

GENERAL LAWS
OF THE
STATE OF IDAHO



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

Convened January 9, 1995
Adjourned March 17, 1995

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

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SECRETARY OF STATE

P E T E T . C E N A R R U S A
Secretary of State
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CHAPTER 1
(H.B. No. 3)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTIONS 37-2705 AND 37-2707, IDAHO CODE, TO CONFORM WITH FEDERAL REGULATIONS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 37-2705, Idaho Code, be, and the same is hereby amended to read as follows:

37-2705. SCHEDULE I. (a) The controlled substances listed in this section are included in schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- (2) Acetylmethadol;
- (3) Allylprodine;
- (4) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);
- (5) Alphameprodine;
- (6) Alphamethadol;
- (7) Alpha-methylfentanyl;
- (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (9) Benzethidine;
- (10) Betacetylmethadol;
- (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
- (12) Beta-hydroxy-3-methylfentanyl (N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);
- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;
- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;

- (28) Etoxeridine;
- (29) Furethidine;
- (30) Hydroxypethidine;
- (31) Ketobemidone;
- (32) Levomoramide;
- (33) Levophenacylmorphin;
- (34) 3-Methylfentanyl;
- (35) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (36) Morpheridine;
- (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (38) Noracymethadol;
- (39) Norlevorphanol;
- (40) Normethadone;
- (41) Norpipanone;
- (42) Para-fluorofentanyl
(N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]
propanamide);
- (43) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (44) Phenadoxone;
- (45) Phenampromide;
- (46) Phenomorphan;
- (47) Phenoperidine;
- (48) Piritramide;
- (49) Proheptazine;
- (50) Properidine;
- (51) Propiram;
- (52) Racemoramide;
- (53) Thiofentanyl
(N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-
propanamide);
- (54) Tilidine;
- (55) Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except hydrochloride salt);
- (11) Heroin;
- (12) Hydromorphanol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;

- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

(d) Hallucinogenic substances. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

- (1) 4-bromo-2,5-dimethoxy amphetamine;
- (2) 2,5-dimethoxyamphetamine;
- (3) 4-methoxyamphetamine (PMA);
- (4) 5-methoxy-3,4-methylenedioxy-amphetamine;
- (5) 4-methyl-2,5-dimethoxy-amphetamine (DOM, STP);
- (6) 3,4-methylenedioxy amphetamine;
- (7) 3,4-methylenedioxy-methamphetamine (MDMA);
- (8) 3,4,5-trimethoxy amphetamine;
- (9) Bufotenine;
- (10) Diethyltryptamine (DET);
- (11) Dimethyltryptamine (DMT);
- (12) Ibogaine;
- (13) Lysergic acid diethylamide;
- (14) Marihuana;
- (15) Mescaline;
- (16) Parahexyl;
- (17) Peyote;
- (18) N-ethyl-3-piperidyl benzilate;
- (19) N-methyl -3- piperidyl benzilate;
- (20) Psilocybin;
- (21) Psilocyn;
- (22) Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
 - △¹ cis or trans tetrahydrocannabinol, and their optical isomers, excluding dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration.
 - △⁶ cis or trans tetrahydrocannabinol, and their optical isomers.
 - △^{3,4} cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.)
- (23) Thiophene analog of phencyclidine 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP;
- (24) Ethylamine analog of phencyclidine (N-ethyl -1-phenylcyclohexylamine (1-phenylcyclohexyl) ethylamine; N-(1-

phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

(25) Pyrrolidine analog of phencyclidine: 1-(phenylcyclohexyl)-pyrrolidine, PCPy, PHP.

(e) Any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers wherever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone;

(2) Methaqualone.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Fenethylamine;

(2) N-ethylamphetamine.

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:

(1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide

(benzylfentanyl), its optical isomers, salts and salts of isomers.

(2) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide

(thénylfentanyl), its optical isomers, salts and salts of isomers.

(3) N,N-dimethylamphetamine (N,N,alpha-trimethylbenzeneethanamine or N,N,alpha-trimethylphenethylamine).

(4) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE and MDEA).

(5) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4-(methylenedioxy)phenethylamine and N-hydroxy MDA).

(6) 4-methylaminorex (also known as 2-amino-4-methyl-5-phenyl-2-oxazoline).

SECTION 2. That Section 37-2707, Idaho Code, be, and the same is hereby amended to read as follows:

37-2707. SCHEDULE II. (a) Schedule II shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, naltrexone and their respective salts, but including the following:

1. Raw opium;

2. Opium extracts;

3. Opium fluid extracts;
4. Powdered opium;
5. Granulated opium;
6. Tincture of opium;
7. Codeine;
8. Ethylmorphine;
9. Etorphine hydrochloride;
10. Hydrocodone;
11. Hydromorphone;
12. Metopon;
13. Morphine;
14. Oxycodone;
15. Oxymorphone;
16. Thebaine.

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b) (1) of this section, except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Methylbenzoylecgonine (Cocaine - its salts, optical isomers, and salts of optical isomers).

(6) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, unless specifically excepted or unless listed in another schedule:

- (1) Alfentanil;
- (2) Alphaprodine;
- (3) Anileridine;
- (4) Bezitramide;
- (5) Bulk Dextropropoxyphene (nondosage forms);
- (6) Carfentanil;
- (7) Dihydrocodeine;
- (~~7~~8) Diphenoxylate;
- (~~8~~9) Fentanyl;
- (~~9~~10) Isomethadone;
- (11) Levo-alpha-acetylmethadol (also known as levo-alpha-acetylmethadol, levomethadyl acetate, LAAM);
- (~~10~~2) Levomethorphan;
- (~~11~~3) Levorphanol;
- (~~12~~4) Metazocine;
- (135) Methadone;
- (~~14~~6) Methadone -- Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;

- (157) Moramide -- Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl propane-carboxylic acid;
- (168) Pethidine (meperidine);
- (179) Pethidine--Intermediate--A, 4-cyano-1-methyl-4-phenylpiperidine;
- (1820) Pethidine--Intermediate--B, ethyl-4-phenylpiperidine-4-carboxylate;
- (219) Pethidine--Intermediate--C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (202) Phenazocine;
- (213) Piminodine;
- (224) Racemethorphan;
- (235) Racemorphan;
- (246) Sufentanil.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Methamphetamine, its salts, isomers, and salts of its isomers;
- (3) Phenmetrazine and its salts;
- (4) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Amobarbital;
- (2) Glutethimide;
- (3) Pentobarbital;
- (4) Phencyclidine;
- (5) Secobarbital.
- (f) Hallucinogenic substances.
 - (1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product (21 C.F.R. 1308.12 (f)).
 - (2) Nabiline(another name for nabilone: (+)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one) (21 C.F.R. 1308.12 (f)).

(g) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

- (1) Immediate precursor to amphetamine and methamphetamine:
 - (a) Anthranilic acid
 - (b) Ephedrine
 - (c) Lead acetate
 - (d) Methylamine
 - (e) Methyl formamide

- (f) N-methylephedrine
- (g) Phenylacetic acid
- (h) Phenylacetone
- (i) Pseudoephedrine.

Except that any combination or compound containing ephedrine, or any of its salts and isomers, or pseudoephedrine, or any of its salts and isomers which is prepared for dispensing or over-the-counter distribution is not a controlled substance for the purpose of this section.

- (2) Immediate precursors to phencyclidine (PCP):
 - (a) 1-phenylcyclohexylamine;
 - (b) 1-piperidinocyclohexanecarbonitrile (PCC).

Approved February 3, 1995.

CHAPTER 2
(H.B. No. 4)

AN ACT

RELATING TO VOCATIONAL REHABILITATION; AMENDING SECTION 33-2301, IDAHO CODE, TO PROVIDE REFERENCES TO THE AMENDMENTS OF 1993 OF THE REHABILITATION ACT OF 1973.

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 with disabilities, other than those who are legally blind, and their return to employment," and further accepts "The Rehabilitation Act of 1973," P.L. 93-112, 93rd Congress, and "The Rehabilitation Act Amendments of 1992~~3~~," P.L. ~~102-569~~103-73, ~~102nd~~103rd Congress, and will observe and comply with all requirements of such acts.

Approved February 3, 1995.

CHAPTER 3
(H.B. No. 62)

AN ACT

RELATING TO VETERANS; AMENDING SECTION 65-301, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 65-302, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE.

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

SECTION 1. That Section 65-301, Idaho Code, be, and the same is hereby amended to read as follows:

65-301. PERFORMANCE WITHOUT FEE -- SERVICES ENUMERATED. Any state, county, city or public officer, or board, or body, acting in his or her or its official capacity on behalf of the state, county, or city, including notaries public, shall not collect, demand or receive any fee or compensation for recording or indexing the discharge papers of any male or female veteran who had active service in any war or conflict officially engaged in by the government of the United States; or for issuing certified copies thereof, or for any service whatever rendered by any such officer or officers, in the matter of a pension claim, application, affidavit, voucher, or in the matter of any claim to be presented to the United States department of veterans bureau-or-United-States-bureau-of-pensions affairs or for the purposes of securing any benefits under the-World-War-Veterans-Acts-of-June-7, 1924-and-other acts of congress providing pension benefits for honorably discharged veterans of any war, and all acts or parts of acts amendatory thereto, or for furnishing a certified copy of the public record of a marriage, death, birth, divorce, deed of trust, mortgage, or property assessment, or making a reasonable search for the same, wherein the same is to be used in a claim for pension, or a claim for allotment, allowance, compensation, insurance, automatic insurance, or otherwise provided for by the-provisions-of-the-World-War-Veterans-Act-and-amendments-thereto-or any and all legislation by congress providing pension benefits for honorably discharged veterans of any war.

SECTION 2. That Section 65-302, Idaho Code, be, and the same is hereby amended to read as follows:

65-302. PARTIES AUTHORIZED TO REQUEST SERVICES. Said services shall be rendered on the request of an official of the United States department of veterans bureau-or-of-the-United-States-bureau-of-pensions affairs, the claimant, his or her guardian, personal representative, dependent or attorney.

Approved February 3, 1995.

CHAPTER 4
(S.B. No. 1029)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 262, LAWS OF 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 262, Laws of 1994, there is hereby appropriated to the State

Board of Education for the Idaho School for the Deaf and the Blind the following amount to be expended according to the designated standard classifications from the listed funds for the period from July 1, 1994, through June 30, 1995:

FROM:	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
General Fund	\$97,900		\$ 97,900
Miscellaneous Revenue Fund		<u>\$19,700</u>	<u>19,700</u>
TOTAL	<u>\$97,900</u>	<u>\$19,700</u>	<u>\$117,600</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 6, 1995.

CHAPTER 5
(H.B. No. 112)

AN ACT
APPROPRIATING MONEYS FOR THE COMMISSION FOR THE BLIND AND VISUALLY
IMPAIRED IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAP-
TER 199, LAWS OF 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 199, Laws of 1994, there is hereby appropriated to the Office of the Governor for the Commission for the Blind and Visually Impaired, the following amount to be expended according to the designated standard classification from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:	
Operating Expenditures	\$4,900
FROM:	
Adaptive Aids and Appliances Fund	\$4,900

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 passage and approval.

Approved February 6, 1995.

CHAPTER 6
(S.B. No. 1034)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1995 MADE IN SECTION 1, CHAPTER 169, LAWS OF 1994; AND DECLARING AN EMERGENCY.

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

SECTION 1. The appropriation to the Department of Water Resources made in Section 1, Chapter 169, Laws of 1994, is hereby reduced by the following amounts from the designated programs from the designated funds and standard classification for the period July 1, 1994, through June 30, 1995:

I. PLANNING AND POLICY DIVISION:

FOR:

Personnel Costs \$ 23,200

FROM:

General Fund \$ 23,200

II. ENERGY RESOURCES DIVISION:

FOR:

Personnel Costs \$ 42,100

FROM:

Federal Grants Fund \$ 42,100

III. SNAKE BASIN ADJUDICATIONS:

FOR:

Personnel Costs \$117,100

FROM:

Water Claims Adjudication Fund \$117,100

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

Approved February 9, 1995.

CHAPTER 7
(S.B. No. 1035)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 306, LAWS OF 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 2, Chapter 306, Laws of 1994, there is hereby appropriated to the Department of Agriculture, the following amount, to be expended for the designated programs according to the designated standard classification

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		\$ 31,800		\$ 31,800
B. PLANT INDUSTRIES:				
FROM:				
General Fund	\$37,500	\$215,100	\$7,100	\$259,700
GRAND TOTAL	\$37,500	\$246,900	\$7,100	\$291,500

SECTION 2. The State Controller shall make cash transfers from the General Fund to the Pest Control Deficiency Fund, upon the request of the Director of the Department of Agriculture, not to exceed \$259,700 as appropriated in Section 1 of this act for Plant Industries.

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 passage and approval.

Approved February 9, 1995.

CHAPTER 8
(H.B. No. 113)

AN ACT
APPROPRIATING MONEYS TO THE STATE ATHLETIC COMMISSION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 156, LAWS OF 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 156, Laws of 1994, there is hereby appropriated to the Department of Self-Governing Agencies for the State Athletic Commission the following amount, to be expended according to the designated standard classification from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:	
Personnel Costs	\$1,500
FROM:	
State Regulatory Fund	\$1,500

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, 1995.

CHAPTER 9
(H.B. No. 81)

AN ACT

RELATING TO MEDICAL INDIGENCY; AMENDING SECTION 31-3503, IDAHO CODE, TO LIMIT COUNTY RESPONSIBILITY TO THE FIRST TEN THOUSAND DOLLARS FOR MEDICAL INDIGENT CLAIMS; AMENDING SECTION 31-3517, IDAHO CODE, TO LIMIT COUNTY RESPONSIBILITY TO TEN THOUSAND DOLLARS PER CLAIM; AMENDING SECTION 31-3519, IDAHO CODE, TO LIMIT COUNTY RESPONSIBILITY TO TEN THOUSAND DOLLARS PER CLAIM; AND AMENDING SECTION 57-813, IDAHO CODE, TO LIMIT COUNTY RESPONSIBILITY TO TEN THOUSAND DOLLARS PER CLAIM.

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

SECTION 1. That Section 31-3503, Idaho Code, be, and the same is hereby amended to read as follows:

31-3503. POWERS AND DUTIES OF BOARDS OF COUNTY COMMISSIONERS. The boards of county commissioners in their respective counties shall, under such limitations and restrictions as are prescribed by law:

(1) Care for and maintain the medically ~~or otherwise~~ indigent, and may provide for the care of other sick persons as provided in this chapter up to ten thousand dollars (\$10,000) per claim with the remainder being paid by the state catastrophic health care cost program pursuant to section 31-3519, Idaho Code, and for this purpose said boards are authorized to levy an ad valorem tax not to exceed ten one-hundredths of one percent (0.10%) of the market value for assessment purposes of all taxable property in the county. Such levy shall be exempt from the limitation imposed in section 63-923(1), Idaho Code, and the moneys derived from such levy shall be exempt from the limitation imposed in section 63-2220, Idaho Code.

(2) Have the jurisdiction and power to provide county hospitals and public general hospitals for the county and others who are sick, injured, maimed, aged and infirm and to erect, enlarge, purchase, lease, or otherwise acquire, and to officer, maintain and improve hospitals, hospital grounds, nurses' homes, shelter care facilities and residential care homes as defined in section 39-3301, Idaho Code, superintendent's quarters, medical clinics, as that term is defined in section 39-1319, Idaho Code, medical clinic grounds or any other necessary buildings, and to equip the same, and to replace equipment, and for this purpose said boards may levy an additional tax of not to exceed three (3) mills on the dollar. The ~~terms~~ term public general hospitals as used in this subsection shall be construed to include nursing homes.

SECTION 2. That Section 31-3517, Idaho Code, be, and the same is hereby amended to read as follows:

31-3517. ESTABLISHMENT OF A CATASTROPHIC HEALTH CARE COST PROGRAM. (1) The governing board of the catastrophic health care cost program created by the counties pursuant to a joint exercise of powers

agreement, dated October 1, 1984, and serving on June 30, 1991, is hereby continued as such through December 31, 1992, to complete the affairs of the board, to continue to pay for those medical costs incurred by participating counties prior to October 1, 1991, until all costs are paid or the moneys in the catastrophic health care cost account contributed by participating counties are exhausted, and to pay the balance of such contributions back to the county of origin in the proportion contributed. County responsibility shall be limited to the first ten thousand dollars (\$10,000) per claim. The remainder of the eligible costs of the claim shall be paid by the state catastrophic health care cost program.

(2) Commencing October 1, 1991, a catastrophic health care cost program board is hereby established, and the board shall be the administrator of the catastrophic health care cost program. This board shall consist of seven (7) members, with six (6) county commissioners, one (1) from each of the six (6) districts or regions established by the Idaho association of counties, and one (1) member appointed by the governor.

(a) The commissioner members shall be elected by the boards of county commissioners of the member counties of each district or region, with each board of county commissioners entitled to one (1) vote. The process and procedures for conducting the election and determining the members shall be determined by the board itself, except that the election must be conducted, completed and results certified by December 31 of each year in which an election for members is conducted. The board recognized in subsection (1) of this section shall authorize and conduct the election in 1991.

(b) The term of office of a member shall be two (2) years, commencing on January 1 next following election or appointment, except that for commissioner members elected in 1991, the commissioner members from districts or regions 1, 3 and 5 shall serve for a term of one (1) year, and the commissioner members from districts or regions 2, 4 and 6 shall serve for a term of two (2) years. Members may be reelected or reappointed. Election or appointment to fill vacancies shall be for the balance of the unexpired term.

(c) Members shall be compensated as provided in section 59-509(b), Idaho Code, from the catastrophic health care cost account.

(d) At the first meeting of the board in January of each year, the board shall organize by electing a chair, a vice-chair, and such other officers as desired.

(3) The administrator is authorized to contract with a health insurance company, group health services organization or other provider of third party payment for health services authorized to do business in this state, or to establish a self-insurance fund in order to implement a catastrophic health care costs program.

The contract shall provide that the health insurance company, group health service organization or other third party payer, shall, for consideration, which shall be set by the administrator, assume the risk of providing for recipients under the catastrophic health care cost provisions of this chapter.

The administrator shall develop rules for a catastrophic health

care cost program after consulting with the counties, organizations representing the counties, health care providers, and organizations representing health care providers.

The administrator shall cause a full and complete audit of the financial statements of the program as required in section 67-450B, Idaho Code.

(4) The administrator shall submit a request to the governor and the legislature in accordance with the provisions of chapter 35, title 67, Idaho Code, for an appropriation for the maintenance and operation of the catastrophic health care program.

SECTION 3. That Section 31-3519, Idaho Code, be, and the same is hereby amended to read as follows:

31-3519. PAYMENT FOR SERVICES. Each board of county commissioners shall make payments to providers for covered services provided to recipients based upon the schedule of fees established as provided in section 31-3518, Idaho Code, and in accordance with the uniform county guidelines on indigent eligibility as required in section 31-3503, Idaho Code, until such payments reach the level of catastrophic health care costs. County responsibility is limited to ten thousand dollars (\$10,000) per claim. The remainder of the eligible costs of the claim shall be paid by the state catastrophic health care cost program. After a catastrophic health care program is established by the administrator as provided in section 31-3517, Idaho Code, payments to providers shall be made under the provisions of the program, as established by the administrator.

SECTION 4. 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 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 eligible claims beyond the ten thousand dollar (\$10,000) county deductible 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 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.

Approved February 9, 1995.

CHAPTER 10
(H.B. No. 122)

AN ACT

APPROPRIATING MONEYS TO THE CATASTROPHIC HEALTH CARE COST FUND FOR FISCAL YEAR 1995; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated \$11,977,400 from the General Fund to be transferred to the Catastrophic Health Care Cost Fund for the period July 1, 1994, through June 30, 1995.

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

Approved February 9, 1995.

CHAPTER 11
(H.B. No. 9)

AN ACT

RELATING TO THE IDAHO STATE BOARD OF ENVIRONMENTAL HEALTH SPECIALISTS; AMENDING SECTION 54-2402, IDAHO CODE, TO INCREASE THE ANNUAL LICENSE RENEWAL FEE; AND AMENDING SECTION 54-2403, IDAHO CODE, TO PERMIT THE BOARD TO CHARGE AN EXAMINATION FEE AND AN ADDITIONAL ADMINISTRATION FEE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-2402, Idaho Code, be, and the same is hereby amended to read as follows:

54-2402. BUREAU OF OCCUPATIONAL LICENSES TO ISSUE CERTIFICATES OF REGISTRATION. The bureau of occupational licenses shall upon the certification of the board and subject to the provisions of this act, issue certificates of registration as environmental health specialists to persons who have qualified therefor in accordance with this act. Such certificates shall be issued for a period of one (1) year and shall bear on their face the seal of the bureau, the signature of the chairman of board of environmental health specialists examiners thereof, and will be effective until the first day of July next after issuance. Such certificates so issued shall be renewed annually on the first day of July of every year. The bureau shall collect a fee of fifty sixty dollars (\$560.00) for each such annual renewal of such certificate, and shall deposit all fees in the state treasury in accordance with section 67-2605, Idaho Code. The provisions of sections 67-2609 through 67-2614, Idaho Code, shall apply to certificates issued pursuant to this act, except as in this act modified.

SECTION 2. That Section 54-2403, Idaho Code, be, and the same is hereby amended to read as follows:

54-2403. STATE BOARD OF ENVIRONMENTAL HEALTH SPECIALIST EXAMINERS ESTABLISHED -- DUTIES AND RESPONSIBILITIES. In order to safeguard life, health and property, and to protect the public health and establish the professional status of persons whose duties in public health and environmental health require a knowledge of the physical, biological, social, chemical and sanitary sciences, there is hereby established in the department of self-governing agencies a board of environmental health specialist examiners for environmental health specialists, hereinafter called the board. It shall be the duty of the board to carry out the provisions of this act, review applications for registration, conduct written and oral examinations, charge such fees as the board deems reasonable to cover the cost of ~~examination--and~~ licensing not to exceed one hundred dollars (\$100), keep records of its transactions, adopt rules ~~and regulations~~, conduct hearings and record all matters which appropriately may come before it. The board shall also collect a fee from all applicants for purposes of the examination. This examination fee will equal that charged by the national examining entity together with an additional twenty-five dollar (\$25.00) administration fee. These records shall at reasonable times be open to examination by the public.

Approved February 10, 1995.

CHAPTER 12
(H.B. No. 114)

AN ACT

REDUCING THE APPROPRIATIONS FOR THE STATE LIQUOR DISPENSARY, STATE INSURANCE FUND, MILITARY DIVISION, DEPARTMENT OF ADMINISTRATION, AND DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 1995; AND DECLARING AN EMERGENCY.

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

SECTION 1. The appropriation to the Office of the Governor for the State Liquor Dispensary, as made in Section 1, Chapter 197, Laws of 1994, is hereby reduced by the following amount from the designated fund and standard classification for the period July 1, 1994, through June 30, 1995:

FOR:

Personnel Costs	\$151,800
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FROM:

Liquor Control Fund	\$151,800
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SECTION 2. The appropriation to the Office of the Governor for the State Insurance Fund, Workers' Compensation Program, as made in Section 1, Chapter 189, Laws of 1994, is hereby reduced by the following amount from the designated fund and standard classification for the period July 1, 1994, through June 30, 1995:

FOR:

Personnel Costs	\$29,200
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FROM:

State Insurance Fund	\$29,200
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SECTION 3. The appropriation to the Office of the Governor for the Military Division, Military Management Program, as made in Section 1, Chapter 196, Laws of 1994, is hereby reduced by the following amount from the designated fund and standard classification for the period July 1, 1994, through June 30, 1995:

FOR:

Personnel Costs	\$45,500
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FROM:

General Fund	\$45,500
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SECTION 4. The appropriation to the Department of Administration, Information Technology Program, as made in Section 2, Chapter 304, Laws of 1994, is hereby reduced by the following amounts from the designated funds and standard classification for the period July 1, 1994, through June 30, 1995:

FOR:

Personnel Costs	\$100,900
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FROM:

General Fund	\$ 37,500
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Administration and Accounting Services Fund	<u>63,400</u>
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TOTAL	<u>\$100,900</u>
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SECTION 5. The appropriation to the Department of Fish and Game, as made in Section 2, Chapter 378, Laws of 1994, is hereby reduced by the following amounts from the designated programs from the designated funds and standard classification for the period July 1, 1994, through June 30, 1995:

I. FISHERIES:

FOR:

Personnel Costs	\$42,900
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FROM:

Fish and Game Fund	\$13,700
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Fish and Game Federal Fund	<u>29,200</u>
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TOTAL	<u>\$42,900</u>
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II. WILDLIFE:

FOR:

Personnel Costs	\$16,100
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FROM:

Fish and Game Fund	\$ 8,700
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Fish and Game Federal Fund	<u>7,400</u>
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TOTAL	<u>\$16,100</u>
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III. ENGINEERING:

FOR:

Personnel Costs	\$24,900
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FROM:

Fish and Game Fund	\$24,200
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Fish and Game Federal Fund	<u>700</u>
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TOTAL	<u>\$24,900</u>
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SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 10, 1995.

CHAPTER 13
(H.B. No. 125)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1995; 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 169, Laws of 1994, there is hereby appropriated to the Department of Water Resources the following amount to be expended for the designated program according to the designated standard classification from the listed fund for the period July 1, 1994, through June 30, 1995:

PLANNING AND POLICY DIVISION:

FROM:

Professional Services Fund	\$38,200
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FOR:

Personnel Costs	\$38,200
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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 13, 1995.

CHAPTER 14
(H.B. No. 139)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE HISTORICAL SOCIETY IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 202, LAWS OF 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 202, Laws of 1994, there is hereby appropriated to the Idaho State Historical Society for the designated program the following amounts, to be expended according to the designated standard classifi-

cations from the listed fund for the period July 1, 1994, through June 30, 1995:

A. HISTORICAL PRESERVATION AND EDUCATION:

FOR:	
Personnel Costs	\$ 9,400
Operating Expenditures	<u>7,900</u>
TOTAL	\$17,300
FROM:	
General Fund	\$17,300

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

Approved February 13, 1995.

CHAPTER 15
(H.B. No. 126)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1995; AND DECLARING AN EMERGENCY.

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

SECTION 1. The appropriation to the Department of Parks and Recreation, as made in Section 1, Chapter 195, Laws of 1994, is hereby reduced by the following amounts from the designated programs from the designated funds and standard classifications for the period July 1, 1994, through June 30, 1995:

I. PARK OPERATIONS:

FOR:	
Personnel Costs	\$94,100
FROM:	
General Fund	\$74,900
Parks and Recreation Fund	<u>19,200</u>
TOTAL	\$94,100

II. RECREATION RESOURCES:

FOR:	
Personnel Costs	\$11,700
FROM:	
Indirect Cost Recovery Fund	\$11,700

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 13, 1995.

CHAPTER 16
(S.B. No. 1006)

AN ACT
RELATING TO PUNISHMENT OF CRIMINAL ACTS IN DIFFERENT WAYS; REPEALING
SECTION 18-301, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 18-301, 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 February 13, 1995.

CHAPTER 17
(S.B. No. 1038)

AN ACT
RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 1995; REDUCING THE APPROPRIATION FOR THE INDIRECT SUPPORT SERVICES PROGRAM AND THE VETERANS SERVICES PROGRAM MADE IN SECTION 1, CHAPTER 258, LAWS OF 1994; REDUCING THE APPROPRIATION FOR THE DIVISION OF FAMILY AND CHILDREN'S SERVICES AND THE DIVISION OF COMMUNITY REHABILITATION MADE IN SECTION 1, CHAPTER 439, LAWS OF 1994; REDUCING THE APPROPRIATION FOR THE DIVISION OF ENVIRONMENTAL QUALITY MADE IN SECTION 1, CHAPTER 259, LAWS OF 1994; REDUCING THE APPROPRIATION FOR THE DIVISION OF HEALTH SERVICES AND THE DIVISION OF WELFARE MADE IN SECTION 1, CHAPTER 337, LAWS OF 1994; PROVIDING FLEXIBILITY IN DEALING WITH PERSONNEL REDUCTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. The appropriations to the Department of Health and Welfare for the Indirect Support Services Program and the Veterans Services Program made in Section 1, Chapter 258, Laws of 1994, are hereby reduced by the following amounts from the designated funds and standard classification for the period July 1, 1994, through June 30, 1995:

I. INDIRECT SUPPORT SERVICES:

FOR:

Personnel Costs \$161,700

FROM:

General Fund \$ 80,800

Cooperative Welfare Fund (Federal) 80,900

TOTAL \$161,700

II. VETERANS SERVICES:

FOR:

Personnel Costs	\$154,500
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FROM:

General Fund	\$ 43,300
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Cooperative Welfare Fund (Federal)	38,600
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Cooperative Welfare Fund (Other)	<u>72,600</u>
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TOTAL	<u>\$154,500</u>
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SECTION 2. The appropriation to the Department of Health and Welfare for the Division of Family and Children's Services and the Division of Community Rehabilitation made in Section 1, Chapter 439, Laws of 1994, is hereby reduced by the following amounts from the designated programs from the designated funds and standard classifications for the period July 1, 1994, through June 30, 1995:

I. DIVISION OF FAMILY AND CHILDREN'S SERVICES:

A. SOCIAL SERVICES:

FOR:

Personnel Costs	\$230,700
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FROM:

General Fund	\$ 87,700
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Cooperative Welfare Fund (Federal)	138,400
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Cooperative Welfare Fund (Other)	<u>4,600</u>
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TOTAL	<u>\$230,700</u>
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B. JUVENILE JUSTICE:

FOR:

Personnel Costs	\$38,700
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FROM:

General Fund	\$38,700
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C. DETENTION AND ASSESSMENT:

FOR:

Personnel Costs	\$42,100
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FROM:

General Fund	\$42,100
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II. DIVISION OF COMMUNITY REHABILITATION:

A. COMMUNITY DEVELOPMENTAL DISABILITIES:

FOR:

Personnel Costs	\$109,500
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FROM:

General Fund	\$ 65,700
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Cooperative Welfare Fund (Federal)	13,100
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Cooperative Welfare Fund (Other)	<u>30,700</u>
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TOTAL	<u>\$109,500</u>
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B. IDAHO STATE SCHOOL AND HOSPITAL:

FOR:

Lump Sum	\$360,800
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FROM:

General Fund	\$104,600
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Cooperative Welfare Fund (Federal)	254,400
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Cooperative Welfare Fund (Other)	<u>1,800</u>
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TOTAL	<u>\$360,800</u>
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C. COMMUNITY MENTAL HEALTH SERVICES:

FOR:

Personnel Costs	\$230,800
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FROM:

General Fund	\$147,700
Cooperative Welfare Fund (Federal)	2,300
Cooperative Welfare Fund (Other)	<u>80,800</u>
TOTAL	\$230,800

D. STATE HOSPITAL NORTH:

FOR:

Lump Sum	\$96,300
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FROM:

General Fund	\$79,900
Cooperative Welfare Fund (Federal)	1,900
Cooperative Welfare Fund (Other)	5,800
State Hospital North Income Fund	<u>8,700</u>
TOTAL	\$96,300

E. STATE HOSPITAL SOUTH:

FOR:

Lump Sum	\$200,000
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FROM:

General Fund	\$146,000
Cooperative Welfare Fund (Other)	44,000
State Hospital South Income Fund	<u>10,000</u>
TOTAL	\$200,000

F. ADULT SERVICES:

FOR:

Personnel Costs	\$42,100
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FROM:

General Fund	\$42,100
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SECTION 3. The appropriation to the Department of Health and Welfare for the Division of Environmental Quality made in Section 1, Chapter 259, Laws of 1994, is hereby reduced by the following amounts from the designated programs from the designated funds and standard classification for the period July 1, 1994, through June 30, 1995:

I. DIVISION OF ENVIRONMENTAL QUALITY:

A. INEL OVERSIGHT:

FOR:

Personnel Costs	\$133,500
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FROM:

Hazardous Waste Training, Emergency, and Monitoring Fund	\$ 14,700
Cooperative Welfare Fund (Federal)	<u>118,800</u>
TOTAL	\$133,500

B. PLANNING AND SUPPORT SERVICES:

FOR:

Personnel Costs	\$42,100
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FROM:

General Fund	\$20,200
Water Pollution Control Fund	19,400
Cooperative Welfare Fund (Federal)	<u>2,500</u>
TOTAL	\$42,100

C. COMMUNITY PROGRAMS:

FOR:

Personnel Costs	\$346,000
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FROM:

General Fund	\$ 10,400
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Water Pollution Control Fund	121,100
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Cooperative Welfare Fund (Federal)	179,900
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Cooperative Welfare Fund (Other)	<u>34,600</u>
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TOTAL	<u>\$346,000</u>
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SECTION 4. The appropriation to the Department of Health and Welfare for the Division of Health Services and the Division of Welfare made in Section 1, Chapter 337, Laws of 1994, is hereby reduced by the following amounts from the designated programs from the designated funds and standard classifications for the period July 1, 1994, through June 30, 1995:

I. DIVISION OF HEALTH SERVICES:

A. PHYSICAL HEALTH SERVICES:

FOR:

Personnel Costs	\$130,000
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FROM:

General Fund	\$108,800
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Cooperative Welfare Fund (Other)	<u>21,200</u>
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TOTAL	<u>\$130,000</u>
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B. LABORATORY SERVICES:

FOR:

Personnel Costs	\$42,200
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FROM:

General Fund	\$24,500
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Cooperative Welfare Fund (Federal)	6,300
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Cooperative Welfare Fund (Other)	<u>11,400</u>
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TOTAL	<u>\$42,200</u>
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II. DIVISION OF WELFARE:

A. ELIGIBILITY SERVICES:

FOR:

Personnel Costs	\$177,500
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FROM:

General Fund	\$ 88,800
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Cooperative Welfare Fund (Federal)	<u>88,700</u>
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TOTAL	<u>\$177,500</u>
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B. MEDICAL ASSISTANCE PAYMENTS:

FOR:

Personnel Costs	\$ 40,400
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Trustee and Benefit Payments	<u>50,499,500</u>
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TOTAL	<u>\$50,539,900</u>
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FROM:

General Fund	\$14,998,400
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Cooperative Welfare Fund (Federal)	<u>35,541,500</u>
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TOTAL	<u>\$50,539,900</u>
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C. CHILD SUPPORT ENFORCEMENT:

FOR:

Personnel Costs	\$46,300
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FROM:

General Fund	\$ 6,000
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Cooperative Welfare Fund (Federal)	35,200
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Cooperative Welfare Fund (Other)	<u>5,100</u>
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TOTAL	<u>\$46,300</u>
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SECTION 5. To provide maximum flexibility in dealing with personnel reductions as contained in this act, the Department of Health and Welfare is hereby exempted from the provisions of Section 67-3511(2), Idaho Code, for all moneys appropriated to the department for the period from July 1, 1994, through June 30, 1995. Transfers of moneys between programs in the same appropriation bill and transfers of moneys between programs in different appropriation bills are still subject to the approval of the Division of Financial Management.

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

Approved February 13, 1995.

CHAPTER 18
(S.B. No. 1047)

AN ACT

APPROPRIATING MONEYS TO THE STATE LIBRARY BOARD IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 261, LAWS OF 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 261, Laws of 1994, there is hereby appropriated to the State Board of Education for the State Library Board the following amount, to be expended according to the designated standard classification from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:

Capital Outlay	\$50,000
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FROM:

General Fund	\$50,000
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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 13, 1995.

CHAPTER 19
(S.B. No. 1040)

AN ACT

RELATING TO THE APPROPRIATION FOR THE DEPARTMENT OF LANDS; AMENDING SECTION 1, CHAPTER 168, LAWS OF 1994; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 168, Laws of 1994, be, and the same is hereby amended to read as follows:

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	\$ 1,008,200	\$ 483,700	\$ 61,900			\$ 1,553,800
	<u>1,008,200</u>	<u>538,700</u>				<u>1,608,800</u>
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	\$ 1,293,400	\$ 727,600	\$ 61,900			\$ 2,082,900
	<u>1,293,400</u>	<u>727,600</u>				<u>2,082,900</u>
B. FOREST RESOURCES MANAGEMENT:						
FROM:						
General						
Fund	\$ 2,696,300	\$ 355,400	\$ 222,900			\$ 3,274,600
	<u>2,696,300</u>					<u>3,274,600</u>
Department of Lands						
Fund	1,341,600	712,100	57,000			2,110,700
	<u>1,341,600</u>					<u>2,110,700</u>
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
	<u>433,900</u>	<u>229,900</u>		<u>202,000</u>		
TOTAL	\$ 6,430,000	\$ 3,114,900	\$ 308,900	\$ 178,500		\$ 10,132,300
	<u>6,430,000</u>	<u>3,114,900</u>		<u>278,500</u>		<u>10,132,300</u>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
C. LAND, RANGE AND MINERAL RESOURCE MANAGEMENT:						
FROM:						
General						
Fund	\$ 1,758,900	\$ 189,800	\$ 55,000			\$ 2,003,700
	<u>1,694,700</u>	<u>224,800</u>				<u>1,974,500</u>
Department of Lands						
Fund		131,000		\$ 500,000		631,000
Hazardous Waste Training, Emergency and Monitoring						
Fund				500,000		500,000
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
	<u>1,878,200</u>	<u>591,500</u>				<u>3,524,700</u>
D. FOREST AND RANGE FIRE PROTECTION:						
FROM:						
General						
Fund					\$ 2,303,300	\$ 2,303,300
					<u>2,278,400</u>	<u>2,278,400</u>
Department of Lands						
Fund					3,349,900	3,349,900
					<u>3,219,800</u>	<u>3,219,800</u>
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
					<u>5,877,900</u>	<u>5,877,900</u>
E. SOIL AND WATER CONSERVATION:						
FROM:						
General						
Fund	\$ 496,200	\$ 61,900		\$ 257,100		\$ 815,200
	<u>488,000</u>					<u>807,000</u>
Department of Lands						
Fund	403,000	75,700				478,700
	<u>378,000</u>					<u>453,700</u>
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
	<u>1,072,700</u>					<u>2,017,000</u>
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
	<u>10,901,600</u>	<u>4,889,400</u>		<u>1,802,200</u>	<u>5,877,900</u>	<u>23,936,800</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 13, 1995.

CHAPTER 20
(S.B. No. 1043)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 387, LAWS OF 1994; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 387, LAWS OF 1994; 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 in Section 2, Chapter 387, Laws of 1994, there is hereby appropriated to the Department of Correction the following amounts to be expended for the designated programs according to the designated standard classifications from the listed fund for the period July 1, 1994, through June 30, 1995:

	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:				
General Fund	\$111,800	\$75,000	\$3,350,700	\$3,537,500
K. INSTITUTIONAL SUPPORT:				
General Fund	\$339,600			\$339,600

SECTION 2. In addition to the appropriation made in Section 2, Chapter 387, Laws of 1994, there is hereby appropriated to the Department of Correction the following amount to be expended according to the designated standard classification from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:	
Personnel Costs	\$290,000
FROM:	
General Fund	\$290,000

SECTION 3. It is legislative intent that the Department of Correction negotiate provider contracts at the state medicaid reimbursement rate for inmate medical services which the department cannot provide.

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 13, 1995.

CHAPTER 21
(S.B. No. 1042)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 1995; 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 378, Laws of 1994, there is hereby appropriated to the Department of Fish and Game the following amount to be expended for the designated program according to the designated standard classification from the listed fund for the period July 1, 1994, through June 30, 1995:

ENFORCEMENT:

FROM:

Fish and Game Set-aside Fund	\$35,000
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FOR:

Operating Expenditures	\$35,000
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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 13, 1995.

CHAPTER 22
(S.B. No. 1041)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1995; 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 195, Laws of 1994, 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 standard classifications 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
PARK OPERATIONS:					
FROM:					
Public Recreation Enterprise					
Fund	\$ 20,300	\$ 94,800	\$16,700		\$131,800
Parks and Recreation					
Fund	20,700	16,200			36,900
Federal Grant					
Fund	87,800				87,800
TOTAL	\$128,800	\$111,000	\$16,700		\$256,500
RECREATION RESOURCES:					
FROM:					
Parks and Recreation					
Registration Fund				\$400,000	\$400,000
Recreational Fuels					
Fund				150,000	150,000
TOTAL				\$550,000	\$550,000
GRAND					
TOTAL	\$128,800	\$111,000	\$16,700	\$550,000	\$806,500

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 13, 1995.

CHAPTER 23
(S.B. No. 1039)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR THE RACING COMMISSION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 257, LAWS OF 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 2, Chapter 257, Laws of 1994, there is hereby appropriated to the Department of Law Enforcement for the Racing Commission the following amounts to be expended according to the designated standard classifications from the listed fund for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
Idaho State Racing Commission Fund	\$30,300	\$80,300	\$110,600

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 13, 1995.

CHAPTER 24
(H.B. No. 123)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1995; 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 168, Laws of 1994, there is hereby appropriated to the Department of Lands the following amounts to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
A. SOIL AND WATER CONSERVATION: FROM:				
Resource Conservation Fund		\$300,000		\$300,000
B. FOREST RESOURCES MANAGEMENT: FROM:				
General Fund	\$25,000			\$25,000
C. FOREST AND RANGE FIRE PROTECTION: FROM:				
General Fund			\$7,100,000	\$7,100,000
GRAND TOTAL	\$25,000	\$300,000	\$7,100,000	\$7,425,000

SECTION 2. The State Controller 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 \$25,000 as appropriated in Section 1 of this act for Forest Resources Management.

SECTION 3. The State Controller 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 \$7,100,000 as appropriated in Section 1 of this act for Forest and Range Fire Protection.

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 14, 1995.

CHAPTER 25
(H.B. No. 124)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE STATE CONTROLLER IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 305, LAWS OF 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 305, Laws of 1994, there is hereby appropriated to the Office of the State Controller the following amounts to be expended for the designated programs according to designated standard classifications from the listed funds for the period July 1, 1994, through June 30, 1995:

	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. STATEWIDE ACCOUNTING AND PAYROLL:				
FROM:				
General Fund	\$171,300			\$ 171,300
B. COMPUTER CENTER:				
FROM:				
Data Processing Services Fund	\$226,900	\$773,100		\$1,000,000
C. BOARD OF EXAMINERS:				
FROM:				
General Fund			\$13,100	\$ 13,100
GRAND TOTAL	\$398,200	\$773,100	\$13,100	\$1,184,400

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 14, 1995.

CHAPTER 26
(H.B. No. 156)

AN ACT

RELATING TO AD VALOREM TAX POLICIES; AMENDING SECTION 33-802, IDAHO CODE, TO REDUCE MAXIMUM SCHOOL MAINTENANCE AND OPERATION LEVIES AND TO DELETE OBSOLETE REFERENCES; AMENDING CHAPTER 10, TITLE 33,

IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1002D, IDAHO CODE, TO PROVIDE A FORMULA FOR REPLACEMENT OF PROPERTY TAX FUNDS TO SCHOOL DISTRICTS, INCLUDING SPECIALLY CHARTERED DISTRICTS; AMENDING SECTION 63-3638, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF SALES TAX MONEYS FOR PROPERTY TAX REDUCTION AND TO PROVIDE A TECHNICAL CLARIFICATION REGARDING TAX ANTICIPATION NOTES; AMENDING CHAPTER 22, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2220A, IDAHO CODE, TO PROVIDE FOR LIMITATION ON BUDGET REQUESTS AND LIMITATION ON TAX CHARGES OF TAXING DISTRICTS FOR TAX YEARS COMMENCING IN 1995, WITH EXCEPTIONS; REPEALING SECTIONS 63-2224, 63-2224A, 63-2225 AND 63-2226, IDAHO CODE; AMENDING SECTION 63-919, IDAHO CODE, TO PROVIDE FOR THE AMOUNT OF THE VALUE ON THE OCCUPANCY TAX ROLL TO BE FURNISHED TO THE STATE TAX COMMISSION AND THE CLERK OF EACH TAXING UNIT; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION WITH EXCEPTIONS AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 33-802, Idaho Code, be, and the same is hereby amended to read as follows:

33-802. SCHOOL LEVIES. Any tax levied for school purposes shall be a lien on the property against which the tax is levied. The board of trustees shall determine the levies upon each dollar of taxable property in the district for the ensuing fiscal year as follows:

1. Bond, Interest and Judgment Obligation Levies. Such levies as shall be required to satisfy all maturing bond, bond interest, and judgment obligations, which levies shall be exempt from the limitation imposed by section 63-923(1), Idaho Code.

2. Maximum School Maintenance and Operation Levies. Such levies for maintaining and operating the schools of the district and for the payment of tuition and transportation, that do not exceed an amount equal to four-tenths of one percent (.4%) during tax year 1994, and do not exceed an amount equal to three-tenths of one percent (.3%) during tax year 1995 and thereafter, applied to the actual or adjusted market value for assessment purposes of the district as such valuation existed on December 31 of the previous year, but allowances necessary as a credit for prepaid taxes, as provided in section 63-1607, Idaho Code, shall not be included in such ~~four-tenths-of-one-percent--(.4%)~~ maximum levies.

3. Authorized School Maintenance and Operation Levies. Such levies for maintaining and operating the schools of the district and for the payment of tuition and transportation that do not exceed one hundred eleven percent (111%) of the local district's contribution authorized in subsection 2 of section 33-1002, Idaho Code. Implementation of the provisions of this subsection shall be authorized only after approval by a majority of the district's electors voting on the question; ~~if so authorized, all levies made thereafter under this subsection shall be exempt from the provisions of section 63-2220, Idaho Code.~~ Levies otherwise authorized by law shall not require an election.

4. Supplemental Maintenance and Operation Levies. No levy in

excess of the levy permitted by subsection 2 or 3 of this section shall be made by a noncharter school district unless such a supplemental levy in a specified amount and for a specified time not to exceed two (2) years be first authorized through an election held pursuant to chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election, which supplemental levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, ~~and from the provisions of section 63-2220, Idaho Code.~~ A levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees in the second year.

5. Charter District Supplemental Maintenance and Operation. ~~The privilege of a charter notwithstanding, all charter districts shall limit the ad valorem portion of the budget request for operating purposes to the limitation required by section 63-2220, Idaho Code, unless~~ Levies pursuant to the respective charter of any such charter district are shall be first authorized through an election held pursuant to chapter 4, title 33, Idaho Code, and approved by a majority of the district electors voting in such election. If so authorized, and if not in conflict with any provision of its charter, all levies made thereafter by such charter district in excess of the levies authorized in subsection 2 of this section shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, ~~and from the provisions of section 63-2220, Idaho Code.~~

6. ~~General School Maintenance and Operation Limitations. All noncharter school districts shall limit the budget request for operating purposes to the limitation required by section 63-2220, Idaho Code, subject to the provisions of this section.~~

7. The Local District Contribution. The local school district contribution levy is the amount utilized for calculating local district participation in the educational foundation program, which is applied to the adjusted market value for assessment purposes, as such valuation existed on December 31 of the previous year. The contribution levy and the authorized levy provided in subsection 3 of this section shall be exempt from the limitation imposed in section 63-923(1), Idaho Code, ~~and from the provisions of section 63-2220, Idaho Code.~~

8. The board of trustees of any school district that has, for at least seven (7) consecutive years, been authorized through an election held pursuant to chapter 4, title 33, Idaho Code, to certify a supplemental levy that has annually been equal to or greater than twenty percent (20%) of the total general maintenance and operation fund, may submit the question of an indefinite term supplemental levy to the electors of the school district. Such question shall clearly state the dollar amount that will be certified annually and that the levy will be for an indefinite number of years. The question must be approved by a majority of the district electors voting on the question in an election held pursuant to chapter 4, title 33, Idaho Code, which supplemental levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, ~~and from the provisions of section 63-2220, Idaho Code.~~ The levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees during any fiscal year.

SECTION 2. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1002D, Idaho Code, and to read as follows:

33-1002D. PROPERTY TAX REPLACEMENT. The purpose of this section is to replace a portion of the authorized school maintenance and operation property tax levy with state sales tax receipts. As used in this section, the term "property tax computation ratio" shall mean a ratio determined by dividing the district's certified property tax maintenance and operation budget by the actual or adjusted market value for assessment purposes as such values existed on December 31 of the previous calendar year.

(1) (a) In the case of a school district that had a property tax computation ratio of not less than four-tenths of one percent (.4%) in tax year 1994, that school district shall receive from the sales tax receipts transferred as provided in section 63-3638, Idaho Code, an amount equal to the greater of the district's actual or adjusted market value for assessment purposes as such valuation existed on December 31 of the previous calendar year multiplied by one-tenth of one percent (.1%).

(b) In the case of a school district that had a property tax computation ratio of less than four-tenths of one percent (.4%) in tax year 1994, the greater of the 1992, 1993 or 1994 property tax computation ratio less three-tenths of one percent (.3%) shall be designated the district's base multiplier. In no case shall the base multiplier be less than zero (0). Four-tenths of one percent (.4%) less the greater of the district's 1992, 1993 or 1994 property tax computation ratio shall be designated the district's adjustment factor. In no case shall the adjustment factor be greater than one-tenth of one percent (.1%) or less than zero (0). Each school district's actual multiplier shall be the base multiplier plus one-fifth (1/5) of the adjustment factor in tax year 1995, the base multiplier plus two-fifths (2/5) of the adjustment factor in tax year 1996, the base multiplier plus three-fifths (3/5) of the adjustment factor in tax year 1997, the base multiplier plus four-fifths (4/5) of the adjustment factor in tax year 1998, and the base multiplier plus the adjustment factor in tax year 1999 and beyond. Each school district shall receive, from the sales tax receipts transferred as provided in section 63-3638, Idaho Code, an amount equal to the district's actual or adjusted market value for assessment purposes as such valuation existed on December 31 of the previous calendar year multiplied by the district's actual multiplier.

(2) (a) Participation in this property tax reduction program is voluntary for a charter district. If a charter district participates, in addition to the provisions of subsection (1) of this section it shall not have a property tax computation ratio that is above three-tenths of one percent (.3%) or the district's property tax computation ratio in tax year 1994, less one-tenth of one percent (.1%), whichever is greater.

(b) If in any year the charter district's property tax computation ratio used to calculate its maintenance and operation budget

is increased above the limit specified in this subsection the district shall not be eligible for the distribution pursuant to subsection (1) of this section for that year.

(3) Limitations imposed upon a school district's property tax computation ratio under the provisions of this section do not apply to any levy approved by electors of the school district as provided by law.

(4) Distributions calculated as provided in this section shall be made to school districts of this state in two (2) equal installments on the due dates as specified in section 63-1102, Idaho Code, for the property taxes being replaced.

(5) For purposes of section 33-1002, Idaho Code, moneys distributed pursuant to this section shall not be included in determining total state funds.

SECTION 3. 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, except as may otherwise be required in section 63-3203, Idaho Code, 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.

(3) An amount required by the provisions of section 33-1002D, Idaho Code.

(e) Six per cent (6%) 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 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.

SECTION 4. That Chapter 22, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-2220A, Idaho Code, and to read as follows:

63-2220A. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsection (2) of this section for tax year 1995, and each year thereafter, no taxing district shall certify a budget request to finance the ad valorem portion of its annual budget that exceeds the greater of:

(a) The dollar amount of ad valorem taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, which amount may be increased by a growth factor of not to exceed three percent (3%)

plus the amount of revenue that would have been generated by applying the levy of the previous year, not including any levy for voter approved bonds, override levies, supplemental levies, plant facilities reserve fund levies or school emergency fund levies, to any increase in market value subject to taxation resulting from new construction as evidenced by the value of either: (i) property subject to the occupancy tax pursuant to chapter 39, title 63, Idaho Code, for the preceding tax year; or (ii) new construction based upon a quantitative formula approved by the state tax commission which uses the value of building permits for the preceding year; and by the value of annexation during the previous calendar year, as certified by the county assessor;

(b) The dollar amount of ad valorem taxes certified for its annual budget during the last year in which a levy was made; or

(c) The dollar amount of the actual budget request, if the taxing district is newly created; or

(d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code; or

(e) In the case of a nonschool district for which no increase in the dollar amount of ad valorem taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed.

(2) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(3) The amount of ad valorem tax revenues to finance an annual budget does not include revenues from non-ad valorem tax sources, and does not include revenue from levies that are voter approved for bonds, override levies or supplemental levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to chapter 39, title 63, Idaho Code, for the preceding tax year and does not include plant facility reserve fund levies or school emergency fund levies.

SECTION 5. That Sections 63-2224, 63-2224A, 63-2225 and 63-2226, Idaho Code, be, and the same are hereby repealed.

SECTION 6. That Section 63-919, Idaho Code, be, and the same is hereby amended to read as follows:

63-919. MUNICIPAL TAXES -- CERTIFICATION OF VALUATION. (1) Between the first Monday of January and the fourth Monday of January of the current year the county auditor must certify to the governing

authorities of every city, school district, or any other district or municipality to which is delegated by law the power to levy taxes, the state tax commission, and the state board of education, the total assessed valuation of all the taxable property situated within such districts for the preceding calendar year, for the purpose of assisting such governing authorities in their determination of tax rates to be levied for the current year and other informational purposes.

(2) Prior to the first Monday in August the auditor of each county in the state shall notify the state tax commission and the clerk of each taxing unit in his county of the assessed valuation for taxing purposes of that taxing district from the real and first personal property rolls for the current year, and subsequent and operating property rolls and the amount of value on the occupancy tax roll for the previous year. The auditor shall furnish the valuation from the current operating property roll upon receipt from the state tax commission.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 4, 5 and 6 of this act shall be in full force and effect on and after passage and approval and retroactively to January 1, 1995, except for cities which levy property tax for the current budget year, for which Section 4 shall be in full force and effect on and after January 1, 1996. Section 3 of this act shall be in full force and effect on and after July 1, 1995.

Approved February 16, 1995.

CHAPTER 27
(H.B. No. 6)

AN ACT

RELATING TO THE IDAHO STATE BOARD OF PODIATRISTS; AMENDING SECTION 54-606, IDAHO CODE, TO PERMIT THE BOARD TO CHARGE AN EXAMINATION FEE EQUAL TO THAT CHARGED BY THE NATIONAL EXAMINING ENTITY AND TO INCLUDE AN ADDITIONAL TWENTY-FIVE DOLLAR ADMINISTRATION FEE.

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

SECTION 1. That Section 54-606, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

Except as herein otherwise provided, each applicant shall be examined by the board to determine his knowledge of the subjects taught in reputable schools of podiatry, and which examinations shall include the following subjects: Anatomy, histology, pathology, bacteriology, physiology, surgery, roentgenology, podiatric medicine, chemistry, dermatology, materia medica, diagnosis, therapeutics, clinical and orthopedic podiatry, limited in scope to podiatry. Additional subjects may be prescribed from time to time by the board. Examinations may be written, oral and practical in nature.

The board shall also collect a separate fee from all applicants for examination. The examination fee shall equal that charged by the national examining entity, together with an additional twenty-five dollar (\$25.00) administration fee.

No applicant shall be granted a license who shall fail to obtain a satisfactory score as established by the board on all the subjects examined upon. Should any applicant fail on such examination and by reason thereof be refused a license, he shall be entitled within six (6) months of such refusal to a re-examination upon payment of an additional fee as established by board rule not to exceed four hundred dollars (\$400) to the board; provided, however, that two (2) such re-examinations shall exhaust his privilege under his original application.

Approved February 16, 1995.

CHAPTER 28
(H.B. No. 58)

AN ACT

RELATING TO REGISTRATION OF BIRTHS AND DEATHS; AMENDING SECTION 39-255, IDAHO CODE, TO AUTHORIZE FILING OF BIRTH CERTIFICATES AS DIRECTED BY THE STATE REGISTRAR; AND AMENDING SECTION 39-260, IDAHO CODE, TO AUTHORIZE FILING OF DEATH CERTIFICATES AS DIRECTED BY THE STATE REGISTRAR AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 39-255, Idaho Code, be, and the same is hereby amended to read as follows:

39-255. REGISTRATION OF BIRTHS. A certificate of each birth which occurs in this state shall be filed with the local registrar of the district in which the birth occurs, or as otherwise directed by the state registrar, within fifteen (15) days of the date of birth. No certificate shall be deemed complete until every item of information required shall have been provided or its omission satisfactorily

accounted for.

(a) When a birth occurs in an institution or en route thereto, the person in charge of the institution or a designated representative shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate within fifteen (15) days of the date of birth. The physician or other person in attendance shall provide the medical information required by the certificate and certify to the facts of birth. When the physician, or other person in attendance, is physically unable to certify to the facts of birth within the time prescribed in this section, the person in charge of the institution may complete and sign the certificate.

(b) When a birth occurs outside an institution, the certificate shall be prepared and filed by:

(1) The physician or other person in attendance at or immediately after such birth; or

(2) When no physician or other person is present at or immediately after such birth: the father, or in the event of the death, disability or absence of the father, the mother; or in the event of the death or disability of the mother, the householder or owner of the premises where the birth occurred.

(c) The father, mother or guardian shall verify the facts entered on the certificate by their signature.

(d) When a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in this state, the birth shall be registered in this state and the place where the child is first removed shall be considered the place of birth. When a birth occurs on a moving conveyance while in international air space or in a foreign country or its air space and the child is first removed from the conveyance in this state, the birth shall be registered in this state, but the certificate shall show the actual place of birth insofar as can be determined.

(e) (1) If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child, unless paternity has been determined otherwise by a court of competent jurisdiction.

(2) If the mother was not married at the time of either conception or birth, or between conception and birth, the name of the father shall not be entered on the certificate without the written notarized consent of the mother and the person to be named as the father, in which case, upon written notarized request of both parents, the surname of the child shall be entered on the certificate as that of the father.

(3) In any case in which paternity of a child is determined by a court of competent jurisdiction, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(4) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

SECTION 2. That Section 39-260, Idaho Code, be, and the same is hereby amended to read as follows:

39-260. REGISTRATION OF DEATHS AND STILLBIRTHS. (a) A certificate of each death which occurs in this state shall be filed with the local registrar of the district in which the death occurs, or as otherwise directed by the state registrar, within five (5) days after the occurrence. However, the board shall, by regulation rule and upon such conditions as it may prescribe to assure compliance with the purposes of the vital statistics act, provide for the filing of death certificate without medical certifications of cause of death in cases in which compliance with the applicable prescribed period would result in undue hardship; but provided, however, that medical certifications of cause of death shall be provided by the certifying physician or coroner to the vital statistics unit within fifteen (15) days from the filing of the death certificate. No certificate shall be deemed complete until every item of information required shall have been provided or its omission satisfactorily accounted for. When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where the body is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international air space or in a foreign country or its air space and the body is first removed from the conveyance in this state, the death shall be registered in this state but the certificate shall show the actual place of death insofar as can be determined. If the place of death is unknown but the dead body is found in this state, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation.

The person in charge of interment or of removal of the body from the district shall be responsible for obtaining and filing the certificate. Said person shall obtain the required information from the following persons, over their respective signatures:

(1) Personal data shall be supplied by the person best qualified to supply them; and

(2) Except as otherwise provided, medical data shall be supplied by the physician who attended the deceased during the last illness, who shall certify to the cause of death according to his best knowledge, information and belief within seventy-two (72) hours from time of death. In the absence of the attending physician or with said physician's approval the certificate may be completed and signed by said physician's associate physician, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, provided such individual has access to the medical history of the case, views the deceased at or after death, and death is due to natural causes.

(b) The person in charge of interment or of removal of the body from the district shall refer the following cases to the coroner who shall make an immediate investigation, supply the necessary medical data, and certify to the cause of death:

(1) When no physician was in attendance during the last illness of the deceased; or

(2) When the circumstances suggest that the death occurred as a

result of other than natural causes.

(c) When a death is presumed to have occurred within this state but the body cannot be located, a death certificate may be prepared by the state registrar upon receipt of an order of a court of record of this state, which shall include the finding of facts required to complete the death certificate. Such a death certificate shall be marked "presumptive" and shall show on its face the date of registration and shall identify the court and the date of decree.

(d) Each stillbirth, defined as a spontaneous fetal death of twenty (20) completed weeks gestation or more, calculated from the date the last normal menstrual period began to the date of delivery, or a weight of three hundred fifty (350) grams (twelve and thirty-five hundredths (12.35) ounces) or more, which occurs in this state shall be registered on a certificate of stillbirth within five (5) days after delivery with the local registrar of the district in which the stillbirth occurred. All induced terminations of pregnancy shall be reported in the manner prescribed in section 39-261, Idaho Code, and shall not be reported as stillbirths. No certificate shall be deemed complete until every item of information required shall have been provided or its omission satisfactorily accounted for.

(1) When a stillbirth occurs in an institution, the person in charge of the institution or a designated representative shall prepare the certificate, obtain the signature of the physician in attendance (except as otherwise provided in section 39-260(e), Idaho Code), who shall provide the medical data, and forward the certificate to the mortician or person acting as such. In the absence of the attending physician or with said physician's approval the certificate may be completed and signed by said physician's associate physician, the chief medical officer of the institution in which the stillbirth occurred, or the physician who performed an autopsy on the stillborn fetus, provided such individual has access to the medical history of the case and views the fetus at or after stillbirth. The mortician or person acting as such shall provide the disposition information and file the certificate with the local registrar.

(2) When a stillbirth occurs outside an institution, the mortician or person acting as such shall complete the certificate, obtain the medical data from and signature of the attendant at the stillbirth (except as otherwise provided in section 39-260(e), Idaho Code), and file the certificate. If the attendant at or immediately after the stillbirth is not a physician, the coroner shall investigate and sign the certificate of stillbirth.

(3) When a stillbirth occurs in a moving conveyance in the United States and the stillborn fetus is first removed from the conveyance in this state, the stillbirth shall be registered in this state and the place where the stillborn fetus is first removed shall be considered the place of stillbirth. When a stillbirth occurs in a moving conveyance while in international air space or in a foreign country or its air space and the stillborn fetus is first removed from the conveyance in this state, the stillbirth shall be registered in this state but the certificate shall show the actual place of stillbirth insofar as can be determined.

(4) When a stillborn fetus is found in this state and the place

of stillbirth is unknown, it shall be reported in this state. The place where the stillborn fetus was found shall be considered the place of stillbirth.

