fork of the Payette River be reduced by 95%. In addition, up to \$20,000 from the Water Pollution Control Fund will be used to hire an outside consultant to review the feasibility of the project to meet phosphorus reduction requirements prior to any expenditures for additional design work.

(4) The Legislature finds that a joint study with the Bureau of Reclamation is required to determine the quantity of surface sediments that might be removed by hydraulic dredging in the Cascade Reservoir. The Legislature further finds that lake sediments in the southern one-third of the reservoir may contain high phosphorus concentrations that contribute to poor water quality. Therefore, up to \$130,000 from the Water Pollution Control Fund will be used to fund a feasibility assessment study as well as a Cascade sediment plan.

(5) Seven watersheds that drain into the Cascade Reservoir will be targeted for assistance with implementation of nutrient control measures. To meet this objective, up to \$700,000 from the Water Pollution Control Fund is provided for the construction of storm water treatment facilities for road ditches draining into the reservoir. Moneys may also be dedicated for implementation of Best Management Practices.

(6) Up to \$200,000 from the Resource Conservation and Development Fund will be used by the Division of Environmental Quality for watershed monitoring to determine the effectiveness of nutrient reductions through implementation of Best Management Practices and other improvements. Funds will support local citizen monitoring, staff time for oversight of data collection, and quality assurance to ensure data collection efforts are scientifically valid. These funds may also be used to assist local landowners in the identification of critical drainage problems that contribute high nutrient loads to Cascade Reservoir.

(7) Up to \$300,000 from the Resource Conservation and Development Fund will be contracted to the Department of Water Resources. For purposes of this act, the Department of Water Resources shall consider these contracted moneys as noncognizable funds that are to be used as cost share grants to local irrigation districts for developing a coordinated irrigation management plan.

(8) From the Hazardous Waste Training, Emergency, and Monitoring Fund, \$50,000 will be used for participation and membership in the Pacific Northwest Pollution Prevention Research Center for effective pollution prevention approaches in Idaho.

(9) From the Hazardous Waste Training, Emergency, and Monitoring Fund, up to \$67,500 will be used to oversee cleanup activities at the Triumph Mine site.

(10) Up to \$61,500 from the General Fund will be used for the development and implementation of a community-based Kootenai County air quality plan.

(11) From the General Fund, up to \$12,000 will be used for the purchase of mosquito abatement testing and certification equipment that shall then be transferred to the Department of Agriculture.

SECTION 2. As appropriated, the State Auditor shall make transfers of the General Fund, the Water Pollution Control Fund, the Hazardous Waste Training, Emergency, and Monitoring Fund, the Air Quality Permitting Fund, and the Resource Conservation and Development Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. Notwithstanding any other provision of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources.

SECTION 4. It is legislative intent that the appropriation of moneys from the Water Pollution Control Fund specifically supersedes the provisions of Section 39-3606, Idaho Code.

SECTION 5. There is hereby reappropriated to the Department of Health and Welfare for the Division of Environmental Quality any unexpended and unencumbered balances of the Cooperative Welfare Fund moneys as appropriated for fiscal year 1994, for the Division of Environmental Quality, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

Approved March 30, 1994.

CHAPTER 260
(H.B. No. 943)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho Educational Public Broadcasting System the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|----------------|---------------------------|----------------------------------|--------------------------|--------------------|
| FROM: | | | | |
| General Fund | \$ 806,500 | \$ 551,700 | \$250,000 | \$1,608,200 |
| Federal Grants | | | | |
| Fund | 751,100 | 637,000 | | 1,388,100 |
| TOTAL | <u>\$1,557,600</u> | <u>\$1,188,700</u> | <u>\$250,000</u> | <u>\$2,996,300</u> |

Approved March 30, 1994.

CHAPTER 261
(H.B. No. 944)

AN ACT

APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the State Library Board the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | FOR TRUSTEE AND BENEFIT PAYMENTS | TOTAL |
|-----------------------|---------------------------|----------------------------------|--------------------------|---|--------------------|
| FROM: | | | | | |
| General | | | | | |
| Fund | \$1,475,600 | \$457,500 | \$191,500 | | \$2,124,600 |
| Federal Grant | | | | | |
| Fund | 139,700 | 185,200 | | \$661,400 | 986,300 |
| Miscellaneous Revenue | | | | | |
| Fund | | 10,200 | 7,000 | 58,000 | 75,200 |
| TOTAL | <u>\$1,615,300</u> | <u>\$652,900</u> | <u>\$198,500</u> | <u>\$719,400</u> | <u>\$3,186,100</u> |

Approved March 30, 1994.

CHAPTER 262
(H.B. No. 945)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 1995; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCE IN THE GENERAL ACCOUNT; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho School for the Deaf and the Blind the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

| | FOR PERSONNEL COSTS | FOR OPERATING EXPENDITURES | FOR CAPITAL OUTLAY | TOTAL |
|--|---------------------------|----------------------------------|--------------------------|--------------------|
| FROM: | | | | |
| General Fund | \$4,646,700 | \$786,500 | \$61,800 | \$5,495,000 |
| Idaho School for the Deaf and the Blind | | | | |
| Income Fund | | 57,200 | 24,800 | 82,000 |
| Federal Grants Fund | 70,000 | 92,900 | 5,200 | 168,100 |
| Miscellaneous Revenue Fund | 4,000 | 20,600 | 5,200 | 29,800 |
| TOTAL | <u>\$4,720,700</u> | <u>\$957,200</u> | <u>\$97,000</u> | <u>\$5,774,900</u> |

SECTION 2. There is hereby reappropriated to the State Board of Education for the Idaho School for the Deaf and the Blind, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the Idaho School for the Deaf and the Blind for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 3. The reappropriation granted in Section 2 of this act shall be subject to the following conditions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is zero, the reappropriation in Section 2 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is greater than zero but less than the total reappropriation authority granted to all state agencies, the amount reappropriated in Section 2 shall be in the proportion that the reappropriation for the Idaho School for the Deaf and the Blind bears to the total reappropriation authority granted to all state agencies.