(5) The name of the father shall be entered on the certificate of stillbirth as provided by section 39-255, Idaho Code.

(e) When the circumstances suggest that the stillbirth occurred as a result of other than natural causes (excepting legally induced abortions, as defined by section 39-241, Idaho Code), the local registrar shall refer the case to the coroner in the county where the stillbirth occurred. Said coroner shall make an immediate investigation, supply the necessary medical data, and certify to the cause of stillbirth.

Approved February 16, 1995.

CHAPTER 29
(H.B. No. 69)

AN ACT

RELATING TO CRIMINAL IDENTIFICATION AND STATISTICS; AMENDING SECTION 19-4812, IDAHO CODE, TO ESTABLISH A FEE FOR THE PROCESSING OF FINGERPRINTS.

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

SECTION 1. That Section 19-4812, Idaho Code, be, and the same is hereby amended to read as follows:

19-4812. CRIMINAL IDENTIFICATION, RECORDS AND STATISTICS. (1) Definitions as used in this section and section 19-4813, Idaho Code:

(a) "Bureau" means the criminal identification, records and communications bureau in the department of law enforcement of the state of Idaho.

(b) "Law enforcement agency" means a governmental unit of one or more persons employed full time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(c) "Offense" means an act which is a felony or a misdemeanor.

(2) The bureau shall:

(a) Obtain and file fingerprints, descriptions, photographs and any other available identifying data on persons who have been arrested, taken into custody or served a criminal summons, in this state:

1. for an offense which is a felony;

2. for an offense which is a misdemeanor involving burglary tools, commercial gambling, dealing in gambling devices, contributing to the delinquency of a child, dealing in stolen property, controlled substances, firearms, dangerous weapons, explosives, pandering, prostitution, sex offenses where chil-

- dren are victims, or worthless checks;
3. for an offense charged as disorderly conduct but which relates to an act connected with one or more of the offenses under subdivision 2;
 4. as a fugitive from justice;
 5. for any other offense designated by the director of the bureau.
- (b) Accept for filing fingerprints and other identifying data, taken at the discretion of the law enforcement agency involved, on persons arrested, taken into custody or served a criminal summons for offenses other than those listed in paragraph (a).
- (c) Obtain and file fingerprints and other available identifying data on unidentified human corpses found in this state.
- (d) Obtain and file information relating to identifiable stolen or lost property.
- (e) Obtain and file a copy or detailed description of each arrest warrant issued in this state in which the law enforcement agency desires the return of the person described in said warrant but which is not served because the whereabouts of the person named on the warrant is unknown or because that person has left the state. All available identifying data shall be obtained with the copy of the warrant, including any information indicating that the person named on the warrant may be armed, dangerous or possessed of suicidal tendencies.
- (f) Collect information concerning the number and nature of all offenses designated by the director of the bureau, including, but not limited to, Part I and Part II offenses as defined by the federal bureau of investigation under its system of uniform crime reports for the United States which are known to have been committed in this state, the legal action taken in connection with such offenses from the inception of the complaint to the final discharge of the defendant and such other information as may be useful in the study of crime and the administration of justice. The director of the bureau may determine any other information to be obtained regarding crime statistics. However, the information shall include such data as may be requested by the federal bureau of investigation under its system of uniform crime reports for the United States.
- (g) Furnish all reporting officials with forms and instructions which specify in detail the nature of the information required under paragraphs (a) to (f), inclusive, the time it is to be forwarded, the method of classifying and such other matters as shall facilitate collection and compilation.
- (h) Cooperate with and assist all law enforcement agencies in the state in the establishment of a state system of criminal identification and in obtaining fingerprints and other identifying data on all persons described in paragraphs (a), (b) and (c).
- (i) Offer assistance and, when practicable, instructions to all local law enforcement agencies in establishing efficient local bureaus of identification and records systems.
- (j) Compare the fingerprints and descriptions that are received from law enforcement agencies with the fingerprints and the descriptions already on file and, if the person arrested or taken

into custody is a fugitive from justice or has a criminal record, immediately notify the law enforcement agencies concerned and supply copies of the criminal records to these agencies.

(k) Make available all statistical information obtained to the governor and the legislature.

(l) Prepare and publish reports and releases at least once a year and no later than July 1, containing the statistical information gathered under this section and presenting an accurate picture of crime in this state and of the operation of the agencies of criminal justice.

(m) Make available upon request, to all local and state law enforcement agencies in this state, to all federal law enforcement and criminal identification agencies, and to state law enforcement and criminal identification agencies in other states, any information in the files of the bureau which aid these agencies in the performance of their official duties. For this purpose the bureau shall operate on a twenty-four (24) hour a day basis, seven (7) days a week. Such information may also be made available to any other agency of this state or political subdivision thereof, and to any other federal agency as authorized, and upon assurance by the agency concerned that the information is to be used for official purposes only.

(n) Cooperate with other agencies of this state, the criminal justice agencies of other states, and the uniform crime reports and the national crime information center systems of the federal bureau of investigation in developing and conducting an interstate, national and international system of criminal identification, records and statistics.

(o) Permit any individual upon completion of satisfactory fingerprint identification to review all criminal history record information pertaining to that individual contained within the files of the criminal identification bureau.

(3) The department of law enforcement may establish, by rule, and collect fees for processing a request for fingerprint identification and/or record review that is for other than law enforcement purposes. The department may also collect and account for fees charged by the federal bureau of investigation for processing fingerprints forwarded to the federal bureau of investigation by the department.

Approved February 16, 1995.

CHAPTER 30
(H.B. No. 108)

AN ACT

RELATING TO RESIDENCE REQUIREMENTS OF EXECUTIVE OFFICERS; REPEALING SECTION 59-103, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 59-103, 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 February 16, 1995.

CHAPTER 31
(H.B. No. 75)

AN ACT

RELATING TO BIRTH CERTIFICATES; AMENDING SECTION 39-257, IDAHO CODE, TO PROVIDE FOR A SIMPLIFIED FORM FOR USE BY THE STATE REGISTRAR IN CHANGING A BIRTH CERTIFICATE UPON AN IDAHO COURT'S DETERMINATION OF A CHILD'S PATERNITY.

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

SECTION 1. That Section 39-257, Idaho Code, be, and the same is hereby amended to read as follows:

39-257. MARRIAGE OF NATURAL PARENTS OF PERSON BORN IN IDAHO -- JUDICIAL DETERMINATION OF PARENTAGE OF PERSON BORN IN IDAHO -- NEW BIRTH CERTIFICATES -- PROCEDURE. When a person born in Idaho has been legitimated by the subsequent marriage of said person's natural parents and immediately assumes or is assigned a name other than is shown on the recorded birth certificate, the birth certificate of such person may be replaced by a new and conventional certificate (prepared and filed by the state registrar), reflecting the name so assumed or assigned, upon proper application therefor filed by such legitimated person or the parents or one of them, but no one else. Such application shall be in writing and shall be accompanied by a copy of the relevant marriage certificate (if there was one issued and regardless of where it was issued), certified by the issuer or recorder of the same, and, in any event, an affidavit of each of the spouses, factually indicating such parentage, the time and place of the marriage, the identity of the child concerned and the child named in the original birth certificate and giving the assumed or assigned name of the child, which instruments shall be filed of record along with the old birth certificate, but separate from any replacement issued hereunder (which shall be filed separately).

When a person born in Idaho has had said person's natural parentage finally determined by a court of competent jurisdiction, ~~in this or any other state of the United States~~ an Idaho court, the court shall require the preparation of a report of paternity on a form prescribed and furnished by the state registrar. The report shall include such facts as necessary to complete the amended birth certificate and be certified by the clerk of the court. If a court of some other state issued a decree or report of paternity, the state registrar may prepare and file a new and conventional birth certificate for that person, reflecting the name(s) of the parent(s) and the child's new name, if applicable, upon application made by that person or either or both

of the persons adjudged to be the natural parent(s), or that person's guardian, but no one else. This application shall be accompanied by a certified copy of the court decree in question and an affidavit of one (1) person factually indicating that the decree involves the same person that the original birth certificate involved. These instruments shall be filed of record along with the old birth certificate, but separate from any replacement issued hereunder (which shall be filed separately).

It shall be the duty of each clerk of court in the state of Idaho to file with the state registrar certified copies of each final decree of paternity determination made by that court within fifteen (15) days after each of such decrees becomes final. Such certified copies of such decrees and all other instruments mentioned in this section, except any replacement certificate, are confidential and shall not be revealed to any person other than the registrant, if of age, the parents or the duly appointed legal representative of any of them, or upon court order issued in the interest of justice.

Approved February 20, 1995.

CHAPTER 32
(H.B. No. 12)

AN ACT

RELATING TO THE STATE PURE SEED LAW; AMENDING SECTION 22-435, IDAHO CODE, TO PROVIDE REPRESENTATION FOR THE OIL CROP COMMODITY ON THE STATE SEED ADVISORY BOARD AND TO PROVIDE A TERM OF THREE YEARS FOR THE GROWER REPRESENTATIVE MEMBER OF THE BOARD.

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

SECTION 1. That Section 22-435, Idaho Code, be, and the same is hereby amended to read as follows:

22-435. STATE SEED ADVISORY BOARD. (1) In order to maintain close contact between the department and the seed industry, there is hereby created a state seed laboratory advisory board which shall consist of ~~seven--(7)~~ eight (8) official members and ~~seven--(7)~~ eight (8) ex officio alternates appointed by the director of the department of agriculture from a list provided by the Idaho seed council. The Idaho seed council will nominate a member and an alternate for each vacancy on the advisory board to represent the following seed commodities:

- (a) Cereal grains
- (b) Grasses - turf
- (c) Grasses - forage
- (d) Small seeded legumes
- (e) Corn and small seeded vegetables
- (f) Garden beans
- (g) Field beans
- (h) Oil crops.

The executive secretary of the Idaho crop improvement association

shall serve as a permanent ~~eighth~~ ninth official member of the board. Additionally, without the need for any nominations, the director shall appoint one (1) grower member who shall serve as the ~~ninth~~ tenth official member of the board and serve a three (3) year term.

(2) The members first appointed shall determine by lot the length of their terms: Four (4) to serve for three (3) years, and ~~three-(3)~~ four (4) to serve for two (2) years, each term beginning July 1, 1989. A member and his alternate shall serve the same length of term. Vacancies in office shall be filled by an alternate for the unexpired term.

(3) Official members or an alternate present in the absence of his respective representative will have the right to vote. A member and his respective alternate are not to work for the same employer.

(4) Members or alternates of the board shall be compensated as provided in section 59-509(a), Idaho Code.

(5) The functions of the board shall be to advise and counsel with the department in the administration of the provisions of sections 22-414 through 22-436, Idaho Code.

(6) The board shall meet at the call of the chairman or the director of the Idaho department of agriculture or his designee. A majority of the members present at any meeting shall constitute a quorum, and a majority vote of the quorum at any meeting shall constitute an official act of the board.

(7) At the first meeting after July 1, in each year, the board shall select a chairman. The director of the Idaho department of agriculture and the bureau chief of the Idaho state seed laboratory in the department of agriculture or their representatives, shall be ex officio members without the right to vote.

Approved February 20, 1995.

CHAPTER 33
(H.B. No. 15)

AN ACT

RELATING TO ANIMAL DISEASE CONTROL; AMENDING SECTION 25-232, IDAHO CODE, TO INCREASE THE LIVESTOCK DISEASE CONTROL FEE FROM EIGHTEEN CENTS PER HEAD TO TWENTY-TWO CENTS PER HEAD.

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

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

25-232. DISEASE AND ANIMAL DAMAGE CONTROL TAX LEVY AND FEES ON CATTLE, HORSES, AND MULES. (a) There is hereby imposed upon cattle, horses, and mules in the state of Idaho a fee of ~~eighteen~~ twenty-two cents (~~±822¢~~) per head. Said fee shall be collected at the time of every brand inspection when a charge for brand inspection is made as required by law. Such fee when collected shall be paid by the person paying the charge for brand inspection and shall be used by the Idaho department of agriculture for livestock disease control. The state

brand inspector shall collect said fees in addition to, at the same time and in the same manner as the fee collected for brand inspection. The fees so collected shall be deposited as provided in section 25-233, Idaho Code.

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

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

Approved February 20, 1995.

CHAPTER 34
(H.B. No. 37)

AN ACT

RELATING TO THE BOARD OF CORRECTION; AMENDING SECTION 20-101C, IDAHO CODE, TO PROVIDE FOR A FURLOUGH OF PRISONERS FOR PURPOSES OF DIAGNOSIS OR TREATMENT OF A SERIOUS ILLNESS OR INJURY, TO PROVIDE FOR WAIVER OF THE SEVENTY-TWO HOUR LEAVE RESTRICTION AND THE SIX MONTHS AT MINIMUM CUSTODY STANDARD FOR PRISONER FURLOUGH FOR MEDICAL DIAGNOSIS OR TREATMENT.

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

SECTION 1. That Section 20-101C, Idaho Code, be, and the same is hereby amended to read as follows:

20-101C. FURLOUGH -- CONDITIONS -- FAILURE TO RETURN -- SPECIFICALLY AUTHORIZED FOR FUNERALS AND ACCIDENT OR ILLNESS. The state board of correction or its designee shall, in its discretion have the power to establish rules and regulations under which an inmate may be privileged to furlough but to remain while on such leave in the legal custody and under the control of the state board of correction.

Before authorizing the furlough of an eligible inmate, the board of correction or its designee shall have said inmate appear before

such board or designee and shall interview said inmate. An inmate shall be placed on furlough only when there has been made:

(1) an administrative verification of the reason for which the inmate requests furlough;

(2) arrangements for supervision, maintenance and care while on furlough;

(3) verification that travel arrangements directly to and from the place of destination, with all expenses paid by the inmate or his family; provided however, that in the case of an indigent inmate, said expenses may be satisfied from the inmate welfare fund;

(4) a determination of the leave duration, provided, however, that such leave may not exceed seventy-two (72) hours except in the case of a medical furlough for the purpose of diagnosis or treatment of a serious illness or injury;

(5) provision for signing a waiver of extradition;

(6) a determination and establishment in writing of any and all other conditions, terms and incidents requisite to such furlough;

(7) there are no detainers against said inmate; and

(8) said inmate has been classified to minimum custody for a minimum of six (6) months immediately prior to the granting of said furlough and has been recognized for meritorious performance by the board of correction or its delegated authority while so classified to minimum custody, except in the case of a medical furlough for diagnosis or treatment of a serious illness or injury. Medical furlough inmates may be classified to minimum custody for less than a six (6) month period and need not be recognized for meritorious performance.

Condition (8) need not be met when the inmate has been classified to minimum custody and has been released to one of the department of corrections's community work centers.

The voluntary and wilful failure of any inmate to abide by the terms of said furlough or to return to the state penitentiary prior to or at the expiration of the time allowed for such furlough shall be considered an escape or attempt to escape, as the case may be, from the custody of the state board of correction and shall be punishable pursuant to section 18-2505, Idaho Code.

Furlough is authorized for diagnosis or treatment of a serious illness or injury, funerals, serious illness or accidents of the immediate family of the inmate, family visitation, to seek employment, and such other purposes that contribute to and promote a transition from confinement to the free society.

Immediate family is defined as a mother or father, brothers, or sisters, of the whole or halfblood, a wife or husband, or lawful issue.

The board of correction or its designee shall notify local law enforcement officials in the county where the inmate is to be furloughed a reasonable time prior to placing said inmate on furlough. Such notice shall be in writing, provided, however, that such notice may be oral if exigencies require it. Due consideration will be given to the law enforcement decision.

Approved February 21, 1995.

CHAPTER 35
(H.B. No. 28)

AN ACT

APPROPRIATING THREE HUNDRED THOUSAND DOLLARS OR SUCH LESSER AMOUNT THEREOF AS MAY BECOME AVAILABLE FROM THE FUNDS MADE AVAILABLE TO THE DEPARTMENT OF EMPLOYMENT OF THE STATE OF IDAHO PURSUANT TO SECTION 903 OF THE SOCIAL SECURITY ACT, AS AMENDED, FOR THE PURCHASE OF REAL AND PERSONAL PROPERTY, FOR THE CONSTRUCTION OF OFFICE BUILDINGS FOR USE BY THE DEPARTMENT OF EMPLOYMENT, AND FOR REPAIRING, REMODELING AND MAINTAINING OFFICE BUILDINGS FOR USE OF THE DEPARTMENT OF EMPLOYMENT; AND PROVIDING THAT NO PART OF THE MONEY APPROPRIATED SHALL BE OBLIGATED AFTER THE EXPIRATION OF THE TWO-YEAR PERIOD BEGINNING WITH THE FIRST DAY OF JULY, 1995.

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

SECTION 1. There is hereby appropriated out of the funds made available to the Department of Employment of the State of Idaho, pursuant to Section 903 of the Social Security Act, as amended, the sum of \$300,000 or such lesser amount thereof as may become available as this state's share of funds allocated under the provisions of said Section 903 of the Social Security Act, as amended, to be used for the purpose of the purchase of real and personal property, the construction of office buildings for use by the Department of Employment, and for repairing, remodeling and maintaining office buildings used by the Department of Employment of the State of Idaho, as authorized by and subject to the limitations of Section 72-1346(e), Idaho Code, and Section 72-1348(d), Idaho Code.

SECTION 2. No part of the money hereby appropriated shall be obligated after the expiration of the two-year period beginning with the first day of July, 1995.

Approved February 22, 1995.

CHAPTER 36
(H.B. No. 169)

AN ACT

REDUCING THE APPROPRIATION FOR THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 1995; AND DECLARING AN EMERGENCY.

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

SECTION 1. The appropriation to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service Program made in Section 1, Chapter 225, Laws of 1994, is hereby reduced by the following amount from the designated fund and

standard classification for the period July 1, 1994, through June 30, 1995:

FOR:	
Personnel Costs	\$735,900
FROM:	
General Fund	\$735,900

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 23, 1995.

CHAPTER 37
(S.B. No. 1091)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 1995; APPROPRIATING MONEYS TO THE DIVISION OF WELFARE IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 337, LAWS OF 1994; APPROPRIATING MONEYS TO THE DIVISION OF FAMILY AND CHILDREN'S SERVICES IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 439, LAWS OF 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 337, Laws of 1994, there is hereby appropriated to the Department of Health and Welfare for the Division of Welfare, the following amounts to be expended for the designated programs from the designated funds and standard classifications for the period July 1, 1994, through June 30, 1995:

I. DIVISION OF WELFARE:

A. MEDICAL ASSISTANCE PAYMENTS:

FOR:	
Operating Expenditures	\$ 351,300
FROM:	
General Fund	\$ 35,100
Cooperative Welfare Fund (Federal)	<u>316,200</u>
TOTAL	\$ 351,300

B. ADULT AND ADC ASSISTANCE PAYMENTS:

FOR:	
Trustee and Benefit Payments	\$1,484,000
FROM:	
General Fund	\$1,484,000

SECTION 2. In addition to the appropriation made in Section 1, Chapter 439, Laws of 1994, there is hereby appropriated to the Department of Health and Welfare for the Division of Family and Children's Services the following amount to be expended for the designated program from the designated funds and standard classifications for the

period July 1, 1994, through June 30, 1995:
 I. DIVISION OF FAMILY AND CHILDREN'S SERVICES:
 A. FAMILY SELF-SUPPORT:

FOR:

Operating Expenditures	\$ 329,000
Trustee and Benefit Payments	<u>3,510,500</u>
TOTAL	<u>\$3,839,500</u>

FROM:

General Fund	\$3,473,700
Cooperative Welfare Fund (Federal)	267,300
Cooperative Welfare Fund (Other)	<u>98,500</u>
TOTAL	<u>\$3,839,500</u>

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 24, 1995.

CHAPTER 38
 (S.B. No. 1090)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF THE GOVERNOR; AMENDING SECTION 1, CHAPTER 384, LAWS OF 1994; PROVIDING THAT \$600 SHALL BE TRANSFERRED TO THE HAZARDOUS SUBSTANCE EMERGENCY RESPONSE FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 384, Laws of 1994, 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, 1994, through June 30, 1995:

	FOR				
	FOR . PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. GOVERNOR'S OFFICE ADMINISTRATION:					
FROM:					
General					
Fund	\$ 874,300	\$ 271,400			\$1,145,700
*II. GOVERNOR'S RESIDENCE:					
FROM:					
General Fund		\$ 10,000			\$ 10,000
		<u>22,000</u>			<u>22,000*</u>

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. GOVERNOR'S EXPENSE ALLOWANCE:					
To be expended pursuant to Section 67-808d, Idaho Code:					
FROM:					
General Fund		\$ 8,200			\$ 8,200
IV. SOCIAL SERVICES:					
FROM:					
Federal Grant					
Fund	\$ 5,900	\$ 5,100		\$ 96,800	\$ 107,800
V. JUVENILE JUSTICE AND DELINQUENCY PREVENTION:					
FROM:					
General					
Fund	\$ 60,800	\$ 8,400			\$ 69,200
Federal Grant					
Fund	36,100	93,200		\$254,300	383,600
<u>Miscellaneous</u>					
<u>Revenue</u>					
Fund				<u>150,000</u>	<u>150,000</u>
TOTAL	\$ 96,900	\$ 101,600		<u>\$254,300</u>	\$ <u>452,800</u>
				<u>404,300</u>	<u>602,800</u>
VI. EARLY CHILDHOOD:					
FROM:					
General					
Fund		\$ 103,000			\$ 103,000
		<u>1,700</u>			<u>1,700</u>
Federal Grant					
Fund	\$ 85,500	279,300		\$4,804,600	5,169,400
	<u>54,000</u>	<u>44,000</u>			<u>4,902,600</u>
<u>Miscellaneous</u>					
<u>Revenue</u>					
Fund	140,200	60,000		695,800	896,000
	<u>67,500</u>	<u>35,000</u>		<u>545,800</u>	<u>648,300</u>
TOTAL	\$ 225,700	\$ 442,300		<u>\$5,500,400</u>	\$6,168,400
	<u>121,500</u>	<u>80,700</u>		<u>5,350,400</u>	<u>5,552,600</u>
VII. ENERGY:					
FROM:					
Federal Grant					
Fund	\$ 13,800	\$ 17,900			\$ 31,700
VIII. STATE EMERGENCY RESPONSE COMMISSION:					
FROM:					
<u>General</u>					
Fund				\$ 600	\$ 600
<u>Water Pollution</u>					
<u>Control</u>					
Fund		\$ 3,300			\$ 3,300
<u>Hazardous Waste</u>					
<u>Training, Emergency</u>					
<u>and Monitoring</u>					
Fund	\$ 124,800	157,600	\$143,000		425,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>15,600</u>	<u>46,300</u>		<u>71,100</u>	<u>133,000</u>
TOTAL	\$ 140,400	\$ 207,200	\$143,000	\$ 71,100 <u>71,700</u>	\$ 561,700 <u>562,300</u>
IX. ACTING GOVERNOR PAY:					
FROM:					
General					
Fund	\$ 6,700				\$ 6,700
X. GOVERNOR-ELECT TRANSITION:					
FROM:					
General					
Fund	\$ 15,000				\$ 15,000
GRAND					
TOTAL	<u>\$1,378,700</u>	<u>\$1,063,700</u>	\$143,000	<u>\$5,922,600</u>	<u>\$8,508,000</u>
	<u>1,274,500</u>	<u>714,100</u>		<u>5,923,200</u>	<u>8,054,800</u>

SECTION 2. The State Controller shall transfer the \$600 of General Funds appropriated in Section 1 of this act, for the State Emergency Response Commission, to the Hazardous Substance Emergency Response Fund.

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 with line item vetoes February 23, 1995.

* The item in Section 1, Part II, was line item vetoed, as indicated.

CHAPTER 39
(S.B. No. 1008)

AN ACT
RELATING TO EVIDENCE; AMENDING SECTION 9-417, IDAHO CODE, TO PROVIDE THAT RECORDS RECORDED, COPIED OR REPRODUCED BY AN OPTICAL IMAGING PROCESS ARE ADMISSIBLE IN EVIDENCE AND TO PROVIDE THAT RECORDS HELD IN A CUSTODIAL OR FIDUCIARY CAPACITY MAY BE DESTROYED WITH THE PERMISSION OF THE PRINCIPAL OR TRUE OWNER UNLESS PRESERVATION IS REQUIRED BY LAW.

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

SECTION 1. That Section 9-417, Idaho Code, be, and the same is hereby amended to read as follows:

9-417. ADMISSIBILITY OF REPRODUCED RECORDS IN EVIDENCE. If any business, institution, or member of a profession or calling, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, optical imaging, photostatic, microfilm, micro-card, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity and the principal or true owner has not authorized destruction or unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile, does not preclude admission of the original.

Approved February 28, 1995.

CHAPTER 40
(S.B. No. 1032)

AN ACT

RELATING TO THE AUTHORITY OF THE IDAHO PARK AND RECREATION BOARD; AMENDING SECTION 67-4223, IDAHO CODE, TO PROVIDE THAT A VIOLATION OF RULES GOVERNING THE USE AND PROTECTION OF PARK AND RECREATION AREAS SUBJECT TO THE JURISDICTION OF THE BOARD IS AN INFRACTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-4223, Idaho Code, be, and the same is hereby amended to read as follows:

67-4223. POWERS OF BOARD. The park and recreation board shall:

(a) Adopt, amend or rescind rules ~~and regulations~~ as may be necessary for the proper administration of the provisions of sections 67-4218, et seq., Idaho Code, and the use and protection of park and recreational areas subject to its jurisdiction. A violation of any rule promulgated by the board pursuant to this provision which concerns the use and protection of park and recreation areas is an infraction.

(b) Make expenditures for the acquisition, care, control, supervision, improvement, development, extension and maintenance of all lands under the control of the department and to make arrangements, agreements, contracts or commitments, which may or may not involve expenditures or transfer of funds, with the head of any state institu-

tion, department or agency for the improvement or development of lands or properties under the control of the board, or any other department or agency of the state of Idaho.

(c) Appoint advisory, local and regional park and recreational councils, to consider, study and advise in the work of the department for the extension, development, use and maintenance of any areas which are to be considered as future park or recreational sites or which are designated as park recreational areas.

(d) Appoint a six (6) member recreational vehicle advisory committee, who shall be compensated as provided in section 59-509(f), Idaho Code, and act in an advisory capacity to the board on matters relating to the development and improvement of recreational vehicle related facilities and services as provided in subsection (e) of this section. Each member of the advisory committee shall be representative of recreational vehicle users with one (1) from each of the districts described in section 67-4221, Idaho Code. The terms of appointment shall be concurrent with the incumbent park and recreation board member from the respective districts.

(e) Administer the funds derived from the recreational vehicle account established in section 49-448, Idaho Code, to provide financial assistance in the form of grants to public entities for the acquisition, lease, development, improvement, operations and maintenance of facilities and services designed to promote the health, safety and enjoyment of recreational vehicle users. Up to fifteen percent (15%) of the recreational vehicle account generated each year may be used by the department to defray recreational vehicle program administrative costs. Any moneys unused at the end of the fiscal year shall be returned to the state treasurer for deposit in the recreational vehicle account.

(f) Cooperate with the United States and its agencies and local governments of the state for the purpose of acquiring, supervising, improving, developing, extending or maintaining lands which are designated as state parks, state monuments or state recreational areas and to secure agreements or contracts with the United States and its agencies or local governments of the state for the accomplishment of the purposes of sections 67-4218, et seq., Idaho Code.

(g) Construct, lease or otherwise establish public park or recreational privileges, facilities and conveniences and to operate said recreational services and to make and collect reasonable charges for their use or to enter into contracts for their operation. The net proceeds derived shall be credited to the park and recreation account established in section 67-4225, Idaho Code, and are hereby specifically appropriated to defray the cost of the public park or recreational services. The department is specifically authorized to enter into contracts with the United States and its agencies which require that the state expend any excess of revenue above expenses for improvements of the recreational or park area from which the excess was derived.

(h) Prepare, maintain and keep up-to-date a comprehensive plan for the development of the outdoor recreational resources of the state; to develop, operate and maintain outdoor recreational areas and facilities of the state, and to acquire lands, waters and interests in lands and waters for such areas and facilities.

(i) Apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program respecting outdoor recreation. It may enter into contracts and agreements with the United States or any appropriate agency thereof, keep financial and other records relating thereto and furnish to appropriate officials and agencies of the United States reports and information as may be reasonably necessary to enable officials and agencies to perform their duties under such programs. In connection with obtaining the benefits of any program, the park and recreation board shall coordinate its activities with and represent the interests of all agencies and subdivisions of the state having interests in the planning, development and maintenance of outdoor recreational resources and facilities.

(j) Obligate the state regarding the responsible management of any federal funds transferred to it for the purpose of any federal enactment and, in accordance with the exercise of this responsibility, the state hereby consents to be sued in any United States district court for the recovery of any federal funds that the responsible federal official, department or agency finds have been misused or disposed of contrary to the agreement with the federal official, department or agency or contrary to the provisions of federal enactment or applicable federal regulations.

(k) Cooperate and contract with and receive and expend aid, donations and matching funds from the government of the United States and to receive and expend donations from other sources to acquire, develop, operate and maintain outdoor recreational areas and facilities of the state and, when authorized or directed by any act of congress or any rule or regulation of any agency of the government of the United States, to expend funds donated or granted to the state of Idaho by the federal government for such purposes.

Provided, however, the park and recreation board shall make no commitment or enter into any agreement pursuant to an exercise of authority under sections 67-4218, et seq., Idaho Code, until it has determined that sufficient funds are available to it for meeting the state's share, if any, of project costs. It is legislative intent that, to the extent as may be necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by this state under authority of sections 67-4218, et seq., Idaho Code, such areas and facilities shall be publicly maintained for outdoor recreational purposes. The park and recreation board may enter into and administer agreements with the United States or any appropriate agency thereof for planning, acquisition and development projects involving participating federal-aid funds on behalf of any subdivision or subdivisions of this state. Provided, that the subdivision or subdivisions give necessary assurances to the park and recreation board that they have available sufficient funds to meet their shares, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the expense of the subdivision or subdivisions for public outdoor recreational use.

(l) Establish, develop, supervise and maintain through cooperative agreement, lease, purchase or other arrangement the Idaho recreation trail system, with the advice of the coordinator created in sec-

tion 67-4233, Idaho Code, and consistent with the goals of recreation, transportation and public access to outdoor areas.

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 28, 1995.

CHAPTER 41
(S.B. No. 1053)

AN ACT

RELATING TO MEDICAL ASSISTANCE; AMENDING SECTION 56-209d, IDAHO CODE, TO DELETE THE MEDICALLY NEEDY PROGRAM; AND DECLARING AN EMERGENCY.

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

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

56-209d. MEDICAL ASSISTANCE PROGRAM -- SERVICES TO BE PROVIDED. Notwithstanding any other provision of this chapter, medical assistance shall increase:

(1) Payment as determined under regulations established by the director from forty (40) days per fiscal year to unlimited days of inpatient hospital care per state fiscal year.

(2) Payment as determined under regulations established by the director from thirty dollars (\$30.00) per month to an unlimited amount of prescribed drugs for each recipient.

(3) Provision of eligibility for medical assistance for residents of skilled and intermediate care facilities who meet the medical criteria for medical assistance, from those with countable income of two hundred one and two-tenths percent (201.2%) to those with countable income of three hundred percent (300%) of the SSI standard.

(4) Payment, as authorized by title XIX of the social security act, as amended, and as determined under regulations established by the director for:

- (a) Durable medical equipment.
- (b) Soft organ transplants.
- (c) Adult dental services.
- (d) Adult vision services.
- (e) Adult hearing services.
- (f) Prosthetics.

~~(g) -- A medically-needy-program.~~

SECTION 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 28, 1995.

CHAPTER 42
(H.B. No. 2)

AN ACT

RELATING TO THE BOARD OF PHARMACY; AMENDING SECTION 54-1728, IDAHO CODE, TO AUTHORIZE RECOVERY OF HEARING FEES AND COSTS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-1728, Idaho Code, be, and the same is hereby amended to read as follows:

54-1728. PENALTIES AND REINSTATEMENT. (1) Upon the finding of the existence of grounds for discipline of any person holding a license, seeking a license, or a renewal license under the provisions of this act, the board of pharmacy may impose one or more of the following penalties:

- (a) Suspension of the offender's license for a term to be determined by the board;
- (b) Revocation of the offender's license;
- (c) Restriction of the offender's license to prohibit the offender from performing certain acts or from engaging in the practice of pharmacy in a particular manner for a term to be determined by the board;
- (d) Refusal to renew offender's license;
- (e) Placement of the offender on probation and supervision by the board for a period to be determined by the board;
- (f) Imposition of an administrative fine not to exceed two thousand dollars (\$2,000) plus costs of prosecution and administrative costs of bringing the action including, but not limited to, attorney fees and costs and costs of hearing transcripts.

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

(3) Nothing herein shall be construed as barring criminal prosecutions for violations of the act where such violations are deemed as criminal offenses in other statutes of this state or of the United States.

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

CHAPTER 43
(H.B. No. 118)

AN ACT

RELATING TO THE IDAHO CIGARETTE TAX; AMENDING SECTION 63-2505, IDAHO CODE, TO REQUIRE THAT PERSONS TRANSPORTING UNSTAMPED CIGARETTES POSSESS CERTAIN DOCUMENTATION RELATING TO SUCH CIGARETTES; AND AMENDING SECTION 63-2507, IDAHO CODE, TO DELETE AN OBSOLETE REFERENCE TO CIGARETTE STAMP METERING MACHINES.

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

SECTION 1. That Section 63-2505, Idaho Code, be, and the same is hereby amended to read as follows:

63-2505. TRANSPORTATION OF CIGARETTES. (1) It shall be unlawful for any person to transport into, export from or receive, in this state or carry or move from place to place within this state, except in--the-course-of-interstate-commerce as provided in this section, any cigarettes not otherwise lawful under--this--act which do not have affixed thereto Idaho stamps.

(2) However,--aAny wholesaler engaged in interstate business, who shall furnish surety bond in a sum satisfactory to the state tax commission, shall be permitted to set aside such part of his stock as may be necessary for the conduct of such interstate business without affixing the stamps required by this act chapter. Every wholesaler, at the time of shipping or delivering cigarettes, shall make a duplicate invoice, showing complete details of the sale, and shall retain the duplicate for inspection by the state tax commission or its agent.

(3) Except as provided in subsection (4) of this section, every person who shall transport cigarettes not stamped as required in this chapter upon the public highways, waterways, airways, roads or streets of this state shall have in his actual possession invoices or delivery tickets for such cigarettes which shall show:

(a) The true name and the complete and exact address of the consignor or seller; and

(b) The true name and complete and exact address of the consignee or purchaser; and

(c) The quantity and brands of the cigarettes transported; and

(d) Either:

(i) The true name and complete and exact address of the wholesaler licensed under this chapter who has or shall assume payment of taxes under this chapter; or

(ii) The true name and complete and exact address of the person authorized to receive unstamped cigarettes by the law of the state or foreign country to which the cigarettes are destined.

(4) Any common or contract carrier, as defined in 18 U.S.C. section 2341, who transports cigarettes under a proper bill of lading or freight bill which states the quantity, source and destination of such cigarettes and who is without notice to itself or to any of its agents or employees that said cigarettes are not stamped as required in this

chapter shall be deemed to have complied with this section.

SECTION 2. That Section 63-2507, Idaho Code, be, and the same is hereby amended to read as follows:

63-2507. STAMPS TO BE PRINTED -- AFFIXED TO INDIVIDUAL PACKAGES. The state tax commission is hereby authorized and required to design and have printed Idaho cigarette stamps which are to be affixed to each individual package of cigarettes, ~~or to permit the use of meter stamping machines for imprinting stamps~~ which stamps shall be in the amount of the tax imposed by section 63-2506, Idaho Code. Except as otherwise prescribed by the state tax commission, each stamp shall be affixed in such a manner that it cannot be removed without being mutilated or destroyed. Stamps may be obtained only from the state tax commission, or its authorized agent, and only by a holder of a valid and current wholesaler permit.

Approved March 2, 1995.

CHAPTER 44
(H.B. No. 98)

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT OF 1995; AMENDING THE HEADING OF CHAPTER 18, TITLE 16, IDAHO CODE; AMENDING SECTION 16-1801, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE THE COMPONENTS OF IDAHO'S JUVENILE CORRECTIONS SYSTEM AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1802, IDAHO CODE, TO REDESIGNATE THE SECTION, TO DELETE DEFINITIONS AND TO ADD DEFINITIONS; AMENDING CHAPTER 5, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-503, IDAHO CODE, TO CREATE THE DEPARTMENT OF JUVENILE CORRECTIONS, TO PROVIDE FOR THE APPOINTMENT OF A DIRECTOR OF THE DEPARTMENT AND TO PROVIDE POWERS AND DUTIES OF THE DIRECTOR; AMENDING SECTION 16-1826, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE DUTIES OF THE DEPARTMENT OF JUVENILE CORRECTIONS; AMENDING SECTION 16-1803, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1804, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE PROPER NOMENCLATURE, TO CHANGE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1805, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1806, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR INVESTIGATION BY COUNTY PROBATION UPON THE FILING OF A PETITION TO WAIVE JURISDICTION UNDER THE ACT AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1806A, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1807, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR APPOINTMENT OF AN INVESTIGATION OFFICER BY THE COURT TO DETERMINE IF FURTHER ACTION IS REQUIRED UPON THE FILING OF A PETITION; AMENDING SECTION 16-1807A, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO DELETE AN OBSOLETE REFERENCE; AMENDING SECTION

16-1808, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE PROPER NOMENCLATURE AND TO CHANGE A CODE REFERENCE; AMENDING SECTION 16-1809, IDAHO CODE, TO REDESIGNATE THE SECTION, TO MAKE A TECHNICAL CORRECTION AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1809A, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1810, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1811, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1812, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE PROPER NOMENCLATURE AND TO CHANGE CODE REFERENCES; AMENDING SECTION 16-1812A, IDAHO CODE, TO REDESIGNATE THE SECTION, TO CHANGE CODE REFERENCES AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1813, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1814, IDAHO CODE, TO REDESIGNATE THE SECTION, TO CHANGE CODE REFERENCES AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1814A, IDAHO CODE, TO REDESIGNATE THE SECTION, TO CHANGE A CODE REFERENCE AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1814B, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE PROPER NOMENCLATURE AND TO PROVIDE FOR PARENTING CLASSES, TREATMENT OR COUNSELING IN LIEU OF OR IN ADDITION TO DAMAGES AGAINST PARENTS FOR BREACH OF A PROBATIONARY CONTRACT; AMENDING SECTION 16-1814C, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR PARTICIPATION OF A COUNTY PROBATION OFFICER OR OTHER OFFICER DESIGNATED BY THE COURT ON A SCREENING TEAM AND TO CHANGE A CODE REFERENCE; AMENDING SECTION 16-1815, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1816, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1817, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE CORRECT NOMENCLATURE; AMENDING SECTION 16-1818, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE TECHNICAL CORRECTIONS AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1819, IDAHO CODE, TO REDESIGNATE THE SECTION, TO CHANGE A CODE REFERENCE AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1820, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR APPOINTMENT OF COUNTY PROBATION OFFICERS BY THE COURT WITH THE CONCURRENCE OF THE COUNTY COMMISSIONERS AND TO DELETE OBSOLETE LANGUAGE; REPEALING SECTION 16-1822, IDAHO CODE; AMENDING SECTION 16-1823, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE PROPER NOMENCLATURE, TO REQUIRE WRITTEN RECORDS OF ASSESSMENTS OF JUVENILES COMMITTED TO THE DEPARTMENT AND TO PROVIDE THE EFFECT OF A FAILURE TO REASSESS A JUVENILE WITHIN ONE YEAR OF A PREVIOUS ASSESSMENT; REPEALING SECTIONS 16-1824 AND 16-1825, IDAHO CODE; AMENDING SECTION 16-1827, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE PROPER NOMENCLATURE AND TO PROVIDE REQUIREMENTS OF THE DEPARTMENT FOR TRAINING AND DEVELOPMENT OF JUVENILES IN SECURE FACILITIES; AMENDING SECTION 16-1828, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE PROPER NOMENCLATURE AND TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 16-1829, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR RELEASE OF THE JUVENILE OFFENDER FROM DEPARTMENT CUSTODY, TO PROVIDE FOR SUPERVISION OF THE JUVENILE AND ENFORCEMENT OF PROBATION CONDITIONS BY COUNTY PROBATION OFFICERS AFTER HIS RELEASE FROM

DEPARTMENT CUSTODY, TO PROVIDE FOR ESTABLISHMENT OF ADDITIONAL PROBATION CONDITIONS BY THE COUNTY PROBATION OFFICER, TO DELETE OBSOLETE LANGUAGE AND TO PROVIDE PROPER NOMENCLATURE; REPEALING SECTIONS 16-1830, 16-1831, 16-1832, 16-1833, 16-1834 AND 16-1835, IDAHO CODE; AMENDING SECTION 16-1836, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1837, IDAHO CODE, TO REDESIGNATE THE SECTION, TO DELETE REDUNDANT LANGUAGE AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1838, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1839, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 16-1840, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 16-1841, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; REPEALING SECTION 16-1843, IDAHO CODE; AMENDING SECTION 16-1844, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; REPEALING SECTION 16-1845, IDAHO CODE; AMENDING SECTION 16-1847, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1849, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROPER NOMENCLATURE; REPEALING SECTION 16-1850, IDAHO CODE; AMENDING SECTION 33-3501, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE THAT THE STATE YOUTH SERVICES CENTER AT ST. ANTHONY, IDAHO, SHALL BE RENAMED THE JUVENILE CORRECTIONS CENTER AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 33-3502, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THAT THE JUVENILE CORRECTIONS CENTER SHALL BE UNDER THE CONTROL OF THE DEPARTMENT OF JUVENILE CORRECTIONS; AMENDING SECTION 33-3503, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE POWERS OF THE DEPARTMENT OF JUVENILE CORRECTIONS WITH RESPECT TO THE JUVENILE CORRECTIONS CENTER; AMENDING SECTION 33-3505, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE POWERS OF THE DIRECTOR OF THE DEPARTMENT WITH RESPECT TO THE JUVENILE CORRECTIONS CENTER; AMENDING SECTION 16-1848, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THE CITATION OF THE ACT; AMENDING SECTION 36-401, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 66-1107, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 66-1106, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 67-2001, IDAHO CODE, TO PROVIDE THAT THE BOARD OF EXAMINERS SHALL BE A SELF-GOVERNING AGENCY IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES AND SHALL NOT BE AN EXECUTIVE DEPARTMENT OF STATE GOVERNMENT FOR PURPOSES OF SECTION 20, ARTICLE IV, OF THE CONSTITUTION OF THE STATE OF IDAHO; AMENDING SECTION 67-2402, IDAHO CODE, TO INCLUDE THE DEPARTMENT OF JUVENILE CORRECTIONS IN THE ENUMERATION OF EXECUTIVE DEPARTMENTS OF THE STATE; AMENDING SECTION 67-2406, IDAHO CODE, TO INCLUDE THE DIRECTOR OF THE DEPARTMENT OF JUVENILE CORRECTIONS IN THE ENUMERATION OF DEPARTMENT DIRECTORS; AMENDING SECTION 67-2601, IDAHO CODE, TO INCLUDE THE BOARD OF EXAMINERS IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES; AMENDING SECTION 59-904, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF AND THE FILLING OF ANY VACANCY IN THE OFFICE OF DIRECTOR OF THE DEPARTMENT OF JUVENILE CORRECTIONS; AMENDING SECTION 16-1910, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; DECLARING AN EMERGENCY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That the heading of Chapter 18, Title 16, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 185
YOUTH-REHABILITATION JUVENILE CORRECTIONS ACT

SECTION 2. That Section 16-1801, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1801-20-501.~~ LEGISLATIVE INTENT. It is the policy of the state of Idaho is hereby declared to be the establishment of a legal framework conducive to the constructive judicial processing of children's cases where the child's conduct is in conflict with the law; and the providing of professional assistance to courts handling children's cases, through a coordinated program of rehabilitation, thereby insuring integrated treatment and assistance to communities throughout the state in their programs of prevention and control of juvenile delinquency; to provide due process of law for each child alleged or adjudicated to be delinquent under this act; to divert the child into a program of treatment, counseling, rehabilitation and restitution prior to court action where the interests of the child and the community would best be served by such diversion; and to consider the needs and best interests of the child as well as the need for protection of the community and to achieve the foregoing purposes in the least restrictive setting necessary, with a preference at all times for the family home and the integration of parental responsibility for the child into the treatment and counseling program that the juvenile corrections system will be based on the following principles: accountability; community protection; and competency development. Where a juvenile has been found to be within the purview of the juvenile corrections act, the court shall impose a sentence that will protect the community, hold the juvenile accountable for his actions, and assist the juvenile in developing skills to become a contributing member of a diverse community. It is the further policy of the state of Idaho that the parents or other legal guardians of the juvenile offender participate in the accomplishment of these goals through participation in counseling and treatment designed to develop positive parenting skills and an understanding of the family's role in the juvenile's behavior. It is the further intent of the legislature that the parents or legal guardians of the juvenile offender be held accountable, where appropriate, through monetary reimbursement for supervision and confinement of the juvenile offender, and restitution to victims of the juvenile's delinquent acts. In enacting this legislation, the legislature finds that the state of Idaho needs to evolve into a system for juvenile justice that corrections system should encompass the following aspects: case management, day treatment, community programs, observation and assessment programs, probation services, secure facilities, and multi-use facilities after-care and assistance to counties for youth juveniles not committed to the custody of the department of health and welfare juvenile corrections.

The following is a brief description of what the legislature

intends to become the components of Idaho's juvenile justice corrections system:

Case-management Probation. Every youth ordered into department of health and welfare custody would be assigned a case manager. Case management would often entail Probation officers would have twenty-four (24) hour on call responsibility for youth juveniles and a continual would monitoring of their activities on a continual basis. Case managers Probation officers would be responsible for direct treatment of individual youth assisting juveniles and their families in accessing counseling or treatment resources, close supervision of youths' juveniles' activities, supervision of restitution and coordination of other services provided to youth juveniles. Juvenile offenders ordered into the custody of the department of juvenile corrections would be monitored by a county probation officer.

Day treatment. Day treatment programs would be time limited non-residential treatment and educational programs. Included in these programs would be trackers who would provide intensive supervision of youth juveniles through daily contact and by counseling youth juveniles regarding employment, education, courts, family and life skills. Family treatment would be provided by family therapists who deal with dysfunctional family dynamics and antisocial behaviors. Educational and day treatment programs and vocational services would help prepare the seriously delinquent youth for the work world with its demands and responsibilities. Finally, nonresidential alcohol and drug programs would provide outpatient assessment and counseling for youth juveniles with substance abuse problems.

Community programs. It is intended that community programs would exist throughout the state to provide twenty-four (24) hour residential supervision and treatment options to youth juveniles in close proximity to their families and their community. These programs would provide the department of health and welfare with a continuum of supervision and treatment options. It is intended that these programs would provide strong community linkages strengthen the juvenile's relationship with family, engender a commitment to school and employment, promote the development of competency and life skills and emphasize helping youth juveniles generalize appropriate behavior into their environment.

Observation and assessment. Three (3) regional observation and assessment centers would be provided, hopefully either directly or on a contract basis, to provide conduct observation and assessment and treatment planning of the juvenile in a short-term residential experience. It is intended that these programs would maintain standardized home and daily routines with intensive daily programming. Here the youth would receive a complete psychological, educational and physical assessment to help recommend appropriate future placements to magistrate judges handling the juvenile's case.

Secure facilities. Secure facilities that would provide secure confinement, discipline, education and treatment of the most seriously delinquent youth, the juveniles. Programs at the secure facilities would be designed to help the youth juveniles recognize accountability for delinquent behavior by confronting and eliminating delinquent norms, criminal thinking and antisocial behavior and repaying making restitution to victims through a community service or other restitu-

tion programs. ~~Secure facilities, as may be possible and practicable, should be in close proximity to the youth offender's home and family.~~

~~Multi-use facilities. Idaho has areas that are predominantly rural and a long distance from another population base. For these areas it is hoped that a combination short-term detention facility with a shelter home could be built.~~

It is the further intent of the legislature that the primary purpose of this act is to provide a continuum of ~~supervision and rehabilitation~~ programs which ~~meet the needs of the youthful offender~~ emphasize the juvenile offender's accountability for his actions while assisting him in the development of skills necessary to function effectively and positively in the community in a manner consistent with public safety. These services and programs will individualize treatment and control of the youthful juvenile offender for the benefit of the youth juvenile and the protection of society. It is legislative intent that the department of ~~health and welfare~~ juvenile corrections be operated within the framework of the following principles to accomplish this mission:

~~1. Provide the least restrictive and most appropriate setting for the youthful offender while adequately protecting the community.~~

2. Provide humane, secure and therapeutic disciplined confinement to a youth juvenile who has demonstrated that he or she presents a danger to the community.

~~3. Provide a diversity of community-based and secure correctional programs which, whenever possible and appropriate, would be in close proximity to the youth's community and family.~~

4. (2) Strengthen rehabilitative opportunities for the juvenile's development of competency and life skills by expanding linkages the juvenile's access to human service applicable programs and community resources.

5. (3) Hold youth juveniles accountable for their criminal delinquent behavior in a manner consistent with their long-term individual needs through such means as victim restitution, community service programs and the sharing of correctional costs.

6. (4) Invoke the participation of the juvenile offender's parent or legal guardian in assisting the juvenile to recognize and accept responsibility for his delinquent or other antisocial behavior and hold the parent or legal guardian accountable, where appropriate, through the payment of detention costs and restitution to victims and through attendance at programs for the development of positive parenting skills designed to promote a functional relationship between a youth the juvenile and his or her family.

~~7. Provide assistance to the magistrate division of the district courts in development of and implementation of appropriate juvenile offender dispositions.~~

8. (5) Provide for Develop efficient and effective juvenile correctional programs within the framework of professional correctional standards, legislative intent and available resources.

9. (6) Provide for a diversity of innovative and effective programs through research on delinquent behavior and the continuous evaluation of correctional programs.

10. (7) Provide assistance to Assist counties in establishing developing meaningful programs for juveniles who have come into the

juvenile justice corrections system but who have not been committed to the custody of the department of health-and-welfare juvenile corrections.

ii-(8) Provide programs to increase public awareness and of the mission of the juvenile corrections system and encourage public participation in the developing an effective juvenile justice corrections system of--the designed to aid in reducing juvenile crime in this state.

(9) Develop and maintain a statewide juvenile offender information system.

SECTION 3. That Section 16-1802, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1802~~20-502. DEFINITIONS. When used in this chapter, unless the context otherwise requires:

~~a-(1)~~ (1) "Adult" means a person eighteen (18) years of age or older.

~~b--"Board"--means-the-state-department-of-health-and-welfare;~~

~~c--"Child"--means-a-person-less-than-eighteen-(18)--years--of--age and--includes--the--terms--juvenile--and--youth--offender;~~

~~d-(2)~~ (2) "Commit" means to transfer legal custody.

~~e-(3)~~ (3) "Community-based program" means an in-home detention program or a nonsecure or staff secure residential or nonresidential program operated to supervise and rehabilitate youth provide competency development to juvenile offenders in the least restrictive setting, consistent with public safety, operated by the state or under contract with the state.

~~f--"Conditional-release"--means-a-release-of-a-youth-offender-from residency-in-a-secure-facility-to-live-outside-that-facility-under-the supervision-of-the-department-of-health-and-welfare--or--other--person designated--by--the-department-prior-to-relinquishment-of-departmental jurisdiction;~~

~~g-(4)~~ (4) "Court" means any district court within the state of Idaho, or magistrate's division thereof.

~~h-(5)~~ (5) "Department" means the state department of health-and--welfare juvenile corrections.

~~i-(6)~~ (6) "Detention" means the temporary care placement of children juveniles who require secure custody for their own or the community's protection in physically restricting facilities.

~~j-(7)~~ (7) "Detention center" means a facility established pursuant to sections ~~16-1812~~ 20-517 and ~~16-1812A~~ 20-518, Idaho Code.

~~(8)~~ (8) "Director" means the director of the department of juvenile corrections.

~~k--"Discharge"--means-a-written-order-of-the-department-removing-a youth-offender-from-its-jurisdiction;~~

~~l-(9)~~ (9) "Diversion" means the utilization of local community resources, churches, counseling for the child juvenile and/or family, substance abuse counseling, informal probation, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court.

~~m-(10)~~ (10) "Judge" means a district judge or a magistrate.

(11) "Juvenile" means a person less than eighteen (18) years of age.

(12) "Juvenile corrections center" means the state-operated secure facility located at St. Anthony, Idaho.

(13) "Juvenile offender" means a person under the age of eighteen (18), committed or admitted by the court to the custody, care and jurisdiction of the department for confinement in a secure facility or supervision in the community following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult.

n-(14) "Legal custody" means the relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the child juvenile, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care.

(15) "Legal guardian" means a person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender.

o-(16) "Observation and diagnostic assessment program" means any state-operated or purchased service program responsible for temporary custody of youth juvenile offenders for observation and assessment.

p--"Rescission" means a written order of the department rescinding a conditional release date.

q--"Revocation of conditional release" means the written order of the department terminating conditional release supervision of a youth offender and directing return of the youth offender to the custody of a secure facility because of a violation of the conditions of conditional release.

r-(17) "Secure facility" means any state-operated facility or facility operated under contract with the state which provides twenty-four (24) hour supervision and confinement for youth juvenile offenders committed to the custody of the department for custody and rehabilitation.

s--"Termination" means a written order of the department terminating a youth offender from conditional release.

t--"Youth offender" means a person under age eighteen (18), committed or admitted by the court to the custody, care and jurisdiction of the department for confinement in a secure facility or supervision in the community following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult.

u-(18) "Work program" means a public service work project administered by the department which employs youth juvenile offenders at a reasonable wage for the purpose of reimbursing victims of the youth juvenile offender's delinquent behavior.

SECTION 4. That Chapter 5, 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 20-503, Idaho Code, and to read as follows:

20-503. DEPARTMENT OF JUVENILE CORRECTIONS CREATED -- APPOINTMENT

OF DIRECTOR -- POWERS AND DUTIES OF DEPARTMENT. (1) The department of juvenile corrections is hereby created. 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 be under the control and supervision of a director, who shall be appointed by the governor, with the advice and consent of the senate. The director shall exercise all of the powers and duties necessary to carry out the proper administration of the department and may delegate duties to employees and officers of the department. The director shall have the authority to employ an attorney or attorneys to provide legal services to the department and such managers, assistants, clerical staff and other employees necessary to the proper functioning and administration of the department.

(3) The department of juvenile corrections shall be composed of such administrative units as may be established by the director for the proper and efficient administration of the powers and duties assigned to the director or the department. The director shall appoint an administrator for each administrative unit within the department.

(4) The director shall have full power and authority to do all things necessary to establish and provide for the administration and operation of the department of juvenile corrections and to accomplish an orderly transition to the department of juvenile corrections and the counties of the duties and responsibilities for juvenile offenders and the juvenile justice system being performed by the department of health and welfare. It is intended that the director and staff of the department of health and welfare work cooperatively with the director and staff of the department of juvenile corrections and the counties in this effort, while continuing with their duties to juvenile offenders in the custody of the department of health and welfare until the official transfer of such duties to the department of juvenile corrections and the counties on October 1, 1995.

SECTION 5. That Section 16-1826, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-182620-504.~~ DUTIES OF THE DEPARTMENT OF HEALTH-AND-WELFARE JUVENILE CORRECTIONS. (1) The department shall have jurisdiction over all youth juveniles committed to it pursuant to chapter ~~185~~, title ~~1620~~, Idaho Code.

(2) The department is responsible for all youth juvenile offenders committed to it by the courts of this state for secure confinement or--supervision--and--treatment-in-the-community. The department shall also establish minimum standards for detention, care and certification of approved detention facilities based upon such standards.

~~(3) The department shall establish and administer--all--community programs--within--judicial-district-boundaries-for-all-youth-offenders committed-to-the-department.~~

~~(4) The department shall establish and administer all secure residential facilities including the state youth-services juvenile corrections center for-youth-offenders.~~

~~(54) The department shall place youth juvenile offenders committed to it in the most appropriate program for supervision and treatment in-the-community.~~

~~(6) In any order committing a youth offender to the department, the court shall specify whether the youth offender is being committed for secure confinement or placement in a community-based program; provided, however, that a youth offender shall not be recommended for secure confinement unless the recommendation is in accordance with standards adopted by order of the Supreme Court. The department shall place the youth in the most appropriate program within the category specified by the court.~~

~~(7) The department shall employ staff necessary to supervise youth offenders on conditional release and to supervise and coordinate treatment of youth offenders committed to the department for placement in community-based programs.~~

(85) The department shall establish an observation and assessment programs as necessary to serve youth process for juvenile offenders committed to it by a court for short-term observation pursuant to this chapter.

(96) The ~~director~~ of the department of health and welfare shall appoint case management staff within the various judicial districts establish liaison services with the counties.

(107) The department shall may establish and operate work programs designed to employ youth juvenile offenders in public service work projects for the purpose of reimbursing victims of the youth juvenile offender's delinquent behavior.

~~(11) The department shall establish regional places for examination and study of persons committed to the department or referred by courts prior to disposition as provided in section 16-1814, Idaho Code.~~

(128) The department is hereby authorized and may place children juveniles committed to it pursuant to this chapter on a ranch, in a forestry camp or similar facility for care and for work, if possible; provided, that person, agency or association operating the facility has been approved and has otherwise complied with all applicable state and local laws. A child juvenile placed in a forestry camp or similar facility may be required to work on fire prevention, forestation and reforestation, recreational works, forest roads and on other works on or off the grounds of such facility and may be paid wages.

(139) The department shall establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities and programs which provide services to juveniles who have committed a delinquent act, in this state or in any other state, which would constitute a felony or misdemeanor if committed by an adult offenders. The standards shall be no more stringent than standards imposed for facilities operated by the department or for detention facilities operated by counties.

(140) The department shall assist counties in establishing meaningful programs for youth juvenile offenders who either have been found to come under the purview of this chapter or who have had their case informally diverted pursuant to section ~~16-1807~~A20-511, Idaho Code, and who have not been committed to the legal custody of the department.

(151) In order to prevent over utilization of its facilities for youth juvenile offenders, the department shall prescribe by rule and regulation the maximum number of commitments pursuant to this chapter,

to the department that may originate from a county during a calendar year based on the number of children juveniles residing in the county who are below the age of eighteen (18). If a county exceeds its quota during a year, the director of the department may issue a waiver in writing on a case by case basis to allow additional commitments to the department from that county.

(12) The department shall have authority to adopt such administrative rules pursuant to the procedures provided in chapter 52, title 67, Idaho Code, as are deemed necessary or appropriate for the functioning of the department and the implementation and administration of this act.

(13) The department shall have authority to enter into contracts with a private association or organization or other public agency or organization for the inspection and licensure of detention facilities.

(14) The department shall have authority to enter into contracts with private providers or local governmental agencies for the confinement or other permanent or temporary placement of juveniles committed to its custody.

(15) The department shall have authority to apply for, receive and expend federal funds, subject to appropriation by the legislature. The department shall have authority to establish guidelines for and administer the distribution of state block grant funds to counties for the employment and training of county probation officers, the establishment of secure and nonsecure residential or nonresidential facilities and programs for juvenile offenders. The department may require that a county provide matching funds as a condition of receiving a block grant. The department, by rule, in cooperation with the courts and the counties, shall establish uniform standards, criteria and operating procedures for county juvenile probation services, as well as qualifications for and standards for the training of juvenile probation officers.

(16) All of the powers and duties imposed upon or granted to the director of the department of health and welfare or the board of health and welfare pursuant to chapter 18, title 16, Idaho Code, are hereby transferred to the director of the department of juvenile corrections. The director shall have all such powers and duties as may have been or could have been exercised by his predecessors in law with respect to chapter 18, title 16, Idaho Code, and shall be the successor in law to all contractual obligations entered into by his predecessor in law.

SECTION 6. That Section 16-1803, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1803~~20-505. JURISDICTION. Subject to the prior jurisdiction of the United States, the court shall have exclusive, original jurisdiction over any child juvenile and over any adult who was a child juvenile at the time of any act, omission or status, in the county in which the minor juvenile resides, or in the county in which the act, omission or status allegedly took place, in the following cases:

(17) 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~~7~~) 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~~7~~) Concerning any child juvenile where the child juvenile comes under the purview of the interstate compact on juveniles as set forth in chapter 19, title 16, Idaho Code;

(4~~7~~) 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~~7~~) This chapter shall not apply to the violent juvenile offender, as defined in this chapter;

(6~~7~~) 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, or section 18-1502C, Idaho Code, pertaining to the possession of marijuana or paraphernalia, unless the court so orders the juvenile violator to come under the purview of this chapter;

(7~~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.

SECTION 7. That Section 16-1804, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1804~~20-506. TRANSFER FROM OTHER COURTS. If during the pendency of a criminal or quasi-criminal charge against any minor juvenile in any other court, it shall be ascertained that the child juvenile was under the age of eighteen (18) years at the time of committing the alleged offense, except where such child juvenile has left the state, or where said charge is that such child juvenile is a juvenile traffic, beer, wine or other alcohol or tobacco violator, or is within the purview of section ~~16-1806~~20-508(1)(a) or (1)(b), Idaho Code, it shall be the duty of such court forthwith to transfer the case, together with all the papers, documents and testimony connected therewith, to the court having jurisdiction over the juvenile with respect to the offense charged. ~~The magistrate,--justice--of-the-peace--or--district~~ court making such transfer shall order the child juvenile to be taken forthwith to the court to which the transfer is being made or place of detention designated by the court or shall release such child the juvenile to the custody of some suitable person to be brought before the court at a time designated. The court to which the case is transferred shall then proceed as provided in this act.

SECTION 8. That Section 16-1805, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-180520-507.~~ RETENTION OF JURISDICTION. Jurisdiction obtained by the court in the case of a child juvenile shall be retained by it for the purposes of this act until he becomes twenty-one (21) years of age, unless terminated prior thereto. If a child juvenile under the jurisdiction of the court and after attaining eighteen (18) years of age, is charged with a felony, he shall be treated as any other adult offender. If a child person eighteen (18) years of age or older already under court jurisdiction is convicted of a felony, that conviction shall terminate the jurisdiction of the court, provided, however, that nothing herein contained shall prohibit any court from proceeding as provided in section ~~16-180620-508(2)~~, Idaho Code.

SECTION 9. That Section 16-1806, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-180620-508.~~ WAIVER OF JURISDICTION AND TRANSFER TO OTHER COURTS. (1) After the filing of a petition and after full investigation and hearing, the court may waive jurisdiction under the youth rehabilitation juvenile corrections act over the child juvenile and order that the child juvenile be held for adult criminal proceedings when:

(a) A child juvenile is alleged to have committed an act after he or she became fourteen (14) years of age which would be a crime if committed by an adult; or

(b) An adult at the time of the filing of the petition is alleged to have committed an act prior to his having become eighteen (18) years of age which would be a felony if committed by an adult, and the court finds that the adult is not committable to an institution for the mentally deficient or mentally ill, is not treatable in any available institution or facility available to the state designed for the care and treatment of children juveniles, or that the safety of the community requires the adult continue under restraint; or

(c) An adult already under the jurisdiction of the court is alleged to have committed a crime while an adult.

(2) A motion to waive jurisdiction under the youth-rehabilitation juvenile corrections act and prosecute a child juvenile under the criminal law may be made by the prosecuting attorney, the child juvenile, or by motion of the court upon its own initiative. The motion shall be in writing and contain the grounds and reasons in support thereof.

(3) Upon the filing of a motion to waive jurisdiction under the youth--rehabilitation juvenile corrections act, the court shall enter an order setting the motion for hearing at a time and date certain and shall order a full and complete investigation of the circumstances of the alleged offense to be conducted by ~~the board~~ county probation, or such other ~~state~~ agency or investigation officer designated by the court.

(4) Upon setting the time for the hearing upon the motion to waive jurisdiction, the court shall give written notice of said hearing to the child juvenile, and the parents, guardian or custodian of the child juvenile, and the prosecuting attorney, at least ten (10) days before the date of the hearing, or a lesser period stipulated by

the parties, and such notice shall inform the child juvenile and the parents, guardian or custodian of the child juvenile of their right to court appointed counsel ~~in accordance with these rules~~. Service of the notice shall be made in the manner prescribed for service of a summons under section ~~16-180920-512~~, Idaho Code.

(5) The hearing upon the notice motion to waive jurisdiction shall be held in the same manner as an evidentiary hearing upon the original petition and shall be made part of the record.

(6) If as a result of the hearing on the motion to waive jurisdiction the court shall determine that jurisdiction should not be waived, the petition shall be processed in the customary manner as a youth-rehabilitation juvenile corrections act proceeding. However, in the event the court determines, as a result of the hearing, that youth rehabilitation juvenile corrections act jurisdiction should be waived and the child juvenile should be prosecuted under the criminal laws of the state of Idaho, the court shall enter findings of fact and conclusions of law upon which it bases such decision together with a decree waiving youth-rehabilitation juvenile corrections act jurisdiction and binding the child juvenile over to the authorities for prosecution under the criminal laws of the state of Idaho.

(7) No motion to waive youth-rehabilitation juvenile corrections act jurisdiction shall be recognized, considered, or heard by the court in the same case once the court has entered an order or decree in that case that said child juvenile has come within the purview of the youth-rehabilitation juvenile corrections act, and all subsequent proceedings after the decree finding the child juvenile within the purview of the youth-rehabilitation act must be under and pursuant to the youth-rehabilitation act and not as a criminal proceeding.

(8) In considering whether or not to waive juvenile court jurisdiction over the child juvenile, the juvenile court shall consider the following factors:

(a) The seriousness of the offense and whether the protection of the community requires isolation of the child juvenile beyond that afforded by juvenile facilities;

(b) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(c) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;

(d) The maturity of the child juvenile as determined by considerations of his home, environment, emotional attitude, and pattern of living;

(e) The child's juvenile's record and previous history of contacts with the juvenile justice corrections system;

(f) The likelihood of rehabilitation of the child that the juvenile will develop competency and life skills to become a contributing member of the community by use of facilities and resources available to the court;

(g) The amount of weight to be given to each of the factors listed in subsection (8) of this section is discretionary with the court, and a determination that the minor juvenile is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one (1) or a combination of the factors set forth above, which shall be recited in the order of waiver.

(9) If the court does not waive jurisdiction and order a child juvenile or adult held for criminal proceedings, the court in a county other than the child's juvenile's or adult's home county, after entering a decree that the child juvenile or adult is within the purview of this chapter, may certify the case for disposition to the court of the county in which the child juvenile or adult resides upon being notified that the receiving court is willing to accept transfer. In the event of a transfer, which should be made unless the court finds it contrary to the interest of the child juvenile or adult, the jurisdiction of the receiving court shall attach to the same extent as if the court had original jurisdiction.

SECTION 10. That Section 16-1806A, Idaho Code, be, and the same is hereby amended to read as follows:

16-1806A20-509. VIOLENT OFFENSES, CONTROLLED SUBSTANCES VIOLATIONS NEAR SCHOOLS AND OFFENDERS. (1) Any person juvenile, age fourteen (14) years to age eighteen (18) years, who is alleged to have committed any of the following crimes:

- (a) Murder of any degree or attempted murder;
- (b) Robbery;
- (c) Rape, but excluding statutory rape;
- (d) Forcible sexual penetration by the use of a foreign object;
- (e) Infamous crimes against nature, committed by force or violence;
- (f) Mayhem;
- (g) Assault or battery with the intent to commit any of the above serious felonies;
- (h) A violation of the provisions of section 37-2732(a)(1)(A), (B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;

shall be charged, arrested and proceeded against by complaint, indictment or information as an adult. All other felonies or misdemeanors charged in the complaint, indictment or information, which are based on the same act or transaction or on one or more acts or transactions as the violent or controlled substances offense shall similarly be charged, arrested and proceeded against as an adult. Any person juvenile proceeded against pursuant to this section shall be accorded all constitutional rights, including bail and trial by jury, and procedural safeguards as if that person juvenile were an adult defendant.

(2) Once a juvenile has been charged or indicted pursuant to this section or has been transferred for criminal prosecution pursuant to a waiver hearing, or information and has been found to have committed the offense for which he or she was charged, indicted or transferred, the juvenile shall thereafter be handled in every respect as if he or she were an adult for any subsequent violation of Idaho law.

(3) The sentencing judge of any person juvenile convicted pursuant to this section may choose to sentence the convicted person in accordance with the juvenile sentencing options set forth in this act,

if a finding is made that adult sentencing measures would be inappropriate.

SECTION 11. That Section 16-1807, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1807~~20-510. INFORMATION -- INVESTIGATION -- PETITION. Any peace officer, any prosecuting attorney, or any authorized representatives of the board of trustees of a school districts of this state, having knowledge of a child juvenile who is within the purview of this act may file a petition with the court in such form as may be required by the court. Said individual or agency shall be responsible for providing the evidence to support the allegations made in the petition, provided this in no way shall relieve peace officers from enforcement of the law as set forth in section 31-2227, Idaho Code. The court shall make a preliminary inquiry to determine whether the interests of the public or of the child juvenile require that further action be taken. Such inquiry may be made through the county probation officer, ~~if available,~~ or the field agent of the board such other agent or investigation officer designated by the court. Thereupon, the court may make such informal adjustment as is practicable, or dismiss the petition, or set the matter for hearing. If an informal adjustment is made, it shall provide for full or partial restitution in the manner and form prescribed by the court when the offense involves loss or damage of property of another. A probation officers shall not file a petition unless the child juvenile has previously been under the jurisdiction of the court. The petition and all subsequent court documents shall be entitled "In the interest of ..., a child juvenile under eighteen (18) years of age." The petition may be made upon information and belief but it shall be made under oath. It shall set forth plainly: (1) the facts which bring the child juvenile within the purview of this act; (2) the name, age, and residence of the child juvenile; (3) the names and residences of his parents and spouse, if any; (4) the name and residence of his legal guardian, if there be one, or the person or persons having custody or control of the child juvenile, or of the nearest known relative if no parent or guardian can be found. If any of the facts herein required are not known by the petitioner the petition shall so state.

Service of a petition upon the parents, legal guardian or person or persons having custody or control of the child juvenile shall subject the parents, legal guardian or person or persons having custody or control of the child juvenile to the provisions of this chapter. The petition shall inform the parents, legal guardian or other person legally obligated to care for and support the child juvenile that service of the petition upon them shall make them subject to the provisions of this chapter.

SECTION 12. That Section 16-1807A, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1807A~~20-511. 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 juve-

nile probation 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.

SECTION 13. That Section 16-1808, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1808~~20-512. SUMMONS -- NOTICE -- CUSTODY OF ~~CHILD~~ JUVENILE. After a petition shall have been filed and after such further investigation as the court may direct, and if the matter is set for hearing, the court shall issue a summons requiring the person or persons who have custody or control of the ~~child~~ juvenile to appear personally and bring the ~~child~~ juvenile before the court at a time and place stated; provided, however, if hearing is to be held, it shall be held not later than fifteen (15) days after the summons is issued unless the court should order on being shown cause that the time be extended. If the person so summoned shall be other than a parent or guardian of the ~~child~~ juvenile, then the parent or guardian or both shall also be notified of the pendency of the case and of the time and place appointed for the hearing. Notice shall be given as hereinafter provided. A subpoena may be issued requiring the appearance of any other person whose presence is required by the ~~child~~ juvenile, his guardian or any other person who, in the opinion of the judge, is necessary. If it appears the ~~child~~ juvenile is in such condition or surroundings that his welfare requires that he be taken into custody immediately, the judge, as provided in section ~~16-1811~~, ~~hereof~~ 20-516, Idaho Code,

may order by endorsement upon the summons that the officer serving the same shall at once take the ~~child~~ juvenile into custody and bring him before the court.

SECTION 14. That Section 16-1809, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1809~~20-513. SERVICE OF SUMMONS -- TRAVEL EXPENSES. Service of summons shall be made personally by delivery of an attested copy thereof to the person summoned; provided that if the judge is satisfied that it is impracticable to serve personally such summons or the notice provided for in the proceeding preceding section, he may order service by registered mail addressed to the last known address, or by publication thereof, or both. It shall be sufficient to confer jurisdiction if service is effected at least forty-eight (48) hours before the time fixed in the summons for the hearing. When publication is used the summons shall be published in two (2) consecutive issues of a weekly newspaper printed and published in the county; such newspaper to be designated by the court in the order for publication of the summons, and such publication shall have the same force and effect as though such person had been personally served with said summons. Service of summons, process or notice required by this act shall be made by the sheriff or a probation officer upon the request of the court and a return must be made by the sheriff on the summons showing that such service has been made. The judge may authorize payment of any necessary travel expenses incurred by any person summoned or otherwise required to appear at the hearing of any case coming within the purview of this act, and such expenses when approved by the judge shall be a charge upon the county, except that not more than five (5) witnesses on behalf of any parent or guardian may be required to attend such hearing at the expense of the county. The court may summon the appearance of any person whose presence is deemed necessary as a witness or possible resource for the care and treatment of the ~~child~~ juvenile, including persons whom the ~~child~~ juvenile or the family wishes to have present.

SECTION 15. That Section 16-1809A, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1809A~~20-514. APPOINTMENT OF COUNSEL -- PAYMENT OF COST OF LEGAL SERVICES. (1-) As early as possible in the proceedings, and in any event before the hearing of the petition on the merits, the ~~child~~ juvenile and his parents, or guardian, shall be notified of their right to have counsel represent them. When it appears to the court that the ~~child~~ juvenile or his parents or guardian desire counsel but are financially unable to pay for such legal services, the court shall appoint counsel to represent the ~~child~~ juvenile and his parents or guardian; provided that in the event the court shall find that there is a conflict of interest between the interests of the ~~child~~ juvenile and his parents or guardian, then the court shall appoint separate counsel for the ~~child~~ juvenile, whether or not he or his parents or guardian are able to afford counsel, unless there is an intelligent waiver of the right of counsel by the ~~child~~ juvenile and the court

further determines that the best interest of the child juvenile does not require the appointment of counsel. Counsel appointed under this section shall initially receive reasonable compensation from the county and the county shall have the right to be reimbursed for the cost thereof by the parents or guardian as hereafter provided in this section.

(2-) The parents, spouse or other person liable for the support of the child juvenile, or the estates of such persons, and the estate of such child juvenile, shall be liable for the cost to the county of legal services rendered to the child juvenile by counsel appointed pursuant to this section, unless the court finds such persons to be needy persons and financially unable to pay the cost of such legal services.

(3-) The prosecuting attorney of each county may, on behalf of the county, recover payment or reimbursement, as the case may be, from each person who is liable for the payment or reimbursement of the cost of court appointed counsel for the child juvenile, his parents or guardian under this section. In the event such payment or reimbursement is not made upon demand by the prosecuting attorney, suit may be brought against such persons by the prosecuting attorney within five (5) years after the date on which such counsel was appointed by the court.

SECTION 16. That Section 16-1810, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1810~~20-515. FAILURE TO OBEY SUMMONS, A CONTEMPT -- WARRANT. If any person summoned as herein provided shall, without reasonable cause, fail to appear, he may be proceeded against for contempt of court. In case the summons cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual, or that the welfare of the child juvenile requires that he be brought forthwith into the custody of the court, a warrant or a copy may be issued for the parent, guardian or the child juvenile.

SECTION 17. That Section 16-1811, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1811~~20-516. APPREHENSION AND RELEASE OF CHILDREN JUVENILES -- DETENTION. (1-) A peace officer may take a child juvenile into custody, or a private citizen may detain a child juvenile until the child juvenile can be delivered forthwith into the custody of a peace officer, without order of the court:

(a) When he has reasonable cause to believe that the child juvenile has committed an act which would be a felony if committed by an adult; or

(b) When in the presence of a peace officer or private citizen the child juvenile has violated any local, state or federal law or municipal ordinance; or

(c) When there are reasonable grounds to believe the child juvenile has committed a status offense. Status offenses are truancy, running away from or being beyond the control of parents, guard-

ian, or legal custodian and curfew violations. Status offenders shall not be placed in any jail facility but instead may be placed in juvenile shelter care facilities, except in the case of run-aways, when there is a specific detention request from a foreign jurisdiction to hold the child juvenile pending transportation arrangements.

A peace officer may take a child juvenile into custody at any time upon a written order or warrant signed by the judge or other magistrate in the judge's absence when there is reasonable cause to believe the child juvenile has committed an act which would be a misdemeanor if committed by an adult where such misdemeanor was committed out of the presence of the officer. Such taking into custody shall not be deemed an arrest. Jurisdiction of the court shall attach from the time the child juvenile is taken into custody. When an officer takes a child juvenile into custody, he shall notify the parent, guardian or custodian of the child juvenile as soon as possible. Unless otherwise ordered by the court, or unless it appears to the officer taking the child juvenile into custody that it is contrary to the welfare of society or the child juvenile, such child juvenile shall be released to the custody of his parent or other responsible adult upon written promise, signed by such person, to bring the child juvenile to the court at a stated time. Such written promise shall be submitted to the court as soon as possible. If such person shall fail to produce the child juvenile as agreed, or upon notice from the court, a summons for such person may be issued by the court and a warrant may be issued for apprehension of the child juvenile.

(2-) When a child juvenile is not released he shall be taken forthwith to the court or place of detention specified by the court and then not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, shall be brought before the court for a detention hearing to determine where the child juvenile will be placed until the next hearing. Status offenders shall not be placed in any jail facility, but instead may be placed in juvenile shelter care facilities.

Placements may include but are not limited to the following:

- (a) Parents of the child juvenile;
- (b) Relatives of the child juvenile;
- (c) Foster care;
- (d) Group care;
- (e) A juvenile detention facility; or
- (f) Community-based diversion programs.

(3-) The person in charge of a detention facility shall give immediate notice to the court that the child juvenile is in his custody.

(4-) No child juvenile shall be held in detention longer than twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, unless a petition has been filed and the court has signed the detention order.

(5-) As soon as a child juvenile is detained by court order, his parents, guardian or legal custodian shall be informed by notice in writing on forms prescribed by the court that they may have a prompt hearing regarding release or detention.

(6-) A law enforcement agency may fingerprint and photograph a

~~child~~ juvenile taken into custody for an offense. If the court finds a ~~child's~~ juvenile's detention for an offense to be unlawful, the court shall order the fingerprints and photographs of the ~~child~~ juvenile taken pursuant to that detention expunged, unless the court, after a hearing, orders otherwise.

(7~~7~~) Peace officers' records of children juveniles shall be kept separate from records of adults and shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 18. That Section 16-1812, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-181220-517.~~ DETENTION ACCOMMODATIONS. (1~~7~~) The county commissioners shall provide a detention ~~home--or--homes~~ facility for the detention of children juveniles to be conducted by the court, or, subject to the approval of the court, by other appropriate public agency, provided that such detention shall comply with the provisions of section ~~16-1812A20-518,~~ Idaho Code; or within the limits of funds provided by the county commissioners the court may arrange for the use of private homes for such detention, subject to the supervision of the court or other agency, or may arrange with any institution or agency to receive for temporary care and custody children juveniles within the jurisdiction of the court, provided said private individual or agency facilities, except relatives of the ~~child~~ juvenile, shall meet the licensing requirements ~~of the state department of health and welfare as provided in this chapter~~ for care of children juveniles. Nothing herein shall prevent a jail facility from being utilized as a detention ~~home~~ facility if ~~the detention facility~~ it complies with the provisions of section ~~16-1812A20-518,~~ Idaho Code.

(2~~7~~) For the purpose of carrying out the provisions of this section, the county commissioners may enter into contracts or agreements with public or private agencies, individuals, other counties, or the ~~state~~ department of ~~health and welfare~~ juvenile corrections which may include the expenditures of moneys outside the county boundaries. If the county in which the court is located has made an agreement with another governmental unit or agency located outside the county or the judicial district for the detention of children juveniles under this act, then any court in the county may order a ~~child~~ juvenile detained outside of the county or outside of the judicial district in the detention facility described in such agreement.

(3~~7~~) The county wherein any court has entered an order for the detention of a ~~child~~ juvenile outside of the county or outside of the judicial district as provided by subsection (2) of this section shall pay all direct and indirect costs of the detention of the ~~child~~ juvenile to the governmental unit or agency owning or operating the detention facility in which the ~~child~~ juvenile was detained. The amount of such cost may be determined on a per day per ~~child~~ juvenile basis by agreement between the county wherein the court entered the order of detention and the county or governmental unit or agency owning or operating such detention facility.

(4~~7~~) All funds appropriated by the state for the planning and design of regional detention facilities shall be administered and distributed by the director of the department of administration for the

planning and design of regional detention facilities in accordance with the requirements or directives of such appropriation. In administering such fund, the director of the department of administration shall consult with the designated county officials of every county involved or affected by a proposed regional detention facility and shall abide by the decision of the designated representatives of each of the counties so involved or affected.

SECTION 19. That Section 16-1812A, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1812A~~20-518. STANDARDS FOR DETENTION. The following shall be minimum standards for the detention of children juveniles provided for in section ~~16-1812A~~20-517, Idaho Code:

(1) Juvenile detention facilities must be so constructed and/or maintained as to keep children juveniles segregated from adult offenders or those being treated as adult offenders under section ~~16-1806A~~20-508 or ~~16-1806A~~20-509, Idaho Code, with there to be no contact as to sight and/or sound between the two (2) classes.

(2) Juvenile detention facilities must provide supervision and observation of juvenile detainees sufficient to protect the physical and mental health of the detainees.

(3) Juveniles held in detention must be provided with at least three (3) adequate and nutritional meals per day.

(4) Juveniles held in detention must have access to reading materials on a regular and systematic basis. Detained juveniles may receive books, newspapers and periodicals from any source including delivery to the detention facilities by family members, subject to the right of detention authorities to inspect and remove dangerous or harmful materials. Detention authorities may forbid the introduction into holding quarters of obscene books or periodicals.

(5) A visiting program shall be established in juvenile detention facilities which will allow for family visits to each juvenile for at least two (2) hours each week.

SECTION 20. That Section 16-1813, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1813~~20-519. EVIDENTIARY HEARING. If the child juvenile denies the allegations in the petition, the court shall conduct a full evidentiary hearing, in the manner prescribed by the Idaho juvenile rules. The child juvenile shall have the right to call witnesses on his ~~or-her~~ own behalf. A record shall be made in all proceedings connected with the case and shall be preserved in the event of appeal. If at the conclusion of the evidentiary hearing the court finds the child juvenile to come within the purview of the act, the court shall so rule, and then shall set the matter down for disposition-hearing sentencing, or may, in the interest of time, hold a disposition sentencing hearing at the conclusion of the evidentiary hearing if all information necessary to the disposition of the case is available at the time.

When a child juvenile, other than the child juvenile against whom the petition has been filed, is summoned as a witness in any hearing

under this act, notwithstanding any other statutory provision, parents, a counselor, a friend or other person having a supportive relationship with the child juvenile shall, if available, be permitted to remain in the courtroom at the witness stand with the child juvenile during the child's juvenile's testimony unless, in written findings made and entered, the court finds that the child's juvenile's constitutional right to a fair trial will be unduly prejudiced.

SECTION 21. That Section 16-1814, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1814~~20-520. DISPOSITION-HEARING SENTENCING. (1) Upon the entry of an order finding the child juvenile is within the purview of the act, the court shall then hold a disposition sentencing 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~~ promote accountability, competency development and community protection. 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~~ competency development, prevention of or out of home placement services provided, and the social, physical and mental condition of the child juvenile. 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~~ sentence the juvenile as follows:

- 1-(a) Place the child juvenile on formal probation for a period not to exceed three (3) years from the date of the order;
- 2-(b) Commit the child juvenile 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 juvenile is found to have committed, if the unlawful or criminal act would be a misdemeanor if committed by an adult, or where the child juvenile has been adjudicated as an habitual status offender;
- 3-(c) If the child juvenile has committed an unlawful or criminal act which would be a felony if committed by an adult, the court may commit the child juvenile 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 juvenile violates conditions of probation, the court may commit the child juvenile to detention for all or a portion of the period originally suspended;
- 4-(d) If the child juvenile has committed an unlawful or criminal act which would be a felony if committed by an adult and if the child juvenile 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 juvenile to detention for a period not to exceed one hundred twenty (120) days. Whenever a court commits a child juvenile to a period of detention it shall notify the school district where the detention facility is located. No child juvenile 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 juvenile is an habitual status offender;

5-(e) Commit the child juvenile to detention and suspend the sentence on specific probationary conditions;

6-(f) Commit the child juvenile to the legal custody of the department of ~~health and welfare~~ juvenile corrections for an indeterminate period of time not to exceed ~~his or her~~ the juvenile's twenty-first birthday, unless extended jurisdiction is necessary to complete the rehabilitation competency development and accountability goals of the department;

7-(g) The court shall encourage the development of employment, work or community service programs, to enable children juveniles to fulfill their obligations under subsection (3) of this section and for other purposes when deemed desirable by the court;

8-(h) The court may suspend or restrict the child's juvenile's driving privileges for such periods of time as the court deems necessary, and the court may take possession of the child's juvenile's driver license. The child juvenile may request restricted driving privileges during the a period of suspension, which the court may allow if the child juvenile shows by a preponderance of evidence that driving privileges are necessary for his employment or for family health needs;

9-(i) The court may order that the child juvenile 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 juvenile in a hospital or other suitable facility;

10-(j) 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 juvenile, 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 on visitation by the parents or one (1) parent, restrictions on the child's juvenile's associates, occupation and other activities, and requirements to be observed by the parents, guardian or custodian;

11-(k) The court may order that a petition be filed pursuant to chapter 20, title 16, Idaho Code, for the termination of parental rights;

12-(l) The court may make any other reasonable order which is in the best interest of the child juvenile 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~~20-518, 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~~20-508 or 20-509, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

13-(m) An order under the provisions of this section for probation or placement of a child juvenile 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~~(n) Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

~~15~~(o) Order the case and all documents and records connected therein therewith transferred to the magistrate division of the district court for the county where the child juvenile and/or parents reside if different than the county where the child juvenile was charged and found to have committed the unlawful or criminal act, for the entry of a dispositional order;

~~16~~(p) Order such other terms, conditions, care or treatment as appears to the court will best serve the interests of the child juvenile and the community;

~~17~~(q) The court shall assess a ten dollar (\$10.00) charge against the child juvenile for every petition filed where there has been an adjudication that the child juvenile 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 juvenile corrections account which is created in section ~~16-184920-542~~, Idaho Code.

~~18~~(r) Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community service against the child juvenile for every petition filed where there has been an adjudication that the child juvenile 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~~(s) Notwithstanding any other provision of this section, a court may not commit a youth juvenile offender under the age of ten (10) years to a period of detention or to the custody of the department of ~~health-and-welfare~~ juvenile corrections for placement in secure confinement.

(2) When an order is entered pursuant to this section, the child juvenile 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 juvenile 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 juvenile 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 juvenile 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 juvenile's conduct in accordance with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code.

SECTION 22. That Section 16-1814A, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1814A~~20-521. HABITUAL STATUS OFFENDER. Any child juvenile who has been adjudicated for commission of two (2) status offenses within twelve (12) months may be charged, petitioned and adjudicated as an habitual status offender for the third status offense committed within that twelve (12) month period.

The court may utilize any dispositional alternative ~~in-rehabilitat~~ing for an habitual status offender that is detailed in section ~~16-1814~~20-520, Idaho Code, except that the child juvenile shall not be placed in the Idaho ~~youth-services~~ juvenile corrections center.

SECTION 23. That Section 16-1814B, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1814B~~20-522. SUSPENSION OF SENTENCE -- JURISDICTION OVER PARENTS. Whenever a child juvenile is found to come under the purview of this chapter and the court suspends any or all of a sentence pursuant to section ~~16-1814~~20-520, Idaho Code, the court shall have jurisdiction and authority to have the child juvenile and the child's juvenile's parent(s), legal guardian or custodian sign a probationary contract with the court containing terms and conditions that the child juvenile and the child's juvenile's parent(s), legal guardian or custodian must adhere to as a condition of the child's juvenile's probation. The probationary contract may ~~contain-a-clause~~ provide that ~~if the--child-or-the-child's-parent(s),-legal-guardian,-or-custodian-violates-or-breaches~~ upon a violation or breach of the terms and conditions of the probationary contract, ~~that~~ the child's juvenile's parent(s), legal guardian or custodian shall be liable to the court for a specific monetary sum not in excess of one thousand dollars (\$1,000) for the breach of contract and the resulting impact the breach will have on the state's juvenile justice corrections system. All such moneys shall be payable to the court and shall be in addition to any other fines, penalties or other sanctions provided by law. Any moneys received by the court pursuant to this section shall be paid into the youth juvenile corrections account created in section ~~16-1849~~20-542, Idaho Code. In lieu of or in addition to a monetary payment, the court may order that the parent(s), legal guardian or custodian attend parenting classes or undergo other treatment or counseling.

SECTION 24. That Section 16-1814C, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1814G~~20-523. SCREENING TEAMS TO PROVIDE ASSISTANCE TO COURT. In order to provide assistance to a court in making a disposition pursuant to section ~~16-1814~~20-520, Idaho Code, a screening team ~~shall,-if possible-and-practicable,~~ composed of a county probation officer or other investigation officer or agency designated by the court may meet and provide a written recommendation to the court for disposition of the case pursuant to this chapter. The screening team shall consist of an employee of the department of health and welfare and a probation officer employed by or contracted with the court. The recommendation of the screening team shall be nonbinding and shall be presented in writing to the court. If the screening team cannot arrive at a deci-

~~sion--regarding--recommended--disposition; it shall so state in writing to the court along with the reasons why it could not arrive at a consensus:~~

SECTION 25. That Section 16-1815, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1815~~16-1815~~20-524~~. SUPPORT OF ~~CHILD~~ JUVENILE -- REIMBURSEMENT FOR COSTS INCURRED. (1) Whenever a ~~child~~ juvenile is placed by the court in custody other than that of ~~his or her~~ the juvenile's parents, guardian or custodian, after due notice to the parent, guardian or other persons legally obligated to care for and support the ~~child~~ juvenile, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum that will cover in whole or in part the support and treatment of the ~~child~~ juvenile. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

(2) Any child support order or decree issued or modified shall contain a provision allowing the obligee to enforce the order or decree by income withholding and shall include the notice required in section 32-1205, Idaho Code, advising the obligor that the obligee can seek enforcement of the order or decree by means of a mandatory income withholding order issued pursuant to this chapter without further notice to the obligor.

(3) Failure to include these provisions does not affect the validity of the support order or decree. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require that the social security number of the obligor be included in the order or decree.

SECTION 26. That Section 16-1816, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1816~~1620-525. RECORDS -- PRIVILEGED INFORMATION. (1) The court shall maintain records of all cases brought before it. In proceedings under this act the following records shall not be withheld from public inspection, except on court order, which order must be made in writing in each case: the court docket, petitions, complaints, information, motions and other papers filed in any case in any district; transcripts of testimony taken by the court; and findings, verdicts, judgments, orders, decrees and other papers filed in proceedings before the court of any district.

(2) These records shall be open to inspection according to chapter 3, title 9, Idaho Code. All information obtained and social records prepared in the discharge of official duty by an employee of the court shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(3) The victim of misconduct shall always be entitled to the name of the ~~child~~ juvenile involved, the name of the ~~child's~~ juvenile's parents or guardian, and their addresses and telephone numbers, if

available in the records of the court.

(4) Notwithstanding the other provisions of this act and notwithstanding any order entered pursuant hereto, nothing in this act shall prohibit the exchange of records created pursuant to this act between prosecuting attorneys or courts in this state.

SECTION 27. That Section 16-1817, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-181720-526.~~ ENCOURAGING VIOLATIONS. Any person who by any act or neglect encourages, aids or causes a child juvenile to come within the purview or jurisdiction of this act chapter, or who after notice that a driver's license of any such child has the driving privileges of the juvenile have been suspended or revoked restricted under the provisions of this chapter knowingly permits or encourages said child juvenile to operate a motor vehicle during--the-period-that-such driver's license is suspended in violation of such suspension or restriction shall be guilty of a misdemeanor. The court may impose conditions upon any person found guilty under this section, and so long as such person shall comply therewith to the satisfaction of the court, the sentence imposed may be suspended.

SECTION 28. That Section 16-1818, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-181820-527.~~ SCHOOL TRUSTEES TO REPORT TRUANTS. When a child juvenile of compulsory school age is expelled the board of trustees of each the school district or their the board's delegated representatives shall give prompt written notice to the court which file a petition under this act as provided in section 33-205, Idaho Code. The court shall cause an investigation to be made and upon receipt of such a the written report in writing of the investigation, the court may proceed under this act or the child protective act or--under with respect to the juvenile and may proceed against the juvenile's parent(s), guardian or custodian under this act pursuant to section 33-207, Idaho Code; ~~as amended.~~

SECTION 29. That Section 16-1819, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-181920-528.~~ APPEALS. All orders or final judgments made by any court in matters affecting a child juvenile within the purview of this act may be appealed by the child juvenile. A decision by the court pursuant to section ~~16-1806~~ 20-508, Idaho Code, not to waive jurisdiction under the youth rehabilitation this act over the child juvenile may be appealed by the state. Appeals shall be reviewed as provided by the appellate rules of the supreme court of Idaho, except no undertaking shall be required. Upon filing of the notice of appeal, the district court shall take jurisdiction of the case. ~~if a child~~ and if the juvenile is in detention the court must shall promptly hold a hearing after the filing of a request as to determine whether the child juvenile shall remain in detention.

SECTION 30. That Section 16-1820, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-182020-529. APPOINTMENT OF COUNTY PROBATION OFFICERS. The courts in the several counties of this state shall enter into a contract or agreement with the board to provide for probation services to the counties or, if the court deems local probation services are necessary preferable, may appoint one (1) or more persons to serve as probation officers at the expense of the county. The probation officer or youth rehabilitation counselor of the board shall be a friend of the child at all times and shall never be required to arrest, apprehend, accuse or prove that a child comes within the purview of this act, unless the child has previously been decreed by a court under section 16-1814, Idaho Code, to be within the purview of this act and is under the supervision of the court, in which instance the probation officer or field agent of the board shall have the same authority as any peace officer to take the child into custody. The efforts of the probation officer or youth rehabilitation counselor of the board shall be directed to the discovery and correction of the basic causes of maladjustment and to the development of the child's personality and character with the aid of the social resources of the community with the concurrence of the county commissioners.~~

SECTION 31. That Section 16-1822, Idaho Code, be, and the same is hereby repealed.

SECTION 32. That Section 16-1823, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-182320-530. REEXAMINATION REASSESSMENT OF COMMITTED PERSONS JUVENILES -- RECORDS -- FAILURE TO REASSESS. (1) The board department shall make periodic reexamination reassessments of all persons juveniles committed to it for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. Examinations Assessments may be made as frequently as the board department considers desirable and shall be made with respect to every person juvenile at intervals not exceeding one (1) year. Reports of periodic reexaminations reassessments made pursuant to this section shall be filed with the court from which the child juvenile was committed.~~

~~(2) The department shall keep written records of assessments, prognosis, and all orders concerning disposition or treatment of every juvenile committed to it.~~

~~(3) Failure of the department to assess a committed juvenile or to reassess him within one (1) year of a previous assessment shall not of itself entitle the juvenile to discharge from the control of the department but shall entitle him to petition the committing court for an order of discharge and the court shall discharge him unless the department satisfies the court of the need for further control.~~

SECTION 33. That Sections 16-1824 and 16-1825, Idaho Code, be, and the same are hereby repealed.

SECTION 34. That Section 16-1827, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-182720-531.~~ 16-182720-531. SECURE FACILITIES. (1) The department shall maintain and operate secure facilities for the custody and ~~rehabilitation~~ of youth juvenile offenders who pose a danger of serious bodily harm to others or who have engaged in a pattern of serious criminal offenses, and who cannot be controlled in a less secure setting.

~~(2) A supervisor shall be appointed for each secure facility operated by the department by the director of the department. The supervisor shall be a person who has experience in social work, law, criminology, corrections, or a related field, and experience in administration.~~

~~(3)~~ (3) The department shall provide or make available to youth juvenile offenders in secure facilities, instruction appropriate to the age, needs and range of abilities of the youth juveniles. An assessment shall be made of each youth juvenile at the secure facility to determine abilities, learning disabilities, interests, attitudes and similar matters. Training in the development of competency and life skills designed to assist the juvenile in operating effectively within and becoming a contributing member of the community shall be provided. Prevocational education shall be provided to acquaint youth juvenile offenders with vocations, their requirements and opportunities.

~~(4)~~ (4) The department shall place youth juvenile offenders committed to the department ~~for secure confinement and rehabilitation~~ in a state or privately operated secure facility that ~~is appropriate to insure that provides~~ provides humane care and rehabilitation developmental opportunities are afforded for the youth juvenile offender while promoting accountability and community protection.

~~(5)~~ (5) The department shall adopt standards, policies and procedures for the regulation and operation of secure facilities. Such standards, policies and procedures shall not be inconsistent with law. Policies ~~shall be subject to approval of the board of health and welfare and~~ shall be promulgated as rules ~~and regulations~~ in compliance with chapter 52, title 67, Idaho Code.

SECTION 35. That Section 16-1828, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-182820-532.~~ 16-182820-532. TERM OF COMMITMENT -- REVIEW AFTER COMMITMENT. A youth juvenile offender committed to a secure facility shall remain until the offender reaches age twenty-one (21), or is conditionally released or discharged. A youth juvenile offender committed to a secure facility shall appear before the department within ninety (90) days after commitment, for review of treatment plans ~~and establishment of conditional release guidelines.~~

SECTION 36. That Section 16-1829, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-182920-533.~~ 16-182920-533. CONDITIONAL RELEASE ESTABLISHED FROM CUSTODY OF THE DEPARTMENT. (1) The department shall determine an appropriate

~~conditional-release~~ date for release of the juvenile offender from the custody of the department, based upon guidelines established by the ~~board-of-health-and-welfare-for-youth-offenders-committed-to-secure~~ department. The ~~board-of-health-and-welfare~~ department shall review and update policy guidelines annually.

(2) ~~Youth~~ Juvenile offenders may be ~~conditionally~~ released to their own home, to a residential community based program, to a nonresidential community based treatment program, to an approved independent living setting, or to other appropriate residences, but shall remain on ~~conditional-release~~ probation until the ~~conditional-release~~ probation is terminated by the ~~department~~ court. Following the release of a juvenile offender the court may conduct a hearing to review the juvenile's conditions of probation and determine whether existing conditions should be amended or eliminated or additional conditions imposed.

(3) ~~Case-management-staff-of-the-department~~ County probation officers shall ~~implement-conditional-release-plans~~ enforce probation conditions and supervise ~~youth~~ juvenile offenders while on ~~conditional-release~~ probation. As authorized by court order, probation officers may establish additional reasonable conditions of probation with which the juvenile offender must comply. The juvenile may move for a hearing before the court to contest any conditions imposed by the probation officer. If the probation officer establishes additional conditions of probation, the probation officer shall advise the juvenile at the time such additional conditions are imposed of the juvenile's right to move the court for a hearing to contest those conditions.

(4) ~~The-department-shall-determine-when-and-under-what-conditions youth-offenders-committed-to-a-secure-facility-are-eligible-for-conditional-release--The-youth-offender-shall-be-served-a-notice-of-any conditional--release--hearings,-and-shall-have-the-right-to-personally appear-for-conditional-release-consideration--Orders-and-decisions-of the-department-shall-be-in-writing-and-the-youth-offender-shall-be provided-written-notice-of-the-department's-reasoning-and-decision-in his-case.~~

(5) When the department is considering ~~conditional~~ release for of a ~~youthful~~ juvenile offender committed to the department for ~~secure~~ confinement, the department shall notify the prosecuting attorney of the county from which the ~~youthful~~ juvenile offender was committed to ~~secure~~ confinement, the judge whose order caused the ~~youthful~~ juvenile offender to be committed to ~~secure~~ confinement and the victims of the ~~youthful~~ juvenile offender's unlawful conduct.

SECTION 37. That Sections 16-1830, 16-1831, 16-1832, 16-1833, 16-1834 and 16-1835, Idaho Code, be, and the same are hereby repealed.

SECTION 38. That Section 16-1836, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1836~~ 20-534. MAGISTRATE COURT PROBATION SECTIONS TO FURNISH INFORMATION TO DEPARTMENT. Probation sections of the magistrate division of the district court shall render full and complete cooperation to the department in supplying the department with all pertinent information relating to ~~youth~~ juvenile offenders committed to the

department. This information may include, ~~but not be limited to~~ without limitation, prior criminal history, social history, psychological evaluations, and identifying information specified by the department.

SECTION 39. That Section 16-1837, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-183720-535.~~ 16-183720-535. REVIEW OF PROGRAMS FOR JUVENILES -- CERTIFICATION. The department shall annually review all state operated or state contracted programs which provide services to juveniles ~~who have committed a delinquent act, in this state or in any other state, which would constitute a felony or misdemeanor if committed by an adult,~~ offenders and certify compliance with standards provided by the ~~board of health and welfare~~ department. Written reviews shall be provided to the managers of those programs. Based upon policies established by the ~~board of health and welfare~~ department, those programs which are unable or unwilling to comply with approved standards may not be certified. Any ~~Persons~~ Persons owning or operating a private facility ~~which through a who willfully act~~ fails to comply with the standards established by the department shall be guilty of a misdemeanor.

SECTION 40. That Section 16-1838, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-183820-536.~~ 16-183820-536. CONTRACTS WITH PRIVATE PROVIDERS OF SERVICES FOR ~~YOUTH~~ JUVENILE OFFENDERS -- CERTIFICATION REQUIRED. Nothing in this chapter shall prohibit the department from contracting with private providers or other entities for the provision of care, treatment and supervision of ~~youth~~ juvenile offenders committed to the care custody of the department, if these programs are certified as in compliance with department standards ~~as adopted by the board of health and welfare~~ within six (6) months after commencing operation.

SECTION 41. That Section 16-1839, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-183920-537.~~ 16-183920-537. PROGRAM RECORDS AS PROPERTY OF DEPARTMENT -- CONTROL OF RECORDS. All records maintained by programs providers under contract ~~to with~~ the department providing to provide services to youth juvenile offenders are the property of the department and shall be returned to it when the youth juvenile offenders are terminated from the provider's programs. The department shall maintain an accurate audit trail of information provided to other programs, providers or agencies regarding youth juvenile offenders under its jurisdiction.

SECTION 42. That Section 16-1840, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-184020-538.~~ 16-184020-538. RESTITUTION TO VICTIMS OF ~~YOUTH~~ JUVENILE OFFENDERS -- DUTIES OF DEPARTMENT. (1) The department or county probation shall make reasonable efforts to ensure that restitution is made to the victim of the youth juvenile offender. Restitution may be made through the employment of youth juvenile offenders in work programs or

directly to the person; provided, however, that reimbursement to the victim is conditional upon the youth juvenile offender's involvement in such program.

(2) Restitution may be made a condition of ~~release, placement, or conditional release by the department. In the event of conditional release revocation or where there is no court order requiring restitution to the victim and the loss to the victim has been determined, the department shall evaluate whether restitution is appropriate and, if so, the amount or type of restitution to which the victim is entitled.~~

~~(3) The department shall notify the court of all restitution paid to victims through the employment of youth offenders in work programs probation.~~

SECTION 43. That Section 16-1841, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1841~~20-539. CREATION OF ACCOUNT. There is hereby created in the ~~dedicated fund of the~~ state treasury an account known as the "Youth Juvenile Corrections Victim Restitution Account," which shall be administered by the department. Moneys in the account shall consist of wage payments made to youth juvenile offenders in work programs, appropriations and moneys received from whatever source. Moneys in the account shall be utilized to provide full or partial restitution to victims of the youth juvenile offender's delinquent behavior.

SECTION 44. That Section 16-1843, Idaho Code, be, and the same is hereby repealed.

SECTION 45. That Section 16-1844, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1844~~20-540. REPORTS BY DEPARTMENT. When a youth juvenile offender has been committed to the department pursuant to this chapter, the department shall supply a report of the youth juvenile offender's educational and rehabilitation developmental progress to the committing court as often as the court deems necessary in its order of commitment, but not less frequently than every three (3) months.

SECTION 46. That Section 16-1845, Idaho Code, be, and the same is hereby repealed.

SECTION 47. That Section 16-1847, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1847~~20-541. SPECIAL COMMISSIONER -- DUTIES. The court shall be authorized to appoint a special commissioner to assist in the conduct of proceedings under this chapter. In any case in which the court refers a petition to the commissioner, the commissioner shall promptly cause the matter to be investigated and on the basis thereof shall either recommend dismissal of the petition or hold a hearing as provided in this act and make recommendations to the court regarding the

disposition of the matter, ~~and~~ such commissioner shall be paid for the services rendered on order of the court from county funds in such amount as is determined by the court.

SECTION 48. That Section 16-1849, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1849~~20-542. YOUTH JUVENILE CORRECTIONS ACCOUNT -- CREATION. There is hereby created in ~~the dedicated fund of~~ the state treasury, the youth juvenile corrections account. Moneys in the account shall be utilized by the ~~board of health and welfare~~ department for construction and administration of secure facilities and community-based programs under the jurisdiction of the department of ~~health and welfare~~ juvenile corrections, for assistance to a county or series of counties in constructing, contracting for or administering detention facilities for juveniles, and for alternative programs designed to help juveniles avoid the traditional juvenile ~~justice corrections~~ system. All moneys in the account may be expended only pursuant to appropriation by the legislature.

SECTION 49. That Section 16-1850, Idaho Code, be, and the same is hereby repealed.

SECTION 50. That Section 33-3501, Idaho Code, be, and the same is hereby amended to read as follows:

~~33-3501~~20-543. ESTABLISHMENT JUVENILE CORRECTIONS CENTER. The establishment by law of the ~~Idaho--Industrial--Training--School~~ state youth services center at St. Anthony, Idaho, is hereby ratified and affirmed, and its operation continued; provided, however, that on and after July 1, 1974⁹⁵ said secure facility shall be known and designated as the State Youth-Services Juvenile Corrections Center. The purposes of ~~said-secure~~ the facility shall be:

(1) The care, control, and rehabilitation competency development of adjudicated youth juvenile offenders meeting standards for admission as adopted by the Idaho supreme court;

(2) The provision pursuant to agreement with the counties of detention services for youth juveniles subject to administrative or court order;

(3) The provision of evaluative observation and assessment services for youth juveniles committed to the department of ~~health--and welfare--or-referred-by-courts-prior-to-disposition-under-the-juvenile justice-reform-act~~ juvenile corrections; and

(4) To accept for placement those individuals sentenced to the facility by a district court, or pursuant to agreement with the board of correction, subsequent to waiver of juvenile court jurisdiction.

It is further provided that wherever the term "State Youth Training Center" or "State Youth Services Center" shall appear in the Idaho Code it shall mean "State Youth-Services Juvenile Corrections Center."

SECTION 51. That Section 33-3502, Idaho Code, be, and the same is hereby amended to read as follows:

~~33-350220-544.~~ BODY POLITIC AND CORPORATE -- POWERS. The state youth-services juvenile corrections center is hereby declared to be a body politic and corporate, with its own seal and having power to sue and be sued in its own name. The general oversight, supervision, government and control of the state youth-services juvenile corrections center is vested in the ~~board-of-health-and-welfare.~~ The general supervision, government and control of the state youth-services-center is vested in the state department of health and welfare department of juvenile corrections.

SECTION 52. That Section 33-3503, Idaho Code, be, and the same is hereby amended to read as follows:

~~33-350320-545.~~ POWERS OF THE ~~BOARD-OF-HEALTH-AND-WELFARE~~ DEPARTMENT OF JUVENILE CORRECTIONS. The ~~board-of-health-and-welfare~~ department of juvenile corrections shall have the power to:

(1) ~~Adopt rules and regulations~~ for the state ~~youth--services juvenile corrections~~ center as may be required by the juvenile justice reform corrections act;

(2) Assure that the education program of the state ~~youth-services juvenile corrections~~ center ~~shall comply~~ is in compliance with educational standards for secure juvenile facilities which are approved by the Idaho state board of education or an accrediting association recognized by the Idaho state board of education; and

(3) Provide general oversight of the state ~~youth--services juvenile corrections~~ center and other secure facilities as required by the juvenile justice--reform corrections act, ~~and to visit any secure facility as it deems necessary.~~

SECTION 53. That Section 33-3505, Idaho Code, be, and the same is hereby amended to read as follows:

~~33-350520-546.~~ POWERS OF DIRECTOR OF DEPARTMENT OF HEALTH--AND WELFARE JUVENILE CORRECTIONS. The director of the department of ~~health and-welfare~~ juvenile corrections shall have the power:

~~(1.)~~ To employ a superintendent of the ~~school~~ juvenile corrections center who shall be a nonclassified employee and serve at the pleasure of the director, and, with his advice, to appoint such assistants, instructors, specialists and other employees as are required for the operation of the ~~school~~ center; to fix salaries and prescribe duties; and to remove the superintendent or any other employee for cause;

All teachers, except specialists, shall hold teaching certificates issued under the authority of the state board of education and which are valid for the grades and subjects taught. All specialists shall hold diplomas from some accredited school of their specialty;

~~(2.)~~ To have, at all times, general supervision and control of all property, real and personal, appertaining to the ~~school~~ center, and to insure the same;

~~(3.)~~ To employ architects or engineers in planning and construction, remodeling or repair of any building and, whenever no other agency is designated so to do, to let contracts for the construction, remodeling or repair and to supervise the work thereof;

(4-) To expend tax moneys appropriated, or otherwise placed to the credit of the school center for the maintenance and operation thereof, and to account for the same as prescribed by law.

SECTION 54. That Section 16-1848, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1848~~20-547. CONSTRUCTION OF ACT -- CITATION OF ACT. This act shall be liberally construed to the end that the legislative policy expressed herein is achieved. This act may be cited as the "Juvenile Corrections Act of 1995."

SECTION 55. That Section 36-401, Idaho Code, be, and the same is hereby amended to read as follows:

36-401. HUNTING, TRAPPING, FISHING -- LICENSE REQUIREMENT -- EXCEPTIONS. No person shall hunt, trap, or fish for or take any wild animal, bird or fish of this state, without first having procured a license as hereinafter provided. Provided that no license shall be required:

- (a) 1. For children under the age of fourteen (14) years who are residents of this state to fish during the open season therefor.
2. For nonresident children under the age of fourteen (14) years to fish during the open season therefor provided they are accompanied by the holder of a valid fishing license, and provided further that any fish caught by such nonresident children shall be included in the bag and possession limit of such license holder.
3. For resident children under the age of twelve (12) years to hunt, take or kill predatory, unprotected birds and animals by means other than with firearms.
4. For resident children under the age of fourteen (14) years to trap muskrats from irrigation ditches or property on which they live during the open season.
5. For children under the age of eighteen (18) who are residents of a licensed foster home, a foster group home, or a child welfare institution to fish during the open season therefor, provided they are accompanied and supervised by the director, officer, or other employee of the facility where the child resides.
- (b) For any person to fish on a "free fishing day" as may be designated by the commission.
- (c) Senior Residents. For "senior residents" age seventy (70) years or older who are holders of a "senior resident permit" to hunt and fish during the open season.
- (d) Blind Persons. For resident blind persons who are holders of a "permit for the blind" to fish during the open season.
- (e) Institutional Inmates. For any inmate of the state hospital north, state hospital south, Idaho state school and hospital, and state veterans homes to fish during open seasons, provided said inmate has a permit therefor from the director. The director is authorized to issue such permits upon the request of the head of the respective institution having custody of said inmate upon a showing that the institution recommends the issuance of such permit and will assume full responsibility for and control over said inmate while using said

permit.

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

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

(h) State ~~Youth-Services~~ Juvenile Corrections Center Students. For students of the state ~~youth-services~~ juvenile corrections center, under the supervision of an officer of ~~said-school~~ the center, to fish during the open season.

(i) Boy Scouts. For boy scouts who are official participants in attendance at national or international encampments at Farragut State Park to take fish during the encampment period from Lake Pend Oreille in such areas and such numbers as may be designated by the commission.

(j) Participants in Fish and Game Sponsored Functions. For persons who are official participants in attendance at official department sponsored functions including clinics, courses or other educational events, while under the supervision of a department approved instructor for the function, to fish during any open season, provided that the instructor has been issued an educational fishing permit by the director.

(k) Nothing contained herein shall be construed to prohibit citizens of the United States who are residents of the state of Idaho from carrying arms for the protection of life and property.

SECTION 56. 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~~ Juvenile Corrections 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 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 57. That Section 66-1106, Idaho Code, be, and the same is hereby amended to read as follows:

66-1106. CHARITABLE INSTITUTIONS FUND -- TRANSFER OF MONEYS TO

SEPARATE FUNDS. Any and all moneys hereafter accruing to said charitable institutions fund shall be forthwith transferred and credited to the following designated funds in the following proportions, respectively, to wit:

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

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

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

To the Veterans Home fund, five-thirtieths (5/30) thereof;

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

SECTION 58. 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~~ The board shall be ~~an executive department of state government a~~ self-governing agency in the department of self-governing agencies. The governor is chairman of the said board. The state controller is ex officio secretary of the state board of examiners.

SECTION 59. 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
- Department of juvenile corrections
- 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 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 60. That Section 67-2406, Idaho Code, be, and the same is hereby amended to read as follows:

67-2406. DIRECTORS OF DEPARTMENTS ENUMERATED. The following department directors are created:

Director, department of administration
 Director, department of agriculture
 Director, department of commerce
 Director, department of correction
 Director, department of employment
 Director, department of finance
 Director, department of fish and game
 Director, department of health and welfare
 Director, department of insurance
Director, department of juvenile corrections
 Director, Idaho transportation department
 Director, department of labor and industrial services
 Director, department of lands
 Director, department of law enforcement
 Director, department of parks and recreation
 Director, department of water resources.

SECTION 61. 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 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; 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.

(c) the board of examiners, pursuant to section 67-2001, Idaho Code.

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

SECTION 62. 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 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,
Director of the department of juvenile corrections,
 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 63. That Section 16-1910, Idaho Code, be, and the same is hereby amended to read as follows:

16-1910. CLARIFICATION OF TERM "DELINQUENT JUVENILE." The term "delinquent juvenile" includes any ~~child~~ juvenile defined in section ~~16-180320-505~~, Idaho Code, ~~as amended~~.

SECTION 64. An emergency existing therefor, which emergency is hereby declared to exist, Sections 4, 58, 59, 60, 61 and 62 of this act shall be in full force and effect on and after their passage and approval.

SECTION 65. All remaining sections of this act shall be in full force and effect on and after October 1, 1995.

Approved March 6, 1995.

CHAPTER 45
(S.B. No. 1015)

AN ACT

RELATING TO THE YOUTH REHABILITATION ACT; AMENDING SECTION 16-1814, IDAHO CODE, TO PROVIDE FOR A MAXIMUM OF NINETY DAYS DETENTION IF THE CRIME COMMITTED BY THE CHILD WOULD BE A MISDEMEANOR IF COMMITTED BY AN ADULT AND FOR A MAXIMUM OF ONE HUNDRED EIGHTY DAYS IF THE CRIME COMMITTED BY THE CHILD WOULD BE A FELONY IF COMMITTED BY AN ADULT.

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

SECTION 1. 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 ninety (390) 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 one hundred eighty (3180) 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.

Approved March 6, 1995.

CHAPTER 46
(S.B. No. 1016)

AN ACT

RELATING TO THE YOUTH REHABILITATION ACT; AMENDING SECTION 16-1806A, IDAHO CODE, TO PROVIDE THAT A JUVENILE WHO IS TRIED AS AN ADULT SHALL CONTINUE TO BE HANDLED AS AN ADULT IF THE JUVENILE IS FOUND GUILTY OF OR PLEADS GUILTY TO A LESSER OFFENSE OR AMENDED CHARGE GROWING OUT OF OR INCLUDED WITHIN THE ORIGINAL CHARGE, WHETHER OR NOT SUCH LESSER OFFENSE OR AMENDED CHARGE IS INCLUDED WITHIN THE LIST OF CRIMES FOR WHICH A JUVENILE MUST BE TRIED AS AN ADULT.

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

SECTION 1. That Section 16-1806A, Idaho Code, be, and the same is hereby amended to read as follows:

16-1806A. VIOLENT OFFENSES, CONTROLLED SUBSTANCES VIOLATIONS NEAR SCHOOLS AND OFFENDERS. (1) Any person, age fourteen (14) years to age eighteen (18) years, who is alleged to have committed any of the following crimes:

- (a) Murder of any degree or attempted murder;
- (b) Robbery;
- (c) Rape, but excluding statutory rape;
- (d) Forcible sexual penetration by the use of a foreign object;
- (e) Infamous crimes against nature, committed by force or violence;
- (f) Mayhem;
- (g) Assault or battery with the intent to commit any of the above serious felonies;
- (h) A violation of the provisions of section 37-2732(a)(1)(A)(B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;

shall be charged, arrested and proceeded against by complaint, indictment or information as an adult. All other felonies or misdemeanors charged in the complaint, indictment or information, which are based on the same act or transaction or on one or more acts or transactions as the violent or controlled substances offense shall similarly be charged, arrested and proceeded against as an adult. Any person proceeded against pursuant to this section shall be accorded all constitutional rights, including bail and trial by jury, and procedural safeguards as if that person were an adult defendant.

(2) Once a juvenile has been charged or indicted pursuant to this section or has been transferred for criminal prosecution pursuant to a waiver hearing, or information and has been found to have committed the offense for which ~~he or she~~ the juvenile was charged, indicted or transferred, or has been found guilty or pled guilty to a lesser offense or amended charge growing out of or included within the origi-

nal charge, whether or not such lesser offense or amended charge is included within the acts enumerated in subsection (1) of this section, the juvenile shall thereafter be handled in every respect as if he or she were an adult. Ffor any subsequent violation of Idaho law, the juvenile shall be handled in every respect as an adult.

(3) The sentencing judge of any person convicted pursuant to this section may choose to sentence the convicted person in accordance with the juvenile sentencing options set forth in this act, if a finding is made that adult sentencing measures would be inappropriate.

Approved March 6, 1995.

CHAPTER 47
(S.B. No. 1017)

AN ACT

RELATING TO THE YOUTH REHABILITATION ACT; AMENDING SECTIONS 16-1806 AND 16-1806A, IDAHO CODE, TO PROVIDE THAT THE COURT MAY WAIVE JURISDICTION TO ADULT COURT OF A CHILD UNDER AGE FOURTEEN WHO IS ALLEGED TO HAVE COMMITTED ANY OF THE CRIMES FOR WHICH A CHILD AGE FOURTEEN TO EIGHTEEN MUST BE TRIED AS AN ADULT.

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

SECTION 1. That Section 16-1806, Idaho Code, be, and the same is hereby amended to read as follows:

16-1806. WAIVER OF JURISDICTION AND TRANSFER TO OTHER COURTS. (1) After the filing of a petition and after full investigation and hearing, the court may waive jurisdiction under the youth rehabilitation act over the child and order that the child be held for adult criminal proceedings when:

(a) A child is alleged to have committed any of the crimes enumerated in section 16-1806A, Idaho Code; or

(b) A child is alleged to have committed an act other than those enumerated in section 16-1806A, Idaho Code, after he--or--she the child became fourteen (14) years of age which would be a crime if committed by an adult; or

(bc) An adult at the time of the filing of the petition is alleged to have committed an act prior to his having become eighteen (18) years of age which would be a felony if committed by an adult, and the court finds that the adult is not committable to an institution for the mentally deficient or mentally ill, is not treatable in any available institution or facility available to the state designed for the care and treatment of children, or that the safety of the community requires the adult continue under restraint; or

(ed) An adult already under the jurisdiction of the court is alleged to have committed a crime while an adult.

(2) A motion to waive jurisdiction under the youth rehabilitation act and prosecute a child under the criminal law may be made by the

prosecuting attorney, the child, or by motion of the court upon its own initiative. The motion shall be in writing and contain the grounds and reasons in support thereof.

(3) Upon the filing of a motion to waive jurisdiction under the youth rehabilitation act, the court shall enter an order setting the motion for hearing at a time and date certain and shall order a full and complete investigation of the circumstances of the alleged offense to be conducted by the board, or such other state agency or investigation officer designated by the court.

(4) Upon setting the time for the hearing upon the motion to waive jurisdiction, the court shall give written notice of said hearing to the child, and the parents, guardian or custodian of the child, and the prosecuting attorney, at least ten (10) days before the date of the hearing, or a lesser period stipulated by the parties, and such notice shall inform the child and the parents, guardian or custodian of the child of their right to court appointed counsel in accordance with these rules. Service of the notice shall be made in the manner prescribed for service of a summons under section 16-1809, Idaho Code.

(5) The hearing upon the notice to waive jurisdiction shall be held in the same manner as an evidentiary hearing upon the original petition and shall be made part of the record.

(6) If as a result of the hearing on the motion to waive jurisdiction the court shall determine that jurisdiction should not be waived, the petition shall be processed in the customary manner as a youth rehabilitation act proceeding. However, in the event the court determines, as a result of the hearing, that youth rehabilitation act jurisdiction should be waived and the child should be prosecuted under the criminal laws of the state of Idaho, the court shall enter findings of fact and conclusions of law upon which it bases such decision together with a decree waiving youth rehabilitation act jurisdiction and binding the child over to the authorities for prosecution under the criminal laws of the state of Idaho.

(7) No motion to waive youth rehabilitation act jurisdiction shall be recognized, considered, or heard by the court in the same case once the court has entered an order or decree in that case that said child has come within the purview of the youth rehabilitation act, and all subsequent proceedings after the decree finding the child within the purview of the youth rehabilitation act must be under and pursuant to the youth rehabilitation act and not as a criminal proceeding.

(8) In considering whether or not to waive juvenile court jurisdiction over the child, the juvenile court shall consider the following factors:

(a) The seriousness of the offense and whether the protection of the community requires isolation of the child beyond that afforded by juvenile facilities;

(b) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(c) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;

(d) The maturity of the child as determined by considerations of his home, environment, emotional attitude, and pattern of living;

(e) The child's record and previous history of contacts with the

juvenile justice system;

(f) The likelihood of rehabilitation of the child by use of facilities available to the court;

(g) The amount of weight to be given to each of the factors listed in subsection (8) of this section is discretionary with the court, and a determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of waiver.

(9) If the court does not waive jurisdiction and order a child or adult held for criminal proceedings, the court in a county other than the child's or adult's home county, after entering a decree that the child or adult is within the purview of this chapter, may certify the case for disposition to the court of the county in which the child or adult resides upon being notified the receiving court is willing to accept transfer. In the event of a transfer, which should be made unless the court finds it contrary to the interest of the child or adult, the jurisdiction of the receiving court shall attach to the same extent as if the court had original jurisdiction.

SECTION 2. That Section 16-1806A, Idaho Code, be, and the same is hereby amended to read as follows:

16-1806A. VIOLENT OFFENSES, CONTROLLED SUBSTANCES VIOLATIONS NEAR SCHOOLS AND OFFENDERS. (1) Any person, age fourteen (14) years to age eighteen (18) years, who is alleged to have committed any of the following crimes or any person under age fourteen (14) who is alleged to have committed any of the following crimes and, pursuant to section 16-1806, Idaho Code, has been ordered by the court to be held for adult criminal proceedings:

(a) Murder of any degree or attempted murder;

(b) Robbery;

(c) Rape, but excluding statutory rape;

(d) Forcible sexual penetration by the use of a foreign object;

(e) Infamous crimes against nature, committed by force or violence;

(f) Mayhem;

(g) Assault or battery with the intent to commit any of the above serious felonies;

(h) A violation of the provisions of section 37-2732(a)(1)(A)(B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;

shall be charged, arrested and proceeded against by complaint, indictment or information as an adult. All other felonies or misdemeanors charged in the complaint, indictment or information, which are based on the same act or transaction or on one or more acts or transactions as the violent or controlled substances offense shall similarly be charged, arrested and proceeded against as an adult. Any person proceeded against pursuant to this section shall be accorded all consti-

tutional rights, including bail and trial by jury, and procedural safeguards as if that person were an adult defendant.