Approved March 30, 1994.

CHAPTER 263

(S.B. No. 1365, As Amended in the House)

AN ACT

RELATING TO RAILROADS; REPEALING SECTIONS 18-6003, 18-6004 AND 18-6005, IDAHO CODE; AMENDING SECTION 18-6006, IDAHO CODE, TO INCREASE THE MAXIMUM FINE FOR MALICIOUSLY INJURING RAILROAD PROPERTY TO FIFTY THOUSAND DOLLARS; AMENDING SECTION 18-6007, IDAHO CODE, TO INCREASE THE PUNISHMENT FOR THEFT OF RAILROAD CAR PARTS TO NOT MORE THAN FOURTEEN YEARS IMPRISONMENT OR A FINE OF UP TO FIFTY THOUSAND DOLLARS, OR BOTH; AMENDING SECTION 18-6008, IDAHO CODE, TO ADD A CODE REFERENCE; AMENDING SECTION 18-6012, IDAHO CODE, TO INCREASE THE FINE FOR CERTAIN MISDEMEANOR OFFENSES AGAINST RAILROADS TO ONE THOUSAND DOLLARS; AND REPEALING SECTIONS 18-6013 AND 18-6014, IDAHO CODE.

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

SECTION 1. That Sections 18-6003, 18-6004 and 18-6005, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 18-6006, Idaho Code, be, and the same is hereby amended to read as follows:

18-6006. INJURING RAILROAD PROPERTY. Every person who maliciously removes, displaces, injures, or in any way interferes with, or changes, or destroys, any part of any railroad property, whether for cars propelled by steam or any other motive power, or any track of any railroad, or any branch or branchway, switch, block or other signal or signaling device, turnout, bridge, viaduct, culvert, embankment, station house or other structure or fixture, or any part thereof attached to or connected with any railroad, is punishable by imprisonment in the state prison not exceeding ten (10) years, or by fine not exceeding ~~\$17,000~~ fifty thousand dollars (\$50,000), or by both fine and imprisonment, in the discretion of the court.

SECTION 3. That Section 18-6007, Idaho Code, be, and the same is hereby amended to read as follows:

18-6007. ~~LARGENY THEFT OF CAR PARTS -- MURDER BY WRECKING.~~ Any person or persons who shall remove, take, steal, change, add to, take from, or in any manner interfere with any journal bearings or brasses, or any parts or attachments of any locomotive, tender or car, or any fixture or attachment belonging thereto, connected with, or used in operating any locomotive, tender or car, owned, leased or used by any railway or transportation company in this state, is guilty of a felony, and upon conviction thereof shall be subject to punishment by imprisonment in the penitentiary not less than one (1) nor more than ~~five (5)~~ fourteen (14) years, or by a fine of up to fifty thousand dollars (\$50,000), or by both such fine and imprisonment, in the discretion of the court: provided, that if the removal of such journal bearings or brasses, fixtures or attachments, as aforesaid, shall be

the cause of wrecking any train, locomotive or other car in this state, whereby the life or lives of any person or persons shall be lost as the result of the felonious or malicious stealing, interfering with or removal of the fixtures, as aforesaid, the person or persons found guilty thereof shall be liable for murder as in other cases.

SECTION 4. That Section 18-6008, Idaho Code, be, and the same is hereby amended to read as follows:

18-6008. RECEIVING STOLEN CAR PARTS. Every person who buys or receives any of the property described in the foregoing section 18-6007, Idaho Code, knowing the same to have been stolen, is guilty of a felony, and upon conviction thereof shall be subject to the punishment provided in said section 18-6007, Idaho Code.

SECTION 5. That Section 18-6012, Idaho Code, be, and the same is hereby amended to read as follows:

18-6012. OFFENSES AGAINST RAILROADS. Any person disturbing the peace of any traveler on any railway train, or breaking the seal or forcibly entering any car, or disturbing the contents of any car, or breaking any package therein, or breaking any package left at any depot for transportation or delivery, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding ~~\$100-00~~ one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six (6) months, or by both such fine and imprisonment.

SECTION 6. That Sections 18-6013 and 18-6014, Idaho Code, be, and the same are hereby repealed.

Approved March 30, 1994.

CHAPTER 264

(S.B. No. 1378, As Amended, As Amended in the House,
As Amended in the House)

AN ACT

RELATING TO PARKING PRIVILEGES FOR THE HANDICAPPED; AMENDING SECTION 49-109, IDAHO CODE, TO DELETE DEFINITION OF "HANDICAPPED PERSON"; AMENDING SECTION 49-117, IDAHO CODE, TO DEFINE "PERSON WITH A DISABILITY" AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-213, IDAHO CODE, TO PROVIDE PARKING FOR PERSONS WITH A DISABILITY IN CONFORMANCE WITH FEDERAL LAW, TO INCREASE PENALTIES, AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 49-410, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY, TO PROVIDE FOR EXPIRATION OF A TEMPORARY CARD AND TO PROVIDE PENALTIES.