(2) Once a juvenile has been charged or indicted pursuant to this section or has been transferred for criminal prosecution pursuant to a waiver hearing, or information and has been found to have committed the offense for which he or she was charged, indicted or transferred, the juvenile shall thereafter be handled in every respect as if he or she were an adult for any subsequent violation of Idaho law.

(3) The sentencing judge of any person convicted pursuant to this section may choose to sentence the convicted person in accordance with the juvenile sentencing options set forth in this act, if a finding is made that adult sentencing measures would be inappropriate.

Approved March 6, 1995.

CHAPTER 48
(S.B. No. 1018)

AN ACT

RELATING TO THE YOUTH REHABILITATION ACT; AMENDING SECTION 16-1806A, IDAHO CODE, TO INCLUDE ARSON IN THE FIRST DEGREE AND AGGRAVATED ARSON IN THE LIST OF CRIMES FOR WHICH A JUVENILE MUST BE TRIED AS AN ADULT.

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

SECTION 1. That Section 16-1806A, Idaho Code, be, and the same is hereby amended to read as follows:

16-1806A. VIOLENT OFFENSES, CONTROLLED SUBSTANCES VIOLATIONS NEAR SCHOOLS AND OFFENDERS. (1) Any person, age fourteen (14) years to age eighteen (18) years, who is alleged to have committed any of the following crimes:

- (a) Murder of any degree or attempted murder;
- (b) Robbery;
- (c) Rape, but excluding statutory rape;
- (d) Forcible sexual penetration by the use of a foreign object;
- (e) Infamous crimes against nature, committed by force or violence;
- (f) Mayhem;
- (g) Assault or battery with the intent to commit any of the above serious felonies;
- (h) A violation of the provisions of section 37-2732(a)(1)(A)(B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;
- (i) Arson in the first degree and aggravated arson;

shall be charged, arrested and proceeded against by complaint, indict-

ment or information as an adult. All other felonies or misdemeanors charged in the complaint, indictment or information, which are based on the same act or transaction or on one or more acts or transactions as the violent or controlled substances offense shall similarly be charged, arrested and proceeded against as an adult. Any person proceeded against pursuant to this section shall be accorded all constitutional rights, including bail and trial by jury, and procedural safeguards as if that person were an adult defendant.

(2) Once a juvenile has been charged or indicted pursuant to this section or has been transferred for criminal prosecution pursuant to a waiver hearing, or information and has been found to have committed the offense for which he or she was charged, indicted or transferred, the juvenile shall thereafter be handled in every respect as if he or she were an adult for any subsequent violation of Idaho law.

(3) The sentencing judge of any person convicted pursuant to this section may choose to sentence the convicted person in accordance with the juvenile sentencing options set forth in this act, if a finding is made that adult sentencing measures would be inappropriate.

Approved March 6, 1995.

CHAPTER 49
(S.B. No. 1020)

AN ACT

RELATING TO THE YOUTH REHABILITATION ACT; AMENDING SECTION 16-1811, IDAHO CODE, TO PROVIDE THAT A JUVENILE TAKEN INTO DETENTION FOR AN OFFENSE SHALL BE FINGERPRINTED AND PHOTOGRAPHED AND DIRECTING THAT FINGERPRINTS AND PHOTOGRAPHS TAKEN BY DETENTION FACILITY STAFF BE FORWARDED TO THE APPROPRIATE LAW ENFORCEMENT AGENCY.

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

SECTION 1. That Section 16-1811, Idaho Code, be, and the same is hereby amended to read as follows:

16-1811. APPREHENSION AND RELEASE OF CHILDREN -- DETENTION. 1. A peace officer may take a child into custody, or a private citizen may detain a child until the child can be delivered forthwith into the custody of a peace officer, without order of the court:

- (a) When he has reasonable cause to believe that the child has committed an act which would be a felony if committed by an adult; or
- (b) When in the presence of a peace officer or private citizen the child has violated any local, state or federal law or municipal ordinance; or
- (c) When there are reasonable grounds to believe the child has committed a status offense. Status offenses are truancy, running away from or being beyond the control of parents, guardian, or legal custodian and curfew violations. Status offenders shall not be placed in any jail facility but instead may be placed in juve-

nile shelter care facilities, except in the case of runaways, when there is a specific detention request from a foreign jurisdiction to hold the child pending transportation arrangements.

A peace officer may take a child into custody at any time upon a written order or warrant signed by the judge or other magistrate in the judge's absence when there is reasonable cause to believe the child has committed an act which would be a misdemeanor if committed by an adult where such misdemeanor was committed out of the presence of the officer. Such taking into custody shall not be deemed an arrest. Jurisdiction of the court shall attach from the time the child is taken into custody. When an officer takes a child into custody, he shall notify the parent, guardian or custodian of the child as soon as possible. Unless otherwise ordered by the court, or unless it appears to the officer taking the child into custody that it is contrary to the welfare of society or the child, such child shall be released to the custody of his parent or other responsible adult upon written promise, signed by such person, to bring the child to the court at a stated time. Such written promise shall be submitted to the court as soon as possible. If such person shall fail to produce the child as agreed, or upon notice from the court, a summons for such person may be issued by the court and a warrant may be issued for apprehension of the child.

2. When a child is not released he shall be taken forthwith to the court or place of detention specified by the court and then not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, shall be brought before the court for a detention hearing to determine where the child will be placed until the next hearing. Status offenders shall not be placed in any jail facility, but instead may be placed in juvenile shelter care facilities.

Placements may include but are not limited to the following:

- (a) Parents of the child;
- (b) Relatives of the child;
- (c) Foster care;
- (d) Group care;
- (e) A juvenile detention facility; or
- (f) Community-based diversion programs.

3. The person in charge of a detention facility shall give immediate notice to the court that the child is in his custody.

4. No child shall be held in detention longer than twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, unless a petition has been filed and the court has signed the detention order.

5. As soon as a child is detained by court order, his parents, guardian or legal custodian shall be informed by notice in writing on forms prescribed by the court that they may have a prompt hearing regarding release or detention.

6. A law-enforcement-agency may juvenile taken into detention for an offense shall be fingerprinted and photographed a-child--taken-into-custody--for--an--offense. Fingerprints and photographs taken of juveniles at a detention facility by staff of the facility shall be forwarded to the appropriate law enforcement agency. If the court finds a child's detention for an offense to be unlawful, the court shall order the fingerprints and photographs of the child taken pursuant to that detention expunged, unless the court, after a hearing, orders other-

wise.

7. Peace officers' records of children shall be kept separate from records of adults and shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

Approved March 6, 1995.

CHAPTER 50
(S.B. No. 1021)

AN ACT

RELATING TO INTIMIDATION OF WITNESSES; AMENDING SECTION 18-2604, IDAHO CODE, TO PROVIDE CRIMINAL PENALTIES FOR INTIMIDATION OF A WITNESS IN A JUVENILE EVIDENTIARY HEARING.

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

SECTION 1. That Section 18-2604, Idaho Code, be, and the same is hereby amended to read as follows:

18-2604. INTIMIDATING A WITNESS. (1) Any person who, by direct or indirect force, or by any threats to a person or property, or by any manner wilfully intimidates, influences, impedes, deters, threatens, harasses, obstructs or prevents a witness, or any person who may be called as a witness or any person he believes may be called as a witness in any civil proceeding from testifying freely, fully and truthfully in that civil proceeding is guilty of a misdemeanor.

(2) Any person who, by direct or indirect force, or by any threats to a person or property, or by any manner wilfully intimidates, threatens or harasses any person because such person has testified or because he believes that such person has testified in any civil proceedings is guilty of a misdemeanor.

(3) Any person who, by direct or indirect force, or by any threats to person or property, or by any manner wilfully intimidates, influences, impedes, deters, threatens, harasses, obstructs or prevents, a witness or any person who may be called as a witness or any person he believes may be called as a witness in any criminal proceeding or juvenile evidentiary hearing from testifying freely, fully and truthfully in that criminal proceeding or juvenile evidentiary hearing is guilty of a felony.

(4) Any person who, by direct or indirect force, or by any threats to a person or property, or by any manner wilfully intimidates, threatens or harasses any person because such person has testified or because he believes that such person has testified in any criminal proceedings or juvenile evidentiary hearing is guilty of a felony.

(5) The fact that a person was not actually prevented from testifying shall not be a defense to a charge brought under subsection (1), (2), (3) or (4) of this section.

Approved March 6, 1995.

CHAPTER 51
(S.B. No. 1022)

AN ACT

RELATING TO ASSAULT OR BATTERY UPON CERTAIN PERSONNEL; AMENDING SECTION 18-915, IDAHO CODE, TO PROVIDE FELONY PENALTIES FOR ASSAULT OR BATTERY UPON AN EMPLOYEE OF A STATE SECURE CONFINEMENT FACILITY FOR JUVENILES, AN EMPLOYEE OF A JUVENILE DETENTION FACILITY, A TEACHER AT A DETENTION FACILITY OR A JUVENILE PROBATION OFFICER.

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

SECTION 1. That Section 18-915, Idaho Code, be, and the same is hereby amended to read as follows:

18-915. ASSAULT OR BATTERY UPON CERTAIN PERSONNEL -- PUNISHMENT. Any person who commits a crime provided for in this chapter against or upon a judge, prosecuting attorney, public defender, peace officer, bailiff, marshal, sheriff, police officer, correctional officer, employee of the department of correction, employees of the department of water resources authorized to enforce the provisions of chapter 38, title 42, Idaho Code, jailer, parole officer, officer of the state department of law enforcement, fireman, social caseworkers or social work specialists of the department of health and welfare, employee of a state secure confinement facility for juveniles, employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer, emergency medical technician certified by the department of health and welfare, emergency medical technician-ambulance certified by the department of health and welfare, advanced emergency medical technician and EMT-paramedic certified by the state board of medicine, United States marshal, or federally commissioned law enforcement officer or their deputies or agents and the perpetrator knows or has reason to know of the victim's status, the punishment shall be as follows:

(a) For committing battery with intent to commit a serious felony the punishment shall be imprisonment in the state prison not to exceed twenty-five (25) years.

(b) For committing any other crime in this chapter the punishment shall be doubled that provided in the respective section.

(c) For committing a violation of the provisions of sections 18-901 or 18-903, Idaho Code, against the person of a jailer or correctional officer or other staff of the department of correction, or of an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer and the person committing the offense knows or reasonably should know that such victim is a jailer or correctional officer, an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer engaged in the performance of his duties, and ~~such jailer or correctional officer~~ the victim is engaged in the performance of his duties, the offense shall be a felony punishable by imprisonment in

the state prison for a period of not more than five (5) years, and said sentence shall be served consecutively to any sentence being currently served.

Approved March 6, 1995.

CHAPTER 52
(S.B. No. 1058)

AN ACT

RELATING TO STAFF ALLOWANCE IN COMPUTATION OF THE EDUCATION SUPPORT PROGRAM; AMENDING SECTION 33-1004, IDAHO CODE, TO PROVIDE FOR USE OF THE DAILY ATTENDANCE REPORTS SUBMITTED FOR THE FEBRUARY 15 APPORTIONMENT IN DETERMINING SUPPORT UNITS USED FOR COMPUTING STAFF ALLOWANCE AND TO CLARIFY THAT NONDISTRICT EMPLOYEES UNDER SEPARATE CONTRACT TO A SCHOOL DISTRICT CAN BE COUNTED IN COMPUTING STAFF ALLOWANCES 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 33-1004, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004. STAFF ALLOWANCE. For each school district, a staff allowance shall be determined as follows:

1. Using the daily attendance reports that have been submitted for computing the February 15th apportionment of state funds as provided in section 33-1009, Idaho Code, determine the total support units for the district in the manner provided in section 33-1002 8.b., Idaho Code;

2. Determine the instructional staff allowance by multiplying the support units by 1.1. A district must demonstrate that it actually employs the number of certificated instructional staff allowed. If the district does not employ the number allowed, the staff allowance shall be reduced to the actual number employed;

3. Determine the administrative staff allowance by multiplying the support units by .075. A district must demonstrate that it actually employs the number of certificated administrative staff allowed. If the district does not employ the number allowed, the staff allowance shall be reduced to the actual number employed, except that not more than twenty percent (20%) of the administrative staff allowance may be noncertificated staff;

4. Determine the classified staff allowance by multiplying the support units by .375.

5. Additional conditions governing staff allowance:

a. In determining the number of staff in subsections 2., 3. and 4. of this section, a district may contract separately for services to be rendered by nondistrict employees and such employees may be counted in the staff allowance. A "nondistrict employee" means a person for whom the school district does not pay the

employer's obligations for employee benefits. When a district contracts for the services of a nondistrict employee, only the salary portion of the contract shall be allowable for computations.

b. If there are circumstances preventing eligible use of staff allowance to which a district is entitled as provided in subsections 2. and 3. of this section, an appeal may be filed with the state department of education outlining the reasons and proposed alternative use of these funds, and a waiver may be granted.

bc. For any district with less than forty (40) support units:

(1) The instructional staff allowance shall be calculated applying the actual number of support units. If the actual instructional staff employed in the 1994-95 school year is greater than the instructional staff allowance, then the instructional staff allowance shall be increased by one-half (1/2) staff allowance; and

(2) The administrative staff allowance shall be calculated applying the actual number of support units. If the actual administrative staff employed in the 1994-95 school year is greater than the administrative staff allowance, then the administrative staff allowance shall be increased by one-half (1/2) staff allowance.

(3) Additionally, for any district with less than twenty (20) support units, the instructional staff allowance shall be calculated applying the actual number of support units. If the number of instructional staff employed in the 1994-95 school year is greater than the instructional staff allowance, the staff allowance shall be increased as provided in paragraphs (1) and (2) of this subsection, and by an additional one-half (1/2) instructional staff allowance.

ed. Only instructional, administrative and classified personnel compensated by the school district from the general maintenance and operation fund of the district shall be included in the calculation of staff allowance or in any other calculations based upon staff, including determination of the experience and education multiplier, the reporting requirements, or the district's salary-based apportionment calculation. No food service staff or transportation staff shall be included in the staff allowance.

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, 1995.

Approved March 7, 1995.

CHAPTER 53
(H.B. No. 61)

AN ACT
RELATING TO REGISTRATION OF BIRTHS; AMENDING SECTION 39-255, IDAHO CODE, TO PROVIDE THAT IN ADDITION TO INSTANCES WHERE A COURT HAS

DETERMINED THAT THE FATHER OF A CHILD IS OTHER THAN THE HUSBAND OF THE MOTHER, THE NATURAL FATHER MAY BE ENTERED ON THE BIRTH CERTIFICATE PURSUANT TO NOTARIZED AFFIDAVITS EXECUTED BY THE MOTHER, THE HUSBAND AND THE NATURAL FATHER.

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

SECTION 1. That Section 39-255, Idaho Code, be, and the same is hereby amended to read as follows:

39-255. REGISTRATION OF BIRTHS. A certificate of each birth which occurs in this state shall be filed with the local registrar of the district in which the birth occurs within fifteen (15) days of the date of birth. No certificate shall be deemed complete until every item of information required shall have been provided or its omission satisfactorily accounted for.

(a) When a birth occurs in an institution or en route thereto, the person in charge of the institution or a designated representative shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate within fifteen (15) days of the date of birth. The physician or other person in attendance shall provide the medical information required by the certificate and certify to the facts of birth. When the physician, or other person in attendance, is physically unable to certify to the facts of birth within the time prescribed in this section, the person in charge of the institution may complete and sign the certificate.

(b) When a birth occurs outside an institution, the certificate shall be prepared and filed by:

(1) The physician or other person in attendance at or immediately after such birth; or

(2) When no physician or other person is present at or immediately after such birth: the father, or in the event of the death, disability or absence of the father, the mother; or in the event of the death or disability of the mother, the householder or owner of the premises where the birth occurred.

(c) The father, mother or guardian shall verify the facts entered on the certificate by their signature.

(d) When a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in this state, the birth shall be registered in this state and the place where the child is first removed shall be considered the place of birth. When a birth occurs on a moving conveyance while in international air space or in a foreign country or its air space and the child is first removed from the conveyance in this state, the birth shall be registered in this state, but the certificate shall show the actual place of birth insofar as can be determined.

(e) (1) If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child, unless:

(i) Paternity has been determined otherwise by a court of competent jurisdiction; or

(ii) The mother executes an affidavit attesting that the

husband is not the father and that the putative father is the father, and the putative father executes an affidavit attesting that he is the father, and the husband executes an affidavit attesting that he is not the father. Affidavits may be joint or individual or a combination thereof, and each signature shall be individually notarized. In such event, the putative father shall be shown as the father on the certificate.

(2) If the mother was not married at the time of either conception or birth, or between conception and birth, the name of the father shall not be entered on the certificate without the written notarized consent of the mother and the person to be named as the father, in which case, upon written notarized request of both parents, the surname of the child shall be entered on the certificate as that of the father.

(3) In any case in which paternity of a child is determined by a court of competent jurisdiction, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(4) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

Approved March 7, 1995.

CHAPTER 54
(H.B. No. 129)

AN ACT

RELATING TO TECHNICAL CORRECTIONS TO THE IDAHO SALES TAX ACT; AMENDING SECTION 63-3610, IDAHO CODE, TO CHANGE OBSOLETE REFERENCES FROM THE FORMER OFFICE OF THE TAX COLLECTOR TO THE STATE TAX COMMISSION; AMENDING SECTION 63-3611, IDAHO CODE, TO FURTHER DEFINE A RETAILER ENGAGED IN BUSINESS IN THIS STATE TO CONFORM THE DEFINITION TO FEDERAL CONSTITUTIONAL STANDARDS; AMENDING SECTION 63-3615, IDAHO CODE, TO DELETE A PROVISION RELATING TO CERTAIN MOTOR VEHICLES TEMPORARILY DONATED TO DRIVER'S EDUCATION PROGRAMS; AMENDING SECTION 63-36220, IDAHO CODE, TO CLARIFY THE EXEMPTION FOR CERTAIN DONATIONS, SALES AND PURCHASES RELATING TO THE IDAHO FOOD BANK WAREHOUSE, INC. AND TO CERTAIN OTHER FOOD BANKS OR SOUP KITCHENS; AMENDING SECTION 63-3622R, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM SALES AND USE TAXES FOR MOTOR VEHICLES TEMPORARILY DONATED TO DRIVER'S EDUCATION PROGRAMS SPONSORED BY CERTAIN NON-PROFIT EDUCATIONAL INSTITUTIONS; AMENDING SECTION 63-3634, IDAHO CODE, TO DELETE AN OBSOLETE REFERENCE TO TAX EXEMPTION CERTIFICATE HOLDERS; AND AMENDING SECTION 63-3635, IDAHO CODE, TO CHANGE AN OBSOLETE REFERENCE FROM THE FORMER OFFICE OF THE TAX COLLECTOR TO THE STATE TAX COMMISSION.

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

SECTION 1. That Section 63-3610, Idaho Code, be, and the same is hereby amended to read as follows:

63-3610. RETAILER. The term "retailer" includes:

(a) Every seller who makes any retail sale or sales of tangible personal property and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.

(c) Every person making more than two (2) retail sales of tangible personal property during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy, or every person making fewer sales who holds himself out as engaging in the business of selling such tangible personal property at retail or who sells a self-propelled motor vehicle.

(d) When the state tax collector commission determines that it is necessary for the efficient administration of this act to regard any salesmen, representatives, peddlers, or canvassers as agents of the dealers, distributors, supervisors, or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, or employers, the state tax collector commission may so regard them and may regard the dealers, distributors, supervisors, or employers as retailers for the purpose of this act.

(e) Persons conducting both contracting and retailing activities. Such persons must keep separate accounts for the retail portion of their business and pay tax in the usual fashion on this portion.

SECTION 2. That Section 63-3611, Idaho Code, be, and the same is hereby amended to read as follows:

63-3611. RETAILER ENGAGED IN BUSINESS IN THIS STATE. "Retailer engaged in business in this state" as used in this chapter means and includes any of the following:

(a) Any retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business or maintaining a stock of goods.

(b) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing or the taking of orders for any tangible personal property.

(c) Any retailer, with respect to a lease or rental, deriving rentals from a lease or rental of tangible personal property situated in this state.

(d) Any retailer engaging in any activity in connection with servicing or installing tangible personal property in this state.

(e) ~~Any retailer soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting to consumers located in this state.~~

~~(f) Any retailer who, pursuant to a contract with a broadcaster or publisher located in this state, solicits orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this state and only secondarily to bordering jurisdictions.~~

~~(g) Any retailer soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing or repair facilities.~~

(h) Any retailer owned or controlled by the same interests which own or control any retailer engaged in business in the same or a similar line of business in this state.

(if) Any retailer having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under the provisions of this section.

~~(j) Any retailer who, pursuant to a contract with a cable television operator located in this state, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this state.~~

SECTION 3. That Section 63-3615, Idaho Code, be, and the same is hereby amended to read as follows:

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

(b) The term "use" includes the exercise of any right or power over tangible personal property incident to the ownership or the leasing of that property or the exercise of any right or power over tangible personal property by any person in the performance of a contract, or to fulfill contract or subcontract obligations, whether the title of such property be in the subcontractor, contractor, contractee, subcontractee, or any other person, or whether the titleholder of such property would be subject to the sales or use tax, unless such property would be exempt to the titleholder under section 63-3622D, Idaho Code, except that the term "use" does not include the sale of that property in the regular course of business, ~~and does not include the exercise of a right or power over a motor vehicle temporarily donated to a driver's education program sponsored by an Idaho public school.~~

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

into other tangible personal property to be transported outside the state, and thereafter used solely outside the state.

SECTION 4. That Section 63-36220, Idaho Code, be, and the same is hereby amended to read as follows:

63-36220. NONPROFIT ORGANIZATIONS. (a) There are exempted from the taxes imposed by this chapter: ~~sales to, donations to, and purchases by food banks or soup kitchens; sales of clothes to, donations of clothes to and purchases of clothes by nonsale clothiers; and~~

(1) Sales to or purchases by hospitals, health-related entities, educational institutions, forest-protective associations and canal companies which are nonprofit organizations; and

(2) Donations to, sales to, and purchases by the Idaho Foodbank Warehouse, Inc.; and

(3) Donations to, sales to, and purchases by food banks or soup kitchens of food or other tangible personal property used by food banks or soup kitchens in the storage, preparation or service of food, but not including licensed motor vehicles or trailers; and

(4) Sales of clothes to, donations of clothes to, and purchases of clothes by nonsale clothiers.

(b) As used in this subsection, these words shall have the following meanings:

(a1) "Educational institution" shall mean nonprofit colleges, universities, primary and secondary schools, the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.

(b2) "Hospital" shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions.

(c3) "Health-related entities" shall mean the Idaho Cystic Fibrosis Foundation, Idaho Epilepsy League, Idaho Lung Association, March of Dimes, American Cancer Society, Mental Health Association, The Arc, Idaho Heart Association, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, Easter Seals, and Idaho Special Olympics, together with said entities' local or regional chapters or divisions.

(d4) "Canal companies" shall include nonprofit corporations which are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.

(e5) "Forest protective associations" shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and suppression of

forest or range fires. Forest protective associations shall include only those associations with which the state of Idaho has contracted or become a member of pursuant to chapter 1, title 38, Idaho Code.

(f6) "Food banks or soup kitchens" shall mean ~~the Idaho Foodbank Warehouse, Inc. and any nonprofit corporation or association, other than the Idaho Foodbank Warehouse, Inc.,~~ one of whose ~~primary purposes~~ regular activities is the furnishing or providing of food or food products to others without charge.

(g7) "Nonsale clothier" shall mean any nonprofit corporation or association one of whose primary purposes is the furnishing or providing of clothes to others without charge.

(h8) "Clothes" shall mean garments in general, designed or intended to be worn by humans and shall include footwear in addition to wearing apparel.

SECTION 5. That Section 63-3622R, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622R. MOTOR VEHICLES AND USED MOBILE HOMES. There are exempted from the taxes imposed by this chapter:

(a) Sales of motor vehicles for use outside of this state, even though delivery be made within this state, but only when:

- (1) The vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state; and
- (2) Said motor vehicles and trailers will be titled and licensed immediately under the laws of another state, will not be used in this state more than twenty-five percent (25%) of the mileage in any calendar year, and will not be required to be titled under the laws of this state.

(b) Sale of used manufactured homes, whether or not such used manufactured homes are sold for use outside this state, and whether or not such used manufactured homes are sold by a dealer. Every manufactured home sale after its sale as a "new manufactured home," as defined in section 63-3606, Idaho Code, is a sale as a used manufactured home.

(c) Sale or lease of motor vehicles with a maximum gross registered weight over twenty-six thousand (26,000) pounds, which shall be immediately registered under the international registration plan or similar proportional or pro rata registration system, whether or not base plated in Idaho, and the sale or lease of trailers which are part of a fleet of vehicles registered under such proportional or pro rata registration system when such vehicles and trailers are substantially used in interstate commerce. If such a vehicle or trailer is not substantially used in interstate commerce during any calendar year, it shall be deemed used in Idaho and subject to the use tax under section 63-3621, Idaho Code. For the purpose of this subsection, "substantially used in interstate commerce" means that the vehicles or trailers will be part of a fleet with a minimum of ten percent (10%) of the miles operated by the fleet accrued outside of Idaho in any calendar year.

(d) The use or other consumption of a motor vehicle temporarily donated to a driver's education program sponsored by a nonprofit edu-

cational institution as defined in section 63-36220, Idaho Code.

SECTION 6. That Section 63-3634, Idaho Code, be, and the same is hereby amended to read as follows:

63-3634. ADDITIONS AND PENALTIES. The additions, penalties and requirements provided by the Idaho Income Tax Act, sections 63-3046, 63-3075, 63-3076 and 63-3077, Idaho Code, shall apply in the same manner and to the same extent to this act as to the Idaho Income Tax Act and shall cover acts, omissions, and delinquencies under this act similar to acts, omissions and delinquencies under the Idaho Income Tax Act and such additions, penalties and requirements shall, for this purpose, be described as and be for acts, omissions, delinquencies and requirements under the Idaho Sales Tax Act; provided, however, that the provisions of section 63-3076, Idaho Code, shall not prevent the release of information about a specific transaction to any party to such transaction, ~~including the tax exemption certificate holder, the~~ ~~setter,~~ and any individual signing an exemption claim relating to the transaction. The tax commission may release such information only when it determines that the release will benefit the enforcement of this chapter, and not otherwise.

SECTION 7. That Section 63-3635, Idaho Code, be, and the same is hereby amended to read as follows:

63-3635. COLLECTION AND ENFORCEMENT. The collection and enforcement procedures provided by the Idaho Income Tax Act, sections 63-3030A, 63-3038, 63-3039, 63-3040, 63-3042, 63-3043, 63-3044, 63-3047, 63-3048, 63-3050 through 63-3064, 63-3065A, 63-3071 and 63-3074, Idaho Code, shall apply and be available to the state tax collector commission for enforcement of the provisions of this act and collection of any amounts due under this act, and said sections shall, for this purpose, be considered part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under this act, be described as sales and use tax liens and proceedings.

Approved March 7, 1995.

CHAPTER 55
(S.B. No. 1115)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-672, IDAHO CODE, TO REQUIRE THAT A CHILD WHO IS UNDER THE AGE OF FOUR YEARS AND WHO WEIGHS LESS THAN FORTY POUNDS BE RESTRAINED IN A CAR SAFETY SEAT BY ANY MOTOR VEHICLE OPERATOR TRANSPORTING THE CHILD, TO REMOVE GROUNDS TO DISMISS THE VIOLATION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 49-672, Idaho Code, be, and the same is hereby amended to read as follows:

49-672. PASSENGER SAFETY FOR CHILDREN. (1) No ~~resident~~ noncommercial motor vehicle operator ~~who-is-a-parent-or-guardian~~ shall transport ~~his~~ a child who is under the age of four (4) years ~~or-who~~ and weighs less than forty (40) pounds in a motor vehicle manufactured with seat belts after January 1, 1966, unless the child is properly restrained in a car safety seat that meets the requirements of federal motor vehicle safety standard no. 213. The provisions of this section shall not apply:

(a) If all of the motor vehicle's seat belts are in use, but in such an event any unrestrained child to which this section applies shall be placed in the rear seat of the motor vehicle, if it is so equipped; or

(b) When the child is removed from the car safety seat and held by the attendant for the purpose of nursing the child or attending the child's other immediate physiological needs.

(2) ~~A violation of the provisions of this section may be dismissed by a court upon proof of possession of a required safety seat.~~

{3} The failure to use a child safety seat shall not be considered under any circumstances as evidence of contributory negligence, nor shall such failure be admissible as evidence in any civil action with regard to negligence.

Approved March 8, 1995.

CHAPTER 56
(H.B. No. 211)

AN ACT

RELATING TO STATEMENT OF INSURANCE UPON WITHDRAWAL OF GRAIN, BEANS OR PEAS FROM STORAGE; REPEALING CHAPTER 4, TITLE 69, IDAHO CODE.

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

SECTION 1. That Chapter 4, Title 69, Idaho Code, be, and the same is hereby repealed.

Approved March 9, 1995.

CHAPTER 57
(H.B. No. 210)

AN ACT

RELATING TO GLANDERS; REPEALING CHAPTER 5, TITLE 25, IDAHO CODE; AND REPEALING SECTION 25-229, IDAHO CODE.

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

SECTION 1. That Chapter 5, Title 25, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 25-229, Idaho Code, be, and the same is hereby repealed.

Approved March 9, 1995.

CHAPTER 58
(H.B. No. 166)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2732B, IDAHO CODE, TO PROVIDE THAT THE EXECUTION OF A SENTENCE FOR DRUG TRAFFICKING SHALL NOT BE SUSPENDED, DEFERRED OR WITHHELD AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 37-2732B, Idaho Code, be, and the same is hereby amended to read as follows:

37-2732B. TRAFFICKING -- MANDATORY SENTENCES. (a) Except as authorized in this chapter, and notwithstanding the provisions of section 37-2732, Idaho Code:

(1) Any person who knowingly manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, one (1) pound of marijuana or more, or twenty-five (25) marijuana plants or more, as defined in section 37-2701, Idaho Code, is guilty of a felony, which felony shall be known as "trafficking in marijuana." If the quantity of marijuana involved:

(A) is in excess of one (1) pound, but less than five (5) pounds, or consists of twenty-five (25) marijuana plants or more but fewer than fifty (50) marijuana plants, regardless of size or weight of the plants, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of one (1) year and fined not less than five thousand dollars (\$5,000);

(B) is five (5) pounds or more, but less than twenty-five (25) pounds, or consists of fifty (50) marijuana plants or more but fewer than one hundred (100) marijuana plants, regardless of size or weight of the plants, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of three (3) years and fined not less than ten thousand dollars (\$10,000);

(C) is twenty-five (25) pounds or more, or consists of one hundred (100) marijuana plants or more, regardless of size or weight of the plants, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of five (5) years and fined not less than fifteen thousand dollars (\$15,000).

(D) The maximum number of years of imprisonment for trafficking in marijuana shall be fifteen (15) years, and the maximum fine shall be fifty thousand dollars (\$50,000).

(E) For the purposes of this section, the weight of the marijuana is its weight when seized or as determined as soon as practicable after seizure, unless the provisions of subsection (c) of this section apply.

(2) Any person who knowingly manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, twenty-eight (28) grams or more of cocaine or of any mixture or substance containing a detectable amount of cocaine is guilty of a felony, which felony shall be known as "trafficking in cocaine." If the quantity involved:

(A) is twenty-eight (28) grams or more, but less than two hundred (200) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of three (3) years and fined not less than ten thousand dollars (\$10,000);

(B) is two hundred (200) grams or more, but less than four hundred (400) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of five (5) years and fined not less than fifteen thousand dollars (\$15,000);

(C) is four hundred (400) grams or more, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ten (10) years and fined not less than twenty-five thousand dollars (\$25,000).

(D) The maximum number of years of imprisonment for trafficking in cocaine shall be life, and the maximum fine shall be one hundred thousand dollars (\$100,000).

(3) Any person who knowingly manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, twenty-eight (28) grams or more of methamphetamine or of any mixture or substance containing a detectable amount of methamphetamine is guilty of a felony, which felony shall be known as "trafficking in methamphetamine." If the quantity involved:

(A) is twenty-eight (28) grams or more, but less than two hundred (200) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of three (3) years and fined not less than ten thousand dollars (\$10,000);

(B) is two hundred (200) grams or more, but less than four hundred (400) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of five (5) years and fined not less than fifteen thousand dollars (\$15,000);

(C) is four hundred (400) grams or more, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ten (10) years and fined not less than twenty-five thousand dollars (\$25,000).

(D) The maximum number of years of imprisonment for trafficking in methamphetamine shall be life, and the maximum fine shall be one hundred thousand dollars (\$100,000).

(4) Any person who knowingly manufactures, delivers, brings into this state, or who is knowingly in actual or constructive possession of the below-specified quantities of any of the following immediate precursors to methamphetamine (namely ephedrine,

methylamine, methyl formamide, phenylacetic acid, phenylacetone, or pseudoephedrine) as defined in section 37-2707(g)(1), Idaho Code, or any compound, mixture or preparation which contains a detectable quantity of these substances, is guilty of a felony which shall be known as "trafficking in immediate precursors of methamphetamine." If the quantity:

- (A) of ephedrine is five hundred (500) grams or more;
- (B) of methylamine is one-half (1/2) pint or more;
- (C) of methyl formamide is one-quarter (1/4) pint or more;
- (D) of phenylacetic acid is five hundred (500) grams or more;
- (E) of phenylacetone is four hundred (400) grams or more;
- (F) of pseudoephedrine is five hundred (500) grams or more;

such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ten (10) years and fined not less than twenty-five thousand dollars (\$25,000). The maximum number of years of imprisonment for trafficking in immediate precursors of methamphetamine shall be life, and the maximum fine shall be one hundred thousand dollars (\$100,000).

(5) Any person who knowingly manufactures, delivers or brings into this state, or who is knowingly in actual or constructive possession of, two (2) grams or more of heroin or any salt, isomer, or salt of an isomer thereof, or two (2) grams or more of any mixture or substance containing a detectable amount of any such substance is guilty of a felony, which felony shall be known as "trafficking in heroin." If the quantity involved:

- (A) is two (2) grams or more, but less than seven (7) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of three (3) years and fined not less than ten thousand dollars (\$10,000);
- (B) is seven (7) grams or more, but less than twenty-eight (28) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ten (10) years and fined not less than fifteen thousand dollars (\$15,000);
- (C) is twenty-eight (28) grams or more, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of twenty-five (25) years and fined not less than twenty-five thousand dollars (\$25,000).
- (D) The maximum number of years of imprisonment for trafficking in heroin shall be life, and the maximum fine shall be one hundred thousand dollars (\$100,000).

(6) A second conviction for any trafficking offense as defined in subsection (a) of this section shall result in a mandatory minimum fixed term that is twice that otherwise required under this section.

(7) Notwithstanding any other provision of law, with respect to any person who is found to have violated the provisions of this section, adjudication of guilt or the imposition or execution of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for parole prior to serving the mandatory minimum fixed term of imprisonment prescribed in this section, except as provided in subsection (a)(8) of this section. Further, the court shall not retain jurisdiction.

(8) Upon motion of the prosecuting attorney, the court shall have the authority to impose a sentence below the mandatory minimum level upon any person who is convicted of a violation of the provisions of this section and who provides substantial assistance in the identification, arrest and prosecution of any of his accomplices, accessories, coconspirators, principals, sources of supply, or of any other person involved in dealing in a controlled substance in violation of the provisions of this section or section 37-2732, Idaho Code. The investigating agency shall be given an opportunity to be heard in aggravation or mitigation in reference to any such motion. Upon good cause shown, the state's motion may be filed and heard in camera. The judge hearing the state's motion may reduce or suspend the sentence if he finds that the defendant has rendered substantial assistance. The provisions of this section shall not be construed as creating a right for a person to provide assistance to law enforcement.

(b) Any person who agrees, conspires, combines or confederates with another person or solicits another person to commit any act prohibited in subsection (a) of this section is guilty of a felony and is punishable as if he had actually committed such prohibited act.

(c) For the purposes of subsections (a) and (b) of this section the weight of the controlled substance as represented by the person selling or delivering it is determinative if the weight as represented is greater than the actual weight of the controlled substance.

Approved March 9, 1995.

CHAPTER 59
(H.B. No. 165)

AN ACT

RELATING TO THE RIGHT TO APPOINTMENT OF LEGAL COUNSEL; AMENDING SECTION 19-851, IDAHO CODE, TO PROVIDE THAT A SERIOUS CRIME FOR WHICH A DEFENDANT HAS A RIGHT TO APPOINTMENT OF COUNSEL SHALL INCLUDE AN OFFENSE FOR WHICH A JAIL TERM FOR MORE THAN SIX MONTHS MAY BE IMPOSED AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 19-851, Idaho Code, be, and the same is hereby amended to read as follows:

19-851. RIGHT TO REPRESENTATION BY COUNSEL -- DEFINITIONS. In this act, the term:

(a) "Detain" means to have in custody or otherwise deprive of freedom of action;

(b) "Expenses," when used with reference to representation under this act, includes the expenses of investigation, other preparation, and trial;

(c) "Needy person" means a person who, at the time his need is determined, is unable to provide for the full payment of an attorney

and all other necessary expenses of representation;

(d) "Serious crime" includes:

(1) a felony;

(2) any misdemeanor or offense the penalty for which, excluding imprisonment for non-payment of a fine, includes the possibility of confinement for more than six (6) months ~~or a fine of more than \$300.~~

Approved March 9, 1995.

CHAPTER 60
(H.B. No. 152)

AN ACT

RELATING TO TELECOMMUNICATION SERVICES; AMENDING CHAPTER 6, TITLE 62, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 62-608A, IDAHO CODE, TO DEFINE TERMS AND TO LIMIT THE CONDITIONS UNDER WHICH A TELEPHONE CORPORATION WHICH IS SUBJECT TO INTERLATA TELECOMMUNICATION SERVICE RESTRICTIONS SHALL BE REQUIRED TO PROVIDE DIALING PARITY TO TELEPHONE CORPORATIONS WHICH ARE NOT SUBJECT TO INTERLATA TELECOMMUNICATION SERVICE RESTRICTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 6, Title 62, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 62-608A, Idaho Code, and to read as follows:

62-608A. INTERLATA SERVICE RESTRICTIONS. (1) As used in this section:

(a) "Dialing parity" means the provision of dialing arrangements and other service characteristics by a telephone corporation subject to interLATA telecommunication service restrictions, to a telephone corporation which is not subject to interLATA telecommunication service restriction, which dialing arrangements and other service characteristics are equivalent in type and quality to those provided by the telephone corporation subject to interLATA telecommunication service restrictions in its provision of message telecommunication services to its subscribers;

(b) "InterLATA telecommunication service restrictions" means the restrictions upon interexchange telecommunication services contained in section II(D)(1) of the Modification of Final Judgment entered in the case of the United States v. Western Electric Co., 552 F. Supp. 131 (D.D.C. 1982), and section V(C)(1) of the Final Judgment entered in the case of the United States v. GTE Corporation, 1985-1 Trade Cs. (CCH) P66, 355 (D.D.C. Dec. 21, 1984).

(c) "LATA" (Local Access and Transport Area), means the geographical area within which a telephone corporation may provide message telecommunication services without violating interLATA telecommunication service restrictions.

(2) A telephone corporation providing basic local exchange service, which also provides message telecommunication services and is subject to interLATA telecommunication service restrictions, shall not be required to provide dialing parity to other telephone corporations for the provision of intraLATA message telecommunication services until such telephone corporation is also permitted to provide interstate and intrastate interLATA and intraLATA message telecommunication services on an integrated basis, and is not subject to interLATA telecommunication service restrictions.

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, 1995.

CHAPTER 61
(H.B. No. 70, As Amended)

AN ACT

RELATING TO COUNTY BUDGET PROCEDURES; AMENDING SECTION 31-709, IDAHO CODE, TO ADOPT CURRENT TERMINOLOGY; AMENDING CHAPTER 8, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-807A, IDAHO CODE, TO REQUIRE THAT COMMISSIONERS MUST BE DISINTERESTED PARTIES; AMENDING CHAPTER 8, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-815A, IDAHO CODE, TO PROVIDE MEANS FOR TRANSFERRING A SUBJECT TO THE JURISDICTION OF THE DISTRICT COURT; AMENDING SECTION 31-834, IDAHO CODE, TO GOVERN CONDITIONS OF SALE OF LAND ACQUIRED THROUGH ISSUANCE OF A COUNTY TREASURER'S DEED; REPEALING SECTIONS 31-1504, 31-1507, 31-1515, 31-1516, 31-1517 AND 31-1518, IDAHO CODE; AMENDING SECTION 31-1506, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REQUIRE DOCUMENTATION FOR CLAIMS PRESENTED; AMENDING SECTION 31-1501, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THE PROCEDURE GOVERNING THE LIST OF BILLS ALLOWED MAINTAINED BY THE CLERK; AMENDING SECTION 31-1503, IDAHO CODE, TO CLARIFY PROHIBITIONS ON ALLOWANCE OF CLAIMS; AMENDING SECTIONS 31-1505, 31-1508 AND 31-1509, IDAHO CODE, TO REDESIGNATE THE SECTIONS; AMENDING SECTION 31-1512, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE APPLICATION TO SHORT TERM BORROWING FROM OTHER COUNTY FUNDS; AMENDING SECTION 31-1502, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING CHAPTER 15, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-1509, IDAHO CODE, TO PROVIDE STANDARDS FOR THE COUNTY ACCOUNTING SYSTEM; AMENDING SECTION 31-1602, IDAHO CODE, TO SPECIFY THE CONTENT OF THE ESTIMATED EXPENDITURES FOR INCLUSION IN THE PRELIMINARY COUNTY BUDGET; AMENDING SECTION 31-1603, IDAHO CODE, TO SPECIFY THE CONTENTS OF THE SUGGESTED COUNTY BUDGET; AMENDING SECTION 31-1604, IDAHO CODE, TO PROVIDE CURRENT TERMINOLOGY IN PROCEDURES GOVERNING APPROVAL OF TENTATIVE APPROPRIATIONS; AMENDING SECTION 31-1605, IDAHO CODE, TO SPECIFY THE TIME AUTHORIZED FOR HEARING UPON THE BUDGET; AMENDING SECTION 31-1605A, IDAHO CODE, TO PROVIDE THAT SPECIFIED FUNDS MAY

BE CARRIED OVER; AMENDING SECTION 31-1606, IDAHO CODE, TO PROVIDE CURRENT TERMINOLOGY IN LIMITATIONS OF EXPENDITURES TO APPROPRIATIONS; REPEALING SECTION 31-1610, IDAHO CODE; AMENDING SECTION 31-1611, IDAHO CODE, TO SPECIFY QUARTERLY REPORTS; PROVIDING AN EFFECTIVE DATE, DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

Section 1. That Section 31-709, Idaho Code, be, and the same is hereby amended to read as follows:

31-709. ~~BOOKS~~ RECORDS TO BE KEPT. The board must cause to be kept permanently and indefinitely, in accordance with the provisions of sections 9-331 and 9-332, Idaho Code:

1. ~~A--m~~Minute book records, in which must be recorded all orders and decisions made by them, and the daily proceedings had at all regular and special meetings.

2. ~~An-a~~Allowance book records, in which must be recorded all orders for the allowance of money from the county treasury, to whom made, and on what account, dating, numbering and indexing the same through each year.

3. ~~A--r~~Road book records, containing all proceedings and adjudications relating to the establishment, maintenance, change and discontinuance of roads, road districts, and overseers thereof, their reports and accounts.

4. ~~A--f~~Franchise book records, containing all franchises granted by them, for what purpose, the length of time and to whom granted, the amount of bond and license tax required.

5. ~~A--w~~Warrant book records, to be kept by the county auditor, in which must be entered, in the order of drawing, all warrants drawn on the treasury, with their number and reference to the order on the minute book, with the date, amount, on what account, and name of payee.

6. ~~An-o~~Ordinance book records, containing all ordinances, stating the date enacted.

7. ~~A--r~~Resolutions book records, containing all resolutions, stating the date adopted.

SECTION 2. 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 31-807A, Idaho Code, and to read as follows:

31-807A. COMMISSIONERS MUST BE DISINTERESTED. No member of the board must be interested, directly or indirectly, in property purchased for the use of the county, nor in any purchase or sale of property belonging to the county, nor in any contract made by the board or other person on behalf of the county, for the erection of public buildings, the opening or improvement of roads, or the building of bridges, or for other purposes unless otherwise authorized by law.

SECTION 3. 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 31-815A, Idaho Code, and to read as follows:

31-815A. TRANSFER OF LICENSE APPLICATIONS. Whenever an application is made to the board for an order, franchise or license, relating to any toll road, bridge, ferry, or other subject over which the board has jurisdiction, in which a majority of the board are not disinterested, the application, by order of the board, must be transferred to the district court of the county; the clerk of the board must thereupon certify the application and all orders and papers relating thereto to the court to which the transfer is ordered; and thereafter the court to which the same is certified has full jurisdiction to hear and determine the application.

SECTION 4. That Section 31-834, Idaho Code, be, and the same is hereby amended to read as follows:

31-834. LAND ACQUIRED THROUGH ISSUANCE OF COUNTY TREASURER'S DEED -- SALE. The board of county commissioners, in addition to powers theretofore granted, in all cases where land has been or is hereafter acquired by the county through the issuance of the county treasurer's deed and where said land has been offered for sale under the provisions of section 31-808, Idaho Code, and not sold, may sell said lands without further notice at public or private sale, except as otherwise provided in this act; ~~and upon the same terms and conditions and with like effect as sales made under the provisions of section 31-808.~~

SECTION 5. That Sections 31-1504, 31-1507, 31-1515, 31-1516, 31-1517 and 31-1518, Idaho Code, be, and the same are hereby repealed.

SECTION 6. That Section 31-1506, Idaho Code, be, and the same is hereby amended to read as follows:

31-1506~~1~~. CLAIMS PRESENTED TO BE CERTIFIED ACCOMPANIED BY RECEIPTS. The board of commissioners must not hear or consider any claim ~~in favor of an individual~~ against the county unless an account ~~properly made out~~; accompanied by a receipt or documentation giving all items of the claim, duly certified as to its correctness; ~~and by the authorized county official~~ that the amount claimed is justly due; ~~is or services were rendered.~~ No claim shall be paid if not presented to the board within a year after the last item of the account accrued. ~~Provided, that where the claim is for expenses or for money advanced such claim must be accompanied by a receipt for each item of expenditure or money advanced, signed by the person to whom the expenditure was made or to whom the advance was made~~ from the date the bill was generated.

SECTION 7. That Section 31-1501, Idaho Code, be, and the same is hereby amended to read as follows:

31-1501~~2~~. CHECK LIST OF BILLS ALLOWED. The board must require their clerk; ~~at the close of every session~~; to furnish them with a list of all bills and accounts of every nature ~~approved by them at~~

~~said session, giving the name of each person in whose favor an account or bill of any kind or nature has been allowed, with the amount allowed him and out of what fund the same is to be paid. They must compare their list with the record of their proceedings, and if not found correct, make it so and certify to said list and file it with the county treasurer, and the treasurer must pay no warrant drawn on any fund in the county treasury that does not correspond with the files furnished him by t~~The board must review the list and certify to its correctness. The county treasurer must pay no warrant that does not correspond with said list.

SECTION 8. That Section 31-1503, Idaho Code, be, and the same is hereby amended to read as follows:

31-1503. PROHIBITIONS ON ALLOWANCE OF CLAIMS. The board must not for any purpose contract debts or liabilities, except in pursuance of law. ~~They must not allow any account, or cause or permit any warrant to be issued to any county or precinct officer entrusted with the collection, safe keeping or disbursement of the public funds, who has failed to make any statement or settlement of his accounts, as required by law, or who has failed to account for and pay over the public funds received by him when, and as required by law, or who is in any way a delinquent or defaulter in his trust. They must not allow any account, or cause or permit any warrant to be drawn in favor of any person who is liable, either as principal or surety, upon any official or other bond, cognizable by the board, after a breach of such bond, or upon any recognizance in a criminal action or proceeding in the county, after the forfeiture of such recognizance. They must not provide any stationery for any officer, to be used for any purpose or act for which such officer is allowed a fee by law. They must not allow any account or claim of any county officer while he neglects or refuses to perform any duty required of him by law or is liable upon any official or other bond.~~

SECTION 9. That Section 31-1505, Idaho Code, be, and the same is hereby amended to read as follows:

31-1505~~4~~. BURIAL OF COUNTY POOR -- CORONERS RELEASED FROM LIABILITY. Claims of county coroners for the burial of the county poor heretofore paid by the counties are hereby declared to be legal claims and the county coroners are hereby released from any liability to reimburse the counties for the payment of the same.

SECTION 10. That Section 31-1508, Idaho Code, be, and the same is hereby amended to read as follows:

31-1508~~5~~. PARTIAL ALLOWANCE AND RECONSIDERATION. When the board finds that any claim presented is not payable by the county, or is not a proper county charge, it must be rejected. If they find it to be a proper county charge, but greater in amount than is justly due, the board may allow the claim in part and draw a warrant for the portion allowed, on the claimant filing a receipt in full for his account. If the claimant is unwilling to receive such amount in full payment, the

claim may be again considered at the next regular succeeding session of the board, but not afterward.

SECTION 11. That Section 31-1509, Idaho Code, be, and the same is hereby amended to read as follows:

31-1509~~6~~. JUDICIAL REVIEW OF BOARD DECISIONS. (1) Unless otherwise provided by law, judicial review of any act, order or proceeding of the board 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 12. That Section 31-1512, Idaho Code, be, and the same is hereby amended to read as follows:

31-1512~~07~~. 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, including short term borrowing from other county funds at market interest rates, 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 13. That Section 31-1502, Idaho Code, be, and the same is hereby amended to read as follows:

31-1502~~8~~. TRANSFER OF MONEYS. The board must not transfer any money from one fund to another except as permitted by section 63-914, Idaho Code, nor in any manner divert the money in any fund to other uses, except in cases expressly provided and permitted by law, nor make any preferred creditor, nor cause any warrant to be drawn payable out of its order except on the order of the district court in cases provided by law, and the county treasurer must in all things observe these instructions: provided, that when any money shall have been assessed and collected in any of the counties of this state, and the same set apart as a separate fund, for special purpose, and from any cause the money in said fund shall have become inoperative for the purpose for which said fund was created, it shall be lawful for the board of county commissioners in such cases to transfer the money in said fund to such fund as the board of county commissioners may deem best.

SECTION 14. That Chapter 15, 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 31-1509, Idaho Code, and to read as follows:

31-1509. ACCOUNTING SYSTEM. The system for accounting of receipts, expenditures and reporting in each county shall meet the criteria of generally accepted accounting principles or the governmental accounting standards board and as the same may be hereafter amended and revised.

SECTION 15. That Section 31-1602, Idaho Code, be, and the same is hereby amended to read as follows:

31-1602. DUTIES OF BUDGET OFFICER -- ESTIMATE OF EXPENSES. The county auditor of each county in this state shall be the budget officer of his county, and as such budget officer, it shall be his duty to compile and prepare a preliminary budget for consideration by the county commissioners of his county, and upon the adoption of the final budget, as hereinafter provided, it shall be his duty to see that the provisions thereof are complied with.

On or before the first Monday in May of each year the county budget officer shall notify, in writing, each county official, elective or appointive, in charge of any office, department, service, agency or institution of the county, to file with such budget officer, on or before the third Monday in May thereafter, an itemized estimate showing both the probable revenues from sources other than taxation that will accrue to his office, department, service, agency or institution during the fiscal year, to which the budget is intended to apply, and all expenditures required by such office, department, service, agency, or institution, for the same period, together with a brief explanatory statement of the requested increase, if any, in expenditures over the budget appropriation for the current fiscal year.

Said estimates and reports shall be submitted upon forms furnished by said the budget officer and shall, in addition to the other information required herein, showing the entire revenues and expenditures under each classification and subdivision thereof the two (2) preceding fiscal years, the amount actually received and expended to the second Monday of April of the current fiscal year, and the estimated total receipts and expenditures for the current fiscal year and show any and all estimated balances, at the end of the current fiscal year, in any appropriation available and applicable to the functions performed by such office, department, service, agency or institution.

Said estimates of probable expenditures shall be under two (2) classifications set by the board of county commissioners, to wit:

First, "Salaries and wages," which shall show the proposed salaries of officers and employees to be fixed by resolution of the board of county commissioners, and an estimate of the amount required for intermittent and nonsalaried employees; and;

Second, "Other expenses," which shall show in detail the probable expenditures listed under the following headings:

a. Services, other than personal;

b. Materials and supplies;

- c. ~~Debts, refunds and indemnities.~~
- d. ~~Rents, contributions, and fixed charges.~~
- e. ~~Capital outlay, equipment, lands, buildings, etc.~~

~~Said estimate and report shall also show the entire revenues and expenditures under each classification and subdivision thereof for the two--(2)--preceding fiscal years, the amount actually received and expended to the second Monday of April of the current fiscal year, and the estimated total receipts and expenditures for the current fiscal year.~~

~~It shall be the duty of said budget officer to prepare and furnish proper forms for making the estimates and reports hereinabove provided for. include, at a minimum, the "Salaries, Benefits, and Detail of Other Expenses."~~

If any county official, elective or appointive, in charge of any office, department, service, agency or institution has had, or contemplates having, any expenditures, the reports of which can not be properly made under any of the above classifications, the same shall be reported in detail in addition to the information provided for in said forms.

~~It shall be the duty of each official of the county, elective or appointive, in charge of any office, department, service, agency or institution of the county to furnish to the county budget officer, on the forms furnished by him, and within the time hereinabove provided all information hereinabove specifically provided for and any and all other information regarding the receipts, expenditures, and contemplated receipts and expenditures of his office, department, service, agency or institution, except receipts derived from taxation. Any official or employee failing or refusing to furnish said estimates or information within the time hereinabove provided shall pay a penalty of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) as may be determined by order of the board of county commissioners, said penalty to be deducted by the county auditor from the next salary warrant due such official or employee and credited to the current expense fund of said county.~~

In the event of the absence, failure or disability of any official or employee required to furnish estimates and information, as hereinabove provided, the budget officer may designate any person temporarily in charge of such office, department, service, agency or institution to furnish said estimates and information required by this act. Provided, however, if for any cause said estimates and information are not filed with the budget officer in proper time to be included in the county budget hereinafter provided for, the budget officer shall prepare an estimate of expenditures for any such office, department, service, agency or institution, so failing to file its estimate, and such estimate so prepared by the budget officer and approved by the county commissioners shall be the budget for that office, department, service, agency or institution for the fiscal year to which the budget is intended to apply.

SECTION 16. That Section 31-1603, Idaho Code, be, and the same is hereby amended to read as follows:

31-1603. SUGGESTED BUDGET -- CONTENTS. Upon the receipt by the

county budget officer of the estimates and information from all offices, departments, services, agencies and institutions of the county, or the preparation thereof by said budget officer, as hereinabove provided, said county budget officer shall prepare and file with the board of county commissioners a suggested budget of said county for the ensuing fiscal year. Said suggested budget shall show, so far as practicable, the complete financial program of the county for the ensuing fiscal year by showing all contemplated expenditures and the source of revenues with which to pay the same. ~~The form to be observed by the county budget officer in the preparation of the budget shall be substantially as follows:~~

~~1. Revenues from sources other than taxation, giving each fund, office, department, service, agency or institution separately.~~

~~2. Expenditures from:~~

~~Current expense fund~~

~~Road and bridge fund~~

~~Bond, interest and sinking~~

~~Common school, general~~

~~Warrant redemption~~

~~Emergency warrants~~

~~Proposed or authorized bonds~~

~~Brainage fund~~

~~3. The proposed expenditures for each office, department, service, agency or institution for "Salaries and wages," and for "Other expenses" for the ensuing fiscal year and a comparison with the expenditures for the same purpose for the current fiscal year, to the second Monday of April, and for the two (2) previous fiscal years.~~

~~4. Specification of any fund balances accumulated under section 31-1605A, Idaho Code.~~

SECTION 17. That Section 31-1604, Idaho Code, be, and the same is hereby amended to read as follows:

31-1604. APPROVAL OF TENTATIVE APPROPRIATIONS -- NOTICE -- FINAL APPROPRIATIONS. ~~Said proposed~~ The suggested budget prepared by the county budget officer as hereinabove provided, together with the estimates and information furnished by the various offices, departments, services, agencies and institutions of the county shall be submitted by said county budget officer to the board of county commissioners of his county on or before the first Monday in August of each year; said county commissioners shall ~~thereupon and on said first Monday in August~~, convene to consider said proposed budget in detail and make any alterations allowable by law and which they deem advisable, and agree upon a tentative amount to be allowed and appropriated for the ensuing fiscal year to each office, department, service, agency or institution of the county. Such allowances or appropriations shall be made under the classifications of:

"Salaries", and wages "Benefits," and

"Detail of Other eExpenses," as hereinafter provided.

When the commissioners have agreed on such tentative appropriations the county budget officer, not later than the third week in August, shall cause notice to be published setting forth the amount of anticipated revenue from property taxes and the total of revenues

anticipated from sources other than property taxes and the amount proposed to be appropriated to each office, department, service, agency or institution for the ensuing fiscal year, in at least ~~two (2)~~ three (3) classifications of including "Salaries," and wages "Benefits," and "Detail of Other eExpenses," together with the amounts expended under these classifications during each of the two (2) previous fiscal years by each office, department, service, agency or institution; and that the board of county commissioners will meet on or before the Tuesday following the first Monday in September, next succeeding, for the purpose of considering and fixing a final budget and making appropriations to each office, department, service, agency or institution of the county for the ensuing fiscal year at which time any taxpayer may appear and be heard upon any part or parts of said tentative budget and fixing the time and place of such meeting. Said notice shall be published in a newspaper as prescribed in section 31-819, Idaho Code.

SECTION 18. That Section 31-1605, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

or by any statutes of the state of Idaho in force and effect.

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

During the year the county commissioners may proceed to adjust the budget as adopted ~~on the Tuesday following the first Monday in September~~ to reflect the receipt of unscheduled revenue, grants, or donations from federal, state or local governments or private sources, provided that ~~previously budgeted funds are not increased and that~~ there shall be no increase in anticipated property taxes. The annual budget procedure shall be complied with as nearly as practicable before the budget may be adjusted.

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

SECTION 19. That Section 31-1605A, Idaho Code, be, and the same is hereby amended to read as follows:

31-1605A. AUTHORIZATION FOR COUNTIES TO OPERATE ON A CASH BASIS. Counties may accumulate fund balances at the end of a fiscal year and carry over such fund balances into the ensuing fiscal year sufficient to achieve or maintain county operations on a cash basis. A fund balance is the excess of the assets of a fund over its liabilities and reserves. Upon resolution by the board of county commissioners, such funds may be carried over for the use of specific county departments as an additional appropriation in the next fiscal year.

SECTION 20. That Section 31-1606, Idaho Code, be, and the same is hereby amended to read as follows:

31-1606. EXPENDITURE LIMITED BY APPROPRIATIONS -- ROAD AND BRIDGE

APPROPRIATIONS -- INCREASE OF SALARIES. The estimates of expenditures as classified in each of the ~~two--(2)~~ three (3) general classes, "Salaries," ~~and wages~~ "Benefits" and "Detail of Other eExpenses," required in section 31-1602, Idaho Code, as finally fixed and adopted as the county budget by said board of county commissioners, shall constitute the appropriations for the county for the ensuing fiscal year. Each and every county official or employee shall be limited in making expenditures or the incurring of liabilities to the respective amounts of such appropriations. Provided, in the case of road and bridge appropriations, other than "Salaries" and ~~wages~~ "Benefits," any lawful transfer deemed necessary may be made by resolution formally adopted by the board of county commissioners at a regular or special meeting thereof, which action must be entered upon the minutes of said board; provided, further, that no salary may be increased during the ensuing year after the final budget is adopted, without resolution of the board of county commissioners, which resolution shall be entered upon their minutes.

SECTION 21. That Section 31-1610, Idaho Code, be, and the same is hereby repealed.

SECTION 22. That Section 31-1611, Idaho Code, be, and the same is hereby amended to read as follows:

31-1611. QUARTERLY STATEMENTS. On or before the ~~second-Monday--in~~ last day of January, April, July and October in each fiscal year, the county budget officer shall submit to the board of county commissioners a statement showing the expenditures and liabilities against each separate budget appropriation incurred during the time elapsed of the budget period as nearly as practicable, together with the unexpended and unencumbered balance of each appropriation for each office, department, service, agency and institution. He shall set forth the receipts from taxation and from sources other than taxation for the same period and call to the attention of the board of county commissioners any and all facts indicating any possible deficit or excessive expenditure by any officer or employee that the board may take such action as may be deemed necessary and expedient to prevent such possible deficit or excessive expenditure from any appropriation provided for in the county budget.

SECTION 23. 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, 1995. Section 12 of this act shall be in full force and effect on and after July 1, 1995.

Approved March 9, 1995.

CHAPTER 62
(H.B. No. 159)

AN ACT

RELATING TO VETERINARIANS; AMENDING SECTION 54-2103, IDAHO CODE, TO REVISE AND ADD DEFINITIONS; AMENDING SECTION 54-2104, IDAHO CODE, TO ADD AN EXCEPTION FOR CERTIFIED EUTHANASIA AGENCIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2105, IDAHO CODE, TO PROVIDE FOR AN ADDITIONAL BOARD MEMBER, TO PROVIDE THAT THE BOARD PRESIDENT SHALL BE THE MEMBER IN HIS FOURTH YEAR OF APPOINTMENT AND THE LIAISON OFFICER SHALL BE IN HIS FIFTH YEAR OF APPOINTMENT, TO EXTEND THE BOARD'S AUTHORITY TO INCLUDE VETERINARY TECHNICIANS, CERTIFIED EUTHANASIA AGENCIES AND CERTIFIED EUTHANASIA TECHNICIANS AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 54-2106, IDAHO CODE; AMENDING SECTION 54-2107, IDAHO CODE, TO CLARIFY LICENSING REQUIREMENTS, TO PROVIDE A TIME PERIOD FOR VALIDITY OF APPLICATION MATERIALS, TO ALLOW FOR THE RETURN OF THE FIRST YEAR'S LICENSE FEE SHOULD THE APPLICANT NOT BECOME LICENSED AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2111, IDAHO CODE, TO REQUIRE PROFESSIONAL SUPERVISION OF A TEMPORARY LICENSEE; AMENDING SECTION 54-2112, IDAHO CODE, TO PROVIDE FOR A LICENSE RENEWAL FORM, TO PROVIDE AN ADDITIONAL REQUIREMENT FOR REINSTATEMENT OF A LICENSE TO ACTIVE STATUS, TO ELIMINATE RENEWAL OF EXPIRED LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2113, IDAHO CODE, TO PROVIDE THAT REVOCATION, SUSPENSION OR DISCIPLINARY HEARINGS WILL BE CONDUCTED PURSUANT TO THE ADMINISTRATIVE PROCEDURE ACT, TO PROVIDE FOR STANDARDS OF PROFESSIONAL CONDUCT, STANDARDS OF PRACTICE AND RECORDKEEPING REQUIREMENTS AS DEFINED IN THE RULES OF THE BOARD AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 54-2114, IDAHO CODE; AMENDING SECTION 54-2115, IDAHO CODE, TO PROVIDE FOR JUDICIAL REVIEW PURSUANT TO THE ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION 54-2116, IDAHO CODE, TO PROVIDE FOR PROFESSIONAL COUNSELING, TREATMENT AND TESTING FOR ALCOHOL OR DRUG RELATED PROBLEMS AS A CONDITION OF REINSTATEMENT OF A SUSPENDED OR REVOKED LICENSE; AND AMENDING SECTION 54-2117, IDAHO CODE, TO PROVIDE PENALTIES FOR CERTIFIED EUTHANASIA TECHNICIANS AND CERTIFIED EUTHANASIA AGENCIES WHO VIOLATE THE PROVISIONS OF THIS CHAPTER OR THE RULES OF THE BOARD AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-2103, Idaho Code, be, and the same is hereby amended to read as follows:

54-2103. DEFINITIONS. As used in this chapter:

(1) "Accredited continuing education activity" means a course, video-or-audio-tape-recording,-motion-picture seminar, scientific program or any other activity approved by the board or its designees for continuing education credit.

(2) "Allied health professional" means a person currently licensed in any state to practice one (1) of the healing arts including, but not limited to medicine, dentistry, osteopathy, chiropractic and podiatry.

(3) "Animal" means any animal other than man and includes fowl, birds, fish and reptiles, wild or domestic, living or dead.

(4) "Assistant" means any individual who is not a veterinary technician or veterinarian.

(5) "Board" means the state board of veterinary medicine.

(6) "Certified euthanasia agency" or "C.E.A." means an enforcement agency, animal control agency or a society for the prevention of cruelty to animals which has been inspected, licensed and certified by the euthanasia task force.

(7) "Certified euthanasia technician" or "C.E.T." means:

(a) A person employed by a certified euthanasia agency, a law enforcement agency, an animal control agency, a society for the prevention of cruelty to animals, or working under the direct supervision of a licensed veterinarian but not to include individuals employed as technicians by animal research laboratories, who is instructed, licensed and certified by the euthanasia task force as defined in regulation by the rules of the board.

(b) Any person who is trained prior to December 31, 1992, in euthanasia methods, in a course approved by the board, may be certified upon presentation of evidence of such training to either the euthanasia task force or the board.

(78) "Consultation" means a deliberation between two (2) or more veterinarians concerning the diagnosis of a disease or the proper management of the case.

(89) "Credit hour" means fifty (50) minutes of participation in an accredited continuing education activity.

(910) "Dentistry" means:

(a) The application or use of any instrument or device to any portion of an animal's tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury, disease or other condition of an animal's tooth, gum or related tissue; and

(b) Preventive dental procedures including, but not limited to, the removal of calculus, soft deposits, plaque, stains or the smoothing, filing or polishing of tooth surfaces.

(101) "Direct supervision" means the supervisor is on the premises where the animal is being treated and is quickly and easily available and the animal has been examined by a veterinarian as acceptable veterinary medical practice requires.

(112) "Emergency" means that the animal has been placed in a life-threatening condition where immediate treatment is necessary to sustain life.

(13) "Emergency veterinary hospital" means a facility which provides veterinary services at all times including weekends and legal holidays by either a "veterinarian on premises" or "veterinarian on call."

(124) "Euthanasia task force" means a task force established for the purposes of training, examining, and licensing, certifying and inspecting certified euthanasia agencies and certified euthanasia technicians.

(135) "Immediate supervision" means the supervisor is in the immediate area and in audible and visual range of the animal patient and the person treating the patient.

(146) "Indirect supervision" means the supervisor is not on the premises but has given either written or oral instructions for treatment of the animal patient and the animal has been examined by a veterinarian as acceptable veterinary medical practice requires and the animal is not in a surgical plane of anesthesia.

(157) "Liaison officer" means the veterinary board member whose four (4) year board member term has just expired and whose--duties shall--include who serves a fifth year advising the board, reviewing and mediating complaints and performing other tasks assigned by the board.

(168) "Licensed veterinarian" means a person who is validly and currently licensed to practice veterinary medicine in this state.

(19) "Mobile clinic" means a vehicle including, but not limited to, a camper, motor home, trailer or mobile home, used as a veterinary medical facility. A mobile clinic is not required for house calls or farm calls.

(~~1720~~) "Person" means any individual, firm, partnership, association, joint venture, cooperative and corporation, or any other group or combination acting in concert; and whether or not acting as principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person.

(218) "Practice of veterinary medicine" means:

(a) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental conditions; including the prescription or administration of any drug, medicine, biologic, apparatus application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any obstetrical procedure or any manual or mechanical procedure for artificial insemination, for testing or examining for pregnancy, fertility evaluation, embryo transplant, grading of fresh semen, or to render advice or recommendation with regard to any of the above.

(b) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subsection (218)(a) of this section.

(c) To use any title, words, abbreviations or letter in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subsection (218)(a) of this section, except where such person is a licensed veterinarian.

(~~1922~~) "Professional supervision" means the supervisor is in daily contact with the temporary licensee.

(203) "Referral" means the transfer of responsibility for diagnosis and treatment from the referring veterinarian to the receiving veterinarian.

(214) "School of veterinary medicine" means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent and that conforms to the standards required for accreditation by the American veterinary medical association.

(225) "Supervisor" means a licensed veterinarian employing or uti-

lizing the services of a registered temporary licensee, veterinary technician, veterinary assistant or certified euthanasia technician. A supervisor shall be individually responsible and liable for the performance of the acts and omissions delegated to the temporary licensee, veterinary technician, veterinary assistant or certified euthanasia technician. Nothing herein shall be construed to relieve the temporary licensees, veterinary technicians, veterinary assistants or certified euthanasia technicians of any responsibility or liability for any of their own acts and omissions.

(26) "Therapeutic options or alternate therapies" include, but are not limited to, the veterinary practice of acupuncture, chiropractic, magnetic field therapy, holistic medicine, homeopathy, herbology/naturopathy, massage and physical therapy. Diagnostic evaluation by a licensed veterinarian is required prior to the application of any of these options or therapies.

(237) "Veterinarian" means a person who has received a doctor's degree in veterinary medicine from a school of veterinary medicine.

(28) "Veterinarian on premises" means a veterinarian is actually present at the hospital and who is prepared to render veterinary services.

(29) "Veterinarian on call" means a veterinarian is not present at the hospital, but is able to respond within a reasonable time to requests for emergency veterinary services and has been designated to so respond.

(2430) "Veterinary medical facility" means any premise, unit, structure or vehicle mobile unit used or controlled by a veterinarian for the practice of veterinary medicine and where any animal is received or confined to be examined, diagnosed or treated medically, surgically or prophylactically. This does not include the owner's animal on the owner's premises.

(2531) "Veterinary medicine" includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine.

(326) "Veterinary technician" means a person who has graduated from a veterinary technology program accredited by the American veterinary medical association or a person who has received equivalent training as recognized by the Idaho board of veterinary medicine.

(2733) "Veterinary technology" means the performance of services within the field of veterinary medicine by a person employed by a licensed veterinarian to perform such duties that require an understanding of veterinary medicine as are required in carrying out the orders of the veterinarian. However, such services shall not include prognosis, diagnosis or the prescribing of treatment or performing surgery.

SECTION 2. That Section 54-2104, Idaho Code, be, and the same is hereby amended to read as follows:

54-2104. LICENSE A PREREQUISITE TO PRACTICE -- EXCEPTIONS. (1) No person may practice veterinary medicine in the state who is not a licensed veterinarian or the holder of a valid temporary permit issued by the board.

(2) This chapter shall not be construed to prohibit:

- (a) A veterinarian employed by the federal, state, or local government from performing his official duties.
- (b) A person who is a regular student currently enrolled and in good standing in a veterinary school from performing duties or actions assigned by his instructors, or from working under the direct supervision of a licensed veterinarian during a school vacation period.
- (c) Idaho extension personnel from performing their official duties.
- (d) A veterinarian regularly licensed in another state from consulting with a licensed veterinarian in this state.
- (e) Any merchant or manufacturer from selling medicines, biologics, feed, medicated feed, appliances or other products for the prevention or treatment of animal and poultry diseases.
- (f) A farmer, rancher or feedlot operator, including custom ranch or feedlot operators, and the employees or agents thereof, from caring for and treating animals within their possession or control including castration or dehorning, or the owner of an animal or his employee from caring for and treating the animal belonging to such owner, or livestock owners or employees pregnancy testing their own or employer's cattle or the exchange of services between owners or their employees or agents who are farmers, ranchers or feedlot operators, including custom ranch or feedlot operators, except where the ownership or possession of the animal was transferred for the purposes of circumventing this chapter.
- (g) A member of a faculty of a veterinary school or veterinary science department, from performing his regular functions, or a person lecturing or giving instructions or demonstrations at a veterinary school or veterinary science department, or in connection with a continuing education course or seminar.
- (h) Any person from selling or applying any pesticide, insecticide, or herbicide.
- (i) Any person engaging in bona fide scientific research which reasonably requires experimentation involving animals from performing his regular functions.
- (j) Any person from performing artificial insemination of domestic animals as governed by chapter 8, title 25, Idaho Code.
- (k) Any person from horseshoeing or hoof trimming bovine, equine and farm animals.
- (l) A member of an allied health profession from participating in a procedure involving an animal, under the indirect supervision of a licensed veterinarian.
- (m) Any person from t~~he~~ gratuitous treatment of animals in an emergency as a neighborly act.
- (n) Any state or federal livestock inspector ~~while-in-the-performance-of~~ from performing his official duties.
- (o) A certified euthanasia agency from operating as a CEA as defined by the board under accompanying rules.
- (p) A certified euthanasia technician from performing those duties as defined by the board under accompanying rules ~~and--regulations.~~
- (pq) Any person from utilizing cotton swabs, gauze, dental floss, dentifrice, toothbrushes or similar items to clean an animal's

teeth.

SECTION 3. That Section 54-2105, Idaho Code, be, and the same is hereby amended to read as follows:

54-2105. BOARD OF VETERINARY MEDICINE -- COMPOSITION -- APPOINTMENT -- VACANCY -- QUALIFICATIONS -- COMPENSATION -- REMOVAL -- MEETINGS -- OFFICERS -- REVENUES -- POWERS. (1) A board of veterinary medicine which shall consist of five six (56) members to be appointed by the governor, is hereby created in the department of self-governing agencies. Four Five (45) members shall be veterinarians and one (1) member shall be a public member. Each of the four five (45) appointive veterinary members shall serve a term of four (4) years as a veterinary board member and a fifth year as a liaison officer, or until his successor is appointed, except that the terms of the first appointees may be for shorter periods to permit staggering of terms whereby one (1) term expires each year. The public member shall serve for a term of three (3) years.

Whenever the occasion arises for an appointment of a veterinary member under this section, one (1) of the state or regional veterinary medical associations may nominate three (3) or more qualified persons and forward the nominations to the governor at least thirty (30) days before the date set for the appointment. The governor shall appoint one (1) of the persons so nominated. Vacancies due to death, resignation or removal shall be filled for the remainder of the unexpired term in the same manner as regular appointments. No person shall serve two (2) consecutive terms, except in the case of a person appointed for less than a full term. Each of the four five (45) veterinarians shall be qualified to serve as a member of the board if a graduate of a veterinary school, a resident of this state, and has been licensed to practice veterinary medicine in this state for the five (5) years immediately preceding the time of appointment. The public member shall be at least twenty-one (21) years of age and a resident of this state for five (5) years immediately preceding appointment. No person may serve on the board who is, or was, during the two (2) years preceding appointment, a member of the faculty or trustees of a veterinary school.

Each member of the board, certified euthanasia task force and veterinary technical committee shall be compensated as provided by section 59-509(h), Idaho Code.

Any member of the board may be removed by the governor after a hearing by the board determines cause for removal.

(2) The board shall meet at least once each year at the time and place fixed by rule of the board. Other necessary meetings may be called by the president of the board by giving notice as may be required by rule. Except as may otherwise be provided, a majority of the board constitutes a quorum. Meetings shall be open and public except that the board may meet in closed session to prepare, approve, administer or grade examinations, or to deliberate the qualifications of an applicant for license or the disposition of a proceeding to discipline a licensed veterinarian.

(3) ~~At its annual meeting, the board shall organize by electing a president, a secretary, treasurer, and such other officers as may be~~

~~prescribed by rule. Officers of the board serve for terms of one (1) year and until a successor is elected, without limitation on the number of terms an officer may serve.~~ The president board member serving the fourth year of appointment shall be the president of the board and shall serve as a chairman of the board meetings.

(4) All revenues received under this chapter shall be paid to the state board of veterinary medicine account created in section 54-2120, Idaho Code, and shall be subject to and administered in accordance with the provisions of this chapter.

(5) The board shall have the power to:

(a) Examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine in the state.

(b) Issue, renew, deny, suspend or revoke licenses and temporary permits to practice veterinary medicine in the state or otherwise discipline licensed veterinarians consistent with the provisions of this chapter and the rules and regulations adopted hereunder.

(c) Establish and publish annually a schedule of fees for licensing, certifying and registration of registering veterinarians, veterinary technicians, certified euthanasia agencies and certified euthanasia technicians.

(d) Conduct investigations for the purpose of discovering violations of this chapter or grounds for disciplining licensed veterinarians, veterinary technicians, certified euthanasia agencies and certified euthanasia technicians.

(e) Hold hearings on all matters properly brought before the board, and in connection thereto to administer oaths, receive evidence, make the necessary determinations, and enter orders consistent with the findings. The board may require the attendance and testimony of witnesses and the production of papers, records, or other documentary evidence and may commission depositions. The board may designate one or more of its members or a person appointed by the state board of veterinary medicine to serve as its hearing officer.

(f) Employ full-time or part-time personnel, professional, clerical or special, necessary to effectuate the provisions of this chapter and purchase or rent necessary office space, equipment and supplies.

(g) Appoint from its own membership one or more members to act as representatives of the board at any meeting within or outside the state where such representation is deemed desirable.

(h) Bring proceedings in the courts for the enforcement of this chapter or any regulations rules made pursuant thereto.

(i) Levy civil penalties.

(j) Establish a certified euthanasia task force for the purposes of training, examining, licensing and certifying certified euthanasia agencies and certified euthanasia technicians and assess application, license and certification fees. The fees so assessed are continuously appropriated to the board to support the activities of the task force.

(k) Establish qualifications for licensure of certified euthanasia agencies and certified euthanasia technicians.

(l) Issue, renew, deny, suspend or revoke licenses to operate as

a CEA or practice as a CET in the state or otherwise discipline CEA's and CET's consistent with this chapter and the rules of the board.

(m) Establish a veterinary technical committee and assess application and certification fees. The fees so assessed are to be deposited to the state board of veterinary medicine account to support the activities of the committee.

(n) Adopt, amend, or repeal all rules necessary for its government and all regulations rules necessary to carry into effect the provisions of this chapter pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, including the establishment and publication of standards of professional conduct for the practice of veterinary medicine.

The powers enumerated above are granted for the purpose of enabling the board to effectively supervise the practice of veterinary medicine and are to be construed liberally to accomplish this objective.

SECTION 4. That Section 54-2106, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 54-2107, Idaho Code, be, and the same is hereby amended to read as follows:

54-2107. LICENSE APPLICATION -- CONTENTS -- FEE. Any person desiring a license to practice veterinary medicine in this state shall make written application to the board. To apply for a veterinary license, the applicant shall complete the "application for licensure to practice veterinary medicine and surgery" available from the board office. A completed application shall contain the applicant's notarized signature and shall include:

(1) A copy of a birth certificate, religious certificate or passport proving that the applicant is twenty-one (21) years of age or more.

(2) Affidavits issued during the year preceding licensure from two (2) veterinarians currently licensed in any state attesting to the fact that the applicant is of good moral character.

(3) A certified copy of a veterinary school diploma or a letter from the graduate's school verifying satisfactory graduation or, if a foreign school graduate, a letter from the American veterinary medical association's educational commission for foreign veterinary graduates (ECFVG) certifying completion of the ECFVG program or a copy of the ECFVG certificate.

(4) Passing scores on the national board exam (NBE) and the clinical competency test (CCT), which may be taken in any state at any time (no time limit).

(5) A passing score of at least ninety percent (90%) correct on the Idaho jurisprudence examination.

(6) Written verification of license in good standing from the licensing organization in any state in which the applicant has held a license.

(7) The license application fee and first year's license fee in the amount established in the rules and--regulations adopted by the

board.

(8) Any additional information that the board may request.

(9) Application materials will be valid and maintained at the board office for a period of one (1) year.

The board will review applications and issue licenses in January and June of each year. Applicants shall have their completed applications at the board office by the first day of January or June. If an applicant is found not qualified, the board shall immediately notify the applicant in writing of such finding and the grounds therefor. An applicant ~~found unqualified denied licensure~~ may require request a hearing on the question of qualification under the procedure set forth in section 54-2115 pursuant to the procedures set forth in chapter 52, title 67, Idaho Code. Any applicant who is ~~found not qualified denied licensure~~ shall be allowed the return of the license fee portion of the application fee.

Any applicant taking and passing the Idaho jurisprudence examination and not wanting to be licensed at the next review by the board, shall be allowed the return of the license fee portion of the application fee only.

SECTION 6. That Section 54-2111, Idaho Code, be, and the same is hereby amended to read as follows:

54-2111. TEMPORARY PERMIT. The board may, at its discretion, issue a temporary permit to an applicant who has passed the NBE and Idaho jurisprudence exam but who has not yet taken the CCT. The temporary permit shall be valid for no more than one (1) year, during which the applicant shall take and pass the CCT, and under no circumstances shall a second temporary permit be issued to the same person. A temporary permit shall not be issued to any applicant whose license has been revoked in any state for a reason other than nonpayment of license renewal fees. An applicant granted a temporary permit shall provide verification of one (1) year of veterinary practice in another state or shall work under the professional supervision of a veterinarian licensed in Idaho.

SECTION 7. That Section 54-2112, Idaho Code, be, and the same is hereby amended to read as follows:

54-2112. EXPIRATION OF LICENSE -- NOTICE -- RENEWAL -- INACTIVE STATUS. All licenses shall expire annually on July 1 of each year, but may be renewed by submission of the annual renewal form prescribed by the board, proof of completion of the appropriate hours of continuing education, ~~and by meeting satisfaction of any~~ other requirements as defined in the rules ~~and regulations~~ adopted by the board and by payment of the renewal fee established and published by the board. On or about May 1 of each year, the board shall mail a notice to each licensed veterinarian that the license will expire on July 1, and shall also provide a form for renewal. The board shall issue a new license to all persons registering under this chapter.

Any veterinarian licensed in Idaho who advises the veterinary board, in writing, that he or she does not intend to actively practice veterinary medicine in the state of Idaho and therefore does not

intend to meet the licensing requirements for the current licensing year, shall be transferred from active to inactive status and shall be required to pay an inactive status fee as prescribed in the rules and regulations of the board. Any person may transfer from inactive to active status by making written application for reinstatement to active status, paying the active license renewal fee and by meeting other requirements for reinstatement as defined in the rules and regulations of the board.

Any person who shall practice veterinary medicine after the expiration of a license or during inactive status and who fails to renew or reinstate the license shall be practicing in violation of this chapter. Any person whose license expires prior to July 1, 1995, may renew an expired license within five (5) years of the date of its expiration by making written application for renewal and paying the current reinstatement and renewal fees plus all delinquent renewal fees and by meeting other requirements as defined in the rules of the board. After five (5) years have elapsed since the date of expiration, or if a license expires after July 1, 1995, the license may not be renewed, but the holder may make application for a new license.

The board may by rule waive the payment of the registration renewal fee of a licensed veterinarian during the period when the licensee is on active duty with the armed services of the United States, not to exceed the longer of three (3) years or the duration of a national emergency.

SECTION 8. That Section 54-2113, Idaho Code, be, and the same is hereby amended to read as follows:

54-2113. REVOCATION OR SUSPENSION -- GROUNDS FOR DISCIPLINE. The board may, ~~after a fair hearing and by a majority of the board~~, refuse to issue, renew or reinstate, or may revoke or suspend for a certain time the license of, or otherwise discipline, any licensed veterinarian pursuant to the procedures set forth in chapter 52, title 67, Idaho Code, for any of the following reasons:

(1) The employment of fraud, misrepresentation or deception in obtaining a license.

(2) Adjudication of insanity.

(3) Unprofessional conduct, which as defined by the rules of the board, and includes, but is not limited to, conviction of a charge of violating any federal or state statute or rule or regulation regulating narcotics, dangerous drugs or controlled substances.

(4) The use of advertising or solicitation which is false, misleading, or fraudulent.

(5) Being ~~found guilty~~, convicted ~~or having received a withheld judgment or suspended sentence by a court of competent jurisdiction~~ in this state or any other state of one (1) or more of the following:

(a) Any felony; or

(b) Any criminal act ~~involving moral turpitude, gross immorality~~ or which is related to the qualifications, functions or duties of veterinary medicine, surgery, or dentistry.

(6) Incompetence, gross negligence, or other malpractice in the practice of veterinary medicine.

(7) Having a professional association with or employing or lend-

ing one's name to any illegal practitioner of veterinary medicine and the various branches thereof.

(8) Fraud, or dishonesty, failure to report, or gross negligence in the inspection of foodstuffs, issuance of health or inspection certificates, in the application, treatment, or reporting of any test for disease in animals and in reporting any contagious or infectious disease.

~~(9) Failure to keep one's veterinary medical facility and all equipment therein in a clean and sanitary condition.~~

~~(10) Failure to report, as required by law, or making false report of, any contagious or infectious disease.~~

~~(11) Dishonesty or gross negligence in the inspection of foodstuffs or the issuance of health or inspection certificates~~ comply with the veterinary standards of practice or recordkeeping requirements as defined in the rules of the board.

(120) Cruelty to animals.

~~(131)~~ The revocation by a sister state or territory of a license or certificate by virtue of which one ~~(11)~~ is licensed to practice veterinary medicine in that state, territory or district of the United States on grounds other than nonpayment of renewal fees.

(142) Aiding or abetting or violating any of the provisions of this chapter or any lawful rule, ~~regulation~~ or order of the board.

(153) For the purposes of this chapter, the term "conviction" means a finding of guilt, an entry of a guilty plea by a defendant and its acceptance by the court, or a forfeiture of bail bond or collateral deposited to secure a defendant's appearance, suspended sentence, probation or withheld judgment.

SECTION 9. That Section 54-2114, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 54-2115, Idaho Code, be, and the same is hereby amended to read as follows:

54-2115. JUDICIAL REVIEW. Any party aggrieved by a decision of the board may ~~appeal the matter and obtain~~ seek judicial review of the decision ~~as permitted by~~ pursuant to chapter 52, title 67, Idaho Code, ~~to the district court.~~

SECTION 11. That Section 54-2116, Idaho Code, be, and the same is hereby amended to read as follows:

54-2116. RELICENSING AND REINSTATEMENT. Any person whose license is suspended or revoked may, at the discretion of the board, be relicensed or reinstated at any time with or without an examination, by majority vote of the board on written application made to the board showing cause justifying relicensing or reinstatement.

In reinstating a license which has been suspended or revoked under section 54-2113, Idaho Code, the board may impose terms and conditions to be followed by the licensee after the certificate license has been reinstated. The authority of the board to impose terms and conditions includes, but is not limited to, the following:

(1) Requiring the licensee to obtain additional professional

training and to pass an examination upon completion of the training.

(2) Requiring the licensee to pass an oral, written, practical or clinical examination, or any combination thereof to determine present fitness to engage in the practice of veterinary medicine.

(3) Restricting or limiting the extent, scope, or type of practice of the licensee.

(4) Requiring the licensee to obtain professional counseling and undergo and maintain treatment and testing for alcohol or drug related problems.

SECTION 12. That Section 54-2117, Idaho Code, be, and the same is hereby amended to read as follows:

54-2117. VIOLATIONS OF CHAPTER -- REMEDIES AND PENALTIES. (1) Any person violating the provisions of this chapter, or violating a rule ~~or-regulation~~ promulgated by the board to implement the provisions of this chapter may be assessed a civil penalty by the board or its duly authorized agent of not more than three thousand dollars (\$3,000) for each offense and shall be liable for reasonable attorney fees. Assessment of a civil penalty may be made in conjunction with any other board administrative action. No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedures act. If the board is unable to collect the civil penalty or if any person fails to pay all of a set portion of the civil penalty as determined by the board, it may recover such amount by action in the appropriate district court. Any person against whom the board has assessed a civil penalty under this section may, within thirty (30) days of the final agency action making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the board to have occurred.

(2) Any person who practices veterinary medicine, any person practicing as a certified euthanasia technician or any agency operating as a certified euthanasia agency without a currently valid license or temporary permit shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars (\$100), nor more than five thousand dollars (\$5,000), or imprisoned for no more than one hundred eighty (180) days, or both fined and imprisoned, provided that each act of such unlawful practice shall constitute a distinct and separate offense.

(3) No person who shall practice veterinary medicine without a currently valid license or temporary permit may receive any compensation for services so rendered.

(4) The board or any citizen of this state may bring an action to enjoin any person from practicing veterinary medicine without a currently valid license or temporary permit. If the court finds that the person is violating the provisions of this chapter, it shall enter an injunction restraining that individual from such unlawful acts.

(5) The successful maintenance of an action based on any one (1) of the remedies set forth in this section shall in no way prejudice the prosecution of an action based on any other of the remedies.

CHAPTER 63
(H.B. No. 44)

AN ACT

RELATING TO THE APPLICATION FOR A FISH AND GAME LICENSE; AMENDING SECTION 36-405, IDAHO CODE, TO BROADEN THE PROHIBITION AGAINST FALSE INFORMATION.

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

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

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

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

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

3. No person shall willfully make a false statement as to:

(A) Name, age, length of residence or current address when such statement is made for the purpose of obtaining a any license, tag or permit ~~of a type or class he is not entitled to~~.

(B) Type and class of original license or tag purchased when applying for a duplicate license or tag.

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

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

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

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

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

1. Every person buying a license, tag or permit must buy a license, tag or permit of the proper type or class according to his residence and age. No person shall purchase or possess a license, tag or permit of the wrong class and such license, tag or permit shall be void and of no effect from the date of issuance.

2. No person shall:

(A) Acquire more than one (1) regular controlled hunt permit

per species or more tags per species than the commission has set a bag limit for that species except as provided in subsection (b) of this section or to have said permits or tags in his possession.

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

Approved March 9, 1995.

CHAPTER 64
(H.B. No. 39)

AN ACT

RELATING TO PURCHASE OF FISH AND GAME LICENSES BY TELEPHONE; AMENDING SECTION 36-104, IDAHO CODE, TO AUTHORIZE RULEMAKING TO GOVERN PURCHASE OF LICENSES BY TELEPHONE AND OTHER ELECTRONIC MEANS, TO CLARIFY THAT A FEE MAY BE CHARGED FOR TELEPHONE AND CREDIT CARD ORDERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 36-202, IDAHO CODE, TO DEFINE AN ADDITIONAL TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 36-303, IDAHO CODE, TO DELETE THE REQUIREMENT THAT RESIDENT LICENSES BE SOLD WITHIN THE STATE OF IDAHO AND TO DELETE REFERENCES TO TAGS AND PERMITS; AMENDING SECTION 36-306, IDAHO CODE, TO DELETE THE REQUIREMENTS FOR WRITTEN APPLICATIONS FOR LICENSES AND TO DELETE REFERENCES TO TAGS AND PERMITS; AND AMENDING SECTION 36-405, IDAHO CODE, TO DELETE THE REQUIREMENT FOR A WRITTEN LICENSE APPLICATION, TO REQUIRE THE APPLICANT'S DATE OF BIRTH AND TO DELETE REFERENCES TO TAGS AND PERMITS.

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) ~~and a fee may be charged for telephone and credit card orders in accordance with the provisions of subsection (e) of section 36-106, Idaho Code~~ 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. Additionally, a fee may be charged for telephone and credit card orders in accordance with subsection (e)11. of section 36-106, Idaho Code. 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 controller. When the department's total transfers to the big game secondary depredation account equals equal or exceeds exceed 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 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.

14. Adopt rules governing the application for and issuance of licenses by telephone and other electronic methods.

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

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

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

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

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

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

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

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

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

(i) "Hunting" shall mean chasing, driving, flushing, attracting,

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

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

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

(l) "Possession" shall mean both actual and constructive possession, and any control of the object or objects referred to; provided that wildlife taken accidentally and in a manner not contrary to the provisions of this title shall not be deemed to be in possession while being immediately released live back to the wild.

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

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

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

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

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

(r) "Resident" shall mean any person who has been domiciled in this state, with a bona fide intent to make this his place of permanent abode, for a period of not less than six (6) months immediately preceding the date of application for any license, tag, or permit required under the provisions of this title or orders of the commission and who, when temporarily absent from this state, continues residency with intent to return, 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 where 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 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.

(z) "License" shall mean any license, tag, permit or stamp.

SECTION 3. That Section 36-303, Idaho Code, be, and the same is hereby amended to read as follows:

36-303. DISTRIBUTION, ISSUANCE, AND SALE OF LICENSES, ~~TAGS AND PERMITS~~ -- BONDING OF VENDORS. The director shall distribute such licenses, ~~tags and permits~~ to any person he may select for the purpose of sale and distribution. ~~Provided that all resident licenses shall be sold only within the state of Idaho.~~ Any person to whom licenses, ~~tags and permits~~ are consigned shall be charged with the full value thereof, less the authorized sales commission therefor as provided in section 36-306, Idaho Code, and such persons shall be responsible for all sums received by them from the sale of such licenses, ~~tags and permits~~ and shall be liable upon their official bonds, and should any person fail to account for the same, any sum remaining due by reason of such failure may be recovered from such person or his bondsman in a civil action. Provided, that any and all persons to whom licenses, ~~tags and permits~~ are consigned for sale, other than employees of the department of fish and game of the state of Idaho, shall be required to furnish to the director, before entering upon the sale of said licenses, ~~tags and permits~~, a good and sufficient surety bond to the state of Idaho in an amount sufficient to cover all licenses, ~~tags and permits~~ so consigned. Provided further that when a surety bond is furnished by a surety company authorized to do business in the state of Idaho, said bond shall be approved and accepted by the director and filed in the state office of the department of fish and game. All bonds executed by any person required to furnish the same shall cover a period of two (2) years and said bond shall be in a form prescribed by said director.

The director may at his discretion furnish a scheduled bond sufficient to cover all licenses, ~~tags and permits~~ to be consigned for sale. All or any part of said bond may be paid for out of the fish and game fund and shall be in lieu of any other bond requirement for the sale of licenses, ~~tags or permits~~.

Any bond given in accordance with this section of the statute is declared to be an official bond of the state of Idaho.

Provided further that no person except an employee of the department shall be authorized to issue and sell such licenses, ~~tags and permits~~ until the bond hereinbefore provided for shall have been properly signed, approved and filed with the director. All moneys collected by any person for the sale of such licenses, ~~tags and permits~~ in the state of Idaho, with the exception of any commission on said amount that may be due any person selling the same as vendor thereof, shall be and remain the property of the department. Any person appropriating any of said funds of the department of fish and game for his own use shall be guilty of a felony.

SECTION 4. That Section 36-306, Idaho Code, be, and the same is hereby amended to read as follows:

36-306. COMMISSION ON SALES -- WRITTEN APPLICATION OF PURCHASER. All persons authorized to sell licenses shall charge a commission of one dollar (\$1.00) upon all licenses, ~~tags and permits~~ for which there is a fee, to be retained by them as compensation for the sale of such licenses, ~~tags or permits~~; provided that such commission fee shall be charged in addition to the regular cost of the license, ~~tag or permit~~. However, in the case of crayfish or minnow traps, beaver, bobcat or lynx tags the commission fee shall be charged for each purchase of tags for each species regardless of the number of tags purchased in said transaction. Proceeds from department issued licenses may be set aside for the department's special operations program, including citizens against poaching. ~~Be it further provided that no resident or duplicate license shall be issued without taking the written application of the purchaser in the manner prescribed by section 36-405(a), Idaho Code.~~

SECTION 5. That Section 36-405, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

3. No person shall willfully make a false statement as to:

(A) Name, age, his date of birth, length of residence or current address when such statement is made for the purpose of obtaining a license, ~~tag or permit~~ of a type or class he is not entitled to.

(B) Type and class of original license ~~or tag~~ purchased when applying for a duplicate license ~~or tag~~.

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

1. Purchase a new license ~~or tag~~ at the regular fee; or
2. Replace a lost license ~~or tag~~ with a duplicate license ~~or tag~~ for which a fee of two dollars (\$2.00) shall be charged.

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

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

Permit.

1. Every person buying a license,~~tag~~~~or~~~~permit~~ must buy a license,~~tag~~~~or~~~~permit~~ of the proper type or class according to his residence and age. No person shall purchase or possess a license,~~tag~~~~or~~~~permit~~ of the wrong class and such license,~~tag~~~~or~~~~permit~~ shall be void and of no effect from the date of issuance.

2. No person shall:

(A) Acquire more than one (1) regular controlled hunt permit per species or more tags per species than the commission has set a bag limit for that species except as provided in subsection (b) of this section or to have said permits or tags in his possession.

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

Approved March 9, 1995.

CHAPTER 65
(H.B. No. 287)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 304, LAWS OF 1994; DIRECTING THE DEPARTMENT OF ADMINISTRATION TO TRANSFER \$250,000 TO THE GENERAL 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 304, Laws of 1994, there is hereby appropriated to the Department of Administration, the following amount, to be expended for the Information Technology Program according to the designated standard classification from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:	
Capital Outlay	\$55,000
FROM:	
General Fund	\$55,000

SECTION 2. The Department of Administration is hereby directed to transfer the sum of \$250,000, as appropriated in Section 2, Chapter 254, Laws of 1975, from the Administration and Accounting Services Fund to the General Fund.

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 passage and approval.

Approved March 9, 1995.

CHAPTER 66
(H.B. No. 38)

AN ACT

RELATING TO THE REVOCATION OF A HUNTING LICENSE FOR IMPROPER HANDLING OF A WEAPON; AMENDING SECTION 36-1501, IDAHO CODE, TO DEFINE A TERM, AND TO EXPAND THE ACTS REQUIRING LICENSE REVOCATION; AMENDING SECTION 36-1502, IDAHO CODE, TO SPECIFY UNIFORM HEARING PROCEDURES UNDER THE IDAHO ADMINISTRATIVE PROCEDURE ACT AND TO DELETE UNNECESSARY PROVISIONS; AND AMENDING SECTION 36-1503, IDAHO CODE, TO DELETE UNNECESSARY PROVISIONS.

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

SECTION 1. That Section 36-1501, Idaho Code, be, and the same is hereby amended to read as follows:

36-1501. REVOCATION OF LICENSE FOR IMPROPER HANDLING OF ~~GUN~~ A WEAPON. The director of the Idaho department of fish and game shall revoke the hunting license of any person, and deny them the right to secure any hunting license, in the manner hereinafter provided, for any of the following acts, and for the periods specified. For purposes of this section, the term "weapon" shall mean firearm, gun, crossbow, or bow and arrow. The director, or a referee he may appoint, shall have authority to hold a hearing, subpoena any witness requested by the complainant or by the person accused, administer oaths, and require and receive evidence, oral or in written deposition, in any case where any person who, according to information received, while hunting is alleged:

(a) To have carelessly handled a gun weapon that caused accident and injury to person or property;

(b) To have carelessly handled a gun weapon that caused injury to livestock of another;

(c) To have carelessly injured a human being by gunfire use of a weapon;

(d) To have caused accidental injury or death to a person by gunfire use of a weapon and fled or failed to render assistance;

(e) To have caused injury or death to a person by gunfire use of a weapon, and not furnished proof to the director or his referee that he has been released from all liability for ambulance, hospital, medical, funeral bills, and other related expense, from the injured person, or his heirs in case of death; provided that a satisfaction of any judgment rendered against the person accused because of any such act shall be deemed a satisfactory release hereunder;

(f) To have caused damage to livestock by gunfire use of a weapon, and not furnished proof to the director or his referee, that he has been released from all liability by the owner of such livestock therefor; provided that a satisfaction of any judgment rendered against the person accused because of any such act shall be deemed a satisfactory release hereunder.

SECTION 2. That Section 36-1502, Idaho Code, be, and the same is hereby amended to read as follows:

36-1502. PREFERRED CHARGES FOR IMPROPER HANDLING OF GUN A WEAPON HEARING -- PROCEDURE. Any person may prefer charges, based on any of the above grounds, against any hunting licensee. Such charges shall be in writing, and shall be sworn to and filed with said director. All charges, unless dismissed by the director as unfounded or trivial, shall be heard by the director or his referee ~~within sixty--(60)--days of--the--time--of--filing. The time and place for such hearing shall be fixed by the director or his referee, and such~~ as a contested case under the provisions of chapter 52, title 67, Idaho Code. The hearing shall be held either in the county where the offense is alleged to have occurred or in the county of the defendant's residence, ~~and a copy of the charges stating the violations of this act alleged to have occurred, together with a notice of the time and place of hearing shall be personally served on such licensee at least fifteen (15) days prior to the time of hearing.~~ In the event that such licensee resides outside the state of Idaho, such notice shall be served by registered mail with return receipt, mailed to the last known address of such licensee. ~~At any hearing the accused shall have the right to appear personally and by counsel and to testify or to present witnesses and evidence in his own behalf and to cross-examine witnesses in his own defense.~~ Any person who shall be subpoenaed before said director or his referee and shall fail to appear before him, without furnishing satisfactory reason for failure to do so, shall be subject to the penalties of contempt upon application to any district court.

SECTION 3. That Section 36-1503, Idaho Code, be, and the same is hereby amended to read as follows:

36-1503. PERIOD OF REVOCATION. ~~In all such hearings before a referee, he shall submit to the director and to the accused licensee a certified stenographic transcript, together with his findings of fact and recommendations, and in hearings held before the director a certified stenographic transcript shall be made which together with his findings of fact, shall be furnished to the accused licensee, and~~ upon the a findings in either case showing of violation of the acts specified in section 36-1501, Idaho Code, the director is hereby required to revoke the license of the offender and to deny him the right to hunt in Idaho for the following periods:

(a) For the first offense, for a period to be fixed by the director, with or without the recommendation of his referee, not to exceed five (5) years;

(b) For each additional offense a period of five (5) years.

Approved March 9, 1995.

CHAPTER 67
(H.B. No. 253)

AN ACT

RELATING TO THE CENTRAL TUMOR REGISTRY ACCOUNT; AMENDING THE CHAPTER HEADING FOR CHAPTER 17, TITLE 57, IDAHO CODE; AMENDING SECTION 57-1701, IDAHO CODE, TO PROVIDE A CHANGE IN NAME FROM CENTRAL TUMOR REGISTRY FUND TO CENTRAL CANCER REGISTRY FUND; AMENDING CHAPTER 17, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-1703, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING CHAPTER 17, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-1704, IDAHO CODE, TO PROVIDE THE ESTABLISHMENT AND MAINTENANCE OF A UNIFORM STATEWIDE CANCER REGISTRY FOR THE REPORTING OF CANCER AND REPORTABLE BENIGN TUMORS; AMENDING CHAPTER 17, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-1705, IDAHO CODE, TO PROVIDE PRIMARY AND SECONDARY REPORTING AND ACCESS TO RECORDS FOR THE DEPARTMENT HEALTH AND WELFARE OR ITS AUTHORIZED CONTRACTOR; AMENDING CHAPTER 17, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-1706, IDAHO CODE, TO PROVIDE CONFIDENTIALITY OF REPORTED INFORMATION AND ESTABLISHMENT OF PROCEDURES FOR THE DISCLOSURE AND USE OF CONFIDENTIAL INFORMATION; AND AMENDING CHAPTER 17, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-1707, IDAHO CODE, TO PROVIDE IMMUNITY FROM CIVIL LIABILITY AND LICENSE RESTRICTIONS FOR REPORTING PERSONS AND ENTITIES, BUT ONLY FOR THE GOOD FAITH REPORTING OF CANCER REGISTRY DATA.

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

SECTION 1. That the heading for Chapter 17, Title 57, Idaho Code, be, and the same is hereby amended to read as follows:

CENTRAL ~~TUMOR~~ CANCER REGISTRY FUND

SECTION 2. That Section 57-1701, Idaho Code, be, and the same is hereby amended to read as follows:

57-1701. CREATION OF CENTRAL ~~TUMOR~~ CANCER REGISTRY FUND -- PURPOSE. There is hereby created and established in the state treasury a fund to be known as the "central ~~tumor~~ cancer registry fund" to which shall be deposited the revenues derived from the tax imposed in section 63-2506, Idaho Code. All moneys now or hereafter in the central ~~tumor~~ cancer registry fund are hereby dedicated for the purpose of contracting for and obtaining the services of a continuous registry of all ~~tumor~~ cancer patients in the state of Idaho and maintaining cooperative exchange of information with other states providing similar ~~tumor~~ cancer 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~~ cancer registry fund from the tax imposed in section 63-2506, Idaho Code, shall not exceed 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 3. That Chapter 17, 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 57-1703, Idaho Code, and to read as follows:

57-1703. **CANCER REGISTRY -- DEFINITIONS.** (1) "Cancer" means all insitu or malignant neoplasms diagnosed by histology, radiology, laboratory testing, clinical observation, autopsy or suggestible by cytology, but excluding basal cell and squamous cell carcinoma of the skin unless occurring on a mucous membrane.

(2) "Reportable benign tumors" means noncancerous neoplasms occurring in the brain, meninges, pineal gland or pituitary gland.

(3) "Confidential information" refers to information which may identify a cancer patient, health care facility or health care provider.

(4) "Contractor" means that individual, partnership, corporation or other entity performing cancer registry services under a contractual agreement with the department.

(5) "Department" means the Idaho department of health and welfare.

(6) "Population-based" refers to all cancers and reportable benign tumors diagnosed and/or treated within the state of Idaho by hospitals or other facilities providing screening, diagnostic or therapeutic services to patients with respect to cancer, and from physicians, surgeons, and all other health care providers diagnosing or providing treatment for cancer patients.

SECTION 4. That Chapter 17, 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 57-1704, Idaho Code, and to read as follows:

57-1704. **ESTABLISHMENT OF CANCER REGISTRY.** (1) The department, or an authorized contractor of the department, shall maintain a uniform statewide population-based cancer registry system for the collection of data pertaining to the incidence, prevalence, management, survival, mortality, geographic distribution and risk factors associated with cancer and reportable benign tumors.

(2) All cancers and reportable benign tumors diagnosed or treated in the state shall be reported to the department or the authorized contractor of the department.

(3) Data reported to the cancer registry shall be available for use in aggregate form for analysis, benchmarking, and reports of Idaho's cancer incidence, prevalence, management, survival, mortality, health status, geographic distribution, and risk factors in comparison to the nation.

SECTION 5. That Chapter 17, 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 57-1705, Idaho Code, and to read as follows:

57-1705. PARTICIPATION IN PROGRAM. (1) Primary reporting:

(a) Any hospital, outpatient surgery center, radiation treatment center, or treatment clinic diagnosing and/or treating a patient with cancer or a reportable benign tumor, on an inpatient or outpatient basis, shall report each case of cancer or reportable benign tumor to the department or the authorized contractor of the department within one hundred eighty (180) days of diagnosis.

(b) Independent pathology and cytology laboratories shall report each diagnosis of cancer or reportable benign tumor to the department or the authorized contractor within one hundred eighty (180) days of specimen analysis.

(2) Secondary reporting: In the event that a case of cancer or reportable benign tumor was not diagnosed or treated within a hospital, outpatient surgery center, radiation treatment center, or treatment clinic, the department or authorized contractor may request the case be reported by a physician's office.

(3) Each report of cancer or reportable benign tumor shall include information as defined by the department or the authorized contractor.

(4) The department or authorized contractor of the department shall have physical access to all records which would identify reportable cases and/or establish characteristics, treatment or medical status of reportable cases in the event that there has been a failure to report as delineated in subsections (1), (2) and (3) of this section or for the purpose of subsequent quality control studies and research projects conducted by the department or the authorized contractor.

(5) Nothing in this chapter shall prevent the department or authorized contractor from identifying and reporting cases using data linkages with death records, statewide cancer registries, and other potential sources.

SECTION 6. That Chapter 17, 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 57-1706, Idaho Code, and to read as follows:

57-1706. CONFIDENTIALITY. (1) The department and authorized contractor will take measures to ensure that all identifying information is kept confidential.

(2) The department and authorized contractor may enter into agreements to exchange confidential information with other states' cancer registries in order to obtain complete reports of Idaho residents diagnosed or treated in other states and to provide information to other states regarding their residents diagnosed or treated in Idaho.

(3) The department and authorized contractor may furnish confidential information to other cancer registries, federal cancer control programs, or health researchers in order to collaborate research studies. Disclosure of confidential information for research purposes must comply with policies and protocols of the department and/or authorized

contractor of the department.

SECTION 7. That Chapter 17, 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 57-1707, Idaho Code, and to read as follows:

57-1707. LIABILITY. (1) No action for damages arising from the disclosure of confidential or privileged information may be maintained against any reporting entities or employees of such entities that participate in good faith in the reporting of cancer registry data in accordance with this chapter.

(2) No license of a health care facility or health care provider may be denied, suspended or revoked for the good faith disclosure of confidential or privileged information in accordance with this chapter.

(3) The immunity granted in subsections (1) and (2) of this section shall not be construed to apply to the unauthorized disclosure of confidential or privileged information when such disclosure is due to gross negligence or willful misconduct of the reporting entities.

Approved March 9, 1995.

CHAPTER 68
(H.B. No. 20)

AN ACT

RELATING TO INSURANCE; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-345, IDAHO CODE, TO PROVIDE THAT INSURERS FILE WITH THE DIRECTOR AND THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS A REPORT DISCLOSING MATERIAL TRANSACTIONS AND TO PROVIDE THAT THE REPORT SHALL NOT BE MADE PUBLIC BY THE DIRECTOR OR THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-346, IDAHO CODE, TO PROVIDE FOR THE TYPES OF ACQUISITIONS AND DISPOSITIONS REQUIRED TO BE REPORTED AND THE INFORMATION TO BE PROVIDED; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-347, IDAHO CODE, TO PROVIDE FOR THE TYPES OF NONRENEWALS, CANCELLATIONS OR REVISIONS OF CEDED REINSURANCE AGREEMENTS REQUIRED TO BE REPORTED AND THE INFORMATION TO BE PROVIDED; AMENDING SECTION 41-3434, IDAHO CODE, TO PROVIDE THAT SECTIONS 41-345 THROUGH 41-347, IDAHO CODE, ARE APPLICABLE TO HOSPITAL AND PROFESSIONAL SERVICE CORPORATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-3931, IDAHO CODE, TO PROVIDE THAT SECTIONS 41-345 THROUGH 41-347, IDAHO CODE, ARE APPLICABLE TO HEALTH MAINTENANCE ORGANIZATIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. 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 41-345, Idaho Code, and to read as follows:

41-345. REPORT. (1) Every insurer domiciled in this state shall file a report with the director disclosing material acquisitions and dispositions of assets or material nonrenewals, cancellations or revisions of ceded reinsurance agreements unless such acquisitions and dispositions of assets or material nonrenewals, cancellations or revisions of ceded reinsurance agreements have been submitted to the director for review, approval or information purposes pursuant to other provisions of the insurance code, laws, rules or other requirements.

(2) The report required in subsection (1) of this section is due within fifteen (15) days after the end of the calendar month in which any of the foregoing transactions occur.

(3) One (1) complete copy of the report, including any exhibits or other attachments filed as part thereof, shall be filed with:

(a) The insurance department of the insurer's state of domicile; and

(b) The national association of insurance commissioners.

(4) All reports obtained by or disclosed to the director pursuant to sections 41-345 through 41-347, Idaho Code, shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the director, the national association of insurance commissioners, or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the director, after giving the insurer who would be affected thereby, notice and an opportunity to be heard, determines that the interest of policyholders, shareholders or the public will be served by the publication thereof, in which event the director may publish all or any part thereof in such manner as he may deem appropriate.

SECTION 2. 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 41-346, Idaho Code, and to read as follows:

41-346. ACQUISITIONS AND DISPOSITIONS OF ASSETS. (1) Materiality. No acquisitions or dispositions of assets need be reported pursuant to section 41-345, Idaho Code, if the acquisitions or dispositions are not material. For purposes of sections 41-345 through 41-347, Idaho Code, a material acquisition (or the aggregate of any series of related acquisitions during any thirty (30) day period) or disposition (or the aggregate of any series of related dispositions during any thirty (30) day period) is one that is nonrecurring and not in the ordinary course of business and involves more than five percent (5%) of the reporting insurer's total admitted assets as reported in its most recent statutory statement filed with the insurance department of the insurer's state of domicile.

(2) Scope.

(a) Asset acquisitions subject to sections 41-345 through 41-347,

Idaho Code, include every purchase, lease, exchange, merger, consolidation, succession or other acquisition other than the construction or development of real property by or for the reporting insurer or the acquisition of materials for such purpose.

(b) Asset dispositions subject to sections 41-345 through 41-347, Idaho Code, include every sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment (whether for the benefit of creditors or otherwise), abandonment, destruction or other disposition.

(3) Information to be reported.

(a) The following information is required to be disclosed in any report of a material acquisition or disposition of assets:

- (i) Date of the transaction;
- (ii) Manner of acquisition or disposition;
- (iii) Description of the assets involved;
- (iv) Nature and amount of the consideration given or received;
- (v) Purpose of, or reason for, the transaction;
- (vi) Manner by which the amount of consideration was determined;
- (vii) Gain or loss recognized or realized as a result of the transaction; and
- (viii) Name(s) of the person(s) from whom the assets were acquired or to whom they were disposed.

(b) Insurers are required to report material acquisitions and dispositions on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or one hundred percent (100%) reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than one million dollars (\$1,000,000) total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent (5%) of the insurer's capital and surplus.

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 41-347, Idaho Code, and to read as follows:

41-347. NONRENEWALS, CANCELLATIONS OR REVISIONS OF CEDED REINSURANCE AGREEMENTS. (1) Materiality and scope. No nonrenewals, cancellations or revisions of ceded reinsurance agreements need be reported pursuant to section 41-345, Idaho Code, if the nonrenewals, cancellations or revisions are not material. For purposes of sections 41-345 through 41-347, Idaho Code, a material nonrenewal, cancellation or revision is one that affects:

(a) As respects property-casualty business, including accident and health business written by a property-casualty insurer:

- (i) More than fifty percent (50%) of the insurer's total

- ceded written premium; or
- (ii) More than fifty percent (50%) of the insurer's total ceded indemnity and loss adjustment reserves.
- (b) As respects life, annuity and accident and health business more than fifty percent (50%) of the total reserve credit taken for business ceded, on an annualized basis, as indicated in the insurer's most recent annual statement.
- (c) As respects either property-casualty or life, annuity and accident and health business, either of the following events shall constitute a material revision which must be reported:
- (i) An authorized reinsurer representing more than ten percent (10%) of a total cession is replaced by one (1) or more unauthorized reinsurers; or
- (ii) Previously established collateral requirements have been reduced or waived as respects one (1) or more unauthorized reinsurers representing collectively more than ten percent (10%) of a total cession.
- (2) No filing shall be required, however, if:
- (a) As respects property-casualty business, including accident and health business written by a property-casualty insurer, the insurer's total ceded written premium represents, on an annualized basis, less than ten percent (10%) of its total written premium for direct and assumed business; or
- (b) As respects life, annuity and accident and health business, the total reserve credit taken for business ceded represents, on an annualized basis, less than ten percent (10%) of the statutory reserve requirement prior to any cession.
- (3) Information to be reported.
- (a) The following information is required to be disclosed in any report of a material nonrenewal, cancellation or revision of ceded reinsurance agreements:
- (i) Effective date of the nonrenewal, cancellation or revision;
- (ii) The description of the transaction with an identification of the initiator thereof;
- (iii) Purpose of, or reason for, the transaction; and
- (iv) If applicable, the identity of the replacement reinsurers.
- (b) Insurers are required to report all material nonrenewals, cancellations or revisions of ceded reinsurance agreements on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or one hundred percent (100%) reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than one million dollars (\$1,000,000) total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent (5%) of the insurer's capital and surplus.

SECTION 4. That Section 41-3434, Idaho Code, be, and the same is hereby amended to read as follows:

41-3434. OTHER PROVISIONS APPLICABLE. In addition to those contained or referred to heretofore in this chapter, the following chapters and provisions of this code shall also apply with respect to service corporations to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of such express provisions, and for the purposes of such application such corporations shall be deemed to be mutual "insurers":

- (1) Chapter 1 (scope of code);
- (2) Chapter 2 (the director of insurance);
- (3) Section 41-308(2) (general eligibility for certificate of authority -- competence, affiliations of management);
- (4) Sections 41-345 through 41-347 (disclosure of material transactions);
- (5) Section 41-601 ("assets" defined);
- (56) Section 41-603 (assets not allowed);
- (67) Section 41-604 (disallowance of "wash" transactions);
- (78) Section 41-613 (valuation of bonds);
- (89) Section 41-731 (prohibited investments and investment underwriting);
- (910) Chapter 13 (trade practices and frauds);
- (101) Section 41-2840 (vouchers for expenditures);
- (112) Section 41-2841 (borrowed surplus);
- (123) Sections 41-2857 (mergers and consolidations, mutual insurers), 41-2858 (bulk reinsurance, mutual insurers), and 41-2859 (mutual member's share of assets on liquidation);
- (134) Chapter 33 (supervision, rehabilitation and liquidation);
- (145) Sections 799 to 809 of chapter 330 of Session Laws of 1961 (transitory provisions);
- (156) Section 41-2106(3) (health history application for disability insurance);
- (167) Section 41-2141 (coordination with social security benefits);
- (178) Section 41-1839 (attorney fees);
- (189) Chapter 46 (long-term care insurance);
- (1920) Section 41-1844 (prescription drug benefit restrictions prohibited);
- (201) Section 41-2145 (coverage provided to person having insurance); and
- (212) Section 41-2219 (coverage provided to person having insurance).

SECTION 5. That Section 41-3931, Idaho Code, be, and the same is hereby amended to read as follows:

41-3931. OTHER PROVISIONS APPLICABLE. In addition to those contained or referred to heretofore in this act, the following chapters and provisions of title 41, Idaho Code, shall also apply with respect to health maintenance organizations to the extent applicable and not in conflict with the express provisions of this act and the reasonable implications of such express provisions; and for the purposes of such

application such health maintenance organizations shall be deemed to be mutual "insurers":

- (a) eChapter 2 (the director of the department of insurance);
- (b) sSections 41-345 through 41-347 (disclosure of material transactions);
- (c) eChapter 13 (trade practices and frauds);
- (ed) sSection 41-1844 (prescription drug benefit restrictions prohibited);
- (de) sSection 41-2141 (coordination with social security benefits); and
- (ef) eChapter 46 (long-term care insurance).

Approved March 9, 1995.

CHAPTER 69
(H.B. No. 209)

AN ACT

RELATING TO INVESTIGATION OF LOSS OR FRAUD IN MARKETING OF PRODUCTS;
REPEALING CHAPTER 18, TITLE 22, IDAHO CODE.

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

SECTION 1. That Chapter 18, Title 22, Idaho Code, be, and the same is hereby repealed.

Approved March 9, 1995.

CHAPTER 70
(H.B. No. 17)

AN ACT

RELATING TO THE COORDINATE SYSTEM OF LAND DESCRIPTION; AMENDING SECTION 55-1701, IDAHO CODE, TO PROVIDE FOR ADOPTION OF THE IDAHO COORDINATE SYSTEM OF 1983 AND TO PROVIDE A CORRECT REFERENCE; AMENDING SECTION 55-1702, IDAHO CODE, TO PROVIDE FOR USE OF THE IDAHO COORDINATE SYSTEM OF 1927 OR 1983; AMENDING SECTION 55-1703, IDAHO CODE, TO PROVIDE PLANE COORDINATE VALUES EXPRESSED WITH REFERENCE TO THE COORDINATE SYSTEM BEING USED AND TO PROVIDE FOR PROPER CONFORMANCE OF THE COORDINATE VALUES; AMENDING SECTION 55-1705, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY WITH REFERENCE TO THE COORDINATE SYSTEM IN USE; AMENDING SECTION 55-1706, IDAHO CODE, TO PROVIDE TRIANGULATION LIMITATIONS; AMENDING SECTION 55-1707, IDAHO CODE, TO CLARIFY USE OF TERMS FOR COORDINATE SYSTEMS; AMENDING SECTION 55-1708, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE SUPPLEMENTAL DESCRIPTION OF COORDINATES; AND AMENDING SECTION 55-1709, IDAHO CODE, TO PROVIDE THAT A PURCHASER OR MORTGAGEE OF REAL PROPERTY SHALL NOT BE REQUIRED TO RELY WHOLLY ON ANY LAND DESCRIPTION WHICH DEPENDS EXCLUSIVELY ON THE DESIGNATED IDAHO

COORDINATE SYSTEM.

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

SECTION 1. That Section 55-1701, Idaho Code, be, and the same is hereby amended to read as follows:

55-1701. ESTABLISHING COORDINATE SYSTEM -- DESIGNATING ZONES. The system of plane coordinates which has been established by the national ocean service/national geodetic survey, formerly the United States coast and geodetic survey, or its successors, for defining and stating the positions or locations of points on the surface of the earth within the state of Idaho is hereafter to be known and designated as the "Idaho coordinate system of 1983" and the "Idaho coordinate system of 1927." "The Idaho coordinate system of 1927" may be used through December 31, 1995. On and after January 1, 1996, only the "Idaho coordinate system of 1983" shall be used.

For the purpose of the use of this system the state is divided into an "east zone," a "central zone," and a "west zone."

The area now included in the following counties shall constitute the East Zone: Bannock, Bear Lake, Bingham, Bonneville, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power and Teton.

The area now included in the following counties shall constitute the Central Zone: Blaine, Butte, Camas, Cassia, Custer, Gooding, Jerome, Lemhi, Lincoln, Minidoka and Twin Falls.

The area now included in the following counties shall constitute the West Zone: Ada, Adams, Benewah, Boise, Bonner, Boundary, Canyon, Clearwater, Elmore, Gem, Idaho, Kootenai, Latah, Lewis, Nez Perce, Owyhee, Payette, Shoshone, Valley and Washington.

SECTION 2. That Section 55-1702, Idaho Code, be, and the same is hereby amended to read as follows:

55-1702. ZONE REFERENCES. As established for use in the east zone, the Idaho coordinate system of 1927 or the Idaho coordinate system of 1983 shall be named, and in any land description in which it is used it shall be designated the "Idaho coordinate system of 1927, east zone" or "Idaho coordinate system of 1983, east zone."

As established for use in the central zone, the Idaho coordinate system of 1927 or the Idaho coordinate system of 1983 shall be named, and in any land description in which it is used it shall be designated; the "Idaho coordinate system of 1927, central zone" or "Idaho coordinate system of 1983, central zone."

As established for use in the west zone, the Idaho coordinate system of 1927 or the Idaho coordinate system of 1983 shall be named, and in any land description in which it is used it shall be designated; the "Idaho coordinate system of 1927, west zone" or "Idaho coordinate system of 1983, west zone." For limitations on the use of the coordinate systems of 1927 and 1983, see section 55-1710, Idaho Code.

SECTION 3. That Section 55-1703, Idaho Code, be, and the same is hereby amended to read as follows:

55-1703. PLANE COORDINATES. The plane coordinates of a point on the earth's surface, to be used in expressing the position or location of such point in the appropriate zone of this system, shall consist of two (2) distances, expressed in United States survey feet and decimals of a foot when using the Idaho coordinate system of 1927 and expressed in meters and decimals of a meter when using the Idaho coordinate system of 1983. For state plane coordinate system 27 (SPCS 27), ~~one~~ (1) of these distances, to be known as the "x-coordinate," shall give the position in an east-and-west direction; the other, to be known as the "y-coordinate," shall give the position in a north-and-south direction. For state plane coordinate system 83 (SPCS 83), one (1) of these distances, to be known as "northing" or "N" shall give the position in a north-and-south direction; the other, to be known as the "easting" or "E" shall give the position in an east-and-west direction. These coordinates shall be made to depend upon and conform to the ~~coordinates, on the Idaho coordinate system, of the triangulation and traverse stations of the United States coast and geodetic survey within the state of Idaho, as these coordinates have been determined by said survey~~ plane rectangular coordinate values for the monumented points of the North American national geodetic horizontal network as published by the national ocean service/national geodetic survey or its successors, and such plane coordinates shall have been computed on the systems defined in this chapter. Any such station may be used for establishing a survey connection to either the Idaho coordinate system of 1927 or the Idaho coordinate system of 1983, and after December 31, 1995, only to the Idaho coordinate system of 1983.