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

SECTION 1. That Section 49-109, Idaho Code, be, and the same is

hereby amended to read as follows:

49-109. DEFINITIONS -- H.

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

(2) "Handicapped" means a person:

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

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

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

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

(3) "Hazardous material" means a substance or material as defined in section 103 of the hazardous material transportation act 49 APP, U.S.C. 1801 et seq.

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

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

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

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

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

ity having jurisdiction over the highway.

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

SECTION 2. That Section 49-117, Idaho Code, be, and the same is hereby amended to read as follows:

49-117. DEFINITIONS -- P.

(1) "Park" or "parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(2) "Park trailer." (See "Trailer", section 49-121, Idaho Code)

(3) "Part-time salesman" means any person employed as a vehicle salesman on behalf of a dealer less than thirty (30) hours per week.

(4) "Peace officer." (See section 19-5101(d), Idaho Code)

(5) "Pedestrian" means any person afoot and any person operating a wheelchair or a motorized wheelchair.

(6) "Pedestrian path" means any path, sidewalk or way set aside and used exclusively by pedestrians.

(7)(a) "Person" means every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors, political subdivision, state or federal governmental department, agency, or instrumentality, and for the purposes of chapter 22 of this title shall include a private, common or contract carrier operating a vehicle on any highway of this state.

(b) "Person with a disability" means:

(i) A person who is unable to walk two hundred (200) feet or more unassisted by another person;

(ii) A person who is unable to walk two hundred (200) feet or more without the aid of a walker, cane, crutches, braces, prosthetic device or a wheelchair; or

(iii) A person who is unable to walk two hundred (200) feet or more without great difficulty or discomfort due to the following impairments: neurological, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb.

(8) "Pneumatic tire." (See "Tires", section 49-121, Idaho Code)

(9) "Pole trailer." (See "Trailer", section 49-121, Idaho Code)

(10) "Possessory lien" means a lien dependent upon possession for compensation to which a person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the towing, storage, repair, or safekeeping of, any vehicle of a type subject to registration.

(11) "Possessory ~~lien-holder~~ lienholder" means any person claiming a lien, that lien claimed to have accrued on a basis of services rendered to the vehicle which is the subject of the lien.

(12) "Preceding year" means, for the purposes of section 49-435, Idaho Code, a period of twelve (12) consecutive months fixed by the

department, prior to July 1 of the year immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department in fixing the period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(13) "Principal place of business" means an enclosed commercial structure located within the state, easily accessible and open to the public at all reasonable times, with an improved display area large enough to display five (5) or more vehicles of the type the dealer is licensed to sell, immediately adjoining the building, and at which the business of a dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land-use regulatory ordinances, and in which building the public shall be able to contact the dealer or his salesmen in person or by telephone at all reasonable times, and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business. The principal place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event shall a room or rooms in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this title unless the entire ground floor of that hotel, apartment house, or rooming house building or dwelling house be devoted principally to and occupied for commercial purposes, and the office or offices of the dealer be located on the ground floor. In no event shall premises devoted principally to the business of a gasoline service station be considered a "principal place of business" within the terms and provisions of this title.

(14) "Private property open to the public" means real property not owned by the federal government or the state of Idaho or any of its political subdivisions, but is available for vehicular traffic or parking by the general public with the permission of the owner or agent of the real property.

(15) "Private road" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(16) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars (\$25,000) because of bodily injury to or death of one (1) person in any one (1) accident, and, subject to the limit for one (1) person, in the amount of fifty thousand dollars (\$50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of fifteen thousand dollars (\$15,000) because of injury to or destruction of property of others in any one (1) accident.

(17) "Purchase." (See "Sell," "sold," and "buy," section 49-120, Idaho Code)

hereby amended to read as follows:

49-213. PARKING SPACES FOR THE-HANDICAPPED PERSONS WITH A DISABILITY -- MARKING AND SIGNING -- ENFORCEMENT. (1) Local governments and owners of private property open to public use may designate parking zones and spaces to be used exclusively by vehicles displaying a special license plate for the-handicapped a person with a disability, or a special card as prescribed in section 49-410, Idaho Code. Any parking zones and spaces so designated shall conform to the following requirements:

(a) ~~Parking lots shall be provided with spaces that are reserved, signed, accessible and approximate to the entrance of the facility for use by the handicapped. Spaces shall be provided on the basis of one (1) space for each thirty-five (35) spaces or fraction thereof, and shall be twelve (12) feet wide, open on one (1) side to allow room for individuals in wheelchairs or requiring the aid of a mechanical device to egress and ingress from a motor vehicle on a level paved surface will conform to the requirements of federal Public Law 101-336, Americans with disabilities act of 1990.~~

(b) One (1) parking space shall be designated for every thirty-five (35) spaces available on each downtown street block. These parking spaces shall be ~~paratted~~ parallel with the sidewalk where parallel parking is required, or at an angle to the sidewalk where angle parking is required. Should angle parking be used, the parking spaces so designated for handicapped use by a person with a disability shall be at least twelve (12) feet in width conform to the federal Americans with disabilities act. All handicapped accessible parking spaces shall be near curb cuts and ramps for wheelchair and other mechanical device usage. For the purposes of this section, the term "downtown" means the business center of a city as designated by the city council of the city. The term "street block" means that portion of a city street between consecutive parallel intersections.