SECTION 4. That Section 55-1705, Idaho Code, be, and the same is hereby amended to read as follows:

55-1705. ADOPTION OF ~~UNITED STATES COAST AND NATIONAL OCEAN SERVICE/NATIONAL~~ UNITED STATES COAST AND NATIONAL OCEAN SERVICE/NATIONAL GEODETIC SURVEY DEFINITION. (1) For the purposes of more precisely defining the Idaho coordinate system of 1927, the following definition by the ~~United States coast and national ocean service/national~~ United States coast and national ocean service/national geodetic survey is adopted:

The Idaho coordinate system of 1927, east zone, is a transverse mercator projection of the Clarke spheroid of 1866 having a central meridian 112°10' west of Greenwich, which meridian has a reduced scale of one part in 19,000. The origin of coordinates is at the intersection of the meridian 112°10' west of Greenwich and the parallel 41°40' north latitude. This origin is given the coordinates: x=500,000 feet and y=0 feet.

The Idaho coordinate system of 1927, central zone, is a transverse mercator projection of the Clarke spheroid of 1866, having a central meridian 114°00' west of Greenwich which meridian has a reduced scale of one part in 19,000. The origin of coordinates is at the intersection of the meridian 114°00' west of Greenwich and the parallel 41°40' north latitude. This origin is given the coordinates: x=500,000 feet and y=0 feet.

The position of the Idaho coordinate system of 1927, west zone, is a transverse mercator projection of the Clarke spheroid of 1866, having a central meridian 115°45' west of Greenwich, which meridian has a reduced scale of one part in 15,000. The origin of coordinates is at

the intersection of the meridian $115^{\circ}45'$ west of Greenwich and the parallel $41^{\circ}40'$ north latitude. This origin is given the coordinates: $x=500,000$ feet and $y=0$ feet.

(2) For the purpose of more precisely defining the Idaho coordinate system of 1983, the following definition by the national ocean service/national geodetic survey is adopted:

The Idaho coordinate system of 1983, east zone, is a transverse mercator projection of the North American datum of 1983 based on the geodetic reference system of 1980 (GRS 80), having a central meridian $112^{\circ}10'$ west of Greenwich, which meridian has a reduced scale of one part in 19,000. The origin of coordinates is at the intersection of the meridian $112^{\circ}10'$ west of Greenwich and the parallel $41^{\circ}40'$ north latitude. This origin is given the coordinates: $N=0$ meters and $E=200,000$ meters.

The Idaho coordinate system of 1983, central zone, is a transverse mercator projection of the North American datum of 1983 based on the geodetic reference system of 1980 (GRS 80), having a central meridian $114^{\circ}00'$ west of Greenwich, which meridian has a reduced scale of one part in 19,000. The origin of coordinates is at the intersection of the meridian $114^{\circ}00'$ west of Greenwich and the parallel $41^{\circ}40'$ north latitude. This origin is given the coordinates: $N=0$ meters and $E=500,000$ meters.

The Idaho coordinate system of 1983, west zone, is a transverse mercator projection of the North American datum of 1983 based on the geodetic reference system of 1980 (GRS 80), having a central meridian $115^{\circ}45'$ west of Greenwich, which meridian has a reduced scale of one part in 15,000. The origin of coordinates is at the intersection of the meridian $115^{\circ}45'$ west of Greenwich and the parallel $41^{\circ}40'$ north latitude. This origin is given the coordinates: $N=0$ meters and $E=800,000$ meters.

2-(3) The position of the Idaho coordinate system shall be as marked on the ground by triangulation, or traverse and global positioning satellite system stations established in conformity with the standards adopted by the United--States--coast--and national ocean service/national geodetic survey for A-order, B-order, first-order and second-order work, whose geodetic positions have been rigidly adjusted on the North American datum of 1927 and further refined on the North American datum of 1983, and whose coordinates have been computed on the system herein defined. Any such station may be used for establishing a survey connection with either the Idaho coordinate system of 1927 or the Idaho coordinate system of 1983, and after December 31, 1995, only to the Idaho coordinate system of 1983.

SECTION 5. That Section 55-1706, Idaho Code, be, and the same is hereby amended to read as follows:

55-1706. ~~ONE-MILE FIVE KILOMETER TRIANGULATION LIMITATION. No coordinates based on the Idaho coordinate system, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public land records or deed records unless such point is--within--one--(1)--mile--of--a--triangulation--or--traverse--station--established--in--conformity--with--the--standards--prescribed--in--section--5--of--this--act--55-1705; provided, that said one--(1)--mile--limitation--may--be~~

modified by a duly authorized state agency to meet local conditions
coordinates have been established in conformity with the nationally
prescribed standards for third-order, class II horizontal control sur-
veys, and provided that these surveys have been tied to or originated
off monumented A-order, B-order, first-order or second-order horizon-
tal control stations which are adjusted to and published in the
national network of geodetic control and are within five (5)
kilometers of the said boundary points or land corners. The prescribed
standards of accuracy for A-order, B-order, first-order or second-
order geodetic surveying are prepared and published by the federal
geodetic control committee (FGCC) of the United States department of
commerce. Standards and specifications of the FGCC or its successor in
force on date of said survey shall apply. Publishing existing control
stations, or the acceptance with intent to publish the newly estab-
lished stations, by the national ocean service/national geodetic sur-
vey shall constitute evidence of adherence to the FGCC specifications.
Limitations specified in this section may be modified by a duly autho-
ritized state agency to meet local conditions.

SECTION 6. That Section 55-1707, Idaho Code, be, and the same is hereby amended to read as follows:

55-1707. USE OF TERM. The use of the term "Idaho coordinate system of 1927, east, central, west zone" or "Idaho coordinate system of 1983 east, central, west zone" on any map, report or survey, or other document, shall be limited to coordinates based on the Idaho coordinate system as defined in this act chapter.

SECTION 7. That Section 55-1708, Idaho Code, be, and the same is hereby amended to read as follows:

55-1708. COORDINATE DESCRIPTIONS SUPPLEMENTAL. Whenever coordinates based on the Idaho coordinate system are used to describe any tract of land which in the same document is also described by reference to any subdivision, line or corner of the United States public land surveys, the description by coordinates shall be construed as supplemental to the basic description of such subdivision, line or corner contained in the official plats and field notes filed of record, and in the event of any conflict the description by reference to the subdivision, line or corner of the United States public land surveys shall prevail over the description by coordinates unless said coordinates are upheld by adjudication, at which time the coordinate description shall prevail. Every recorded map, survey or conveyance or other instrument affecting title to real property which delineates, describes or refers to such property or any part thereof by reference to coordinates based upon the designated Idaho coordinate system shall also describe the property by reference and tie to either section corner or quarter corner monuments of the United States public land surveys.

SECTION 8. That Section 55-1709, Idaho Code, be, and the same is hereby amended to read as follows:

55-1709. DESCRIPTION BY COORDINATE NOT MANDATORY. Nothing contained in this act chapter shall require any purchaser or mortgagee of real property to rely wholly on a land description, any part of which depends exclusively upon the designated Idaho coordinate system.

Approved March 9, 1995.

CHAPTER 71
(H.B. No. 208)

AN ACT

RELATING TO PREVENTION OF FRAUD IN SACKED PRODUCTS; REPEALING CHAPTER 17, TITLE 22, IDAHO CODE.

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

SECTION 1. That Chapter 17, Title 22, Idaho Code, be, and the same is hereby repealed.

Approved March 9, 1995.

CHAPTER 72
(H.B. No. 10, As Amended)

AN ACT

RELATING TO ALLOWABLE GROSS LOADS; AMENDING SECTION 49-1001, IDAHO CODE, TO INCREASE THE ALLOWABLE GROSS LOAD ON TANDEM AXLES SPACED MORE THAN EIGHT FEET APART AND TO CLARIFY USE OF WEIGHT TABLES; AND AMENDING SECTION 49-1010, IDAHO CODE, TO PROVIDE PROPER REFERENCES.

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

SECTION 1. That Section 49-1001, Idaho Code, be, and the same is hereby amended to read as follows:

49-1001. ALLOWABLE GROSS LOADS. The gross load imposed on the highway by any vehicle or combination of vehicles shall not exceed the limits in this section. The maximum single axle gross weight shall be twenty thousand (20,000) pounds, the maximum single wheel gross weight shall be ten thousand (10,000) pounds and the maximum gross vehicle or combination weight shall be one hundred five thousand five hundred (105,500) pounds, provided that maximum gross vehicle or combination weight on United States federal interstate and defense highways of this state shall not exceed eighty thousand (80,000) pounds, except as permitted under the provisions of section 49-1004, Idaho Code.

(1) The total gross weight imposed on the highway by any group of consecutive axles shall be determined by the following formula:

$$W=500((LN/N-1)+12N+36)$$

Where W is the maximum weight in pounds (to the nearest 500 pounds) carried on any group of two (2) or more consecutive axles. L is the distance in feet between the extremes of any group of two (2) or more consecutive axles, and N is the number of axles under consideration.

The formula is modified as illustrated in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
4	34,000							
5	34,000							
6	34,000							
7	34,000							
8	34,000							
8+	34,800	42,000						
9	39,000	42,500						
10	40,000	43,500						
11		44,000						
12		45,000	50,000					
13		45,500	50,500					
14		46,500	51,500					
15		47,000	52,000					
16		48,000	52,500	58,000				
17		48,500	53,500	58,500				
18		49,500	54,000	59,000				
19		50,000	54,500	60,000				
20		51,000	55,500	60,500	66,000			
21		51,500	56,000	61,000	66,500			
22		52,500	56,500	61,500	67,000			
23		53,000	57,500	62,500	68,000			
24		54,000	58,000	63,000	68,500	74,000		
25		54,500	58,500	63,500	69,000	74,500		
26		55,500	59,500	64,000	69,500	75,000		
27		56,000	60,000	65,000	70,000	75,500		
28		57,000	60,500	65,500	71,000	76,500	82,000	
29		57,500	61,500	66,000	71,500	77,000	82,500	
30		58,500	62,000	66,500	72,000	77,500	83,000	
31		59,000	62,500	67,500	72,500	78,000	83,500	
32		60,000	63,500	68,000	73,000	78,500	84,500	90,000
33			64,000	68,500	74,000	79,000	85,000	90,500
34			64,500	69,000	74,500	80,000	85,500	91,000
35			65,500	70,000	75,000	80,500	86,000	91,500
36			66,000	70,500	75,500	81,000	86,500	92,000
37			66,500	71,000	76,000	81,500	87,000	93,000
38			67,500	71,500	77,000	82,000	87,500	93,500
39			68,000	72,500	77,500	82,500	88,500	94,000
40			68,500	73,000	78,000	83,500	89,000	94,500
41			69,500	73,500	78,500	84,000	89,500	95,000
42			70,000	74,000	79,000	84,500	90,000	95,500
43			70,500	75,000	80,000	85,000	90,500	96,000
44			71,500	75,500	80,500	85,500	91,000	96,500
45			72,000	76,000	81,000	86,000	91,500	97,500
46			72,500	76,500	81,500	87,000	92,500	98,000

WHEN NO ALLOWABLE WEIGHT IS LISTED FOR ANY AXLE SPACING, APPLY THE ALLOWABLE WEIGHT AS LISTED IN THE FIRST COLUMN TO THE LEFT

47	73,500	77,500	82,000	87,500	93,000	98,500
48	74,000	78,000	83,000	88,000	93,500	99,000
49	74,500	78,500	83,500	88,500	94,000	99,500
50	75,500	79,000	84,000	89,000	94,500	100,000
51	76,000	80,000	84,500	89,500	95,000	100,500
52	76,500	80,500	85,000	90,500	95,500	101,000
53	77,500	81,000	86,000	91,000	96,500	102,000
54	78,000	81,500	86,500	91,500	97,000	102,500
55	78,500	82,500	87,000	92,000	97,500	103,000
56	79,500	83,000	87,500	92,500	98,000	103,500
57	80,000	83,500	88,000	93,000	98,500	104,000
58		84,000	89,000	94,000	99,000	104,500
59		85,000	89,500	94,500	99,500	105,000
60		85,500	90,000	95,000	100,500	105,500
61		86,000	90,500	95,500	101,000	
62		87,000	91,000	96,000	101,500	
63		87,500	92,000	96,500	102,000	
64		88,000	92,500	97,500	102,500	
65		88,500	93,000	98,000	103,000	
66		89,500	93,500	98,500	103,500	
67		90,000	94,000	99,000	104,500	
68		90,500	95,000	99,500	105,000	
69		91,000	95,500	100,000	105,500	
70		92,000	96,000	101,000		
71		92,500	96,500	101,500		
72		93,000	97,000	102,000		
73		93,500	98,000	102,500		
74		94,500	98,500	103,000		
75		95,000	99,000	103,500		
76		95,500	99,500	104,500		
77		96,000	100,000	105,000		
78		97,000	101,000	105,500		
79		97,500	101,500			
80		98,000	102,000			
81		98,500	102,500			
82		99,000	103,000			
83		100,000	104,000			
84			104,500			
85			105,000			
86 or more			105,500			

(a) A public highway agency may limit the application of the weights authorized in this section as to certain highways within its jurisdiction which it determines have limited structural capacity of pavements, bridges, or other appurtenances. In designating such highways, it may specify a minimum wheelbase for combinations to be operated thereon. It may also designate specific highways or portions on which operation of a combination of vehicles with seven (7), eight (8) or nine (9) axle vehicles will be subject to specified lesser allowable gross weights.

(b) Notwithstanding the figures shown in the table in this subsection (1), two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand (34,000) pounds each, providing the overall distance between the first and last axles of such con-

secutive sets of tandem axles is thirty-six (36) feet or more.

(2) The weight limitations set forth in the table in subsection (1) of this section shall not apply to any vehicle, or combination of vehicles when a greater allowed weight in pounds would be permitted such vehicles under the table provided in this subsection, except that with regard to transportation on the United States federal interstate and defense highways of this state, the following table of allowable weights shall apply only to vehicles engaged in the transportation of logs, pulp wood, stull, rough lumber, poles or piling; or to any such vehicle engaged in the transportation of ores, concentrates, sand and gravel and aggregates thereof, in bulk; or to any such vehicle engaged in the transportation of agricultural commodities, including live-stock:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four axles	Vehicles with Five or more axles
3 through 12	37,800	37,800
13	56,470	56,470
14	57,940	57,940
15	59,400	59,400
16	60,610	60,610
17	61,820	61,820
18	63,140	63,140
19	64,350	64,350
20	65,450	65,450
21	66,000	66,330
22	66,000	67,250
23	66,000	67,880
24	66,000	68,510
25	66,000	69,150
26	66,000	69,770
27	66,000	70,400
28	66,000	70,950
29	66,000	71,500
30	66,000	72,050
31		72,600
32		73,150
33		73,700
34		74,250
35		74,800
36		75,350
37		75,900
38		76,450
39		77,000
40		77,550
41		78,100
42		78,650
43 and over		79,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles exceeds is intended to exceed seventy-nine thousand (79,000) pounds as declared by the operator. When the provisions of this subsection are applicable

to a vehicle or combination of vehicles, it shall be a violation of the provisions of this subsection if that vehicle or combination of vehicles exceeds the weights specified in this table.

(3) In determining the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles under subsection (1) or (2) or (9) of this section, the total gross weight of the vehicle or combination of vehicles or the gross weight of any two (2) or more consecutive axles shall be the sum of the axle weights.

For the purposes of this chapter the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles may be determined by accumulatively adding the separate weights of individual axles and tandem axles or groups of axles to determine gross weight. The results of any weighing at a temporary or permanent port of entry and the records relating to the calibration and accuracy of any scale at a temporary or permanent port of entry shall be admissible in any proceeding in this state. In order to prove a violation of the provisions of this section the state must show that:

(a) The sum of the axle weights exceeds what is allowable under the provisions of subsection (1) or (2) or (9) of this section;

(b) The scale involved in the weighing was at the time of weighing calibrated in conformity with and met the accuracy requirements of the standards for the enforcement of traffic and highway laws as set forth in the latest edition of handbook 44 of the national institute of standards and technology;

(c) Weights of individual axles or axles within a commonly suspended group of axles supported by a mechanical system designed to distribute equal wheel loads to individual axles in the group were utilized only to determine gross weights of that group of axles, and that any further evaluation of gross weights of combinations of axles considered only the accumulated gross weight of each such commonly suspended group of axles.

(4) In applying the weight limitations imposed in this section, a vehicle or combination of vehicles must comply exclusively with the weight limitations in either subsection (1) or (2) or (9) of this section.

(5) In applying the weight limitations imposed in this section, the distance between axles shall be measured to the nearest even foot. When a fraction is exactly one-half ($1/2$) foot the next larger whole number shall be used.

(6) The limitations imposed in this section are in addition and supplemental to all other laws imposing limitations upon the size and weight of vehicles. Further, single axles within groups of axles are subject to the provisions and limitations of this chapter. Single axles within groups of axles may be weighed and evaluated separately, or single axles may be prequalified in accordance with rules or ordinances established by the board or other public road jurisdiction, if any of the following conditions exist regarding the single axle within a group of axles:

(a) A suspension system common to all axles in the group of axles does not exist.

(b) One (1) or more axles in the group of axles is equipped with separate variable load suspension controls to regulate the weight carried by individual axles.

(c) One (1) or more axles in a group of axles is equipped with more or fewer tires than other axles in the group of axles.

(d) All tires in the group of axles are not the same size as determined by the manufacturer's sidewall rating.

(7) Notwithstanding the other provisions of this chapter, no vehicle, motor vehicle, trailer and/or semitrailer, or combination thereof, may be operated on the public highways of the state under loads which would result in the withholding of funds by operation of controlling federal law as provided in the Federal Aid Highway Act of 1956, as amended.

(8) Except as provided herein, no vehicle or combination of vehicles may proceed past the place of weighing at temporary or permanent ports of entry or checking stations when: the weight of a single axle exceeds the maximum limitations set forth herein by two thousand (2,000) pounds or more; the weight of a combination of axles, or gross vehicle weight exceeds the maximum allowable weight as set forth herein by seven percent (7%) or more. Vehicles or combinations of vehicles which exceed the weight limitations set forth herein shall be required to be brought into compliance with applicable weight limitations contained within this subsection at the place of weighing prior to continuing, except those vehicles or combinations of vehicles which are transporting loads which, in the determination of the board or other proper authorities in charge of or having jurisdiction over a highway, are deemed unsafe or impractical to bring into compliance at the place of weighing, and except those vehicles which do not exceed fifteen percent (15%) over maximum axle and axle group weights set forth in this section. Vehicles or combinations of vehicles transporting loads in this latter category shall obtain a travel authorization to the nearest place of safe unloading, load adjustment or other means of legalization.

(a) Neither the state of Idaho or its employees, nor any authority and its employees in charge of or having jurisdiction over a highway, shall be held liable for personal injury or property damage resulting from the requirements of section 49-1001(8), Idaho Code.

(b) The fee for a travel authorization as set forth above shall be fifty dollars (\$50.00) and shall be on a form prescribed by the board or other proper authorities, and shall not be construed as contributing to a reduction in the penalties prescribed in section 49-1013, Idaho Code.

(c) The board or other proper authorities in charge of or having jurisdiction over a highway shall adopt and enforce administrative rules as may be necessary to carry out the provisions of this section.

(9) For vehicles on all highways except the United States federal interstate and defense highways of this state, the following table shall apply:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four axles	Vehicles with Five or more axles
3 through 12	37,800	37,800
13	56,470	56,470

14	57,940	57,940
15	59,400	59,400
16	60,610	60,610
17	61,820	61,820
18	63,140	63,140
19	64,350	64,350
20	65,450	65,450
21	66,000	66,330
22	66,000	67,250
23	66,000	67,880
24	66,000	68,510
25	66,000	69,150
26	66,000	69,770
27	66,000	70,400
28	66,000	70,950
29	66,000	71,500
30	66,000	72,050
31		72,600
32		73,150
33		73,700
34		74,250
35		74,800
36		75,350
37		75,900
38		76,450
39		77,000
40		77,550
41		78,100
42		78,650
43 and over		80,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles exceeds is intended to exceed eighty thousand (80,000) pounds as declared by the operator. When the provisions of this subsection are applicable to a vehicle or combination of vehicles, it shall be a violation of the provisions of this subsection if that vehicle or combination of vehicles exceeds the weights specified in this table.

(10) When owned by or under contract to or under authority of a city, county, or state agency, refuse/sanitation trucks transporting refuse may be operated on public highways in accordance with the weights allowed in subsection (9) of this section, except that such trucks equipped with single rear axles are allowed twenty-four thousand (24,000) pounds on that single rear axle when specifically authorized by the public highway agency governing the highways over which the refuse/sanitation truck is operating and provided the following conditions are met:

(a) The weight allowances provided for in this subsection shall not apply to the United States federal interstate and defense highways of the state; and

(b) The owner or operator has paid an annual operating fee for a permit, not to exceed fifty dollars (\$50.00) per refuse/sanitation truck to each public agency governing the public highways over which the refuse/sanitation truck operates. The permit shall be

carried in the refuse/sanitation truck. The permit fee may be waived by a public agency for refuse/sanitation trucks operated over public highways under that agency's jurisdiction.

(11) Variable load suspension axles shall meet the following criteria in order to be included in the computation of gross vehicle or axle weight limits for vehicles under the provisions of this section:

(a) The deployment control switch for such axles may be located inside of the driver's compartment but the pressure regulator for the operation of pressure on the pavement shall be located outside of and inaccessible to the driver's compartment.

(b) The gross axle weight rating of each such axle must not be less than the actual loading of the axle and shall not be less than nine thousand (9,000) pounds.

(c) All variable load suspension axles mounted on a vehicle after January 1, 1990, shall be designed to be self-steering in a manner that will guide or direct the variable load suspension mounted wheels through a turning movement without undue tire scrubbing or pavement scuffing.

(d) Variable load suspension axles must be fully deployed or fully raised. The pressure regulator which governs the load distribution to the variable load suspension axle(s) shall be set and sealed by the owner of the vehicle(s).

(12) Any person who operates a motor vehicle with a variable suspension axle in violation of the provisions of this section shall be subject to the penalties provided in section 49-1013, Idaho Code.

SECTION 2. That Section 49-1010, Idaho Code, be, and the same is hereby amended to read as follows:

49-1010. SIZE OF VEHICLES AND LOADS. No vehicle shall exceed the dimensions specified below, except that certain devices determined by the board as necessary for the safe and efficient operation of motor vehicles, including energy conservation devices, shall be excluded from the calculation of width or length.

(1) The width of a vehicle, including any load thereon, except as noted below, shall not exceed 8 1/2 feet.

(a) The limitations as to size of vehicles stated in this section shall not apply to farm tractors or to implements of husbandry, including any load thereon, and including all equipment used in land leveling operations, when being incidentally operated upon the highway from one (1) farm operation to another during daylight hours.

(b) Notwithstanding the exemption from width limitation for farm tractors included in paragraph (a) of this subsection, the total outside width of any farm tractor being transported on the interstate system in this state, except as permitted by section 49-1004, Idaho Code, shall not exceed 9 feet.

(c) A farm tractor or implement of husbandry, when being incidentally transported upon the highway with a width in excess of the limits of paragraphs (a) and (b) of this subsection, must not proceed at a speed in excess of twenty-five (25) miles per hour, must display one (1) eighteen (18) by eighteen (18) inch red flag on the outermost left projection of the tractor or implement being

transported, except that the speed restriction of twenty-five (25) miles per hour shall not apply when such tractor or implement of husbandry is being hauled on legal width highway vehicles equipped as required by law.

(2) The height of a vehicle, including the load thereon, shall not exceed 14 feet.

(3) The length of a vehicle, or vehicle combination, except as noted below shall not exceed:

(a) When a single motor vehicle 45 feet.

(b) When a trailer or semitrailer, except as noted below 48 feet.

1. Semitrailers operating on routes determined by the board to have severe curvature, deficient width and/or heavy traffic conditions shall be limited to an overall combination length not to exceed 65 feet.

2. The length of a trailer tongue, or the length of the tongue of a converter gear used to convert a semitrailer to a trailer, shall be excluded from the calculation of a trailer length.

3. Semitrailers operating on routes which are a part of the national network as set forth in the Code of Federal Regulations, Title 23, Part 658, and on routes providing access between the national network and terminals and facilities for food, fuel, repairs and rest which are located within one (1) road mile of the national network shall not exceed a length of 53 feet.

(c) When a motor vehicle and one or more trailers, except as noted in (3)(b), and (3)(d) and (3)(e) 75 feet.

(d) When a combination of semitrailer and trailer, or of two (2) semitrailers the length in such combination, including the connecting tongue and excluding the truck tractor except as noted below 61 feet.

When the combination of semitrailer and trailer or of two (2) semitrailers including the connecting tongues exceeds sixty-one (61) feet, the length of such combination including the truck tractor 75 feet.

(e) When a combination of a semitrailer and trailer, or of two (2) semitrailers operating on routes on the national network as set forth in the Code of Federal Regulations, Title 23, Part 658, and on routes providing access between the national network and terminals and facilities for food, fuel, repairs and rest which are located within one (1) road mile of the national network, the length, including the connecting tongue and excluding the truck tractor, shall not exceed 68 feet.

(f) When a dromedary tractor with semitrailer, stinger-steered by having the kingpin located five (5) feet to the rear of the centroid of the rear axle(s) 75 feet.

(g) When a dromedary tractor with semitrailer, not meeting the stinger-steer requirement as defined in (ef) above 65 feet.

(h) When an auto transporter or boat transporter, stinger-steered as defined in (ef) above, excluding front and rear overhang of load 75 feet.

(i) When an auto transporter or boat transporter, not meeting the

stinger-steer requirement as defined in (ef) above, excluding front and rear overhang of load 65 feet.

(j) When a truck tractor with stinger-steered pole trailer or log dolly, connected by a reach or pole, or a combination used for transporting long loads such as poles, pipes, logs or structural members generally capable of sustaining themselves as beams between supporting bunks or connections 75 feet.

(4) The overhang or extension of a load shall not extend:

(a) Beyond the front of a vehicle, more than 4 feet.

(b) Beyond the last axle, more than 15 feet.

(c) Beyond the left fender of a passenger vehicle, more than 0 feet.

(d) Beyond the right fender of a passenger vehicle, more than 6 inches.

(e) To the front and rear combined of an auto transporter or boat transporter, more than 7 feet.

(5) Noncargo-carrying devices necessary for the safe and efficient operation of the vehicle, as determined by the board, shall not be included in measurement for length.

(6) No combination shall include more than three (3) units except when a saddle mount combination 75 feet.

(7) Vehicle combinations consisting of not more than four (4) vehicle units with an overall length in excess of the limits of subsection (3) of this section and with an overall combination length not to exceed one hundred and five (105) feet, may be operated by permit; ~~with an overall length in excess of the limits of subsection (3) of this section;~~ on routes designated for such operations by the board ~~with an overall combination length not to exceed one hundred and five (105) feet~~ public highway agency having jurisdiction over that highway system.

Approved March 9, 1995.

CHAPTER 73
(H.B. No. 5)

AN ACT

RELATING TO THE VOLUNTARY SURRENDER OF A REAL ESTATE LICENSE; AMENDING SECTION 54-2040, IDAHO CODE, TO PROVIDE THAT THE REAL ESTATE COMMISSION MAY ACCEPT OR REJECT VOLUNTARY LICENSE TERMINATION OF A LICENSEE WHO IS SUBJECT TO INVESTIGATION OR DISCIPLINARY ACTION.

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

SECTION 1. That Section 54-2040, Idaho Code, be, and the same is hereby amended to read as follows:

54-2040. REVOCATION OR SUSPENSION OF LICENSE -- GROUNDS THEREFOR. A. The commission may upon its own motion, and shall upon verified complaint in writing of any person claiming to have been injured or defrauded, investigate the action of any person engaged in the busi-

ness or acting in the capacity of real estate broker or real estate salesman within this state and shall have the power to temporarily suspend or permanently revoke licenses issued under the provisions of this act and/or to impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000) and to assess costs and attorney fees against the person for the cost of any investigation and/or administrative or other proceedings upon the licensee at any time where the holder thereof in performing or attempting to perform any of the acts mentioned in section 54-2022, Idaho Code, regardless of whether the acts were for his own account or in his capacity as a broker or salesman, is guilty of (a) making any fraudulent misrepresentations; or, (b) a continued or flagrant course of misrepresentation or making of false promises whether through agents or salesmen; or, (c) failure to account for or remit any property or moneys coming into his possession which belong to another; or, (d) failure to keep adequate records of all property transactions in which he acts in the capacity of real estate broker or real estate salesman; or, (e) failing or refusing upon demand to disclose any information within his knowledge, or to produce any documents, books, or records in his possession for inspection by the commission or its authorized representatives when acting within the jurisdiction or by authority of law; or, (f) employment of fraud, deception, misrepresentation, misstatement or any unlawful means in applying for or securing a license to act as real estate broker or salesman in the state of Idaho; or, (g) acting as a real estate broker or salesman under an assumed name; or, (h) violation of any provision of sections 54-2021 to 54-2053, Idaho Code, or any of the rules and regulations made or promulgated by the real estate commission, or final order of the commission; or, (i) any other conduct whether of the same or a different character than hereinabove specified which constitutes dishonest or dishonorable dealings; or, (j) the use by a licensee of any provision allowing the licensee an option to purchase in any agreement authorizing or employing such licensee to sell, buy, list or exchange real estate for compensation or commission, except when such licensee, prior to or coincident with entering into such agreement, discloses in writing to his principal the purpose for which the property will be purchased, that the licensee is licensed, and such other information as the commission may require by rule.

B. The commission may also temporarily suspend or permanently revoke a license where the holder thereof (a) is convicted of a felony in a state or federal court, or is convicted of any crime involving moral turpitude. The record of conviction, or a certified copy thereof, certified by the clerk of the court, or the judge in whose court the judgment was had, shall be prima facie evidence of conviction in such cases; (b) is declared insane by a court of competent jurisdiction; provided, however, that when a license shall have been revoked or suspended for this cause, such license may be reactivated by the commission upon a declaration of sanity being made; (c) has a judgment entered against him in a civil action upon grounds of fraud, misrepresentation, or deceit with reference to any transaction for which a license is required.

C. The commission may also temporarily suspend or permanently revoke a license of a broker or salesman where the license of such

licensee, issued by another jurisdiction, is suspended or revoked for acts or omissions which would be grounds for suspension or revocation under chapter 20, title 54, Idaho Code. A certified copy of the findings of fact, conclusions of law, memorandum opinion and/or final order from the appropriate administrative agency or court shall be prima facie evidence of the suspension or revocation and the facts stated therein.

D. If the commission temporarily suspends or permanently revokes a license, and/or imposes a civil penalty, the commission may withhold execution of said suspension, revocation and/or civil penalty on such terms and for such time as it may prescribe.

E. In the event of the revocation or suspension of the broker's license issued to the designated broker of a partnership or corporation, the license issued to such partnership or corporation shall be revoked or suspended by the commission. However, the commission may withhold execution of the revocation or suspension on such terms and for such time as it may prescribe.

F. All civil penalties collected by the commission under the provisions of this chapter shall be deposited in the state treasury to the credit of the special real estate account established pursuant to section 54-2037, Idaho Code.

G. The commission may accept, on such conditions as it may prescribe, or reject any offer to voluntarily terminate the license of a person whose activity is under investigation or against whom a formal complaint has been filed.

Approved March 9, 1995.

CHAPTER 74
(H.B. No. 168)

AN ACT

RELATING TO JUVENILES; AMENDING SECTION 18-2505, IDAHO CODE, TO PROVIDE THAT A JUVENILE CONFINED IN A JUVENILE DETENTION FACILITY OR OTHER SECURE FACILITY FOR JUVENILES FOR A FELONY OFFENSE WHO ESCAPES OR ATTEMPTS TO ESCAPE SHALL BE SUBJECT TO PROCEEDINGS UNDER THE YOUTH REHABILITATION ACT FOR A FELONY OFFENSE OR, IF THE JUVENILE IS OR HAS BEEN PROCEEDED AGAINST AS AN ADULT, SHALL BE GUILTY OF A FELONY AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 18-2506, IDAHO CODE, TO PROVIDE THAT A JUVENILE CONFINED IN A JUVENILE DETENTION FACILITY OR OTHER SECURE FACILITY FOR JUVENILES FOR A MISDEMEANOR OFFENSE WHO ESCAPES OR ATTEMPTS TO ESCAPE SHALL BE SUBJECT TO PROCEEDINGS UNDER THE YOUTH REHABILITATION ACT FOR A MISDEMEANOR OFFENSE, OR A FELONY OFFENSE, IF THE ESCAPE INVOLVED THREATS, VIOLENCE OR INJURY, OR, IF THE JUVENILE IS OR HAS BEEN PROCEEDED AGAINST AS AN ADULT, SHALL BE GUILTY OF A MISDEMEANOR OR A FELONY, IF THE ESCAPE INVOLVED THREATS, VIOLENCE OR INJURY.

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

SECTION 1. That Section 18-2505, Idaho Code, be, and the same is hereby amended to read as follows:

18-2505. ESCAPE BY ONE CHARGED WITH, CONVICTED OF, OR ON PROBATION FOR A FELONY -- ESCAPE BY JUVENILE. (1) Every prisoner charged with, convicted of, or on probation for a felony who is confined in any jail or prison including the state penitentiary, or who while outside the walls of such jail or prison in the proper custody of any officer or person, or while in any factory, farm or other place without the walls of such jail or prison, who escapes or attempts to escape from such officer or person, or from such jail or prison, or from such factory, farm or other place without the walls of such jail or prison, shall be guilty of a felony, and upon conviction thereof, any such second term of imprisonment shall commence at the time he would otherwise have been discharged.

(2) Any person under the age of eighteen (18) charged with, found to have committed, or on probation for an offense which would be a felony if committed by an adult who is confined in a juvenile detention facility or other secure facility for juveniles and who escapes or attempts to escape from the facility or from the lawful custody of any officer or person shall be subject to proceedings under chapter 18, title 16, Idaho Code, for an offense which would be a felony if committed by an adult. If the juvenile is or has been proceeded against as an adult, pursuant to sections 16-1806 or 16-1806A, Idaho Code, the juvenile shall be guilty of a felony for a violation of this section and shall be subject to adult criminal proceedings.

SECTION 2. That Section 18-2506, Idaho Code, be, and the same is hereby amended to read as follows:

18-2506. ESCAPE BY ONE CHARGED WITH OR CONVICTED OF A MISDEMEANOR -- ESCAPE BY A JUVENILE. (1) (a) Every prisoner charged with or convicted of a misdemeanor who is confined in any county jail or other place or who is engaged in any county work outside of such jail or other place, or who is in the lawful custody of any officer or person, who escapes or attempts to escape therefrom, is guilty of a misdemeanor. ~~†-however;~~

(b) In cases involving escape or attempted escape by use of threat, intimidation, force, violence, injury to person or property other than that of the prisoner, or wherein the escape or attempted escape was perpetrated by use or possession of any weapon, tool, instrument or other substance, the prisoner shall be guilty of a felony.

(2) Any person under the age of eighteen (18) charged with, found to have committed, or on probation for an offense which would be a misdemeanor if committed by an adult who is confined in a juvenile detention facility or other secure facility for juveniles and who escapes or attempts to escape from the facility or from the lawful custody of an officer or person, shall be subject to proceedings under the provisions of chapter 18, title 16, Idaho Code, for an act which would be a misdemeanor if committed by an adult, or, if the escape or attempted escape was undertaken as provided in subsection (1)(b) of this section, for an offense which would be a felony if committed by

an adult. If the juvenile is or has been proceeded against as an adult, pursuant to sections 16-1806 or 16-1806A, Idaho Code, the juvenile shall be guilty of a misdemeanor, or if subsection (1)(b) of this section applies, of a felony and, in either case, shall be subject to adult criminal proceedings.

Approved March 9, 1995.

CHAPTER 75
(H.B. No. 99)

AN ACT

RELATING TO REAL ESTATE BROKERS AND SALESMEN; AMENDING SECTION 54-2023, IDAHO CODE, TO PROVIDE THAT A PERSON FOR THE PURPOSES OF THE IDAHO REAL ESTATE BROKER LAW INCLUDES A LIMITED LIABILITY COMPANY; AMENDING SECTION 54-2028, IDAHO CODE, TO PROVIDE THAT COMPANIES OPERATING IN A LIMITED LIABILITY COMPANY FORM MAY QUALIFY FOR A BROKER'S LICENSE; AMENDING SECTION 54-2029, IDAHO CODE, TO INCLUDE LIMITED LIABILITY COMPANIES FOR LICENSURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2030, IDAHO CODE, TO SPECIFY INFORMATION TO BE PROVIDED IN THE APPLICATION OF A LIMITED LIABILITY COMPANY; AMENDING SECTION 54-2032, IDAHO CODE, TO PROVIDE FOR APPLICATIONS OF LIMITED LIABILITY COMPANIES; AMENDING SECTION 54-2040, IDAHO CODE, TO PROVIDE FOR THE REVOCATION OR SUSPENSION OF THE BROKER'S LICENSE OF A LIMITED LIABILITY COMPANY IN CERTAIN CIRCUMSTANCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2044, IDAHO CODE, TO PROVIDE PENALTIES FOR LIMITED LIABILITY COMPANIES ACTING AS AN UNLICENSED BROKER OR SALESMAN; AND AMENDING SECTION 54-2045, IDAHO CODE, REQUIRING CERTAIN LICENSES TO BRING A COURT ACTION TO INCLUDE LIMITED LIABILITY COMPANIES.

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

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

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

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

through the name of said person, firm, partnership, association, or corporation in connection with the purchase, sale, exchange, rental, or lease of said real property, or interest therein.

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

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

SECTION 2. That Section 54-2028, Idaho Code, be, and the same is hereby amended to read as follows:

54-2028. PARTNERSHIPS, AND CORPORATIONS AND LIMITED LIABILITY COMPANIES -- DESIGNATING PERSON TO MAKE APPLICATION AND PASS EXAMINATION -- CERTAIN FIRM MEMBERS REQUIRED TO OBTAIN BROKER'S OR SALESMAN'S LICENSE. A. Every partnership, in its application for a license, shall designate and appoint one (1) of its members, and every corporation in its application for a license shall designate and appoint one (1) of its officers and every limited liability company shall designate and appoint one (1) of its members or its manager, to submit an application for a broker's license. The application of the partnership, or corporation or limited liability company, and the application of the member, or officer or manager so designated, shall be filed with the commission together. No license shall be issued to any partnership, or corporation or limited liability company unless and until the person or officer so designated by the partnership, or corporation or limited liability company submits to and passes an examination required by section 54-2034, Idaho Code, on behalf of the partnership, or corporation or limited liability company. When such member, or officer or manager has passed the examination and upon a compliance with all other requirements of law by the partnership, or corporation or limited liability company, and by the designated member, or officer or manager, the commission shall issue a broker's license to the partnership, or corporation or limited liability company, which shall bear the name of such member, or officer or manager. Thereupon, the member, or officer or manager so designated shall act as a real estate broker only as an officer or agent of the partnership, or corporation or limited liability company, and its affiliated or subsidiary corporations licensed under this section and conducting all of their real estate business solely from the main office of the corporation as designated in its license application, and not on his own behalf. Satisfactory proof must be submitted to the commission that the corporation or limited liability company manages and controls each affiliated or subsidiary corporation or limited liability company for which its officer agent will act as designated real estate broker. If in any case, the person so designated is refused a license by the commission or in case the person ceases to be connected with such partnership, or corporation or limited liability company, the partnership, or corporation or limited liability company shall have the right to designate another person to act as broker who shall make application and qualify as in the first instance.

B. Each member, or officer or manager of a partnership, or corporation or limited liability company who will perform or engage in any of the acts specified in subsection A of section 54-2022, Idaho Code,

other than the member, or officer or manager of the partnership, or corporation or limited liability company so designated as broker in the manner provided in this section shall be required to make application for and receive a separate broker's or salesman's license in his own name individually; but the license issued to any such member, or officer or manager of a partnership, or corporation or limited liability company shall entitle such member, or officer or manager to act as real estate broker or salesman only as officer or agent of the partnership, or corporation or limited liability company, and not on his own behalf.

SECTION 3. That Section 54-2029, Idaho Code, be, and the same is hereby amended to read as follows:

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

- (1) The applicant must be at least eighteen (18) years of age;
- (2) The applicant must not have had revoked a license or been refused a renewal of a license issued by the state of Idaho or any other state, as a real estate broker or salesman, if such revocation or refusal occurred within two (2) years prior to the date the application is submitted to the commission;
- (3) The applicant must not have been convicted, issued any fine, placed on probation, received a withheld judgment or completed any sentence of confinement for or on account of a felony or a misdemeanor involving moral turpitude in a state or federal court within five (5) years prior to the date the application is submitted to the commission;
- (4) The applicant must have complied with the educational requirements as provided for in subsection C of this section; the real estate education course requirements set forth in subsection C of this section must have been successfully completed within five (5) years prior to the date upon which the applicant makes application; provided, the commission may waive or modify the requirement that the real estate education courses must have been successfully completed within five (5) years prior to the date upon which the applicant makes application;
- (5) If the application is for a real estate broker's license, the applicant must have been actively engaged as a licensed real estate salesman as provided for in subsection B(2) of this section.

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

B. Any person desiring to carry on the business of real estate broker or real estate salesman in this state shall make application

for license therefor upon a form to be prescribed and furnished by the commission, giving his full name and address and the address of his principal place of business in the state of Idaho. Applications shall be made to and filed with the commission and be accompanied by:

(1) An examination fee in an amount not to exceed one hundred dollars (\$100) which shall not be refunded, shall be assessed to each applicant who has preregistered for the examination. If the applicant has not preregistered, an examination fee in an amount not to exceed one hundred ten dollars (\$110) shall be charged to the applicant. The exact examination fee shall be determined by the commission at the conclusion of a hearing called for such purpose to be conducted pursuant to notice. The fee shall be that amount which, in the discretion of the commission, is sufficient to raise the revenue required to administer the examination. The fee so established shall remain effective from year to year and further hearing shall be required only in the event an increase or other alteration in the fee is proposed by the commission.

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

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

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

real estate practice, real estate office management and supervision of associates.

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

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

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

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

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

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

Corporations, and partnerships and limited liability companies

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

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

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

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

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

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

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

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

- (1) Bona fide hardship preventing completion of the reinstatement requirements of an inactive license;
- (2) Health reasons preventing attendance;
- (3) Active duty in the military service with assignment to a permanent duty station outside of the state during the last twelve (12) months of a license period; or
- (4) Other compelling cause beyond the control of the applicant while engaged in the real estate business.

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

SECTION 4. That Section 54-2030, Idaho Code, be, and the same is hereby amended to read as follows:

54-2030. APPLICATION OF PARTNERSHIP, OR CORPORATION OR LIMITED LIABILITY COMPANY. If the applicant is a corporation, a list of its officers and directors and their addresses, and if the applicant be a partnership, then a list of the members of said partnership and their addresses, and if the applicant is a limited liability company, a list of the members and manager (if any) of such entity and their addresses must be filed with the application, together with such other documents and information as the commission may require by rule.

SECTION 5. That Section 54-2032, Idaho Code, be, and the same is hereby amended to read as follows:

54-2032. APPLICATION OF NONRESIDENT. If the applicant is a non-resident of this state, he shall file an irrevocable consent that suits and actions may be commenced against him in any county of this state in which the plaintiff having a cause of action, or suit, may reside and that service of any process or pleading in said suit or action may be made by delivering the same to the secretary of state and mailing a copy thereof to said applicant by registered mail addressed to him at his designated principal place of business. Such service, when so made, shall be taken and held in all courts to be as valid and binding upon the applicant as if in fact made upon said applicant in this state within the jurisdiction of the court in which said suit or action is filed. Said "irrevocable consent" shall be in a form prescribed by the commission, shall be acknowledged by a notary public, and if the applicant be a corporation, said consent shall be accompanied by a duly certified copy of the resolution of the board of directors of such corporation authorizing the execution of same and if the applicant be a limited liability company said consent shall be accompanied by a resolution of the members of such limited liability company authorizing the execution of the same; any process or pleading above mentioned so served upon the secretary of state shall be served in duplicate copies, one (1) of which shall be filed in the office of the secretary of state, and the other immediately forwarded by registered mail to the registered address of the applicant as designated in his application; service shall be deemed to have been made upon said applicant upon delivery of said copy of said process or pleading by registered mail at his designated principal place of business.

SECTION 6. That Section 54-2040, Idaho Code, be, and the same is hereby amended to read as follows:

54-2040. REVOCATION OR SUSPENSION OF LICENSE -- GROUNDS THEREFOR.
A. The commission may upon its own motion, and shall upon verified complaint in writing of any person claiming to have been injured or defrauded, investigate the action of any person engaged in the business or acting in the capacity of real estate broker or real estate salesman within this state and shall have the power to temporarily suspend or permanently revoke licenses issued under the provisions of this act and/or to impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000) and to assess costs and attorney fees against the person for the cost of any investigation and/or administrative or other proceedings upon the licensee at any time where the

holder thereof in performing or attempting to perform any of the acts mentioned in section 54-2022, Idaho Code, regardless of whether the acts were for his own account or in his capacity as a broker or salesman, is guilty of (a) making any fraudulent misrepresentations; or, (b) a continued or flagrant course of misrepresentation or making of false promises whether through agents or salesmen; or, (c) failure to account for or remit any property or moneys coming into his possession which belong to another; or, (d) failure to keep adequate records of all property transactions in which he acts in the capacity of real estate broker or real estate salesman; or, (e) failing or refusing upon demand to disclose any information within his knowledge, or to produce any documents, books, or records in his possession for inspection by the commission or its authorized representatives when acting within the jurisdiction or by authority of law; or, (f) employment of fraud, deception, misrepresentation, misstatement or any unlawful means in applying for or securing a license to act as real estate broker or salesman in the state of Idaho; or, (g) acting as a real estate broker or salesman under an assumed name; or, (h) violation of any provision of sections 54-2021 to 54-2053, Idaho Code, or any of the rules ~~and--regulations~~ made or promulgated by the real estate commission, or final order of the commission; or, (i) any other conduct whether of the same or a different character than hereinabove specified which constitutes dishonest or dishonorable dealings; or, (j) the use by a licensee of any provision allowing the licensee an option to purchase in any agreement authorizing or employing such licensee to sell, buy, list or exchange real estate for compensation or commission, except when such licensee, prior to or coincident with entering into such agreement, discloses in writing to his principal the purpose for which the property will be purchased, that the licensee is licensed, and such other information as the commission may require by rule.

B. The commission may also temporarily suspend or permanently revoke a license where the holder thereof (a) is convicted of a felony in a state or federal court, or is convicted of any crime involving moral turpitude. The record of conviction, or a certified copy thereof, certified by the clerk of the court, or the judge in whose court the judgment was had, shall be prima facie evidence of conviction in such cases; (b) is declared insane by a court of competent jurisdiction; provided, however, that when a license shall have been revoked or suspended for this cause, such license may be reactivated by the commission upon a declaration of sanity being made; (c) has a judgment entered against him in a civil action upon grounds of fraud, misrepresentation, or deceit with reference to any transaction for which a license is required.

C. The commission may also temporarily suspend or permanently revoke a license of a broker or salesman where the license of such licensee, issued by another jurisdiction, is suspended or revoked for acts or omissions which would be grounds for suspension or revocation under chapter 20, title 54, Idaho Code. A certified copy of the findings of fact, conclusions of law, memorandum opinion and/or final order from the appropriate administrative agency or court shall be prima facie evidence of the suspension or revocation and the facts stated therein.

D. If the commission temporarily suspends or permanently revokes a license, and/or imposes a civil penalty, the commission may withhold execution of said suspension, revocation and/or civil penalty on such terms and for such time as it may prescribe.

E. In the event of the revocation or suspension of the broker's license issued to the designated broker of a partnership, limited liability company or corporation, the license issued to such partnership, limited liability company or corporation shall be revoked or suspended by the commission. However, the commission may withhold execution of the revocation or suspension on such terms and for such time as it may prescribe.

F. All civil penalties collected by the commission under the provisions of this chapter shall be deposited in the state treasury to the credit of the special real estate account established pursuant to section 54-2037, Idaho Code.

SECTION 7. That Section 54-2044, Idaho Code, be, and the same is hereby amended to read as follows:

54-2044. PENALTY FOR ACTING AS A BROKER OR SALESMAN WITHOUT LICENSE. Any person acting as a real estate broker or real estate salesman within the meaning of this act without a license as herein provided shall upon conviction thereof, if a natural person, be punished by a fine of not to exceed one thousand dollars (\$1,000), or by imprisonment in the county jail for a term not to exceed one (1) year, or by both such fine and imprisonment in the discretion of the court; or if a limited liability company or corporation, by a fine of not to exceed two thousand five hundred dollars (\$2,500).

SECTION 8. That Section 54-2045, Idaho Code, be, and the same is hereby amended to read as follows:

54-2045. LICENSE A PREREQUISITE. No person engaged in the business or acting in the capacity of real estate broker or real estate salesman within this state shall bring or maintain any action in the courts for the collection of compensation for the performance of any acts mentioned in section 54-2022, Idaho Code, without alleging and proving that such person, partnership, limited liability company or corporation was a duly licensed real estate broker or real estate salesman, within this state, at the time the alleged cause of action arose.

Approved March 9, 1995.

CHAPTER 76
(H.B. No. 82)

AN ACT

RELATING TO SHERIFF'S FEES; AMENDING SECTION 31-3203, IDAHO CODE, TO PROVIDE FOR A ONE DOLLAR ADMINISTRATIVE FEE FOR MAIL RENEWAL OF CLASS D DRIVER'S LICENSES.

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

SECTION 1. That Section 31-3203, Idaho Code, be, and the same is hereby amended to read as follows:

31-3203. SHERIFF'S FEES. The sheriff is allowed and may demand and receive the fees hereinafter specified:

For serving summons and complaint, or any other process by which an action or proceeding is commenced, on each defendant \$10.00

For serving an attachment on property, or levying an execution, or executing an order of arrest, or order for the delivery of personal property \$10.00

For his trouble and expense in taking and keeping possession of and preserving property under attachment or execution, or other process, such sum as the court may order: provided, however, that said sum shall be no more than five dollars (\$5.00) per diem or the reasonable costs incurred by a keeper in preserving said property.

For making and issuing a keeper's receipt \$5.00

For taking a bond or undertaking in any case in which he is authorized to take the same \$10.00

For copy of and making return on any writ, process or other paper, when demanded or required by law \$10.00

For serving every notice, rule or order \$10.00

For making and posting notices, and advertising property for sale on attachment or execution, or under any judgment or order of sale, exclusive of the costs of publication, each notice, per folio . \$ 3.00

For serving a writ of possession or restitution, putting a person in possession of premises and removing the occupant \$10.00

For holding each inquest, or trial of right of property, to include all services in the matter except mileage \$ 3.00

For serving a subpoena, for each witness summoned \$10.00

For commissions for receiving and paying over money on execution or other process, when land or personal property has been levied on and sold, on the first one thousand dollars (\$1,000), two per cent (2%); on all sums above that amount, one per cent (1%); but in no case of sale of real estate shall his commission exceed the sum of \$100.00

When the amount of such sale is credited on the debt and no money is transferred, then one-half (1/2) of such commission.

For commissions for receiving and paying over money on execution without levy, or where lands or goods levied on are not sold, on the first one thousand dollars (\$1,000), one and one-half per cent (1 1/2%); and one-half (1/2) of one per cent (1%) on all over that sum, but not to exceed in any case \$75.00

The fees herein allowed for the levy of an execution, costs for advertising and percentage for making or collecting the money on execution, must be collected from the judgment debtor by virtue of such execution, in the same manner as the sum therein directed to be made.

For drawing and executing a sheriff's deed, including the acknowledgment, to be paid by the grantee before delivery \$10.00

For executing a certificate of sale, exclusive of the filing and recording of same \$ 5.00

For making every arrest in a criminal proceeding \$ 5.00

For summoning each juror \$ 1.00

For serving a subpoena in a criminal action or proceeding, for each witness summoned \$10.00

For traveling to serve any summons and complaint, or any other process by which an action or proceeding is commenced, notice, rule, order, subpoena, venire, attachment on property, to levy an execution, to post notice of sale, to sell property under execution or other order of sale, or execute an order of arrest, or order for the delivery of personal property, writ of possession or restitution, to hold inquest or trial of right of property, for each mile actually and necessarily traveled for the first twenty-five (25) miles no charge shall be allowed, and for any miles traveled over twenty-five (25) miles, even if process is not served, the following shall be allowed, in going only \$.40

For traveling to execute any warrant of arrest, subpoena, venire or other process in criminal cases, or for taking a prisoner from prison, before a court or magistrate, or for taking a prisoner from the place of arrest to prison, or before a court or magistrate, for each mile actually and necessarily traveled, in going only \$.40

For each additional prisoner taken at the same time, per mile \$.25

But if any two (2) or more papers be required to be served in the same action or proceeding, civil or criminal, or be in the possession of the sheriff for service at the same time, and in the same direction, one (1) mileage only shall be charged; and in serving a subpoena, venire, process or paper, when two (2) or more jurors, witnesses, parties or persons to be served reside or are found in the same direction, traveling fees must be charged only for the most distant; and only one (1) mileage per day must be charged for taking a prisoner from prison before a court or magistrate; and constructive mileage must in no case be charged or allowed.

For all services under the election laws, the same mileage and fees as in this chapter provided for similar services.

For copy of and making an interim return on a continuing garnishment to show disbursement of moneys held by the sheriff \$5.00

For postage and processing of each mail renewal class D driver's license authorized pursuant to section 49-319, Idaho Code \$1.00

Approved March 9, 1995.

CHAPTER 77
(H.B. No. 1, As Amended)

AN ACT

RELATING TO BARBERS; AMENDING SECTION 54-501, IDAHO CODE, TO ELIMINATE SUPERVISION REQUIREMENT IN LICENSED BARBERSHOPS AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 54-518, IDAHO CODE; AMENDING CHAPTER 5, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-518, IDAHO CODE, TO PROVIDE MAXIMUM FEES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-501, Idaho Code, be, and the same is hereby amended to read as follows:

54-501. REQUIREMENTS OF REGISTRATION AND BARBERSHOP LICENSE. After July 1, 1927, it shall be unlawful to practice, or attempt to practice, barbering without a certificate of registration as a registered barber issued pursuant to provisions of this act by the board of barber examiners.

After July 1, 1957, it shall be unlawful to own or operate any barbershop ~~until--it-is-at-all-times-under-the-direct-supervision-and management-of-a-registered-barber-and~~ unless a barbershop license is first obtained from the board ~~for each barbershop-owned-and-operated~~. The applicant for such license must furnish proof that the shop is located and equipped to meet the sanitary requirements and regulations rules of the board. The maintenance of a bona fide establishment with a permanent and definite location shall be prerequisite for the issuance of a barbershop license, the establishment of itinerant shops being prohibited. The holder of a barbershop license must notify the board in writing of any change of address and at the same time shall return said license, upon the fact of which such change shall be properly indorsed. A change of address by a licensee without such notice and indorsement shall operate to cancel the license.

SECTION 2. That Section 54-518, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 5, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-518, Idaho Code, and to read as follows:

54-518. FEES. The various fees to be paid by applicants for original registrations, original licenses, annual renewals, certificates issued upon endorsement and examinations as required under this chapter shall be fixed by rules of the board in amounts not to exceed the following:

1. Original registrations, licenses and annual renewals thereof:
 approved barber college within the state, original certificate/annual renewals.....\$200.00

approved barber college located outside the state, original certificate/annual renewals.....100.00
 barbershop original license/annual renewals.....50.00
 registered barber, original license/annual renewals.....50.00
 teacher, original license/annual renewals.....60.00
 student registration (no renewal fees required).....60.00
 temporary permit fee (no renewal fees required).....60.00
 endorsement.....80.00

2. Examination/Reexamination:

registered barber.....\$ 75.00
 teacher certificate examination.....100.00

All fees shall be paid to the bureau of occupational licenses. Fees shall not be prorated or refundable. The fee for reinstatement shall be as provided in section 67-2614, Idaho Code. All certificates/licenses expire on June 30.

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 10, 1995.

CHAPTER 78
 (H.B. No. 13)

AN ACT

RELATING TO DAIRY PROCESSORS; AMENDING SECTION 37-407, IDAHO CODE, TO INCREASE THE FEE TO BE COLLECTED FROM DAIRY PROCESSORS FROM THREE MILLS TO FOUR MILLS PER POUND OF BUTTERFAT, TO ESTABLISH THE DUE DATE FOR PAYMENT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 37-407, Idaho Code, be, and the same is hereby amended to read as follows:

37-407. FEES AND ASSESSMENTS TO BE COLLECTED FROM DAIRY PROCESSORS. Whenever an inspection of any dairy product is made by the department of agriculture, or whenever permanent or temporary inspectors or employees are used by said department for the purpose of enforcing or promulgating an inspection or sanitary program for any dairy product, the department is authorized to fix, assess and collect or cause to be collected from the dairy processors, fees or assessments for such services when they are performed by such employees or agents of the department, such fees to be on a uniform basis in an amount reasonably necessary to cover the cost of such inspection and the administration of ~~this section of the act~~ the department of agriculture dairy inspection program; provided, however, that the department shall so adjust the fees to be collected under this section as to meet the expenses necessary for this inspection service only, all of said fees to be used for this purpose alone; and provided further,

that in no event shall the fees or assessments exceed ~~three-(3)~~ four (4) mills per pound of butterfat produced by any dairyman in Idaho or received by processors. All such fees and moneys collected or received by the department, its employees or agents under this act shall be deposited in the "dairy industry and inspection account" which account is hereby created. All moneys coming into said account are hereby appropriated to the department of agriculture to be used in the inspection required by law to be made of the dairy industry and dairy products. The fees and assessments accrued in any given month are due and payable no later than the twentieth day of the following month.

Approved March 10, 1995.

CHAPTER 79
(H.B. No. 117)

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, 1994~~5~~.

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

SECTION 2. 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, 1995.

Approved March 10, 1995.

CHAPTER 80
(H.B. No. 119)

AN ACT

RELATING TO ABSTRACT OF SUBSEQUENT PROPERTY ROLLS; AMENDING SECTION 63-1909, IDAHO CODE, TO REPLACE THE REQUIREMENT OF PREPARING AN

ABSTRACT OF THE PERSONAL PROPERTY ROLL WITH THE REQUIREMENT TO PREPARE AN ABSTRACT OF THE SUBSEQUENT PROPERTY ROLLS; AND AMENDING SECTION 63-1910, IDAHO CODE, TO REQUIRE FILING THE ABSTRACT IN JANUARY OF THE FOLLOWING YEAR.

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

SECTION 1. That Section 63-1909, Idaho Code, be, and the same is hereby amended to read as follows:

63-1909. ABSTRACT OF PERSONAL SUBSEQUENT PROPERTY ROLLS. The county auditor must add up the columns of amounts and values of each kind of property and of all property and the amount of taxes, rebates and exemptions and prepare an abstract of all the property entered upon the personal subsequent property assessment rolls, including property exempt under chapters 20 and 29, title 50, Idaho Code, for revenue allocation purposes, and sections 63-105T, 63-105BB, 63-105CC and 63-105DD, Idaho Code, showing the total number of items or pieces of property and the total value thereof, shown in separate columns in the assessment rolls, and the total value of all property exempt under said chapters or sections, as determined by the board of county commissioners.

The abstract of taxes provided for in this section must be prepared by the county auditor in duplicate and duly verified upon forms supplied by the state tax commission and must show all of the property, upon the subsequent assessment rolls, and all matters and things required to be shown upon such abstract must be entered in proper spaces and columns provided for that purpose.

SECTION 2. That Section 63-1910, Idaho Code, be, and the same is hereby amended to read as follows:

63-1910. FILING OF ABSTRACTS -- DUTIES OF ~~STATE-AND~~ COUNTY AUDITOR. The county auditor must complete said the abstract required in section 63-1909, Idaho Code, and transmit the original abstract by registered certified mail to the ~~executive-officer-of--the~~ state tax commission on or before the fourth Monday of ~~December~~ January in the year following the year in which the assessment is made and file the duplicate abstract in his office, ~~and the executive-officer shall, upon receipt of said original abstract, file the same in his office as secretary of the state tax commission, and shall determine--the--total amount--of--all--special--state--taxes--levied--for--the--current--year--upon property--entered--upon--the--personal--property--assessment--roll--as--shown in--the--county--auditor's--abstract--of--the--assessment--and--shall,--on--or--before--the--first--Monday--of--January--thereafter,--transmit--by--registered mail--to--the--county--auditor--of--each--county--in--this--state--a--certified statement--of--the--amount--of--all--such--special--state--taxes--apportioned--to--such--county,--and--the--county--auditor--shall,--upon--receipt--of--such--certified--statement,--file--the--same--in--his--office.~~

Approved March 10, 1995.

CHAPTER 81
(H.B. No. 121)

AN ACT

RELATING TO HOMEOWNER'S PROPERTY TAX EXEMPTION; AMENDING SECTION 63-105DD, IDAHO CODE, TO DEFINE TERMS IN COMMON WITH PROPERTY TAX REDUCTION; AMENDING SECTION 63-117, IDAHO CODE, TO AMEND AND ADD DEFINITIONS; AMENDING SECTION 63-122, IDAHO CODE, TO PROVIDE FOR DISAPPROVAL PROCEDURES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-105BB, IDAHO CODE, TO PROVIDE FOR A SPECIAL EXEMPTION; AMENDING SECTION 63-107, IDAHO CODE, TO PROVIDE FOR CLAIMS FOR A SPECIAL EXEMPTION 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 63-105DD, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

(d) For the purpose of this section, the definition of owner shall be the same definition set forth in subsection (g)~~(i)~~ of section 63-117, Idaho Code.

When an "owner" is any person who as grantor created a revocable trust and named himself or herself as beneficiary of that trust, he or she may provide proof of the revocable trust with an affidavit stating: (i) the name of the grantor; (ii) a statement that the grantor is the beneficiary of the trust; (iii) the trust is revocable during the grantor's lifetime and (iv) the grantor is

the owner-occupier of the residential property and uses the property as the primary dwelling place of the owner as of January 1.

The affidavit shall include the attaching of the copies of those portions of the trust which sets forth the grantor, the grantor as beneficiary, the revocable character of the trust and the signature page of the trust.

(e) Any owner may request in writing the return of all copies of any revocable trust created by the owner that are held by a county assessor, and the copies shall be returned by the county assessor upon submission of the affidavit set forth in subsection (2)(d) of this section in proper form.

(f) For the purpose of this section, the definition of primary dwelling place shall be the same definition set forth in subsection (h) of section 63-117, Idaho Code.

(g) For the purpose of this section, the definition of occupied shall be the same definition set forth in subsection (i) of section 63-117, Idaho Code.

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

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

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

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

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

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

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

SECTION 2. That Section 63-117, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code (as defined by section 63-3004,

Idaho Code), alimony, support money, income from inheritances, nontaxable strike benefits, the gross nontaxable amount of any individual retirement account, pension or annuity (including railroad retirement benefits, all payments received under the federal social security act, state unemployment insurance laws, and veterans' disability pensions and compensation, excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code), nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities, workmen's compensation and the gross amount of "loss of earnings" insurance. It does not include capital gains, gifts from nongovernmental sources, inheritances, or medical care as defined by section 213(d) of the Internal Revenue Code, incurred by the household. Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant does not file a federal tax return the claimant's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant filed a federal tax return.

(b) "Household" means the claimant and any person or persons who live in the same dwelling, and share its furnishings, facilities, accommodations or expenses. The term includes any person owing a duty of support to the applicant pursuant to section 32-1002, Idaho Code, unless the person qualifies as a "nonhousehold member" pursuant to subsection (c) of this section. The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

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

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

(e) "Homestead" means the dwelling, owner-occupied by the claimant and used as the primary dwelling place of the claimant and occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multi-dwelling or multi-purpose building and part of the land upon which it is built. It does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(f) "Claimant" means a person who has filed a claim under the provisions of sections 63-117 through and including 63-125, Idaho Code. ~~To-be-eligible-to-file-a-claim,-a-person-must-have-been-domiciled-in-this-state-during-the-calendar-year-immediately-preceding-the-year-in-which-the-claim-was-filed,-and-must-have-owned-a-homestead, evidenced-by-proof-of-taxes-levied,-in-this-state-during-the-calendar year--immediately-preceding-the-year-in-which-the-claim-was-filed,-and~~ On January 1 of the year in which the claim was filed a claimant must own a homestead and be:

(i) not less than sixty-five (65) years old, or

- (ii) a fatherless or motherless child under the age of eighteen (18) years of age, or
 - (iii) a widow or widower, or
 - (iv) a disabled person who is recognized as disabled pursuant to 42 USC 423, 45 USC 228, 45 USC 231, or 5 USC 8337, or
 - (v) a disabled veteran of any war engaged in by the United States, whose disability is recognized as a service connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice connected disabilities, in accordance with laws and regulations administered by the United States veterans administration, or
 - (vi) a person as specified in 42 USC 1701 who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage, or otherwise, or
 - (vii) blind.
- (g) (i) "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate. "Owner" shall also include any person who as grantor created a revocable trust and named himself as beneficiary of that trust. "Owner" shall not include any person that otherwise occupies property as beneficiary of a trust. "Owner" includes a vendee in possession under a land sale contract.
- (ii) Any partial ownership shall be considered ownership for determining qualification for property tax reduction benefits, however, the amount of tax reduction under section 63-120, Idaho Code, and regulations rules promulgated pursuant to section 63-1204, Idaho Code, shall be reduced to a proportion commensurate with the proportion of partial ownership. "Partial ownership," for purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person. The combined community property interests of both spouses shall not be considered partial ownership. The proportional reduction required under this subsection shall not apply to community property interests.
- (iii) Where title to property is held by a person who has died without timely filing a claim for property tax reduction, the estate shall be the "owner."
- (h) (i) "Primary dwelling place" means the claimant's dwelling place on January 1 of the year for which the claim is made. The primary dwelling place is the single place where a claimant has his true, fixed and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. A claimant must establish the dwelling to which the claim relates as his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided on January 1 and:
- (1) at least six (6) months during the prior year; or
 - (2) the majority of the time the claimant owned the dwelling if owned by the claimant less than one (1) year; or
 - (3) the majority of the time after the claimant first occupied the dwelling if occupied by the claimant less than one (1) year.

(ii) Notwithstanding the provisions of paragraph (i) of this subsection, the property upon which the claimant makes application shall be deemed to be the claimant's primary dwelling place if the claimant is otherwise qualified and resides in a care facility and does not allow the property upon which the claimant has made application to be occupied by persons paying a consideration to occupy the dwelling. A care facility is a hospital, skilled nursing facility, intermediate care facility or intermediate care facility for the mentally retarded as defined in section 39-1301, Idaho Code, or a facility as defined in section 39-3302(15), Idaho Code, or a dwelling other than the one upon which the applicant makes application where a claimant who is unable to reside in the dwelling upon which the application is made lives and receives help in daily living, protection and security.

(i) "Occupied" means actual use and possession.

SECTION 3. That Section 63-122, Idaho Code, be, and the same is hereby amended to read as follows:

63-122. PROCEDURE AFTER CLAIM APPROVAL. (1) Immediately after claims have been approved by the board of equalization, the county assessor shall prepare a property tax reduction roll, which shall be in addition to the real property assessment roll, and the personal property assessment roll, which property tax reduction roll shall show:

- (a) the name of the taxpayer;
- (b) the description of the property for which a reduction in taxes is claimed, suitably detailed to meet the requirements of the individual county;
- (c) the property's prior year's market value or the assessor's best estimate of current market value;
- (d) the amount of tax reduction for which the applicant is eligible as determined by the applicant's household income, pursuant to sections 63-120 and 63-120A, Idaho Code.

(2) As soon as possible, but in any event by no later than the fourth Monday of June, the property tax reduction roll shall be certified to the county auditor and to the state tax commission in the manner prescribed by ~~regulations~~ rules promulgated by the state tax commission. The property tax reduction roll shall be accompanied by a copy of the claim forms for disapproved claims, when requested by the state tax commission and a copy of the approved claims form signed by each claimant.

(3) (a) As soon as possible, but in any event by no later than the fourth Monday of October, the county auditor shall complete the property tax reduction roll by adding the following information:

- (i) the current year's levy for the code area in which the property is situated; and
- (ii) the amount of tax reduction claimed based on the current year's market value and the current year's levy; and
- (iii) the current ~~years's~~ year's market value.

(b) As soon as possible, but in any event no later than the fourth Monday of October, the county auditor shall certify the

completed property tax reduction roll to the state tax commission in the manner prescribed by ~~regulations~~ rules promulgated by the state tax commission.

(4) The state tax commission shall calculate the total of all claims for reduction in taxes from current year's property taxes, evidenced by the abstracts and claims forms from all the counties. Each county auditor shall be notified by the third Monday in November of the amount of property tax reduction to be granted.

(5) The state tax commission may audit each and every claim submitted to it, and, any other provision of law notwithstanding, may utilize income tax returns filed by the claimant or by any member of his household to determine household income of the claimant.

(6) If it is determined by the tax commission that a claim is erroneous the tax commission shall disapprove so much of the claim as necessary in order to conform with statutory standards. The tax commission shall provide the claimant written notice of the tax commission's intent to disapprove all or a portion of the claim. The claimant shall have fourteen (14) days to make written protest to the tax commission of the intended action. The claimant may submit additional information and may request an informal hearing with the commission. If the claimant fails to make written protest within fourteen (14) days, the tax commission shall provide written notice of disapproval ~~shall be provided~~ to the claimant by the fourth Monday of October and to the county auditor of the county from which the claim was received. Any claimant whose claim is disapproved in whole or in part by the tax commission may:

(a) file a claim with the board of equalization for ~~an ordinary a~~ special tax exemption pursuant to sections 63-105BB and 63-107, Idaho Code; such claims must be filed between the fourth Monday of November and the first Monday of December; the board of equalization shall convene during such period for the purpose of hearing and determining these claims in addition to the purposes set forth in section 63-1904, Idaho Code;

(b) appeal such disapproval by the tax commission to the board of tax appeals or to the district court of the county of residence of the taxpayer within thirty (30) days.

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

63-105BB. PROPERTY EXEMPT FROM TAXATION -- HARDSHIP SITUATIONS. The following property is exempt from taxation: real and personal property belonging to persons who, because of unusual circumstances which affect their ability to pay the ad valorem tax, should be relieved from paying said tax in order to avoid undue hardship, which undue hardship must be determined by the board of equalization.

Exemptions granted under this section shall be of ~~two~~ three (3) types: (1) an ordinary exemption; and (2) an extraordinary exemption; and (3) a special exemption.

An ordinary exemption granted under this section shall be for the current tax year only and property exempted hereunder shall continue to be listed and assessed for the ensuing tax years as other property. Claimants seeking exemption under this section must apply each year to

the board of equalization in accordance with the procedure prescribed in section 63-107, Idaho Code.

An extraordinary exemption may be granted for taxes which have become delinquent on property on which the county has not yet taken a tax deed, or for second half taxes which will become delinquent on June 20.

In applying for an extraordinary exemption, a claimant may submit a claim for exemption at any time within the limits allowed by this section, and the board of equalization may sit and grant such claim for exemption at any time within the limits allowed by this section, and if granted, either in whole or in part, shall order all necessary adjustments made in the tax records of the various county officers and taxing districts. The granting of an exemption for taxes which have become delinquent shall annul and cancel only those taxes exempted by order of the board of equalization, and all interest and penalty charges on such taxes.

A special exemption under this section shall be granted by cancelling taxes on property of persons filing a claim pursuant to section 63-122(6)(a), Idaho Code.

SECTION 5. That Section 63-107, Idaho Code, be, and the same is hereby amended to read as follows:

63-107. EXEMPT PROPERTY NOT TO BE ASSESSED -- CLAIMS PROCEDURE FOR HARDSHIP EXEMPTIONS. Property exempted from taxation under sections 63-105A -- through 63-105BB, Idaho Code, shall not be assessed, except property exempted from taxation under section 63-105BB, Idaho Code, which shall be listed and assessed as other property, and each person claiming such exemptions shall give a sworn statement containing full and complete information of his financial status to such board and shall make true answers to all questions propounded in writing, or otherwise, touching such person's right to the exemption claimed. The chairman of the board shall have authority to administer oaths to each person appearing as a claimant for exemptions under section 63-105BB, Idaho Code, and in addition to such examination each claimant shall subscribe to and swear that his answers to questions propounded on written forms to be prescribed by the state tax commission are true, and which sworn statement shall be kept and filed by the clerk of the county board of equalization. The county board of equalization shall decide and determine from each examination and from each written claim for exemptions whether or not such person is entitled to the exemption claimed or to any part thereof, and shall make a record thereof accordingly. The board may, in its discretion and for good cause shown, allow an agent or some person acting for and on behalf of the claimant to make the claim for exemption for any claimant in the manner herein provided, or where a person entitled to exemption shall be mentally incompetent or physically unable to make such sworn statement, his wife, widow, guardian or personal representative, or other person having knowledge of the facts, may make such sworn statement in his stead.

Each person claiming an exemption under the provisions of section 63-105BB, Idaho Code, whether for an ordinary exemption or for an extraordinary exemption, except persons claiming an-ordinary a special

exemption pursuant to section 63-122(6)(a), Idaho Code, shall file such claim with the board of equalization at any time between January 1 and June 20. The board of equalization must consider and act on all such claims no later than the second Monday of July. All claims for an ordinary a special exemption under section 63-105BB, Idaho Code, filed pursuant to section 63-122(6)(a), Idaho Code, must be filed between the fourth Monday of November and the first Monday of December. The board of equalization must consider and act on all these claims no later than the first Monday of December.

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, 1995.

Approved March 10, 1995.

CHAPTER 82
(H.B. No. 127)

AN ACT

RELATING TO PROPERTY TAX MAXIMUM LEVIES; AMENDING SECTION 21-404, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-206, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-307, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE; AMENDING SECTION 27-121, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE; AMENDING SECTION 31-3503, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE, TO PROVIDE APPLICATION OF THE LEVY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-3613, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE; AMENDING SECTION 31-3901, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO PROVIDE APPLICATION OF THE LEVY; AMENDING SECTION 31-4318, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE; AMENDING SECTION 31-4328, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO PROVIDE APPLICATION OF THE LEVY; AMENDING SECTION 31-4404, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO PROVIDE APPLICATION OF THE LEVY; AMENDING SECTION 33-803, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE, TO PROVIDE APPLICATION OF THE LEVY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2107A, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE, TO PROVIDE APPLICATION OF THE LEVY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2111, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE; AMENDING SECTION 36-1702, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET

VALUE; AMENDING SECTION 38-509, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO PROVIDE APPLICATION OF THE LEVY; AMENDING SECTION 39-1334, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE; AMENDING SECTION 39-2805, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO PROVIDE APPLICATION OF THE LEVY; AMENDING SECTION 42-3115, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE, TO PROVIDE APPLICATION OF THE LEVY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 42-3708, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE, TO PROVIDE APPLICATION OF THE LEVY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 46-722, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE; AMENDING SECTION 50-235, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO PROVIDE APPLICATION OF THE LEVY; AMENDING SECTION 50-303, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO PROVIDE APPLICATION OF THE LEVY; AMENDING SECTION 50-320, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE; AMENDING SECTION 50-321, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 50-1762, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE, TO PROVIDE APPLICATION OF THE LEVY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-1766, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO PROVIDE APPLICATION OF THE LEVY; AMENDING SECTION 63-221, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-909, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO PROVIDE APPLICATION OF THE LEVY; AMENDING SECTION 63-911, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO PROVIDE APPLICATION OF THE LEVY; AMENDING SECTION 65-103, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE, TO PROVIDE APPLICATION OF THE LEVY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 65-104, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 70-1702, IDAHO CODE, TO CHANGE THE MAXIMUM LEVY FROM MILLS TO A PERCENTAGE OF MARKET VALUE; AND AMENDING SECTION 70-1707, IDAHO CODE, TO STRIKE REFERENCES TO MILLS.

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

SECTION 1. That Section 21-404, Idaho Code, be, and the same is hereby amended to read as follows:

21-404. TAX LEVY AUTHORIZED. Any county or municipality may levy on all of the taxable property of said county or said municipality, for the purpose of building and maintaining an airport either within or without the boundaries of such county or municipality, a tax not to exceed ~~the sum of two (2) mills~~ four hundredths percent (.04%) of mar-

ket value for assessment purposes, on all taxable property within such county or such municipality, provided, however, that this section does not constitute a limitation upon the powers of cities as provided in ~~Idaho Code~~, section 50-321, Idaho Code.

SECTION 2. That Section 22-206, Idaho Code, be, and the same is hereby amended to read as follows:

22-206. BUDGET OF FUNDS FOR COUNTY FAIR PURPOSES -- TAXING UNIT UNDER IDAHO BUDGET LAW -- MAINTENANCE OF IDLE PROPERTY. For the purpose of determining what funds must be raised by taxes for county fair purposes, the county fair board shall meet on the first Monday of February of each year, or at such other time as may be provided by law for the preparation of budgets, and shall make a budget of the amounts required for fair purposes, including all salaries to be paid for the current year, and shall deduct therefrom the probable income from such fair or fairs to be conducted by the board during the current year and any balance remaining in its treasury, and shall then certify to the board of county commissioners the amount of said budget; and the amount to be raised by the county for fair purposes shall in no case be in excess of the difference between the total of said budget and the probable income of such fair and the balance on hand in the treasury. The board of county commissioners shall thereafter approve or make such amendments or modifications in the county fair budget as it deems proper, and include the same in its annual county budget. No levy for the purposes of this act shall exceed ~~one-half (1/2) mill on each dollar of assessed valuation of~~ one hundredth percent (.01%) of the market value for assessment purposes on all taxable property in the county. When such taxes have been collected, the same shall be paid to the treasurer of the county fair board to be used for the purposes authorized by this act. Such special levy, together with any other special levy made pursuant to the provisions of section 31-823, Idaho Code, shall in no case exceed ~~one (1) mill on each dollar of assessed valuation of~~ two hundredths percent (.02%) of the market value for assessment purposes on all taxable property in the county. Upon the creation and appointment of the fair board by the county commissioners, it hereby becomes a taxing unit under the provisions of the Idaho Budget Law and as such is empowered to issue tax anticipation notes or warrants as provided by law for maintaining, carrying on, conducting, payment of obligations, premiums, prizes and all other necessary expenses, incurred or to be incurred in conducting a fair. It may be the duty of the county commissioners of any county, where property for county fair purposes is located, to levy an amount sufficient to maintain and protect such fair grounds and property and to pay any deficit or indebtedness then accrued from previous fairs.

SECTION 3. That Section 22-307, Idaho Code, be, and the same is hereby amended to read as follows:

22-307. REVENUE FOR FAIR PURPOSES. Aside from the revenue derived from annual fairs or other exhibitions conducted, the necessary revenue shall be raised as follows: The board of directors shall meet on the second Monday of May of each year, and shall make a budget of the

amounts required in the conduct of the affairs of the district, for the current year, and shall deduct therefrom the probable income from fairs and other exhibitions to be held by said district during the year, and shall then apportion the remaining balance among the various counties forming said district, in proportion to the assessed property of each county as determined by the assessment rolls of the current year, and shall certify to each board of county commissioners the amount of said budget, and the amount of revenue to be raised by such county for such special purposes and shall file a certified copy thereof with the clerk of the board of county commissioners of each of the counties in said district, on or before the second Monday of May of each year. The respective boards of county commissioners of the counties comprising said district, shall meet in joint assembly with the directors of the fair district on the second Wednesday in May at 2 o'clock p.m. of each year at the place of business of said fair district, and shall at said meeting organize such meeting by electing a chairman and secretary and shall jointly consider the budget proposed by the board of directors of the district, and shall give such approval or make such amendments or modifications as to them may seem proper and desirable; grant to the board of directors of the district such authority in connection with the proposed expenditures, as said commissioners, by a majority vote may decide, pass resolutions or adopt bylaws that may be necessary for the conduct of said fair, such action to be certified back to the respective counties by the board of directors of the fair district.

A majority vote shall be the vote of a majority of the commissioners present at said meeting, and said majority vote shall be binding upon the respective boards of commissioners of all the counties belonging to said district. If the county commissioners shall fail to hold such joint meeting, or shall fail to take any action, then the budget as prepared by the directors of the fair district shall be, without further action, deemed approved, and the sums of money apportioned to the respective counties in the district shall be the sums to be raised by special levy for said purpose. For the purpose of raising the aforesaid revenues, the board of county commissioners of each county in the district shall annually make a levy to raise the required sum apportioned to the respective counties, provided, however, that the said levy shall not exceed ~~one-fourth (1/4) mill on the dollar--of--the--assessed--valuation--of~~ five thousandths percent (.005%) of the market value for assessment purposes on all of the taxable property in the county, the proceeds of which tax shall be paid into the treasury of the fair district and used for any purpose authorized by this act.

SECTION 4. That Section 27-121, Idaho Code, be, and the same is hereby amended to read as follows:

27-121. LEVIES BY CEMETERY MAINTENANCE BOARD COMMISSIONERS. (1) At the last regular meeting of the cemetery maintenance board prior to the second Monday of September in each year, the cemetery board of each cemetery maintenance district may levy for cemetery purposes a property tax in each cemetery maintenance district of not more than ~~twenty-cents-(20¢)-on-each-one-hundred--dollars--(\$100)--in--assessed~~

value--of four hundredths percent (.04%) of the market value for assessment purposes on all taxable property within the cemetery maintenance district. Upon the levy being made by the cemetery maintenance board under this section, it shall be the duty of the secretary of the district to transmit to the county auditor and county assessor and state board of equalization, certified copies of the resolution providing for such levy as provided in section 63-915, Idaho Code. Said taxes shall be collected as provided by section 63-918, Idaho Code.

(2) An additional property tax of not more than ~~thirty--cents (\$30¢)~~ on each one-hundred-dollars-(\$100)-in-assessed-value-of six hundredths percent (.06%) of the market value for assessment purposes on all taxable property within the cemetery maintenance district may be levied by the cemetery board for the sole and express purpose of acquisition of burial ground. The proceeds from such levy may be accumulated by the board for future acquisitions, or pledged to the repayment of indebtedness incurred pursuant to section 27-122, Idaho Code, provided, that the proposal to levy such additional amount of property tax, or portion thereof, shall have been approved by at least two-thirds (2/3) of the qualified electors residing in the cemetery maintenance district at a previous special or general election.

SECTION 5. That Section 31-3503, Idaho Code, be, and the same is hereby amended to read as follows:

31-3503. POWERS AND DUTIES OF BOARDS OF COUNTY COMMISSIONERS. The boards of county commissioners in their respective counties shall, under such limitations and restrictions as are prescribed by law:

(1) Care for and maintain the medically or otherwise indigent, and may provide for the care of other sick persons as provided in this chapter, and for this purpose said boards are authorized to levy an ad valorem tax not to exceed ten one-hundredths of one percent (0.10%) of the market value for assessment purposes of all taxable property in the county. Such levy shall be exempt from the limitation imposed in section 63-923(1), Idaho Code; ~~and the moneys derived from such levy shall--be-exempt-from-the-limitation-imposed-in-section-63-2220; Idaho Code.~~

(2) Have the jurisdiction and power to provide county hospitals and public general hospitals for the county and others who are sick, injured, maimed, aged and infirm and to erect, enlarge, purchase, lease, or otherwise acquire, and to officer, maintain and improve hospitals, hospital grounds, nurses' homes, shelter care facilities and residential care homes as defined in section 39-3301, Idaho Code, superintendent's quarters, medical clinics, as that term is defined in section 39-1319, Idaho Code, medical clinic grounds or any other necessary buildings, and to equip the same, and to replace equipment, and for this purpose said boards may levy an additional tax of not to exceed ~~three-(3)-mills-on-the-dollar~~ six hundredths percent (.06%) of the market value for assessment purposes on all taxable property within the county. The terms term public general hospitals as used in this subsection shall be construed to include nursing homes.

SECTION 6. That Section 31-3613, Idaho Code, be, and the same is hereby amended to read as follows:

31-3613. ANNUAL BUDGET -- TAX LEVY. The county hospital board shall prepare and submit to the board of county commissioners each year a budget for the operation of the hospital property at the time and in the form as provided by law for the preparation and submission of budgets by other county departments. The board of county commissioners shall thereafter approve, or amend or modify such budget as it deems proper, and as approved or amended or modified shall include the same in the county budget. No tax levy for the purpose of this act shall exceed ~~three-(3)-mills-on-each-dollar-of-assessed-valuation-of~~ six hundredths percent (.06%) of the market value for assessment purposes on all taxable property in the county. When taxes levied for the purposes of this act have been collected they shall be paid to the treasurer of the county hospital board, without charge for collection, to be used for the purposes authorized by this act.

SECTION 7. That Section 31-3901, Idaho Code, be, and the same is hereby amended to read as follows:

31-3901. AUTHORIZATION TO ESTABLISH AMBULANCE SERVICE -- SPECIAL LEVY. The boards of county commissioners in the several counties are hereby authorized, whenever existing ambulance service is not reasonably available to the inhabitants of the county or any portion thereof, to procure an ambulance and pay for the same out of any funds available and to establish an ambulance service to serve the areas, which do not have an existing ambulance service reasonably available, both within and outside the cities and villages in their respective counties, and to levy a special tax not to exceed ~~one--(1)--mill~~ two hundredths percent (.02%) of the market value for assessment purposes on all taxable property within the county to support the same. Providing ambulance service is a governmental function.

SECTION 8. That Section 31-4318, Idaho Code, be, and the same is hereby amended to read as follows:

31-4318. LEVY OF TAX. The board is empowered to levy a tax for the uses and purposes of the district in an amount not exceeding ~~three (3)-mills-in-any-one-(1)-year--on--each--one--dollar--(\$1.00)--of--the assessed--valuation--upon~~ six hundredths percent (.06%) of the market value for assessment purposes on all of the taxable property within the district. The board shall by resolution fix the levy to be made for such district for such year and the secretary shall transmit a certified copy of such resolution to the county commissioners at the time and in the manner provided by sections 63-621 through 63-624, Idaho Code. Such taxes shall be collected as provided by section 63-918, Idaho Code, and remitted to the treasurer of the district as provided by section 63-2104, Idaho Code.

SECTION 9. That Section 31-4328, Idaho Code, be, and the same is hereby amended to read as follows:

31-4328. RECREATION FACILITIES RESERVE FUND ELECTION. In any recreation district in which a recreation facilities reserve fund has been created, the board may submit to the qualified electors of the

district, the question of applying the levy of ~~three--(3)--mills~~ six hundredths percent (.06%) of the market value for assessment purposes on all taxable property within the district authorized in section 31-4318, Idaho Code, or a portion thereof, to the credit of the recreation facilities reserve fund.

The notice of such election shall state the number of mills proposed to be levied, the period of years in each of which the levy is proposed to be made, and the purposes for which such funds shall be used. Said notice shall be given, the election shall be conducted and the returns canvassed as provided in sections 31-4323 through 31-4326, Idaho Code, and the levy shall be approved only if a majority, in the amount which is now, or may hereafter be, set by the constitution of the state of Idaho for approval of indebtedness, ~~of~~ if the qualified voters vote in favor.

If the question be approved, the board may make a levy in each year according to the terms so approved, and may again submit the question at the expiration of the period of such levy, for the number of mills and the number of years which the board may at that time determine, or, during the period approved at any such election, if such period be less than ten (10) years or the number of mills be less than three (3), the board may submit to the qualified electors in the same manner as before, the question whether the number of years, or the number of mills, or both, be increased, but not to exceed the maximum herein authorized. If such increase or increases be approved by the electors, the terms of such levy shall be in lieu of those approved in the first instance, but disapproval shall not affect any terms theretofore in effect.

SECTION 10. That Section 31-4404, Idaho Code, be, and the same is hereby amended to read as follows:

31-4404. FUNDING OF OPERATIONS. For the purpose of providing funds to acquire sites, facilities, operate and/or maintain solid waste disposal systems, a board of county commissioners may in addition to the authority granted in sections 31-4402 and 31-4403, Idaho Code:

(1) Levy a tax of not to exceed ~~two--(2)--mills--on--the--assessed value--of~~ four hundredths percent (.04%) of the market value for assessment purposes on all taxable property within the county, provided that property located within the corporate limits of any city that is operating and maintaining a solid waste disposal site shall not be levied against for the purposes of the county solid waste disposal system; or,

(2) Collect fees from the users of the solid waste disposal facilities; or,

(3) Finance the solid waste disposal facilities from current revenues; or,

(4) Receive and expend moneys from any other source;

(5) Establish solid waste collection systems where necessary or desirable and provide a method for collection of service fees, among which shall be certification of a special assessment on the property served;

(6) Use any combination of subsections (1), (2), (3), (4), and

(5) of this section.

SECTION 11. That Section 33-803, Idaho Code, be, and the same is hereby amended to read as follows:

33-803. LEVY FOR EDUCATION OF CHILDREN OF MIGRATORY FARM WORKERS. In any school district in which there is located any farm labor camp and the children of migratory farm workers housed therein attend the schools of the district, the board of trustees may make a levy not exceeding ~~five--(5)--mills~~ one tenth percent (.1%) of the market value for assessment purposes on all taxable property within the district, in addition to any other levies authorized by law, for the cost of educating such children.

Whenever the aggregate of the levy herein authorized and other levies made for maintenance and operation of the district shall exceed ~~thirty--(30)--mills~~ six tenths percent (.6%) of the market value for assessment purposes on all taxable property within the district, the levy authorized by this section must be approved by the school district electors at a tax levy election held for that purpose. Notice of such election shall be given, the election shall be conducted, and the returns thereof made, as provided in sections 33-401-- through 33-406, Idaho Code; and the question shall be approved only if a majority of the qualified electors voting at such election vote in favor thereof. If the election be held in conjunction with any other school election, the question herein shall be submitted by separate ballot.

SECTION 12. That Section 33-2107A, Idaho Code, be, and the same is hereby amended to read as follows:

33-2107A. ESTABLISHMENT AND OPERATION OF THIRD AND FOURTH YEAR COLLEGE CURRICULUM IN JUNIOR COLLEGE DISTRICTS. The ~~B~~board of ~~T~~rustees of a junior college district of an urban area, upon filing with the ~~S~~tate ~~B~~oard of ~~E~~ducation a notice of intent to exercise the powers herein granted, shall thereafter be authorized and empowered to organize and operate an upper division consisting of the third and fourth years of college curriculum with powers to grant baccalaureate degrees in liberal arts and sciences, business and education. The operation of the junior college and the upper division shall be kept separate; however, the joint use of facilities is authorized providing a proper cost allocation is made. The buildings and equipment for the use of said upper division may be purchased, leased, constructed, maintained, and administered from funds obtained by the ~~B~~oard of ~~T~~rustee's trustees' levy upon taxable property within the district, Such levy shall not exceed ten-cents-(10-cents)-on-each hundred-dollars-(100.00)-of-assessed-valuation two hundredths percent (.02%) of the market value for assessment purposes on all taxable property within the district. Said ~~B~~board under ~~S~~ection 33-2113, Idaho Code, may obtain capital funds through issuance of general obligation bonds for such equipment and buildings, with the total tax levy for operation and bonds of the upper division not to exceed the levy limit authorized in this section. Such tax shall be certified and levied as provided for other taxes of the district. All other costs of operation of said upper division shall be provided by tuition and fees

paid by the student. Gifts and grants may be accepted by the Board of Trustees for this or other purposes. A student who has been a resident of the district for not less than one (1) year at time of admission to the upper division, or who has completed the first two (2) years in the college, shall be given preference for admission to the upper division.

SECTION 13. That Section 33-2111, Idaho Code, be, and the same is hereby amended to read as follows:

33-2111. TAXES AND OTHER FINANCIAL SUPPORT FOR JUNIOR COLLEGES. For the maintenance and operation of each junior college, in addition to the income from tuition paid by students as hereinbefore provided, the board of trustees may levy upon the taxable property within the district a tax not to exceed ~~eighty cents (\$80¢) on each hundred dollars of assessed valuation~~ sixteen hundredths percent (.16%) of the market value for assessment purposes on all taxable property within the district. Such levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, ~~and the moneys derived from such levy shall be exempt from the limitation imposed by section 63-2220, Idaho Code.~~

The tax levy determined by the board of trustees, within said limit, shall be certified to the board of county commissioners in each county in which the district may lie, not later than the second Monday in September of each year. No levy in excess of ~~eighty cents (\$80¢) on each hundred dollars of assessed valuation~~ sixteen hundredths percent (.16%) of the market value for assessment purposes on all taxable property within the district shall be made unless a supplemental levy in a specified amount be first authorized through an election held, as provided in sections 33-401 through 33-406, Idaho Code, as if the junior college district were a school district and approved by a majority of the district electors voting in such election. Such supplemental levy shall be exempt from the limitations imposed by section 63-923(1), Idaho Code. ~~The moneys derived from such supplemental levy shall be exempt from the limitation imposed by section 63-2220, Idaho Code.~~

SECTION 14. That Section 36-1702, Idaho Code, be, and the same is hereby amended to read as follows:

36-1702. OPERATION OF COUNTY FISH HATCHERIES -- SPECIAL TAX LEVY. In addition to any and all other powers conferred upon them in this chapter, the board of county commissioners in any county of the state shall have jurisdiction and power to be exercised at its option:

(a) Construction and Operation by Counties. To construct, maintain, operate, and improve such fish hatcheries, rearing ponds and such other facilities as it may deem necessary for the propagation and distribution of game fish within its own county.

(b) Authorized Expenditures. To expend moneys to be raised by taxation, as hereinafter provided, for the purpose of propagation and distribution of game fish within its own county provided that no moneys shall be so expended by any such board of county commissioners except in the direct payment of expenses and accounts which shall have

been contracted or incurred by or under the immediate direction and with the approval of such board of county commissioners. Provided further that no moneys shall be expended under the provisions of this section upon or for the benefit of any such hatchery unless the entire output thereof shall be used in stocking waters within the county in which such hatchery is situated.

(c) Special Tax Levy. To levy annually for such purposes at the same time other taxes are levied a special tax of not to exceed one-quarter--(1/4) mill on each dollar of assessed valuation of five thousandths percent (.005%) of the market value for assessment purposes on all taxable property in the county provided that all moneys to be derived from such tax shall be deposited and kept by the county treasurer in a special fund to be designated as "fish hatchery fund" and no portion of such moneys shall be withdrawn from such fund except upon warrants drawn at the direction of the board of county commissioners and no portion of such moneys shall be expended or used except for said purposes and subject to the restrictions specified in this section.

SECTION 15. That Section 38-509, Idaho Code, be, and the same is hereby amended to read as follows:

38-509. REPAYMENT TO THE FUND -- TAX LEVY -- ASSESSMENTS AND PAYMENTS FOR SEED OR SERVICES. Repayments to this fund may be made from the proceeds of a tax levy which may be made by the board of county commissioners which shall not exceed ten cents--(10¢) on each one hundred dollars--(\$100) of assessed valuation of said two hundredths percent (.02%) of the market value for assessment purposes on all taxable property in said county. This levy shall be of equal priority with general taxes and shall be collected at the same time and in the same manner as general taxes. Repayments to this fund may also be made from assessments for payments made for seed furnished and services performed in seeding. If payments for seed or services in seeding are not made in the form of cash but are collected in the part of the tax they shall be collected as provided in section 38-506, Idaho Code, and the part assessed for burn seeding costs together with interest thereon at county warrant rates, shall be allocated to burn seeding fund.

SECTION 16. That Section 39-1334, Idaho Code, be, and the same is hereby amended to read as follows:

39-1334. ADDITIONAL TAX LEVIES. (a) If it becomes necessary and expedient so to do, it shall be lawful for the board to levy additional taxes and collect revenue for the purpose of creating a reserve sinking fund for the purpose of accumulating moneys with which to add new buildings or necessary equipment, and to provide extensions of and betterments to the improvements of the district, and for such purposes may levy an additional tax not to exceed one--(1) mill--on--the--dollar two hundredths percent (.02%) of the market value for assessment purposes on all taxable property in the district.

(b) ~~The provisions of section 63-2220, Idaho Code, notwithstanding,--~~ If the board finds it necessary to maintain the solvency of a facility or facilities, the board is authorized to levy additional

taxes and collect revenue in excess of the limitations prescribed by section 39-1333, Idaho Code, for the sole purpose of retiring current or past due obligations accruing where operating expenses for such a facility or facilities have exceeded all available sources of revenue in the fiscal year preceding the anticipated date of levy; provided, that any such additional levy shall be authorized only if approved by two-thirds (2/3) of the qualified electors of the district voting at a special election called and conducted in the manner specified in sections 39-1339 through 39-1342, Idaho Code. Any such additional levy approved under the provisions of this subsection shall be exempt from the limitations imposed by subsection (1) of section 63-923, Idaho Code.

SECTION 17. That Section 39-2805, Idaho Code, be, and the same is hereby amended to read as follows:

39-2805. METHOD OF FINANCING ABATEMENT DISTRICTS. The board of county commissioners must levy upon taxable property within the district a tax at a rate not greater than sufficient to raise the amount determined by the board of trustees as approved by the board of county commissioners, as necessary for the operation of the district for the ensuing year. In no event shall such tax exceed ~~five-(5)-mills-per-dollar-of-assessed-property-valuation~~ one tenth percent (.1%) of the market value for assessment purposes on all taxable property within the district. All taxes thus levied shall be collected in the same manner as other taxes and deposited to the credit of the abatement district and shall be used for no other purposes. Such funds may be withdrawn from the county treasury and upon warrant of the board of trustees of the abatement district, signed by the president of the board and countersigned by its secretary, for the activities of the abatement district.

SECTION 18. That Section 42-3115, Idaho Code, be, and the same is hereby amended to read as follows:

42-3115. COMMISSIONERS -- POWERS AND DUTIES. The board of commissioners of flood control districts shall have the following powers and duties:

1. To annually fix and determine, the amount of money required to be raised by taxation to supply funds for costs of construction, costs of operation and maintenance of the work and equipment of the district, and to levy and cause to be collected assessments on real property within the district in an amount not to exceed ~~three-(3)-mills for each dollar of assessed valuation~~ six hundredths percent (.06%) of the market value for assessment purposes on all taxable property within the district, provided however that a higher levy may be approved and ratified by the qualified voters at an election to be held for that purpose in the same manner as provided for the approval and ratification of contracts, in section 42-3117, Idaho Code, and said levy shall be certified by the board to the board of county commissioners of the county, or counties, in which said district is located, with directions that at the time and in the manner required by law for levying taxes for county purposes, such board, or boards,

of county commissioners shall levy such tax upon the assessed valuation of the real property within the boundaries of the district. Such certification of levies shall be prepared and forwarded by the board of the flood control district to the board, or boards, of county commissioners on or before September 1 of each year.

Such levies shall be levied and collected in the manner provided by law, and the moneys collected shall be turned over to the treasurer or treasurers, of the county, or counties, in which said district is located.

Said moneys shall be public funds and subject to the provisions of the public depository laws of the state.

2. To employ such personnel as may be necessary to carry out the purposes and objects of this act, with the full power to bind said district for the compensation of such personnel.

3. To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments necessary or convenient to the exercise of its power and to promulgate, amend and repeal rules and regulations not consistent with the provisions of this act.

4. To manage and conduct the business and affairs of the district, both within and without the district.

5. To construct, operate and maintain structural works of improvement for the prevention of floodwater and sediment damages, and the conservation, development, utilization, and disposal of water, whether within or without the boundaries of the district, and to enter into contract for the purposes set forth above, provided however, that the board shall not enter into contracts that necessitate an expenditure in excess of fifteen thousand dollars (\$15,000), without first advertising for sealed competitive bids as herein provided. However, where it is determined by order of the board that there is an existing emergency, or where it is determined that the district is in a flood fight resulting from unanticipated conditions, the requirement for sealed competitive bids shall not apply.

6. To prescribe the duties of officers, agents and employees as may be required.

7. To establish the fiscal year of the district and to keep records of all business transactions of the district.

8. To prepare a statement of the financial condition of the district at the end of each fiscal year, in a form to be prescribed by the director or by the legislative council, and publish in at least one (1) issue of some newspaper published, or in general circulation in, the county, or counties, in which such district is located and to file a certified copy of such financial report with the director and the legislative council on or before February 2 of each year.

9. To have an audit of the financial affairs of the district as required in section 67-450B, Idaho Code. A certified copy of said audit shall be filed with the director on or before February 2 following the audit.

10. To obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the

purposes and provisions of this act; to lease any of its property or interest therein in furtherance of the purposes and provisions of this act, provided that no contract or agreement for the acquisition, purchase or repair of personal property involving expenditure in excess of one thousand dollars (\$1,000), shall be entered into without first advertising for sealed competitive bids as herein provided.

11. To have the power of eminent domain for the use of the district in the construction, operation, maintenance and upkeep of its structures, waterways, dikes, dams, basins, or any other use necessary in the carrying out of the provisions of this act.

12. To convey rights of way and easements for highways, public roads, public utilities, and for other purposes, over district property, as shall be determined by the board to be in the best interests of the district.

13. To convey, by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district, in any real or personal property. Prior to such sale or conveyance, the board shall have the property appraised by three (3) disinterested residents of the district, which appraisal shall be entered in the minutes of the board. The property may be sold at public auction or at a private sale by sealed competitive bids, as the board shall determine, to the highest cash bidder, provided that in no case shall any property of a district be sold for less than its appraised value. All sales by sealed competitive bids shall be advertised as herein provided.

14. To use natural streams and to improve the same for use as a flood control structure. However, in the event that the use of the natural stream involves alteration of the stream channel, no such alteration shall be made by the district until such alteration is approved by the director.

15. To enter into contracts or agreements with the United States or any of its officers, agents, or subdivisions, or with the state or any of its officers, agents or political subdivisions, and to cooperate with such governments, persons or agencies in effectuating, promoting and accomplishing the purposes of this act, provided that the district has sufficient moneys on hand, or in their budget for the year in which said contract is entered into, to defray the expenditure of funds called for in such contract without the creation of any indebtedness.

Whenever any such contract shall, by its terms, require the expenditure of funds by the district in excess of the moneys on hand or the funds to be realized from their budget for the year in which said contract is entered into, then such contract may not be entered into by the district until ratified by two-thirds (2/3) of the qualified voters voting at an election to be held for that purpose, according to the provisions of this act.

16. To bear its allocated share of the cost of any project resulting from any contract or agreement entered into as provided herein.

17. To take over, administer and maintain pursuant to any agreement or contract entered into in accordance with the provisions of this act, any flood control project within or without the boundaries of the district undertaken in cooperation with the United States or any of its agencies, or with the state of Idaho or any of its agencies, or any combinations thereof.

18. To accept donations, gifts and contributions in money, services, or materials, or otherwise, from the United States or any of its agencies, or the state of Idaho or any of its agencies or any combinations thereof, and to expend such moneys, services, or materials in carrying on its operations.

19. To exercise all other powers necessary, convenient or incidental to carrying out the purposes and provisions of the act.

SECTION 19. That Section 42-3708, Idaho Code, be, and the same is hereby amended to read as follows:

42-3708. POWERS OF DIRECTORS. The directors of a watershed improvement district shall have power:

1. To levy and cause to be collected assessments on real property within the district in an amount not to exceed ~~three-(3)-mills-for each-dollar-of-assessed-valuation~~ six hundredths percent (.06%) of the market value for assessment purposes on all taxable property within the district, for the purpose of general administration and operation and maintenance of the district and in addition thereto to separately levy and cause to be collected assessments on real property within the district in an amount not to exceed ~~ten-(10)-mills-for-each-dollar-of assessed-valuation~~ two tenths percent (.2%) of the market value for assessment purposes on all taxable property within the district for construction of structural works of improvement. Before a levy can be made for any purpose, a referendum as herein provided must be held, and the provisions as outlined under sections 42-3712, 42-3713 and 42-3714, Idaho Code, must be complied with, and assessments can only be levied against lands to be directly benefited. Such tax levies shall be exempt from the limitation imposed by section 63-923(1), Idaho Code.

2. To conduct surveys, investigations and research relating to floodwater, sediment damage and the conservation, utilization, and disposal of water in the district, and the structural works of improvement needed.

3. To obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; to sell, lease, or otherwise dispose of any of its property or interest therein in furtherance of the purposes and provisions of this act.

4. To develop comprehensive plans for the prevention of floodwater and sediment damage and the conservation, development, utilization, and disposal of water within the district, which plans shall specify the acts, procedures, performances and avoidances which are necessary for effectuation of such plans.

5. To construct, operate and maintain structural works of improvement for the prevention of floodwater and sediment damages, and the conservation, development, utilization, and disposal of water as provided for in the act of the congress of the United States known as the Watershed Protection and Flood Prevention Act (U.S.C., tit. 16, sections 1001-1008) and acts amendatory thereto.

6. To have the right of eminent domain with the power to cause to

be condemned and appropriated for the use of the district in the construction, operation, maintenance and upkeep of its structures, waterways, dikes, dams, basins, or any other use necessary in the carrying out of the provisions of this act upon the payment of just compensation therefor.

7. To borrow money and to issue negotiable coupon bonds, which bonds shall bear interest, and which bonds shall be due and payable not later than thirty (30) years from the date of issuance, or at such earlier date as may be determined by the directors. The form and terms of said bonds, including their payment and redemption prior to maturity, shall be determined by the directors. Such bonds as may be issued shall be payable solely out of and from the assessments levied upon and a lien upon the lands within the district as provided in this act. Such bonds may be issued by the directors only upon the holding of a referendum election within the district as provided by law and upon such referendum resulting in a two-thirds (2/3) of the property owners, and representing at least fifty-one per cent (51%) of the land to be benefited, casting their ballots in favor thereof.

8. To enter into contracts or agreements with the United States or any of its officers, agents, or subdivisions, or the state of Idaho or any of its officers, agents or political subdivisions, and to cooperate with such governments, persons or agencies in effectuating, promoting and accomplishing the purposes of this act.

9. To bear its allocated share of the cost of any project resulting from any contract or agreement entered into as provided in ~~subparagraph-8-hereof~~ subsection 8 of this section.

10. To take over, administer and maintain pursuant to any agreement or contract entered into in accordance with the provisions of ~~subparagraph--8--hereof~~ subsection 8 of this section any watershed improvement project within its boundaries undertaken in cooperation with the United States or any of its agencies, or with the state of Idaho or any of its agencies, or any combinations thereof.

11. To accept donations, gifts and contributions in money, services, or materials, or otherwise, from the United States or any of its agencies, or the state of Idaho or any of its agencies or any combinations thereof, and to expend such moneys, services, or materials in carrying on its operations.

12. To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and to promulgate, amend and repeal rules ~~and regulations~~ not consistent with the provisions of this act.

13. To exercise all other powers necessary, convenient or incidental to carrying out the purposes and provisions of this act.

SECTION 20. That Section 46-722, Idaho Code, be, and the same is hereby amended to read as follows:

46-722. ACQUISITION OF ARMORY SITES, AGREEMENTS FOR FEDERAL ASSISTANCE, SPECIAL FUND AND TAX LEVIES AUTHORIZED. To accomplish the purpose set forth in this act, the governing body of any city or village, or city or village and county, and the board of county commis-

sioners may:

(a) Purchase, receive by donation, or otherwise acquire, real property for armory sites, and armories, and convey and transfer such sites and armories to the state of Idaho in joint ownership; purchase, receive by donation, lease or otherwise acquire, personal property for use in armories and to transfer the same to the state of Idaho in joint ownership.

(b) Enter into agreements on behalf of the city or village, city or village and county, and county with the adjutant general of the state of Idaho, the Department of Defense and the Departments of Army and Air Force, for the purpose of securing federal funds for the construction, maintenance, repair, alteration and rehabilitation of armories.

(c) Establish a special fund for the purposes of this act, levy a special tax for such purposes, but no levy for the purposes of this act shall exceed one-(1)-mill-on-each-dollar-of-assessed-valuation-of-two-hundredths percent (.02%) of the market value for assessment purposes on all taxable property in such city or village, or city or village and county, and county.

SECTION 21. That Section 50-235, Idaho Code, be, and the same is hereby amended to read as follows:

50-235. TAX LEVY FOR GENERAL AND SPECIAL PURPOSES. The city council of each city is hereby empowered to levy taxes for general revenue purposes not to exceed forty-five-(45)-mills-on-the-dollar nine tenths percent (.9%) of the market value for assessment purposes on all taxable property within the limits of the city in any one (1) year, and such levies for special purposes as are or may hereafter be provided, on all property within the limits of the city, taxable according to the laws of the state of Idaho, the valuation of such properties to be ascertained from the assessment rolls of the proper county.

SECTION 22. That Section 50-303, Idaho Code, be, and the same is hereby amended to read as follows:

50-303. RECREATION AND CULTURE. Cities are hereby empowered to create, purchase, operate and maintain recreation and cultural facilities and activities within or without the city limits and regulate the same, and to levy a special tax not to exceed three-(3)-mills six hundredths percent (.06%) of the market value for assessment purposes on all taxable property within the limits of the city for recreational programs.

SECTION 23. That Section 50-320, Idaho Code, be, and the same is hereby amended to read as follows:

50-320. CEMETERIES. All cities shall have the following powers in regard to cemeteries:

A. Acquisition. -- Purchase, hold and pay for, in the manner herein provided, lands not exceeding eighty (80) acres in one (1) body outside of the corporate limits, and all necessary grounds including any lands as have heretofore been laid out or platted and offered for

sale for cemetery purposes, excepting such portions thereof as have been heretofore sold for cemetery purposes, hospital grounds or water-works. For the purpose of purchasing such lands and maintaining the same, any city may levy a tax of not more than ~~two-(2)--mills--on--the dollar~~ four hundredths percent (.04%) of the market value for assessment purposes in any one (1) year on all taxable property within the limits of the city, and exercise the right of eminent domain under the provisions of chapter 7 of title 7, Idaho Code, in the taking or securing of such grounds and property.

B. Improvement. -- Survey, plat, map, grade, fence, ornament and otherwise improve all burial and cemetery grounds and streets owned by the city leading thereto; construct walks and protect ornamental trees therein and provide for paying the costs thereof.

C. Conveyance of lots. -- Convey cemetery lots by certificates signed by the mayor and countersigned by the clerk, under the seal of the city, specifying that the person to whom the same is issued is the owner of the lot or lots, described therein by number as laid down on such map or plat. Such certificates shall vest in the proprietor, his or her heirs or assigns, a right in fee simple to said lots for the sole purpose of interment, under the regulations of the city council. Such certificates shall be entitled to be recorded in the office of the county recorder of the proper county without further acknowledgment, and such description of lots shall be deemed and recognized as a sufficient description thereof.

D. Regulation. -- Limit the number of cemetery lots which may be owned by any person; prescribe rules for inclosing, adorning, and erecting monuments and tombstones on cemetery lots; prohibit any diversion of the use of such lots and any improper adornment thereof; but no religious test shall be made as to the ownership of lots, the burial therein or the ornamentation of graves or of such lots.

E. Penalties. -- Pass rules and ordinances imposing penalties and fines not exceeding the amount permissible in probate and justice courts, regulating, protecting and governing the cemetery, the owners of lots therein, visitors thereto and trespassers therein; and the officials of the city shall have as full jurisdiction and power in the enforcing of such rules as though they related to the corporation itself.

SECTION 24. That Section 50-321, Idaho Code, be, and the same is hereby amended to read as follows:

50-321. AVIATION FACILITIES -- ACQUISITION, OPERATION AND MAINTENANCE. Cities are hereby empowered: to acquire by purchase, gift, lease, sublease, or otherwise hold and take over such lands as the city council may deem necessary within or without the corporate limits whether within or without the county in which said city is located; do all things necessary in cooperation with the United States government in adapting any such lands so acquired to national defense purposes; and for the purpose of maintaining aviation facilities, to lease for aviation purposes, or any purposes connected therewith and incident thereto, all or any part of such land or lands, under such regulations and upon such terms and conditions as shall be established by the city council or otherwise established by law; to construct, operate and

maintain, consistent with such regulations as may now exist or may hereafter be established by law, hangars, buildings and equipment necessary or convenient to the maintenance and operation of aviation facilities; to survey, plat, map, grade, ornament and otherwise improve such land, appurtenances, approaches, and avenues leading to or adjacent thereto; to provide for all costs and expenses incident or necessary to the exercise of the foregoing powers or the attainment of the foregoing objects out of the general fund of said city or in its discretion by special levy, in an amount not to exceed ~~three-(3)-million~~ on-the-dollar six hundredths percent (.06%) of the market value for assessment purposes in any one (1) year on all the taxable property within such city or by the issuance of bonds as provided by sections 50-1001 through 50-1042, Idaho Code.

SECTION 25. That Section 50-1762, Idaho Code, be, and the same is hereby amended to read as follows:

50-1762. LOCAL IMPROVEMENT GUARANTEE FUND -- CREATION OF FUND. Any municipal corporation, including chartered municipal corporations, may by general ordinance of appropriation or by levy of a tax of not to exceed ~~one-(1)-million~~ two hundredths percent (.02%) of the market value for assessment purposes on all taxable property within the municipal corporation in any one (1) year, or by appropriation from such other sources as may be determined by the council, create a fund for the purpose of guaranteeing to the extent of such fund, the payment of bonds or warrants and interest thereon, hereafter issued against any local improvements therein; provided, that such sum so levied or appropriated in any year shall be more than sufficient to pay the outstanding warrants of said fund and to establish therein a balance, which combined levy and appropriation in any one (1) year shall not exceed five per-cent percent (5%) of the outstanding obligations thereby guaranteed; provided, further, that the council shall not levy any tax as herein provided when the amount of moneys in the "Local Improvement Guarantee Fund" equals ten per-cent percent (10%) of the total outstanding obligations thereby guaranteed. The tax levies herein authorized and directed shall be additional to and, if need be, in excess of any and all statutory and charter limitations. The fund so created shall be designated "Local Improvement Guarantee Fund."

SECTION 26. That Section 50-1766, Idaho Code, be, and the same is hereby amended to read as follows:

50-1766. REPLENISHMENT OF FUND -- WARRANTS -- ISSUANCE AGAINST FUND -- TAX LEVY. Whenever there is not a sufficient amount of cash in said "Local Improvement Guarantee Fund," at any time to pay any and all warrants, together with interest thereon, drawn against said fund, the council may replenish said "Local Improvement Guarantee Fund" by transferring or appropriating to it, moneys from the general fund of the municipality or other available sources, as may be determined by said council, subject, however, to the limitations herein prescribed. Warrants drawing interest, as herein provided, may be issued against said "Local Improvement Guarantee Fund" to meet any financial liabil-

ity against it; but at the time of making its next annual levy the municipality shall provide for the levy of a sum sufficient with other resources of the guarantee fund to pay warrants so issued and outstanding, the tax for this purpose not to exceed ~~one-(1)-mill~~ two hundredths percent (.02%) of the market value for assessment purposes on taxable property within the municipal corporation in any one (1) year.

SECTION 27. That Section 63-221, Idaho Code, be, and the same is hereby amended to read as follows:

63-221. COUNTY VALUATION PROGRAM TO BE CARRIED ON BY ASSESSOR.

(1) It shall be the duty of the county assessor of each county in the state to conduct and carry out a continuing program of valuation of all properties under his jurisdiction pursuant to such rules ~~and regulations~~ as the state tax commission may prescribe, to the end that all parcels of property under the assessor's jurisdiction are appraised at current market value for assessment purposes. It is legislative intent that in order to promote uniform assessment of property in the state of Idaho, taxable property shall be appraised or indexed annually. In order to achieve this goal, at least twenty percent (20%) of the property in each of the categories of property established by ~~regulations~~ rules of the state tax commission shall be included in each year's appraisal, resulting in a complete appraisal of all taxable property every five (5) years. The results of the annual appraisal of twenty percent (20%) of taxable property shall be used to index all property not actually appraised each year so as to reflect current market values. The county assessor shall maintain in the respective offices sufficient records to show when each parcel or item of property was last appraised.

The state tax commission is hereby authorized, empowered, and directed to promulgate rules ~~and regulations~~ for the implementation of this program, and to provide any such county assessor with such supervision and technical assistance as may be necessary.

The board of county commissioners of each county shall furnish the assessor with such additional funds and personnel as may be required to carry out the program hereby provided, and for this purpose may levy annually an ad valorem tax of not to exceed ~~two-(2)-mills-on-each dollar--of-assessed-valuation-of~~ four hundredths percent (.04%) of the market value for assessment purposes on all taxable property in the county to be collected and paid into the county treasury and appropriated to the ad valorem valuation fund which is hereby created.

(2) If compliance with the requirements of subsection (1) of this section are not obtained, or if any county fails to meet the goals set in subsection (1) of this section, the tax commission shall proceed as required by section 63-2219, Idaho Code.

SECTION 28. That Section 63-909, Idaho Code, be, and the same is hereby amended to read as follows:

63-909. ASSESSED COUNTY TAX LEVY -- PARKS AND RECREATION FUND.

(1) The board of county commissioners of each county in this state may levy annually upon all taxable property of its county, a tax for the acquisition, maintenance and operation of public parks or public rec-

reational facilities, to be collected and paid into the county treasury and apportioned to a fund to be designated as the "parks and recreation fund," which is hereby created, and such board may appropriate otherwise unappropriated funds for such purposes. No levy made under this section shall exceed ~~five-cents-(5¢)-on-each-one-hundred-dollars-($\$100$)-of-the-assessed-valuation-of-such-property~~ one hundredth percent (.01%) of the market value for assessment purposes on all taxable property within the district.

(2) Any funds unexpended from the "parks and recreation fund," or any funds unexpended from the current year's certified parks and recreation budget may be retained in, or deposited to, the "parks and recreation fund" for the purpose of future land acquisition, park expansion or improvement, or the acquisition of operating equipment. The maximum accumulation of funds allowable shall not exceed twice the amount of money provided by the levy authorized in subsection (1) of this section.

SECTION 29. That Section 63-911, Idaho Code, be, and the same is hereby amended to read as follows:

63-911. ANNUAL COUNTY TAX LEVY -- WARRANT REDEMPTION FUND. Upon the same property and for the same year the board shall levy a tax for the redemption of outstanding county warrants issued prior to the first day of October in said year, to be collected and paid into the county treasury and apportioned to the county warrant redemption fund, which levy shall be sufficient for the redemption of all the outstanding county warrants, unless the amount of outstanding warrants exceeds the amount that would be raised by a levy of ~~one-hundred--($\$100$)--cents on--each--one--hundred--dollars--($\$100$)--of-such-assessed-valuation~~ two tenths percent (.2%) of the market value for assessment purposes on all taxable property in the county, in which case the board shall annually levy a tax of ~~one-hundred-($\$100$)-cents--on--each--one--hundred dollars--($\$100$)--of-assessed-valuation~~ two tenths percent (.2%) of the market value for assessment purposes on all taxable property in the county for the redemption of such outstanding warrants.

SECTION 30. That Section 65-103, Idaho Code, be, and the same is hereby amended to read as follows:

65-103. SPECIAL TAX FOR UPKEEP OF MEMORIALS. The board of county commissioners of each county within the state of Idaho is hereby authorized and empowered to levy annually a special tax not to exceed ~~one-half--of--one-mill-on-the-dollar-(.005¢)-of-the-assessed-valuation~~ of one hundredth percent (.01%) of the market value for assessment purposes on all the taxable property in the county for the purpose of creating a fund to be used in the maintenance, upkeep and repair, or in assisting in the maintenance, upkeep and repair of service men's memorials now constructed or hereafter to be constructed within the county by the county or any association therein under the provisions of sections 65-101 and 65-102, Idaho Code, or of any such memorial owned by the county: provided, the provisions of this section, and the benefits thereof, shall apply likewise to the repair and maintenance of service men's memorials now constructed or hereafter to be con-

structed where no state and/or county moneys were employed in the building of such memorial.

SECTION 31. That Section 65-104, Idaho Code, be, and the same is hereby amended to read as follows:

65-104. SPECIAL TAX FOR CONSTRUCTION OF MEMORIALS. The board of county commissioners of each county within the state of Idaho is hereby authorized and empowered to levy annually a special tax not to exceed ~~one-fourth-of-one-mill-on-the-dollar-(.0025¢)-of--the--assessed~~ valuation--of five thousandths percent (.005%) of the market value for assessment purposes on all the taxable property in the county for the purpose of creating a fund to be used in paying not to exceed one-third (1/3) of the cost of construction of service men's memorials now constructed or hereafter to be constructed within the county.

SECTION 32. That Section 70-1702, Idaho Code, be, and the same is hereby amended to read as follows:

70-1702. TAX LEVY. The port commission shall, prior to the 13th day of June in each year, determine ~~separately in mills; and not in money;~~ the tax levy for the next ensuing fiscal year as provided in section 63-624, Idaho Code, which levy for any such year, for all purposes, except the payment of the principal and interest of the general bonded indebtedness of the port, shall not exceed ~~five-(5)-mills-on each-dollar-of-assessed-valuation-of one tenth percent (.1%) of the~~ market value for assessment purposes on all taxable property in such port district.

SECTION 33. That Section 70-1707, Idaho Code, be, and the same is hereby amended to read as follows:

70-1707. TAX LEVY -- CERTIFICATION. When the amount of the levy has been determined, the port commission shall certify the amount of the levy, the date thereof, the year for which the levy has been made or is to be made, which shall be the ensuing port fiscal year, and the name of the port district, to the clerk of the board of county commissioners of each county in which the district exists. Such board of county commissioners shall at the time of making the annual county levies, make a levy ~~in-mills~~ upon all of the taxable property in said port district, within its boundaries, not exempt from taxation, which levy shall be the same ~~in-mills~~ as fixed determined by the port commission, and shall thereafter certify the same to the county auditor.

Approved March 10, 1995.

CHAPTER 83
(H.B. No. 131)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3013, IDAHO CODE, TO CLARIFY TAXATION OF INDIVIDUALS RESIDING OUTSIDE OF IDAHO; AMEND-

ING SECTION 63-3022, IDAHO CODE, TO CLARIFY NET OPERATING LOSSES, TO DELETE REFERENCE TO "PASSIVE LOSS" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3022H, IDAHO CODE, TO APPLY THE IDAHO CAPITAL GAINS DEDUCTION UNIFORMLY; AMENDING SECTION 63-3035, IDAHO CODE, TO CONFORM THE STATUTE OF LIMITATION FOR REFUND OF OVER-WITHHELD TAX TO THE TREATMENT OF OTHER PAYMENTS AND TO MAKE A TECHNICAL CORRECTION; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3013, Idaho Code, be, and the same is hereby amended to read as follows:

63-3013. RESIDENT. The term "resident," for income tax purposes, means any individual who:

(a) Has resided in this state for the entire taxable year; or

(b) Is domiciled in the state of Idaho, except as provided in subsection (c) of this section.

~~(c)~~ An individual who has been shall not be considered a resident, but may be considered a part-year resident, for income tax purposes during a period of absence from this state described as follows:

(1) The period begins with an individual leaving this state if the individual is absent from this state for at least four hundred forty-five (445) days in any consecutive the first fifteen (15) months. period; and

(2) ~~During such period, at least two hundred fifty (250) days have been spent in a foreign country shall not be considered a resident of~~ but excluding the first fifteen (15) months, the individual was not present in this state if he does for more than sixty (60) days in any calendar year.

(3) During such period, the individual did not maintain a permanent place of abode in this state at which his spouse (unless he and his spouse are legally separated) or minor or dependent children are present for more than sixty (60) days during any calendar year.