(c) For each designated parking space or area there shall be posted immediately adjacent to, and visible from each stall or space, a sign, which is at least thirty-six (36) inches above the ground, consisting of the international handicapped accessibility symbol as shown in section 49-410, Idaho Code.

(d) Should any city desire to modify any of the requirements of subsections (1) (a) or (b) of this section, a city council may do so by ordinance, after complying with the following requirements:

1. The city council, or any other body designated by the city council by ordinance, shall receive a recommendation from a board, commission or committee created in conformity with section 50-210, Idaho Code, of which at least one-half (1/2) of the members shall be handicapped persons with a disability as defined in section 49-10917, Idaho Code; and

2. The city shall cause notice of public hearing on the proposed ordinance modifying the standards specified in subsections (1) (a) or (b) of this section, to be published in a newspaper of general circulation in the city at least fourteen (14) days before the public hearing.

(2) Parking a vehicle or the standing of a vehicle in a space

reserved for the-handicapped a person with a disability, which space is signed in conformance with the requirements specified in subsection (1)(c) of this section, is prohibited, unless a vehicle is momentarily in the space for the purpose of allowing a handicapped person with a disability to enter or leave the vehicle, or unless special license plates or card or temporary card for the-handicapped a person with a disability is displayed on the vehicle. The registered owner of a vehicle parked in violation of the provisions of this subsection is guilty of an infraction, which is punishable by a fine not exceeding ~~twenty-five-dollars-(\$25.00)~~ fifty dollars (\$50.00).

(3) Law enforcement officials are empowered to enter upon private property open to public use to enforce the provisions of this section.

SECTION 4. That Section 49-410, Idaho Code, be, and the same is hereby amended to read as follows:

49-410. SPECIAL LICENSE PLATES AND CARDS FOR HANDICAPPED PERSONS WITH A DISABILITY -- PARKING PRIVILEGES -- CARDS FOR CERTAIN TEMPORARILY DISABLED PERSONS. (1) Any handicapped person with a disability as defined in section 49-10917, Idaho Code, shall be eligible for the use of special license plates bearing the international handicapped accessible symbol, for any vehicle owned by such person, provided the vehicle does not weigh in excess of eight thousand (8,000) pounds and is not used in the furtherance of a business.

(2) Registration and license plate fees for vehicles owned by the handicapped a person with a disability shall be as provided, respectively, in sections 49-402 and 49-450, Idaho Code, for vehicles not in excess of eight thousand (8,000) pounds gross weight, and as provided in section 49-434, Idaho Code, for noncommercial vehicles in excess of eight thousand (8,000) pounds gross weight. Nothing in this section shall be construed as abrogating provisions of section 49-445, Idaho Code. The use of the special card issued under the provisions of subsection (4) of this section, shall not exempt the owner of a motor vehicle from otherwise properly registering and licensing the motor vehicle.

(3) Special license plates for the-handicapped persons with a disability shall be the same size and color as other license plates, and shall have displayed upon them the registration numbers assigned to the vehicle and to the owner. The plates shall be numbered in a manner prescribed by the department, but the plates shall display the international handicapped accessible symbol.



International Handicapped Accessible Symbol

(4) The department shall issue a special card bearing the international handicapped accessible symbol and other information the department may require, to:

- (a) Any qualified handicapped person with a disability who does not own a motor vehicle;
- (b) Any qualified handicapped person with a disability who owns a motor vehicle, without regard to weight or use of the vehicle;

(c) Any business entity which is engaged in transportation of handicapped persons with a disability, which business shall not be required to submit a physician's certification. In addition to other application requirements, a business applicant shall sign a declaration that he is engaged in the transportation of handicapped persons with a disability. A business entity may include but not be limited to hospitals, nursing homes, federal, state and local governmental agencies and taxicabs.

(5) The fee for a special handicapped accessible card shall be five dollars (\$5.00) which shall be deposited in the state highway account established in section 40-702, Idaho Code.

(6) Any person or business issued a special card shall affix the special card to a motor vehicle in a conspicuous place designated by the department. The card shall bear distinguishing marks, letters or numerals indicating the vehicle is utilized by a permanently handicapped disabled person. When the card is affixed to a motor vehicle and the motor vehicle is transporting a handicapped person with a disability, special parking privileges are granted as provided in subsection (8) of this section.

(7) Application for special license plates, a special card, or both as applicable and at the option of the applicant, shall be made upon a form furnished by the department and shall include a written certification by a licensed physician verifying that the applicant's stated impairment qualifies as a handicap disability according to the provisions of section 49-10917, Idaho Code.

(8) Any motor vehicle displaying special license plates for the handicapped a person with a disability, without regard to the state of residence or displaying the special card provided in subsection (5) and (9) of this section, shall be allowed to park for unlimited periods of time in parking zones or areas which are otherwise restricted as to the length of time parking is permitted, and to park in any public parking space with metered parking without being required to pay any parking meter fee. The provisions of this subsection shall not be applicable to those zones or areas in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles.

(9) Any person who shall submit satisfactory proof to the department that he is so temporarily disabled as to be unable to move without the aid of crutches or a wheelchair, shall be entitled to receive for one (1) motor vehicle only, a special card to be affixed to a motor vehicle in a conspicuous place designated by the department, bearing distinguishing marks, letters or numerals indicating that the vehicle is utilized by a temporarily disabled person. This special temporary card shall expire ~~one (1) year~~ six (6) months from the date of issuance, or sooner as specified by the department on the card. The fee for a temporary card shall be five dollars (\$5.00), two dollars (\$2.00) of which shall be retained by the county and credited to the county current expense fund, and three dollars (\$3.00) of which shall be transmitted to the state treasurer for deposit in the state highway account. When the card is issued by the department the five dollars (\$5.00) shall be deposited in the state highway account.

(10) Any unauthorized use of the plate or card shall constitute an infraction punishable by a fine of fifty dollars (\$50.00). The second

offense shall be punishable by a fine of fifty dollars (\$50.00) and loss of parking privileges for the registered owner of the vehicle displaying the plates or for the person to whom the card was issued, for a period of one (1) year.

Law enforcement officials shall enforce the provisions of this section and are empowered, using reasonable discretion, to check personal identification to determine if the user of the plate or placard is authorized to use accessible parking privileges. Any fines collected shall be retained by the city or county whose law enforcement official issued the citation.

Approved March 30, 1994.

CHAPTER 265
(S.B. No. 1397)

AN ACT

RELATING TO THE REGISTRATION OF SECURITIES; AMENDING SECTION 30-1427, IDAHO CODE, TO PROVIDE THAT REGISTRATION DOCUMENTS MAY BE FILED BY ELECTRONIC MEANS WITH THE DIRECTOR OR AN ORGANIZATION DESIGNATED BY THE DIRECTOR; AMENDING SECTION 30-1430, IDAHO CODE, TO CLARIFY REQUIREMENTS FOR KEEPING THE INFORMATION IN REGISTRATION STATEMENTS CURRENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 30-1436, IDAHO CODE, TO PROVIDE FOR DESIGNATION BY THE DIRECTOR OTHER THAN BY RULE OF AN ORGANIZATION WITH WHOM A CONSENT TO SERVICE OF PROCESS IS FILED; AND AMENDING SECTION 30-1437, IDAHO CODE, TO PROVIDE FOR MAXIMUM REGISTRATION FEES AND PROVISIONS FOR THE FILING AND RENEWAL OF REGISTRATION.

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

SECTION 1. That Section 30-1427, Idaho Code, be, and the same is hereby amended to read as follows:

30-1427. REGISTRATION STATEMENTS -- GENERAL PROVISIONS. A registration statement may be filed by the issuer, any other person on whose behalf the offering is to be made, or a registered broker-dealer. Any document filed under this act ~~or a predecessor act~~ within five (5) years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate. The director may by rule or otherwise permit the filing of any registration documents by electronic transmission to the director, or to another organization designated by the director, and may permit omission of any item of information or document from any registration statement.

SECTION 2. That Section 30-1430, Idaho Code, be, and the same is hereby amended to read as follows:

30-1430. REGISTRATION STATEMENTS TO BE KEPT CURRENT -- ANNUAL FINANCIAL STATEMENTS. (1) The director shall require the person who

filed the‡

(†) registration statement to keep reasonably current the information contained in the registration statement, prospectus, and offering circular, and to disclose the progress of the offering with respect to registered securities which‡

~~(a) are issued by a face amount certificate company or a redeemable security issued by an open end management company or unit investment trust as those terms are defined in the Investment Company Act of 1940, or~~

(b) are being offered and sold directly by or for the account of the issuer.

(2) During the period of public offering in the initial distribution of securities registered under the provisions of this act by notification or qualification, financial data or statements corresponding to those required under the provisions of sections 30-1418 and 30-1423, Idaho Code, and to the issuer's fiscal year, shall be filed with the director annually, not more than ninety (90) days after the end of each such year.

Such statements at the discretion of the director shall be certified by a certified public accountant who is not an employee of the issuer and the director may verify the information contained therein by examining the issuer's books and records. The certificate of such independent certified public accountant shall be based upon an audit of not less in scope or procedures followed than that which independent public accountants would ordinarily make for the purpose of presenting comprehensive and dependable financial statements and shall contain such information as to the nature and scope of the audit and the findings and opinions of the accountants as the director may prescribe by rules and regulations in the public interest or for the protection of investors. Each such report shall state that such independent certified public accountant has verified securities owned, either by actual examination or by receipt of a certificate from the custodian, as the director may prescribe by rules and regulations.

SECTION 3. That Section 30-1436, Idaho Code, be, and the same is hereby amended to read as follows:

30-1436. CONSENT TO SERVICE OF PROCESS. Every applicant for registration as a broker-dealer or investment adviser, salesman or investment adviser representative under this act and every issuer which proposes to register and offer a security in this state through any person acting on an agency basis in the common-law sense, shall file with the director or an organization which the director designated by rule designates or otherwise, in such form as the director shall prescribe, an irrevocable consent appointing the director and his successors in office to be the attorney of the applicant to receive service of any lawful process in any civil suit, action or proceeding against the applicant or its or his successor, executor or administrator which arises under this act or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the

process in the office of the director, but it is not effective unless;

(1) the plaintiff, who may be the director in a suit, action or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his last address on file with the director, and

(2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court may allow.

SECTION 4. That Section 30-1437, Idaho Code, be, and the same is hereby amended to read as follows:

30-1437. FEES. Fees shall be fixed by the director and shall be paid in advance under the provisions of this act, but shall not exceed the following:

(1) (a) Except as otherwise provided herein, fFor the initial registration of securities by notification or coordination or qualification, there shall be paid to the director for-the-first year-of-registration or to an organization designated by the director, a registration fee of one five hundred dollars (\$1500) for-the-first-one-hundred-thousand-dollars-(\$100,000)--of-initial issue;--or-portion-thereof-in-this-state;--based-on-offering-price; plus-one-twentieth-(1/20th)-of-one-per-cent-(1%)--for--any--excess over--one--hundred--thousand-dollars-(\$100,000);--with-a-maximum-of one-thousand-dollars-(\$1,000)-.

Each-year-thereafter-that-a-registration--remains--in--effect--for securities--with--respect--to--which--reports-are-required-to-be-filed under-subsections-(1)-or-(2)-of-section-30-1430,-Idaho-Code;-an--additional--registration--fee-shall-be-paid-to-the-director-to-be-computed at-one-twentieth-(1/20th)-of-one-per-cent-(1%)--of-the-aggregate-offering-price-of-such-securities-which-are-to-be--offered--in--this--state during--that--year;-even-though-the-maximum-fee-was-paid-the-preceding year;-In-no-event-shall-such-additional--registration-fee-be-less--than one--hundred--dollars--(\$100)--nor--more--than-one-thousand-dollars (\$1,000)-.--The--registration--statement--for--such--securities--may-be amended-to-increase-the-amount-of-securities-to-be-offered; notwithstanding the number of shares registered. The initial registration fee to register shares of a unit investment trust shall be two hundred dollars (\$200) notwithstanding the number of shares registered.

(b) Each series or portfolio of an investment company offering shall be required to register separately under this section. Separate registration for classes of an open-end investment company is not required so long as classes are used solely as a method of distinguishing payment plans within a series or portfolio.

(c) Unless renewed as provided in subparagraph (d) of this subsection, the registration of a unit investment trust shall expire one (1) year from the date effective registration is granted to the offering by the securities and exchange commission. The registration of an open-end investment company shall expire two (2) months after the last day of the issuer's next fiscal year end. The registration of all other offerings shall expire one (1) year from the date registration is granted by the director. If the issuer is an open-end investment company with a fiscal year end

which falls within thirty (30) days after the date registration is granted, such shares shall be considered lawfully registered until two (2) months after the last day of the following fiscal year of the issuer. No registration may be renewed at any time after the registration has expired.

(d) For the renewal of registration, a renewal fee shall be paid to the director in an amount fixed by the director not to exceed the amount specified in subparagraph (a) of this subsection for the securities of the issuer.

(e) When an application for registration of securities is denied or withdrawn the director shall retain the all fees paid by the applicant.

(2) For filing an annual statement the fee shall not exceed ten dollars (\$10.00).

(3) For registration of a broker-dealer or investment adviser the fee shall not exceed one hundred dollars (\$100) for original registration and one hundred dollars (\$100) for each annual renewal thereof. When an application is denied or withdrawn the director shall retain the fee.

(4) For registration of a salesman or investment adviser representative the fee shall not exceed twenty dollars (\$20.00) for the original registration with each employer and twenty dollars (\$20.00) for each annual renewal. When an application is denied or withdrawn the director shall retain the fee.

(5) For certified copies of any documents filed with the director the fee shall be the cost to the department as determined by the director.

(6) For each examination, exemption or opinion letter, the fee shall not exceed fifty dollars (\$50.00), which fee shall not be refundable.

All fees, fines, examination and miscellaneous charges collected by the director pursuant to the Idaho securities act shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.

Approved March 30, 1994.

CHAPTER 266
(S.B. No. 1437)

AN ACT

RELATING TO WINE; AMENDING SECTION 23-1303, IDAHO CODE, TO FURTHER DEFINE WINE, TO PROVIDE A DEFINITION OF LOW PROOF SPIRIT BASED BEVERAGES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 23-1303, Idaho Code, be, and the same is hereby amended to read as follows:

23-1303. DEFINITIONS. The following terms as used in this chapter

are hereby defined as follows:

(a) "Wine" shall mean any alcoholic beverage containing not more than ~~fourteen-per-cent-(14%)~~ sixteen percent (16%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.

(b) "Director" means the director of the department of law enforcement of the state of Idaho.

(c) "Retail wine license" means a license issued by the director, authorizing a person to sell wine at retail for consumption off the licensed premises.

(d) "Wine distributor's license" means a license issued by the director to a person authorizing such person to distribute wine to retailers within the state of Idaho.

(e) "Wine importer's license" means a license issued by the director to a person authorizing such person to import wine into the state of Idaho and to sell and distribute wine to a distributor.

(f) "Retailer" means a person to whom a retail wine license has been issued.

(g) "Distributor" means a person to whom a wine distributor's license has been issued.

(h) "Importer" means a person to whom a wine importer's license has been issued.

(i) "Winery" means a place, premise or establishment within the state of Idaho for the manufacture or bottling of wine for sale.

(j) "Winery license" means a license issued by the director authorizing a person to maintain a winery.

(k) "Vintner" means a person who manufactures, bottles, or sells wine to importers for resale within this state other than a licensed "winery" as herein defined.

(l) "Person" includes an individual, firm, copartnership, association, corporation, or any group or combination acting as a unit, and includes the plural as well as the singular unless the intent to give a more limited meaning is disclosed by the context in which it is used.

(m) "~~Wine-by-the-drink~~ Wine by the drink license" means a license to sell wine by the individual glass or opened bottle at retail, for consumption on the premises only.

(n) "Domestic produced product" means wine at least seventy-five percent (75%) of which by volume is derived from fruit or agricultural products grown in Idaho.

(o) "Low proof spirit beverages" means any alcoholic beverage containing not more than fourteen percent (14%) alcohol by volume obtained by distillation mixed with drinkable water, fruit juices and/or other ingredients in solution. These products shall be considered and taxed as wine. Spirit based beverages exceeding fourteen percent (14%) alcohol by volume shall be considered as liquor and sold only through the state liquor dispensary system.

(p) All other words and phrases used in this chapter, the definition of which is not herein given, shall be given their ordinary and commonly understood and accepted meaning.

CHAPTER 267
(S.B. No. 1457)

AN ACT

RELATING TO INSURANCE COMPANY EXAMINATION EXPENSES; AMENDING SECTION 41-228, IDAHO CODE, TO PROVIDE THAT AN INSURER'S OFFSET AGAINST ITS PREMIUM TAX LIABILITY FOR EXAMINATION FEES WILL BE ALLOWED FOR FIVE CALENDAR YEARS FOLLOWING THE YEAR IN WHICH THE EXAMINATION EXPENSE WAS PAID.

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

SECTION 1. That Section 41-228, Idaho Code, be, and the same is hereby amended to read as follows:

41-228. EXAMINATION EXPENSE. (1) Every insurer or corporation so examined shall, at the direction of the director, pay to the examiners and other persons assisting in making the examination, the actual travel expenses, reasonable living expense allowance, and compensation, at reasonable rates customary for such examination and as approved by the director, necessarily incurred on account of the examination, upon presentation of a detailed account of such charges and expenses. A consolidated account of all such charges and expenses for the examination shall be certified to in duplicate by the insurer or corporation examined, one (1) copy of which shall be retained by such insurer or corporation and the other copy filed in the department as a public record.

(2) No person shall pay and no examiner shall accept any additional emolument on account of any examination.

(3) A domestic insurer shall be entitled to offset against its premium taxes payable to the department of insurance of the state of Idaho the examination expense paid by it to or for the account of an examiner, actuary, or other assistant designated by the director for the purpose of the examination, inclusive of such personnel as may be so designated on behalf of other states participating in any such examination. The offset, or any remaining portion thereof, will be allowed for any of the three ~~five~~ (35) calendar years following the year in which such examination expense was paid.

(4) The offset provided in subsection (3) of this section shall be applicable to all examination expenses paid in 1983 and successive years.

Approved March 30, 1994.

CHAPTER 268
(S.B. No. 1487, As Amended in the House)

AN ACT

RELATING TO HUMAN RIGHTS; AMENDING SECTION 67-5901, IDAHO CODE, TO EXTEND GUARANTEES AGAINST DISCRIMINATION TO PERSONS WITH DISABILITIES IN CERTAIN REAL PROPERTY TRANSACTIONS; AMENDING SECTION 67-5902, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION

67-5909, IDAHO CODE, TO PROHIBIT DISCRIMINATION AGAINST PERSONS WITH DISABILITIES IN CERTAIN REAL PROPERTY TRANSACTIONS AND INCLUDING PROVISION FOR REASONABLE MODIFICATIONS; AND AMENDING SECTION 67-5910, IDAHO CODE, TO REPLACE REFERENCE TO HANDICAP WITH DISABILITY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-5901, Idaho Code, be, and the same is hereby amended to read as follows:

67-5901. PURPOSE OF ACT. The general purposes of this act are:

(1) To provide for execution within the state of the policies embodied in the federal Civil Rights Act of 1964, as amended, and the Age Discrimination in Employment Act of 1967, as amended.

(2) To secure for all individuals within the state freedom from discrimination because of race, color, religion, sex or national origin in connection with employment, public accommodations, education and real property transactions, and discrimination because of age or handicap disability in connection with employment, and discrimination because of disability in real property transactions, and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights and privileges of individuals within the state.

SECTION 2. That Section 67-5902, Idaho Code, be, and the same is hereby amended to read as follows:

67-5902. DEFINITIONS. In this act, unless the context otherwise requires:

(1) "Commission" means the commission on human rights created by this act;

(2) "Commissioner" means a member of the commission;

(3) "Discriminatory practice" means a practice designated as discriminatory under the terms of this act;

(4) "National origin" includes the national origin of an ancestor;

(5) "Person" includes an individual, association, corporation, joint apprenticeship committee, joint-stock company, labor union, legal representative, mutual company, partnership, any other legal or commercial entity, the state, or any governmental entity or agency;

(6) "Employer" means a person, wherever situated, who hires five (5) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year whose services are to be partially or wholly performed in the state of Idaho, except for domestic servants hired to work in and about the person's household. The term also means:

(a) a person who as contractor or subcontractor is furnishing material or performing work for the state;

(b) any agency of or any governmental entity within the state; and

(c) any agent of such employer.

(7) "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person;

(8) "Labor organization" includes:

(a) an organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievance, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment;

(b) a conference, general committee, joint or system board, or joint council which is subordinate to a national or international labor organization; or

(c) an agent of a labor organization.

(9) "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public;

(10) "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, or university and a business, nursing, professional, secretarial, technical, or vocational school and includes an agent of an educational institution;

(11) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal or any interest therein;

(12) "Real estate transaction" includes the sale, exchange, rental or lease of real property;

(13) "Housing accommodation" includes any improved or unimproved real property, or part thereof, which is used or occupied, or as the home or residence of one or more individuals;

(14) "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these;

(15) "Handicap Disability" means a physical or mental condition of a person, whether congenital or acquired, which constitutes a substantial disability limitation to that person and is demonstrable by medically accepted clinical or laboratory diagnostic techniques. A handicapped person with a disability is one who (a) has such a disability, or (b) has a record of such a disability, or (c) is regarded as having such a disability;

(16) "Reasonable accommodation" means an adjustment which does not (a) unduly disrupt or interfere with the employer's normal opera-

tions, (b) threaten the health or safety of the handicapped person with the disability or others, (c) contradict a business necessity of the employer, or (d) impose undue hardship on the employer based on the size of the employer's business, the type of business, the financial resources, and the estimated cost and extent of the adjustment.

SECTION 3. That Section 67-5909, Idaho Code, be, and the same is hereby amended to read as follows:

67-5909. ACTS PROHIBITED. It shall be a prohibited act to discriminate against a person because of, or on a basis of, race, color, religion, sex or national origin, in any of the following and on the basis of age or handicap disability in subsections (1), (2), (3) and (4), provided that the prohibition against discrimination because of handicap disability shall not apply if the particular disability, even with a reasonable accommodation by the employer, prevents the performance of the work required by the employer in that job. The prohibition to discriminate shall also apply to persons with disabilities in real property transactions in subsections (7), (8), (9) and (10) of this section, and to those individuals without disabilities who are associated with a person with a disability.

(1) For an employer to fail or refuse to hire, to discharge, or to otherwise discriminate against an individual with respect to compensation or the terms, conditions or privileges of employment or to reduce the wage of any employee in order to comply with this act;

(2) For an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against an individual or to classify or refer an individual for employment;

(3) For a labor organization;

(a) to exclude or to expel from membership, or to otherwise discriminate against, a member or applicant for membership,

(b) to limit, segregate or classify membership, or to fail or refuse to refer for employment an individual in any way,

1. which would deprive an individual of employment opportunities, or

2. which would limit employment opportunities or adversely affect the status of an employee or of an applicant for employment, or

(c) to cause or attempt to cause an employer to violate this act.

(4) For an employer labor organization or employment agency to print or publish or cause to be printed or published a notice or advertisement relating to employment by the employer or membership in or a classification or referral for employment by the labor organization, or relating to a classification or referral for employment by an employment agency, indicating a preference, limitation, specification or discrimination; but a notice or advertisement may indicate a preference limitation, specification, or discrimination when such is a bona fide occupational qualification for employment;

(5) For a person;

(a) to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation, or

(b) to print, circulate, post, or mail or otherwise cause to be

published a statement, advertisement or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages of a place of public accommodation will be refused, withheld from, or denied an individual or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable.

(6) For an educational institution;

(a) to exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, and privileges of the institution, or

(b) to make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information, or to make or keep a record, of an applicant for admission, except as permitted by the regulations of the commission,

(c) to print or publish or cause to be printed or published a catalogue or other notice or advertisement indicating a preference, limitation, specification, discrimination of an applicant for admission, or

(d) to announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members.

(7) For an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesman;

(a) to refuse to engage in a real estate transaction with a person,

(b) to discriminate against a person in the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith,

(c) to refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person,

(d) to refuse to negotiate a real estate transaction with a person,

(e) to represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his attention, or to refuse to permit him to inspect real property,

(f) to print, circulate, post or mail or cause to be so published a statement, advertisement or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto, or

(g) to offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith, or

(h) to refuse to permit, at the expense of a person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if the modifications may be necessary to afford such person full enjoyment of the premises. Provided, that, in the case of a rental, the landlord may, where it

is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior, exterior, or both, of the premises, to the condition that existed before the modification, reasonable wear and tear excepted. The provision for restoration shall be included in any lease or rental agreement.

(8) For a person to whom application is made for financial assistance in connection with a real estate transaction or for the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of such a person;

(a) to discriminate against the applicant,

(b) to use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicates directly or indirectly, an intent to make a limitation, specification, or discrimination.

(9) To insert in a written instrument relating to real property a provision which purports to forbid or restrict the conveyance, encumbrance, occupancy or lease thereof;

(10) For a person for the purpose of inducing a real estate transaction from which he may benefit financially;

(a) to represent that a change has occurred or will or may occur in the composition of the owners or occupants in the block, neighborhood, or area in which the real property is located, or

(b) to represent that this change will or may result in the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

SECTION 4. That Section 67-5910, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) It is not a discriminatory practice;

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

(b) for an employer, employment agency, or labor organization to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this act, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit involuntary retirement of any

individual specified in subsection (7) of this section because of the age of such individual; however, the prohibition against age discrimination contained in this act shall not be construed to prohibit compulsory retirement if such retirement is permitted under the terms of 29 USC, section 631(c)(1) and (2), or

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

(d) for an employer, employment agency, or labor organization to discriminate against a person with a handicap disability which, under the circumstances, poses a serious threat to the health or safety of the handicapped person with a disability or others. The burden of proving this defense is upon the employer, labor organization, or employment agency.

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

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

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

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

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

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

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

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

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

Approved March 30, 1994.