(24) An ~~The individual who has been absent from this state for more than fifteen (15) consecutive months and who has not been present in this state for more than sixty (60) days during any calendar year following the end of the fifteen (15) month period shall not be considered a resident of this state for that calendar year if he does not maintain a permanent place of abode in this state at which his spouse, unless he and his spouse are legally separated, or minor or dependent children are residing for more than sixty (60) days during the calendar year and if he does~~ did not, during such period, hold an elective or appointive office of the government of the United States (other than the armed forces of the United States or career appointees in the United States foreign service). and is

(5) The individual was not, during such period, employed on the staff of an elective officer in the legislative branch of the government of the United States; and

(36) In order to qualify under the exceptions set forth under

~~paragraphs--(1)--and--(2)--above--t~~The individual must did not, be claiming during such period, claim Idaho as his tax home for federal income tax purposes.

(7) The period ends with an individual returning to this state if such individual remains or resides in the state for more than sixty (60) days.

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

63-3022. TAXABLE INCOME. The term "taxable income" means "taxable income" as defined in section 63 of the Internal Revenue Code, adjusted as provided in this chapter, including adjustments under and subject to the provisions of sections 63-3027 and 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 and after January 1, 1990, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars (\$100,000) to the three (3) immediately preceding taxable years,--and--a. Any portion of the net operating loss not entirely absorbed by the income of those years may be subtracted from--income--received--in taxable years arising in the three (3) preceding years may be subtracted in the next fifteen (15) years succeeding the taxable year in which the loss arises in the order until exhausted. The sum of the deductions may not exceed the amount of the net operating loss deduction incurred. 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) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the regulations rules of the state tax commission and once made is irrevocable for the year in which it is made. 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)(2), (3) and (4), 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 share-

holders 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 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(ed)(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 3. 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 reports a net capital gain which has not already been deducted from gross income in determining Idaho adjusted taxable income, sixty percent (60%) of the net capital gain (but not more than the net gain reported on the return) from the sale or exchange of qualified property shall be a deduction from in determining Idaho adjusted taxable income.~~

(2) ~~For the purpose of this section capital gains deductions shall be allowed only for~~ The deduction provided in this section is limited to the amount of the net capital gain from all property included in federal taxable income. Net capital gains treated as ordinary income by the internal revenue code do not qualify for the deduction allowed in this section. The deduction otherwise allowable under this section shall be reduced by the amount of any federal capital gains deduction relating to such property, but not below zero.

(3) ~~As used in this section "qualified property" which had means the following property having an Idaho situs at the time of sale, as follows:~~

(a) ~~Capital gains from sales of r~~Real property which has been held for a minimum of at least five (5) years;

(b) ~~Capital gains from sales of t~~Tangible personal property that

was used in Idaho for at least twelve (12) months by a revenue-producing enterprise, as defined in section 63-3029E, Idaho Code, in this state;

(c) ~~Capital-gains-from-sales-of-c~~Cattle or horses held for breeding, draft, dairy or sporting purposes ~~by the owner~~ for ~~a period~~ of at least twenty-four (24) months or more from the date of acquisition and which owner received if more than one-half (1/2) of his the taxpayer's gross income (as defined in section 61(a) of the internal revenue code) for the taxable year is from farming or ranching operations in this state Idaho.

(d) ~~Capital--gains--from--sales--of--b~~Breeding livestock other than cattle or horses held ~~by the owner for a period of~~ at least twelve (12) months or more from the date of acquisition and which owner received if more than one-half (1/2) of his the taxpayer's gross income (as defined in section 61(a) of the internal revenue code) for the taxable year is from farming or ranching operations in this state Idaho.

(e) ~~Capital-gains-from-sales-of-t~~Timber grown in Idaho and held ~~by the owner for a period of~~ at least twenty-four (24) months or more from the date of acquisition.

(34) ~~The deduction allowed by this section shall apply to income attributable to shareholders of subchapter S corporations and 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~~ If an individual reports a capital gain from qualified property from an S corporation or a partnership, a deduction shall be allowed under this section only to the extent the individual held his interest in the income of the S corporation or the partnership for the time required by subsection (3) of this section for the property sold.

(5) If an individual reports a capital gain from an estate, no deduction shall be allowed under this section unless the holding period required in subsection (3) of this section was satisfied by the decedent, the estate, or the beneficiary, or a combination thereof.

(6) If an individual reports a capital gain from a trust, no deduction shall be allowed under this section unless the holding period required in subsection (3) of this section was satisfied by the grantor, the trust, or the beneficiary, or a combination thereof.

SECTION 4. 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 sixty thousand dollars (\$60,000) per annum or an average of five thousand dollars (\$5,000) per month per annum, make return of and pay to the state tax commission 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 commis-

sion a return upon such form as shall be prescribed by said state tax commission showing the total amount of wages, salary, bonus or other emoluments paid to his employees, the amount deducted therefrom in accordance with the provisions of the Internal Revenue Code, the amount deducted therefrom in accordance with the provisions of this section, and such pertinent and necessary information as the state tax commission may require.

(2) Every employer making a declaration of withholding as provided herein shall furnish to the employees annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission and on or before the last day of February every employer shall file a copy thereof with the state tax commission. Every employer who is required, under Internal Revenue Code section 6011, to file returns on magnetic media or in other machine readable form may be required by regulations rules 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, without regard to extensions, 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.

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 passage and approval, and retroactively to January 1, 1995.

Approved March 10, 1995.

CHAPTER 84
(H.B. No. 200)

AN ACT

RELATING TO ANNEXATION OF TERRITORY INTO A FIRE PROTECTION DISTRICT; AMENDING SECTION 31-1411, IDAHO CODE, TO REDUCE THE PERCENTAGE OF LANDOWNERS OR CONTRACT PURCHASERS REQUIRED TO SIGN A PETITION REQUESTING ANNEXATION OF THEIR LAND INTO THE FIRE PROTECTION DISTRICT SO THAT AN ELECTION ON THE SUBJECT NEED NOT BE HELD.

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

SECTION 1. That Section 31-1411, Idaho Code, be, and the same is hereby amended to read as follows:

31-1411. ANNEXATION OF TERRITORY IN SAME COUNTY -- PETITION -- HEARING -- ORDER -- CERTIFICATION TO COUNTY COMMISSIONERS -- ALTERNATE

PROCEDURE -- ELECTION. After the organization of a fire protection district, additional contiguous or noncontiguous territory lying within the same county may be added thereto and shall thereupon and thenceforth be included in such district. Noncontiguous territory annexed to an existing fire protection district shall consist of not less than forty (40) contiguous acres. At least seventy-five percent (75%) or more of the owners or contract purchasers of all the land sought to be annexed shall petition the fire protection board and request annexation of the territory particularly described in said petition. Upon receipt of any such petition the fire protection board shall hold a hearing not less than ten (10) nor more than thirty (30) days thereafter, and said board shall cause notice of such hearing, designating the time and place, to be published in at least one (1) issue of a newspaper of general circulation within the district. Any person supporting or objecting to such petition shall be heard at such hearing, if in attendance, and at the close of such hearing said board shall approve or reject said petition. If the board approves said petition it shall make an order to that effect and certify a copy of said order containing an accurate legal description of the annexed territory to the board of county commissioners of the county where said fire district is situated. Said board of county commissioners shall thereupon enter an order of annexation and cause the same to be recorded so as to include the annexed property on the tax rolls as in this chapter provided.

In the event that all more than twenty-five percent (25%) of the owners or contract purchasers of the land sought to be annexed do not join in said petition or the petition is denied as above set forth, additional territory may nevertheless be annexed by the affirmative vote of a majority of the qualified electors of such additional territory voting on the question at an election held therefor, which vote may be taken either at a general or special election held as provided in section 31-1405, Idaho Code. But such additional territory shall not be annexed to or be included within the district unless such annexation and inclusion be first approved by the fire protection board of the existing district by resolution entered on the minutes of such board prior to the election on the question of annexation. The same procedure, with such modifications in the form of petition, notices, ballots, etc., as may be necessary shall be adopted as in this law provided in sections 31-1402 to 31-1406, Idaho Code.

Approved March 10, 1995.

CHAPTER 85
(H.B. No. 246)

AN ACT

RELATING TO RESPONSIBILITIES OF DONORS AND GLEANERS OF FOOD; AMENDING SECTION 6-1301, IDAHO CODE, TO FURTHER DEFINE THE TERMS "DONOR" AND "PERISHABLE FOOD."

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

SECTION 1. That Section 6-1301, Idaho Code, be, and the same is hereby amended to read as follows:

6-1301. DEFINITIONS. As used in this chapter:

(1) "Donor" includes, but is not limited to, any food establishment, farmer, processor, distributor, wholesaler or retailer of perishable or nonperishable food.

(2) "Gleaner" means a person who harvests for free distribution perishable food that has been donated by the owner.

(3) "Perishable food" means any food that may spoil or otherwise become unfit for human consumption because of its nature, type or physical condition. "Perishable food" includes, but is not limited to, fresh or processed meats, poultry, seafood, dairy products, bakery products, eggs in the shell, fresh fruits or vegetables, and foods that have been packaged, refrigerated or frozen and unserved food of any kind which has been prepared by or for a food establishment. "Perishable food" does not include foods that have been canned and which remain in a sealed canning container.

Approved March 10, 1995.

CHAPTER 86
(H.B. No. 314)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1995; 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 169, Laws of 1994, there is hereby appropriated to the Department of Water Resources the following amounts to be expended for the designated programs according to the designated standard classification from the listed funds for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
PLANNING AND POLICY:			
FROM:			
Federal Grant Fund	\$ 38,500	\$ 41,500	\$ 80,000
ENERGY RESOURCES:			
FROM:			
Federal Grant Fund	\$131,800	\$ 66,200	\$198,000
WATER MANAGEMENT:			
FROM:			
Federal Grant Fund	\$ 33,900	\$163,000	\$196,900
GRAND TOTAL	\$204,200	\$270,700	\$474,900

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 10, 1995.

CHAPTER 87
(H.B. No. 22)

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING SECTION 9-340, IDAHO CODE, TO PROVIDE FOR DISCLOSURE OF BUSINESS ADDRESSES AND PHONE NUMBERS RETAINED BY A PUBLIC AGENCY PURSUANT TO A STATUTORY REQUIREMENT FOR LICENSING, CERTIFICATION, PERMIT OR BONDING.

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

SECTION 1. That Section 9-340, Idaho Code, be, and the same is hereby amended to read as follows:

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(2) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section 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, business and addresses and business phone numbers, 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, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(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, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(27) Records of a person maintained pursuant to chapter 18, title 16, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the child. If the juvenile is fourteen (14) years or older and is adjudicated guilty of an offense which would be a felony if committed by an adult, the name, offense of which the juvenile was adjudicated and disposition of the court shall be subject to disclosure.

(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, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records

are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(30) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative council by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

(31) All papers, physical and electronic records and correspondence or other supporting materials comprising the work papers in the possession of the office of the legislative 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.

(41) 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.

(42) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

Approved March 10, 1995.

CHAPTER 88
(S.B. No. 1218)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 195, LAWS OF 1994, FOR FISCAL YEAR 1995; 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 195, Laws of 1994, there is hereby appropriated to the Department of Parks and Recreation the following amounts to be expended for the designated program according to the designated standard classification from the listed funds for the period July 1, 1994, through June 30, 1995:

ADMINISTRATION:

FOR:	
Operating Expenditures	\$92,000
FROM:	
Miscellaneous Revenue Fund	\$ 8,000
Parks and Recreation Expendable Trust Fund	1,000
Federal Grant Fund	<u>83,000</u>
TOTAL	<u>\$92,000</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 March 13, 1995.

CHAPTER 89
(S.B. No. 1223)

AN ACT

RELATING TO THE APPROPRIATION FOR PUBLIC SCHOOL SUPPORT FOR FISCAL YEAR 1996; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO EXPENDI-

TURES FROM STATE SOURCES; APPROPRIATING GENERAL FUND MONEYS FOR TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING A TOTAL AMOUNT FROM THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING MONEYS FOR THE UNEMPLOYMENT INSURANCE PROGRAM; EXPRESSING LEGISLATIVE INTENT THAT \$1,000,000 IS TO BE DISTRIBUTED FOR ACADEMIC AND READING IMPROVEMENT; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE EXPENDITURE OF \$10,400,000 FOR THE PUBLIC SCHOOL TECHNOLOGY PROGRAM; EXPRESSING LEGISLATIVE INTENT THAT \$80,000 IS AVAILABLE FOR EXPENSES OF THE STATE COUNCIL ON TECHNOLOGY IN LEARNING; EXPRESSING LEGISLATIVE INTENT THAT \$1,000,000 BE EXPENDED FOR SCHOOL IMPROVEMENT PROJECTS AND ACTIVITIES; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO \$1,000,000 BEING USED FOR LIMITED ENGLISH PROFICIENT STUDENTS.

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

SECTION 1. It is legislative intent that the following amount shall be expended from state sources for public schools for the period July 1, 1995, through June 30, 1996:

FROM:

General Fund		\$664,000,000
Dedicated Funds:		
Endowment Fund Income	\$24,000,000	
Department of Lands	4,501,400	
Liquor Fund	1,200,000	
Miscellaneous Receipts	<u>3,298,600</u>	
Total Dedicated Funds		<u>33,000,000</u>
TOTAL		<u>\$697,000,000</u>

SECTION 2. There is hereby appropriated from the General Fund for public schools, the following amount to be transferred to the Public School Income Fund for the period July 1, 1995, through June 30, 1996:

FROM:

General Fund	\$664,000,000
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SECTION 3. There is hereby appropriated from the Public School Income Fund to be expended for the Educational Support Program pursuant to law and the provisions of this act, not to exceed \$697,000,000 for the period July 1, 1995, through June 30, 1996.

SECTION 4. There is hereby appropriated from the Public School Income Fund the amount necessary for the Unemployment Insurance Program to be expended according to Section 72-1349C, Idaho Code, for the period July 1, 1995, through June 30, 1996.

SECTION 5. It is legislative intent that \$1,000,000 of the moneys appropriated in this act shall be distributed as follows: \$500,000 for academic improvement and \$500,000 for reading improvement. The moneys for reading improvement shall be allocated to the districts on the basis of fall student enrollment.

SECTION 6. It is legislative intent that \$10,400,000 of the moneys appropriated in this act shall be expended by the Superintendent-

ent of Public Instruction as follows: \$3,400,000 for ongoing expenditures and \$7,000,000 for one-time expenditures for the Public School Technology Program upon direction of the State Council for Technology in Learning, in accordance with Section 33-4806, Idaho Code.

SECTION 7. It is legislative intent that an amount not to exceed \$80,000 of the \$10,400,000 referenced in Section 6 of this act shall be expended by the Superintendent of Public Instruction for the various expenses of the State Council for Technology in Learning as approved by the State Board of Education.

SECTION 8. It is legislative intent that \$1,000,000 of the moneys appropriated in this act be expended by the Superintendent of Public Instruction for school improvement projects and activities as recommended by the Idaho School Reform Committee and approved by the State Board of Education.

SECTION 9. It is legislative intent that \$1,000,000 of the moneys appropriated in this act be distributed for support of programs for students with non-English or limited English proficiency. Unless otherwise provided for in statute, the funding for limited English proficiency programs shall be allocated to school districts based upon the population of limited English proficient students under rules established by the State Board of Education.

Approved March 13, 1995.

CHAPTER 90
(H.B. No. 120)

AN ACT

RELATING TO FOREST LANDS TAXATION; AMENDING SECTION 63-1703, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-1703, Idaho Code, be, and the same is hereby amended to read as follows:

63-1703. CERTAIN FOREST LANDS TO BE DESIGNATED FOR TAXATION BY OWNER -- LIMITATIONS. For the purposes of appraisal, assessment and taxation under the provisions of this chapter, all forest lands in parcels of five (5) or more acres but less than two thousand (2,000), whether contiguous or not, as long as such parcels are held in common ownership, must be designated by the forest landowner to be subject to the provisions of either subsection (a) or (b) of this section. A forest landowner cannot have parcels designated under the provisions of both subsections (a) and (b) of this section at one (1) time. If the forest landowner fails to make a designation, his forest lands shall be subject to appraisal, assessment and taxation under the provisions of section 63-1702, Idaho Code. Once a designation is made by the for-

est landowner, such designation must remain in effect until the designation period expires, unless the forest lands are transferred to another owner using a different taxing category; in such case, the taxing category of the transferred forest lands shall be the same as that maintained by the new owner.

A forest landowner may change the designation of all forest lands in common ownership at the end of any designation period, subject to the recapture of any deferred taxes due as a result of such change. After January 1 and by December 31 of the tenth year of each designation period the forest landowner must notify the county assessor of any change in forest land designation. Failure to notify the county assessor will result in the continuation of the landowner's present designation until the end of the next designation period.

Any substantial change in the use of forest lands not conforming with the definition of forest land in section 63-1701, Idaho Code, during such ten (10) year period under the designations made in subsection (a) or (b) shall be reported by the landowner to the county assessor within thirty (30) days of the change in use. Upon notification of the change in use, the assessor shall appraise, assess and tax those acres as provided by applicable laws and rules. Failure to notify the assessor of the change in use when forest lands have been designated as subject to the provisions of subsection (a) or (b) shall cause forfeiture of such designation, and cause that property to be appraised, assessed and taxed as provided in section 63-1702, Idaho Code.

Forest lands designated for assessment pursuant to the provisions of section 63-1706, Idaho Code, shall be subject to the recapture of deferred taxes upon removal of such designation, a substantial change in use, or ownership transfer, except that there shall be no recapture initiated upon ownership transfer of forest lands designated as subject to the provisions of section 63-1706, Idaho Code, to a landowner with forest lands already designated as subject to the provisions of section 63-1706, Idaho Code, prior to the transfer, or who so designates his lands to be subject to the provisions of section 63-1706, Idaho Code.

The dollar amount of deferred taxes subject to recapture shall be determined by the county assessor by applying current tax levies against the current values that would have been in effect if the lands were subject to appraisal and assessment during the current year under the provisions of section 63-1705, Idaho Code, if there has been a change in ownership or a removal of designation, or section 63-1702, Idaho Code, if there has been a change in use with no change in ownership, which amount shall be multiplied by the number of years that the lands have been subject to the designation under section 63-1706, Idaho Code. The amount of the deferred tax shall accrue through designation periods, up to a maximum of ten (10) years, and shall apply to the most recent ten (10) years in which the parcel has been designated under the provisions of section 63-1706, Idaho Code. A credit shall be allowed for taxes actually paid under the provisions of section 63-1706, Idaho Code, for an identical ten (10) year period, up to the total amount of the deferred taxes. All deferred amounts shall be a lien against the land. Deferred tax amounts shall be calculated by the county assessor on forms prescribed by the state tax commission.

Deferred tax amounts shall be supplied by the county assessor to the county treasurer by May 15 of the year following conveyance or within thirty (30) days of removal of designation, or of learning of a change in use. All deferred tax amounts shall be due and payable to the county treasurer on demand and shall become delinquent if not paid by the demand due date specified by the county treasurer on the forms prescribed by the state tax commissioner. If the deferred tax is not paid as provided above, the payment becomes delinquent and subject to a penalty, and interest in the amounts provided in section 63-1102, Idaho Code, and subject to collection in the manner as set forth in sections 63-1123 and 63-1117, Idaho Code. Estimated deferred tax amounts may be held by the county treasurer in a tax anticipation account from the date of conveyance until June 1 of the year following conveyance.

The county treasurer shall cause the deferred taxes and any penalty and interest paid pursuant to the provisions of this section to be apportioned to the various taxing authorities within which the property subject to the tax is located in the same manner as property taxes.

(a) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1705, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1705, Idaho Code, shall become effective the first day of January following the year of designation.

(b) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1706, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1706, Idaho Code, shall become effective the first day of January following the year of designation.

(c) All forest products or timber harvested from investment lands not designated as subject to the provisions of section 63-1702, 63-1705 or 63-1706, Idaho Code, and delivered to a point of utilization as logs or semiprocessed forest products (except those forest products harvested for the domestic use of the landowner under the provisions of section 63-1708, Idaho Code) shall be subject to the yield tax at the time of harvest in the same manner provided for in section 63-1706, Idaho Code.

Approved March 13, 1995.

CHAPTER 91
(H.B. No. 136)

AN ACT
RELATING TO INCOME TAX DEDUCTIONS; AMENDING SECTION 63-3022C, IDAHO
CODE, TO CLARIFY THE DEFINITION OF ALTERNATIVE ENERGY DEVICE;
DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3022C. DEDUCTION FOR ALTERNATIVE ENERGY DEVICE AT RESIDENCE.

(1) An individual taxpayer who installs an alternative energy device to serve a place of residence of the individual taxpayer in the state of Idaho may deduct from taxable income as defined in section 63 of the Internal Revenue Code, the following amounts actually paid or accrued by the individual taxpayer: forty percent (40%) of the amount that is properly attributable to the construction, reconstruction, remodeling, installation or acquisition of the alternative energy device in the year when such device is completed or acquired and is placed in service by the taxpayer; and twenty percent (20%) per year thereafter for a period of three (3) succeeding years; provided, however, that said deduction shall not exceed five thousand dollars (\$5,000) in any one (1) taxable year.

(2) An individual taxpayer who purchases a residence in the state of Idaho served by an alternative energy device for which none or less than all of the total deduction allowable under this section has been taken, may take the deduction specified in this section, or the unused balance of the deduction.

(3) As used in this section, "alternative energy device" means any system or mechanism or series of mechanisms using solar radiation, wind or geothermal resource as defined in section 42-4002, Idaho Code, primarily to provide heating, to provide cooling, to produce electrical power, or any combination thereof. Alternative energy device includes a fluid to air heat pump operating on a fluid reservoir heated by solar radiation or geothermal resource. ~~An~~ Alternative energy device shall also include either (i) a natural gas heating unit, or a propane heating unit, or (ii) a wood burning stove which meets the most current environmental protection agency certification, or a pellet stove which meets the most current environmental protection agency certification industry and state standards, and which natural gas heating unit, or propane heating unit, or wood burning stove which meets the most current environmental protection agency certification, or pellet stove which meets the most current industry and state standards is used to replace during the same tax year a wood burning stove designed for residential heating and that does not meet environmental protection agency requirements for certification, provided the wood burning stove is surrendered to the division of environmental quality of the department of health and welfare or its agent for destruction in accordance with applicable federal and state rules.

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, 1995.

Approved March 13, 1995.

CHAPTER 92
(H.B. No. 192)

AN ACT

RELATING TO REGISTERED LIMITED LIABILITY PARTNERSHIPS; AMENDING SECTION 53-302, IDAHO CODE, TO DEFINE REGISTERED LIMITED LIABILITY PARTNERSHIPS; AMENDING SECTION 53-306, IDAHO CODE, TO DEFINE PARTNERSHIPS; AMENDING SECTION 53-315, IDAHO CODE, TO SPECIFY THE LIABILITY OF LIMITED LIABILITY PARTNERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 53-318, IDAHO CODE, TO FURTHER DEFINE THE RIGHTS AND DUTIES OF PARTNERS; AMENDING SECTION 53-334, IDAHO CODE, TO FURTHER DEFINE THE RIGHTS TO CONTRIBUTION FROM COPARTNERS OF LIMITED LIABILITY PARTNERS; AMENDING SECTION 53-336, IDAHO CODE, TO FURTHER DEFINE THE OBLIGATIONS OF A LIMITED LIABILITY PARTNER ON DISSOLUTION OF A LIMITED LIABILITY PARTNERSHIP; AMENDING SECTION 53-340, IDAHO CODE, TO FURTHER DEFINE DISTRIBUTIONS FROM LIMITED LIABILITY PARTNERSHIPS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 3, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-343A, IDAHO CODE, TO ESTABLISH PROCEDURES AND REQUIREMENTS FOR REGISTRATION OF LIMITED LIABILITY PARTNERSHIPS; AMENDING CHAPTER 3, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-343B, IDAHO CODE, TO ESTABLISH REQUIREMENTS FOR THE NAMING OF LIMITED LIABILITY PARTNERSHIPS; AMENDING CHAPTER 3, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-343C, IDAHO CODE, SETTING FORTH THE EFFECT OF THIS ACT ON FOREIGN AND INTERSTATE COMMERCE; AND AMENDING SECTION 53-504, IDAHO CODE, TO EXCLUDE REGISTERED LIMITED LIABILITY PARTNERSHIPS FROM THE ASSUMED BUSINESS NAME ACT.

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

SECTION 1. That Section 53-302, Idaho Code, be, and the same is hereby amended to read as follows:

53-302. DEFINITION OF TERMS. In this chapter, "court" includes every court and judge having jurisdiction in the case.

"Business" includes every trade, occupation, or profession.

"Person" includes individuals, partnerships, corporations, and other associations.

"Bankrupt" includes bankrupt under the Federal Bankruptcy Act or insolvent under any state insolvent act.

"Conveyance" includes every assignment, lease, mortgage, or encumbrance.

"Real property" includes land and any interest or estate in land.

"Registered limited liability partnership" means a partnership formed pursuant to an agreement governed by the laws of this state, registered under section 53-343A, Idaho Code, and complying with sections 53-343B and 53-343C, Idaho Code.

SECTION 2. That Section 53-306, Idaho Code, be, and the same is hereby amended to read as follows:

53-306. PARTNERSHIP DEFINED. 1. A partnership is an association of two (2) or more persons to carry on as coowners a business for profit and includes, for all purposes of the laws of this state, a registered limited liability partnership.

2. But any association formed under any other statute of this state, or any statute adopted by authority, other than the authority of this state, is not a partnership under this chapter, unless such association would have been a partnership in this state prior to the adoption of this chapter; but this chapter shall apply to limited partnerships except in so far as the statutes relating to such partnerships are inconsistent herewith.

SECTION 3. That Section 53-315, Idaho Code, be, and the same is hereby amended to read as follows:

53-315. NATURE OF PARTNER'S LIABILITY. Except as provided in paragraph 3. of this section, all partners are liable:

1. Jointly and severally for everything chargeable to the partnership under sections 53-313 and 53-314, Idaho Code.

2. Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

3. Subject to paragraph 4. of this section, a partner in a registered limited liability partnership is not liable directly or indirectly (including by way of indemnification, contribution, assessment or otherwise) for debts, obligations and liabilities of or chargeable to the partnership, except for those debts, obligations or liabilities for which the partner has expressly agreed in writing to be liable.

4. Paragraph 3. of this section shall not affect the liability of a partner in a registered limited liability partnership for his own omissions, negligence, wrongful acts, misconduct or malpractice or that of any person under his direct supervision and control.

5. A partner in a registered limited liability partnership is not a proper party to a proceeding by or against a registered limited liability partnership, unless such partner is personally liable under this section.

SECTION 4. That Section 53-318, Idaho Code, be, and the same is hereby amended to read as follows:

53-318. RULES DETERMINING RIGHTS AND DUTIES OF PARTNERS. The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

1. Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and except as provided in section 53-315 3., Idaho Code, each partner must contribute towards the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

2. The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in

the ordinary and proper conduct of its business, or for the preservation of its business or property.

3. A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.

4. A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

5. All partners have equal rights in the management and conduct of the partnership business.

6. No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs.

7. No person can become a member of a partnership without the consent of all the partners.

8. Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners.

SECTION 5. That Section 53-334, Idaho Code, be, and the same is hereby amended to read as follows:

53-334. RIGHT OF PARTNER TO CONTRIBUTION FROM COPARTNERS AFTER DISSOLUTION. Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his copartners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

a. The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution; or,

b. The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy; or

c. The liability is for a debt, obligation or liability for which the partner is not liable as provided in section 53-315 3., Idaho Code.

SECTION 6. That Section 53-336, Idaho Code, be, and the same is hereby amended to read as follows:

53-336. EFFECT OF DISSOLUTION ON PARTNER'S EXISTING LIABILITY. 1. The dissolution of the partnership does not itself discharge the existing liability of any partner.

2. A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor and the person or partnership continuing the business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

3. Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material

alteration in the nature or time of payment of such obligations.

4. The individual property of a deceased partner shall be liable for ~~all~~ those obligations of the partnership incurred while he was a partner and for which he was liable under section 53-315, Idaho Code, but subject to the prior payment of his separate debts.

SECTION 7. That Section 53-340, Idaho Code, be, and the same is hereby amended to read as follows:

53-340. RULES FOR DISTRIBUTION. In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

a. The assets of the partnership are:

(1) The partnership property.

(2) The contributions of the partners ~~necessary for the payment of all the liabilities~~ specified in clause bd. of this paragraph.

b. The liabilities of the partnership shall rank in order of payment, as follows:

(1) Those owing to creditors other than partners.

(2) Those owing to partners other than for capital and profits.

(3) Those owing to partners in respect of capital.

(4) Those owing to partners in respect of profits.

c. The assets shall be applied in the order of their declaration in clause a. of this paragraph to the satisfaction of the liabilities.

d. Except as provided in section 53-315 3., Idaho Code: (1) ~~t~~The partners shall contribute, as provided by section 53-318, paragraph 1, the amount necessary to satisfy the liabilities; ~~but~~ and (2) if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

e. An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in clause d. of this paragraph.

f. Any partner or his legal representative shall have the right to enforce the contributions specified in clause d. of this paragraph, to the extent of the amount which he has paid in excess of his share of the liability.

g. The individual property of a deceased partner shall be liable for the contributions specified in clause d. of this paragraph.

h. When partnership property and the individual properties of the partners are in the possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

i. Where a partner has become bankrupt or his estate is insolvent the claims against his separate property shall rank in the following order:

(1) Those owing to separate creditors.

(2) Those owing to partnership creditors.

(3) Those owing to partners by way of contribution.

SECTION 8. That Chapter 3, Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-343A, Idaho Code, and to read as follows:

53-343A. REGISTERED LIMITED LIABILITY PARTNERSHIPS. 1. To become and to continue as a registered limited liability partnership, a partnership shall file with the secretary of state an application stating the name of the partnership; the address of its principal office; the address of a registered office and the name and address of a registered agent for service of process in this state, which the partnership will be required to maintain; the state in which the partnership is organized; the name and address of at least one (1) partner; a brief statement of the business in which the partnership engages; any other matters that the partnership determines to include; and that the partnership thereby applies for status as a registered limited liability partnership.

2. The application shall be executed by a partner in writing or by another method authorized by the secretary of state.

3. The application shall be accompanied by a fee of one hundred dollars (\$100) if typed and completely included on the standard form prescribed by the secretary of state or one hundred twenty dollars (\$120) if not typed or if attachments are included.

4. The secretary of state shall register as a registered limited liability partnership any partnership that submits a completed application with the required fee.

5. Registration is effective immediately after the date an application is filed, and remains effective until it is voluntarily withdrawn by filing with the secretary of state a written withdrawal notice executed by a majority in interest of the partners or by one (1) or more partners authorized to execute a withdrawal notice.

6. The status of a partnership as a registered limited liability partnership, and the liability of the partners thereof, shall not be affected by (i) errors in the information stated in an application under subsection 1. of this section or (ii) changes after the filing of such an application or notice in the information stated in the application notice.

7. A registered limited liability partnership shall notify the secretary of state on a form to be provided by the secretary of state within sixty (60) days of any change in the principal office, registered office or registered agent of the partnership.

8. A registered agent may resign by delivering a notice of resignation to the secretary of state. The secretary of state shall mail copies of the notice to the registered limited liability partnership at its principal office and its registered office. The appointment of the registered agent terminates thirty (30) days after receipt of the notice by the secretary of state or on the appointment of a successor registered agent, whichever occurs first.

9. A registered limited liability partnership shall notify the secretary of state on a form to be provided by the secretary of state within sixty (60) days of its dissolution.

SECTION 9. That Chapter 3, Title 53, Idaho Code, be, and the same

is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-343B, Idaho Code, and to read as follows:

53-343B. NAME OF REGISTERED LIMITED LIABILITY PARTNERSHIP. The name of the registered limited liability partnership shall contain the words "Registered Limited Liability Partnership," "Limited Liability Partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

SECTION 10. That Chapter 3, Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-343C, Idaho Code, and to read as follows:

53-343C. APPLICABILITY OF ACT TO FOREIGN AND INTERSTATE COMMERCE.
1. A partnership, including a registered limited liability partnership, formed and existing under this act, may conduct its business, carry on its operations, and have and exercise the powers granted by this act in any state, territory, district, or possession of the United States or in any foreign country.

2. It is the intent of the legislature that the legal existence of registered limited liability partnerships formed and existing under this act be recognized outside the boundaries of this state and that the laws of this state governing such registered limited liability partnerships transacting business outside this state be granted the protection of full faith and credit under the constitution of the United States.

3. The internal affairs of a partnership, including registered limited liability partnerships, formed and existing under this act, including the liability of partners for debts, obligations and liability of or chargeable to the partnership, shall be subject to and governed by the laws of this state.

4. Subject to any statutes for the regulation and control of specific types of business, registered limited liability partnerships, formed and existing under the laws of another jurisdiction, may do business in this state and are not required to register with the secretary of state under this act.

5. It is the policy of this state that the internal affairs of partnerships, including registered limited liability partnerships, formed and existing under the laws of another jurisdiction, including the liability of partners for debts, obligations and liabilities of or chargeable to partnerships, shall be subject to and governed by the laws of such other jurisdictions.

SECTION 11. That Section 53-504, Idaho Code, be, and the same is hereby amended to read as follows:

53-504. FIRMS EXCEPTED FROM ACT. This chapter shall in no way affect or apply to any corporation, limited liability company, registered limited liability partnership or limited partnership duly organized under the laws of this state, or to any corporation, limited liability company or limited partnership organized under the laws of

another state and lawfully doing business in this state, nor shall this chapter be deemed or construed to prevent the lawful use of a general partnership designation, name or style: provided, that such partnership designation, name, or style shall include the true and real name or names of all the parties conducting such business or having an interest therein.

Approved March 13, 1995.

CHAPTER 93
(H.B. No. 326)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 439, LAWS OF 1994 FOR FISCAL YEAR 1995; 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 439, Laws of 1994, there is hereby appropriated to the Department of Health and Welfare the following amounts to be expended according to the designated standard classifications from the listed fund for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. DIVISION OF FAMILY AND CHILDREN'S SERVICES:				
C. STATE YOUTH SERVICES CENTER:				
FROM:				
General Fund	\$345,100	\$115,800	\$695,700	\$1,156,600

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 March 13, 1995.

CHAPTER 94
(H.B. No. 216)

AN ACT

RELATING TO THE INVESTMENT TAX CREDIT; AMENDING SECTION 63-3029B, IDAHO CODE, TO REMOVE THE LIMITATION REGARDING REPLACEMENT PROPERTY, TO CHANGE THE LIMITATION ON THE AMOUNT OF CREDIT TO FORTY-FIVE PERCENT OF INCOME TAX LIABILITY TO CLARIFY THE LIMITATION, TO INCREASE THE NUMBER OF YEARS FOR INVESTMENT CREDIT CARRY-OVERS, TO CHANGE THE RECAPTURE RULES RELATING TO INVOLUNTARY CONVERSIONS,

AND TO CHANGE THE OPTION FOR PROPERTY USED IN AND OUTSIDE IDAHO TO USE THAT PORTION OF THE PROPERTY FACTOR MADE UP OF SUCH PROPERTY; TO PROVIDE APPLICATION TO CERTAIN CREDIT CARRY-OVERS; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3029B, 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~~ forty-five percent (~~50~~45%) 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~~ seven (~~5~~7) 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~~ subject to 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 percent of the investment that would be included in the numerator of the Idaho property factor determined pursuant to section 63-3027(j) through (i), 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 2. Credit carry-overs under Section 63-3029B, Idaho Code, from investments made after December 31, 1989, and before January 1, 1995, shall be extended two years.

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 passage and approval, and retroactively to January 1, 1995.

Approved March 13, 1995.

CHAPTER 95
(H.B. No. 319)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE PERSONNEL COMMISSION FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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 standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Personnel Commission				
Fund	\$1,687,900	\$548,600	\$43,500	\$2,280,000
Seminars and Publications				
Fund		<u>55,800</u>		<u>55,800</u>
TOTAL	<u>\$1,687,900</u>	<u>\$604,400</u>	<u>\$43,500</u>	<u>\$2,335,800</u>

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Personnel Commission is authorized no more than thirty-eight (38) full-time equivalent positions at any point during the period July 1, 1995 through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 13, 1995.

CHAPTER 96
(H.B. No. 116)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-313, IDAHO CODE, TO DELETE LANGUAGE REGARDING SURPLUS REQUIREMENTS; AMENDING SECTION 41-2820, IDAHO CODE, TO PROVIDE THAT A DOMESTIC MUTUAL INSURER IS REQUIRED TO MAINTAIN CAPITAL AND SURPLUS CONSISTENT WITH CERTAIN STATUTORY REQUIREMENTS; REPEALING SECTION 41-2821, IDAHO CODE; AMENDING SECTION 41-2825, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-2906, IDAHO CODE, TO PROVIDE THAT A DOMESTIC RECIPROCAL INSURER IS REQUIRED TO MAINTAIN SURPLUS CONSISTENT WITH CERTAIN STATUTORY REQUIREMENTS, TO DELETE THE EXCEPTION FOR DOMESTIC GOVERNMENTAL RECIPROCAL INSURERS AND ANY INSURER LICENSED PRIOR TO THE APPROVAL OF THE SECTION, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE FOR COMPLIANCE WITH SURPLUS REQUIREMENTS; AMENDING SECTION 41-2908, IDAHO CODE, TO PROVIDE THAT A DOMESTIC RECIPROCAL INSURER'S FINANCIAL STATEMENT SHALL INDICATE THAT THE INSURER MAINTAINS SURPLUS AS REQUIRED IN CERTAIN STATUTORY PROVISIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-2918, IDAHO CODE, TO CHANGE A REFERENCE AND TO PROVIDE REQUIREMENTS FOR DOMESTIC RECIPROCAL INSURERS; AMENDING SECTION 41-2926, IDAHO CODE, TO PROVIDE THAT A RECIPROCAL INSURER WITH A SURPLUS OF ASSETS OVER LIABILITIES AT LEAST EQUAL TO THE MINIMUM SURPLUS REQUIRED IN SECTION 41-313, IDAHO CODE, MAY BE PERMITTED TO EXTINGUISH THE CONTINGENT LIABILITY OF SUBSCRIBERS; 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	\$1,000,000	\$1,000,000
Disability	1,000,000	1,000,000
Life and disability	1,000,000	1,000,000
Property	1,000,000	1,000,000
General casualty	1,000,000	1,000,000
Marine and transportation	1,000,000	1,000,000
Vehicle	1,000,000	1,000,000
Surety	1,000,000	1,000,000

Any two of the following kinds of insurance:

Property, marine and transportation, general casualty, vehicle, surety, disability	1,000,000	1,000,000
Title	500,000	500,000
Multiple lines (all insurance except life and title insurance)	1,000,000	1,000,000
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 41-2820, Idaho Code, be, and the same is hereby amended to read as follows:

41-2820. INITIAL QUALIFICATIONS -- DOMESTIC MUTUALS. ~~(1)~~ When newly organized, a domestic mutual insurer may be authorized to transact any one of the kinds of insurance ~~listed in the schedule contained in subsection (2) below~~ defined in sections 41-502 through 41-506, Idaho Code, if it has otherwise complied with the provisions of title 41, Idaho Code, and possesses and maintains surplus funds as provided in section 41-313 or 41-3102A, Idaho Code.

~~(2) When applying for an original certificate of authority, the insurer must be otherwise qualified therefor under this code, and must have received and accepted bona fide applications as to substantial insurable subjects for insurance coverage of a substantial character of the kind of insurance proposed to be transacted, must have collected in cash the full premium therefor at a rate not less than that usually charged by other insurers for comparable coverages, must have surplus funds on hand and deposited as of the date such insurance coverages are to become effective, or, in lieu of such applications, premiums, and surplus, may deposit and thereafter maintain surplus, all~~

in accordance with that part of the following schedule which applies to the one (1) kind of insurance the insurer proposes to transact:

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
Kind of insurance accepted	Minimum no. of applicants	Minimum no. of subjects covered	Minimum premium collected	Minimum amount of insurance each subject	Maximum amount of insurance each subject	Deposit of minimum surplus funds	Deposit of surplus in lieu
Life(I)	500	500	annual	\$-1,000	-\$-2,500	\$-50,000	\$100,000
Disability(II)	500	500	quarterly (weekly indem.)	\$-10 (weekly indem.)	-\$-25 (weekly indem.)	\$-50,000	\$100,000
Property(III)	100	250	annual	\$-1,000	-\$-3,000	\$-50,000	\$100,000
Casualty(IV)	250	500	semiannual	\$-1,000	-\$10,000	\$100,000	\$150,000
Casualty with --workmen's com- --pensation	250	1500	quarterly	\$-1,000	-\$10,000	\$150,000	\$200,000

Expendable surplus:-(in) addition to surplus deposited and thereafter--to be--maintained--as--shown in columns (G) or (H) above; the insurer when first authorized must have on hand surplus funds; which it can thereafter expend in the conduct of its business; in amount not less than fifty per cent (50%)--of the deposited and maintained surplus required of it under the above schedule.

~~The following provisos are respectively applicable to the foregoing schedule and provisions as indicated by like roman numerals appearing in such schedule:~~

~~(i) No group insurance or term policies for terms of less than ten (10) years shall be included:~~

~~(ii) No group, blanket or family plans of insurance shall be included. In lieu of weekly indemnity a like premium value in medical, surgical, and hospital benefits may be provided. Any accidental death or dismemberment benefit provided shall not exceed twenty five hundred dollars (\$2,500):~~

~~(iii) Only insurance of the owner's interest in real property may be included:~~

~~(iv) Must include insurance of legal liability for bodily injury and property damage, to which the maximum and minimum insured amounts apply:~~

~~(v) The maximums provided for in this column (f) are net of applicable reinsurance:~~

~~(vi) The deposit of surplus in the amount specified in columns (g) and (h) must thereafter be maintained unimpaired. The deposit is subject to the provisions of chapter 8 of this code (administration of deposits):~~

SECTION 3. That Section 41-2821, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 41-2825, Idaho Code, be, and the same is hereby amended to read as follows:

41-2825. ADDITIONAL KINDS OF INSURANCE -- MUTUALS. A domestic mutual insurer, after being authorized to transact one (1) kind of insurance, may be authorized to transact such additional kinds of insurance as are permitted under section 41-312, Idaho Code, while otherwise in compliance with this code and while maintaining unimpaired surplus funds in an amount not less than the amount of paid-in capital stock required of a domestic stock insurer transacting like kinds of insurance, subject further in the case of insurers other than those to which section 41-314 (~~capital funds required, old domestic insurers~~) is applicable, to the additional expendable surplus requirements of section 41-313, Idaho Code, applicable to such a stock insurer.

SECTION 5. That Section 41-2906, Idaho Code, be, and the same is hereby amended to read as follows:

41-2906. SURPLUS FUNDS REQUIRED. (1) A domestic reciprocal insurer ~~which held a valid certificate of authority to transact insurance in this state immediately prior to the effective date of this title~~ is governed, as to surplus required to be maintained, by section 41-3143 or 41-313A, Idaho Code.

(2) ~~A domestic reciprocal insurer hereafter formed may be authorized to transact insurance if it has otherwise complied with the applicable provisions of this title and has and thereafter maintains surplus funds as follows:~~

~~(a) To transact property insurance; surplus of not less than two hundred and fifty thousand dollars (\$250,000);~~

~~(b) To transact casualty insurance; without workmen's compensation included; surplus of not less than one hundred and fifty thousand dollars (\$150,000); to transact casualty insurance; including workmen's compensation; surplus of not less than three hundred thousand dollars (\$300,000).~~

~~(3) In addition to surplus required to be maintained under sub-section (2) above, the insurer shall have, when first so authorized, expendable surplus equal to not less than one-half (1/2) of the minimum amount of surplus required to be maintained.~~

~~(4) A domestic reciprocal insurer may be authorized to transact additional kinds of insurance if it has otherwise complied with the provisions of this code therefor and possesses and maintains surplus funds not less in amount than the minimum capital stock required of a domestic stock insurer for authority to transact a like combination of kinds of insurance; but subject to section 41-313(3), Idaho Code, as to additional kinds of insurance and surplus required therefor during the first three (3) years.~~

~~(5) This section shall not apply to any domestic reciprocal insurer which exclusively insures members who are governmental entities, as defined by section 6-902(1), (2) and (3), Idaho Code.~~

~~(6) Excepting from the provisions of this section any insurer licensed prior to the approval of this section as to such additional kinds of insurance as provided in section 41-313, Idaho Code.~~

(3) A domestic reciprocal insurer holding a valid certificate of authority to transact insurance in this state immediately prior to January 1, 1995, shall have a period of two (2) years from and after January 1, 1995, within which to comply with any increase in surplus requirements.

SECTION 6. That Section 41-2908, Idaho Code, be, and the same is hereby amended to read as follows:

41-2908. ORGANIZATION OF RECIPROCAL INSURER. (1) Twenty-five (25) or more persons domiciled in this state, or employers in this state having aggregate payrolls of not less than one and one-half million dollars (\$1,500,000) and proposing to transact workmen's compensation insurance only, may organize a domestic reciprocal insurer and make application to the director for a certificate of authority to transact insurance.

(2) The proposed attorney shall fulfill the requirements of and shall execute and file with the director when applying for a certificate of authority, a declaration setting forth:

(a) The name of the insurer;

(b) The location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this state;

(c) The kinds of insurance proposed to be transacted;

(d) The names and addresses of the original subscribers;

(e) The designation and appointment of the proposed attorney and a copy of the power of attorney;

(f) The names and addresses of the officers and directors of the

attorney, if a corporation, or its members, if a firm;

(g) The powers of the subscribers' advisory committee; and the names and terms of office of the members thereof;

(h) That all moneys paid to the reciprocal shall, after deducting therefrom any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;

(i) A copy of the subscribers' agreement;

(j) A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six (6) months at an adequate rate theretofore filed with and approved by the director;

(k) A statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by in section 41-2906-of-this 41-313 or 41-313A, Idaho Code, is on hand; and

(l) A copy of each policy, endorsement and application form it then proposes to issue or use.

Such declaration shall be acknowledged by the attorney in the manner required for the acknowledgment of deeds.

SECTION 7. That Section 41-2918, Idaho Code, be, and the same is hereby amended to read as follows:

41-2918. FINANCIAL CONDITION -- METHOD OF DETERMINING. In determining the financial condition of a reciprocal insurer the director shall apply the following rules:

(1) He shall charge as liabilities the same reserves as are required of incorporated insurers issuing nonassessable policies on a reserve basis.

(2) The surplus deposits of subscribers shall be allowed as assets, except that any premium deposits delinquent for ninety (90) days shall first be charged against such surplus deposit.

(3) The surplus deposits of subscribers shall not be charged as a liability.

(4) All premium deposits delinquent less than ninety (90) days shall be allowed as assets.

(5) An assessment levied upon subscribers, and not collected, shall not be allowed as an asset.

(6) The contingent liability of subscribers shall not be allowed as an asset.

(7) The computation of reserves shall be based upon premium deposits other than membership fees and without any deduction for expenses and the compensation of the attorney.

(8) A domestic ~~governmental~~ reciprocal insurer ~~licensed under the provisions of section 41-2906(5), which exclusively insures members who are governmental entities, as defined in subsections 1, 2 and 3 of section 6-902,~~ Idaho Code, shall establish a loss paying fund in an amount sufficient to meet the requirements of the reinsurer for the purpose of purchasing excess of aggregate reinsurance. A loss paying fund is defined for the purpose of this title as funds set aside or

maintained for the purpose of paying claims, claims costs including adjustment costs, litigation fees and court costs and other related costs. Excess of aggregate reinsurance is defined for the purposes of this title as insurance coverage provided by a reinsurer wherein the reinsurer assumes the loss above the retentions or loss paying fund of the reinsured. Its purpose is to limit aggregate loss over a specified period of time.

The excess of aggregate reinsurance shall carry at least a thirty (30) day written cancellation clause. If the reinsurer elects to cancel the excess of aggregate reinsurance contract, a copy of the cancellation notice must be forwarded immediately to the director of the department of insurance of the state of Idaho.

SECTION 8. That Section 41-2926, Idaho Code, be, and the same is hereby amended to read as follows:

41-2926. NONASSESSABLE POLICIES. (1) Nongovernmental entities. If a reciprocal insurer has a surplus over all liabilities at least equal to the ~~minimum capital stock required of a domestic stock insurer authorized to transact like kinds of insurance~~ total surplus required in section 41-313, Idaho Code, as to such insurer, upon application of the attorney and as approved by the subscribers' advisory committee the director shall issue his certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this state, and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this state for so long as all such surplus remains unimpaired.

(2) Upon impairment of such surplus, the director shall forthwith revoke the certificate. Such revocation shall not render subject to contingent liability any policy then in force and for the remainder of the period for which the premium has theretofore been paid; but after such revocation no policy shall be issued or renewed without providing for contingent assessment liability of the subscriber.

(3) The director shall not authorize a domestic reciprocal insurer so to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it qualifies to and does extinguish such liability of all its subscribers and in all such policies for all kinds of insurance transacted by it. Except, that if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of such of its subscribers as may acquire such policies in such state, and need not extinguish the contingent liability applicable to policies theretofore in force in such state.

(4) Governmental entities. If a domestic reciprocal insurer licensed to do business in this state as such and insuring only governmental entities of this state has a loss paying fund as required by section 41-2918(8), Idaho Code, the director shall issue his certificate authorizing the insurer to extinguish any contingent liability of the member under its policy or policies and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this state.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 13, 1995.

CHAPTER 97
(H.B. No. 49)

AN ACT

RELATING TO THE REAL ESTATE BROKERS; AMENDING SECTION 54-2022, IDAHO CODE, TO DELETE AN OBSOLETE REFERENCE; AMENDING SECTION 54-2023, IDAHO CODE, TO ADD A DEFINITION OF "PRIMARY LICENSE"; AMENDING SECTION 54-2027, IDAHO CODE, TO DELETE AN OBSOLETE REFERENCE; AMENDING SECTION 54-2029, IDAHO CODE, TO PROHIBIT LICENSURE OF ANY PERSON CONVICTED OF ANY FELONY OR A MISDEMEANOR INVOLVING MORAL TURPITUDE AND TO DELETE AN OBSOLETE REFERENCE; AMENDING SECTIONS 54-2031 AND 54-2034, IDAHO CODE, TO DELETE SUPERFLUOUS NOMENCLATURE; AMENDING SECTIONS 54-2035I AND 54-2038, IDAHO CODE, TO DELETE OBSOLETE REFERENCES; AMENDING SECTION 54-2040, IDAHO CODE, TO INCLUDE CONVICTION OF ANY FELONY AS GROUNDS FOR LICENSE SUSPENSION OR REVOCATION AND TO DELETE AN OBSOLETE REFERENCE; AMENDING SECTION 54-2049, IDAHO CODE, TO PROVIDE THAT EARNEST MONEY FUNDS MAY BE DEPOSITED WITH A LICENSED TITLE INSURANCE COMPANY; AND AMENDING SECTION 54-2050, IDAHO CODE, TO DELETE AN OBSOLETE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-2022, Idaho Code, be, and the same is hereby amended to read as follows:

54-2022. REAL ESTATE BROKER, ASSOCIATE REAL ESTATE BROKER AND REAL ESTATE SALESMAN DEFINED -- APPLICATION OF ACT. A. A real estate broker within the meaning of this act is a person who, while acting for another for a compensation or promise thereof, or an active licensed broker under the provisions of this act while acting in his own behalf, sells or offers for sale, lists or offers to list, buys or offers to buy, negotiates or offers to negotiate, either directly or indirectly, the purchase, sale or exchange of real estate or any interest therein or business opportunity or interest therein for others, or who shall advertise or hold himself out to the public by any oral or printed solicitation or representation that he is so engaged, or who takes any part in, or directs, or assists in the procuring of prospects, or in the negotiating or closing of any transaction which does or is calculated to result in any of the acts above set forth, or who buys, sells, offers to buy or sell or otherwise deals in options on real estate, or interest therein, or improvements affixed thereon, or acting as a "dealer in options."

A real estate broker who sells, or offers to sell, lists or offers to list, or buys or offers to buy, personal property in conjunction

with or as a part of the broker's real estate business must comply with this chapter and the rules ~~and regulations~~ promulgated thereunder.

B. Except as provided in section 54-2028, Idaho Code, an associate real estate broker is a person who has qualified as a real estate broker under the laws of this state, is licensed under and associated with a broker and either directly or indirectly represents said broker in the performance of any of the acts above set forth.

C. Except as provided in section 54-2028, Idaho Code, a real estate salesman is any person who has qualified as such under the laws of this state, is licensed under and associated with a broker and either directly or indirectly represents said broker in the performance of any of the acts above set forth.

SECTION 2. That Section 54-2023, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

The words "primary license" mean a license not obtained by reciprocity.

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

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

SECTION 3. That Section 54-2027, Idaho Code, be, and the same is hereby amended to read as follows:

54-2027. COMPENSATION, POWERS AND DUTIES OF COMMISSION. Members shall be compensated as provided by section 59-509(f), Idaho Code.

The commission shall conduct or cause to be conducted examinations at a place or places within the state of Idaho fixed by the commission to determine the competency of applicants for license. No license shall be issued by the commission until a majority thereof has reported favorably thereon.

The commission is expressly vested with the power and the author-

ity to make and enforce any and all reasonable rules ~~and--regulations~~ as shall by it be deemed necessary for administering and enforcing the provisions of this act. The commission may, by written agreement, authorize the bureau of occupational licenses as agent to act in its interest.

SECTION 4. That Section 54-2029, Idaho Code, be, and the same is hereby amended to read as follows:

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

- (1) The applicant must be at least eighteen (18) years of age;
- (2) The applicant must not have had revoked a license or been refused a renewal of a license issued by the state of Idaho or any other state, as a real estate broker or salesman, if such revocation or refusal occurred within two (2) years prior to the date the application is submitted to the commission;
- (3) The applicant must not have been convicted, issued any fine, placed on probation, received a withheld judgment or completed any sentence of confinement for or on account of any felony, or a misdemeanor involving moral turpitude in a state or federal court, within five (5) years prior to the date the application is submitted to the commission;
- (4) The applicant must have complied with the educational requirements as provided for in subsection C of this section; the real estate education course requirements set forth in subsection C of this section must have been successfully completed within five (5) years prior to the date upon which the applicant makes application; provided, the commission may waive or modify the requirement that the real estate education courses must have been successfully completed within five (5) years prior to the date upon which the applicant makes application;
- (5) If the application is for a real estate broker's license, the applicant must have been actively engaged as a licensed real estate salesman as provided for in subsection B(2) of this section.

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

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

- (1) An examination fee in an amount not to exceed one hundred

dollars (\$100) which shall not be refunded, shall be assessed to each applicant who has preregistered for the examination. If the applicant has not preregistered, an examination fee in an amount not to exceed one hundred ten dollars (\$110) shall be charged to the applicant. The exact examination fee shall be determined by the commission at the conclusion of a hearing called for such purpose to be conducted pursuant to notice. The fee shall be that amount which, in the discretion of the commission, is sufficient to raise the revenue required to administer the examination. The fee so established shall remain effective from year to year and further hearing shall be required only in the event an increase or other alteration in the fee is proposed by the commission.

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

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

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

Any applicant for a license as a real estate broker or real estate salesman may submit a certification from any university, college or junior college, or from any privately owned school approved by the

commission, that the applicant has successfully completed the prescribed courses within five (5) years prior to the date upon which the applicant makes application; and such certificate is considered to be in full compliance with the requirements of this act for the completion of a course of study.

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

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

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

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

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

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

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

G. Subsections G, H, I and J of this section shall apply to both

an applicant for a renewal of a license which expires after June 30, 1989, and an applicant for a change in status from inactive licensure to active licensure after June 30, 1989.

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

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

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

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

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

- (1) Bona fide hardship preventing completion of the reinstatement requirements of an inactive license;
- (2) Health reasons preventing attendance;
- (3) Active duty in the military service with assignment to a permanent duty station outside of the state during the last twelve (12) months of a license period; or
- (4) Other compelling cause beyond the control of the applicant while engaged in the real estate business.

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

SECTION 5. That Section 54-2031, Idaho Code, be, and the same is hereby amended to read as follows:

54-2031. LICENSING ~~OF NONRESIDENT~~ BY RECIPROCITY. A. **Nonresident** ~~brokers and nonresident~~ salesmen may be licensed in this state as ~~nonresident--brokers--and--nonresident--salesmen~~ by written reciprocal agreement between this state and the state of the place of business of each ~~nonresident broker and nonresident~~ salesman. The commission shall require evidence of good standing as a licensed broker or salesman

from the proper authority of the state of his place of business. Each nonresident-reciprocity reciprocal license shall be limited and subject to the terms of the written reciprocal agreement. A nonresident salesman licensed by reciprocity must be licensed under and associated with a nonresident broker licensed by reciprocity under this chapter. Such nonresident--reciprocity reciprocal licensee may not maintain a place of business in this state except as provided for in section 54-2033A, Idaho Code. The commission, in its discretion, may refuse to issue a broker's or salesman's license to an applicant who is not a resident of this state, if such discretion is allowed in the applicable reciprocal agreement.

B. When a nonresident reciprocal broker is no longer regularly engaged in the real estate business in the state issuing his resident primary real estate broker's license, his nonresident-reciprocity reciprocal broker's license and the nonresident-salesman's-reciprocity reciprocal licenses of salesmen licensed under and associated with him shall thereupon terminate and shall be surrendered to the commission.

SECTION 6. That Section 54-2034, Idaho Code, be, and the same is hereby amended to read as follows:

54-2034. EXAMINATION -- EXCEPTION -- EXTENT OF LICENSE. A. Upon receipt of an application of an applicant who has satisfied the requirements of section 54-2029, Idaho Code, the commission shall within a reasonable time thereafter conduct or cause to be conducted an examination of the applicant as provided in section 54-2027, Idaho Code, and if the applicant for said license is found to be qualified, the commission shall thereupon issue a proper license. If the applicant has had an Idaho license as a real estate broker, real estate associate broker or real estate salesman immediately prior to the date of his application for the present or ensuing year, or is an nonresident applicant for licensure by reciprocity when the applicable reciprocity agreement does not require the examination, the examination as provided in this act shall not be required. The license shall be in a form prescribed by the commission.

B. No license issued hereunder shall give authority to do any act mentioned in section 54-2022, Idaho Code, to any person other than the person to whom said license is issued.

SECTION 7. That Section 54-2035I, Idaho Code, be, and the same is hereby amended to read as follows:

54-2035I. DISCIPLINARY ACTION AGAINST LICENSEES NOT RESTRICTED FOR VIOLATIONS OF LAW, REGULATIONS RULES. Nothing contained in sections 54-2035 through 54-2035I, Idaho Code, inclusive, limits the authority of the commission to take disciplinary action against a licensee for a violation of any of the provisions of the chapter, or of the rules and-regulations of the commission, nor shall the repayment in full of all obligations to the recovery account by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of this chapter or the rules and regulations promulgated thereunder.

SECTION 8. That Section 54-2038, Idaho Code, be, and the same is hereby amended to read as follows:

54-2038. PLACE OF BUSINESS -- DISPLAY OF LICENSE AND CARD. Except as provided in section 54-2031, Idaho Code, each person licensed as a real estate broker under the provisions of this act shall be required to have and maintain a definite place of business in the state of Idaho, which place shall serve as his office for the transaction of business and which shall be regarded for the intent and purpose of this act as his principal place of business. The license of said real estate licensee shall be prominently displayed in his said office. Notice in writing shall be given the commission of any change by the broker of his business name or business location whereupon a new license shall be issued covering the changed business name or address. A change of business name or location without notification to the commission and issuance of a new license shall automatically cancel the license heretofore issued.

SECTION 9. That Section 54-2040, Idaho Code, be, and the same is hereby amended to read as follows:

54-2040. REVOCATION OR SUSPENSION OF LICENSE -- GROUNDS THEREFOR.

A. The commission may upon its own motion, and shall upon verified complaint in writing of any person claiming to have been injured or defrauded, investigate the action of any person engaged in the business or acting in the capacity of real estate broker or real estate salesman within this state and shall have the power to temporarily suspend or permanently revoke licenses issued under the provisions of this act and/or to impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000) and to assess costs and attorney fees against the person for the cost of any investigation and/or administrative or other proceedings upon the licensee at any time where the holder thereof in performing or attempting to perform any of the acts mentioned in section 54-2022, Idaho Code, regardless of whether the acts were for his own account or in his capacity as a broker or salesman, is guilty of (a) making any fraudulent misrepresentations; or, (b) a continued or flagrant course of misrepresentation or making of false promises whether through agents or salesmen; or, (c) failure to account for or remit any property or moneys coming into his possession which belong to another; or, (d) failure to keep adequate records of all property transactions in which he acts in the capacity of real estate broker or real estate salesman; or, (e) failing or refusing upon demand to disclose any information within his knowledge, or to produce any documents, books, or records in his possession for inspection by the commission or its authorized representatives when acting within the jurisdiction or by authority of law; or, (f) employment of fraud, deception, misrepresentation, misstatement or any unlawful means in applying for or securing a license to act as real estate broker or salesman in the state of Idaho; or, (g) acting as a real estate broker or salesman under an assumed name; or, (h) violation of any provision of sections 54-2021 to 54-2053, Idaho Code, or any of the rules and regulations made or promulgated by the real estate commission, or final order of the commission; or, (i) any other conduct

whether of the same or a different character than hereinabove specified which constitutes dishonest or dishonorable dealings; or, (j) the use by a licensee of any provision allowing the licensee an option to purchase in any agreement authorizing or employing such licensee to sell, buy, list or exchange real estate for compensation or commission, except when such licensee, prior to or coincident with entering into such agreement, discloses in writing to his principal the purpose for which the property will be purchased, that the licensee is licensed, and such other information as the commission may require by rule.

B. The commission may also temporarily suspend or permanently revoke a license where the holder thereof (a) is convicted of any felony in a state or federal court, or is convicted of any-crime misdemeanor involving moral turpitude. The record of conviction, or a certified copy thereof, certified by the clerk of the court, or the judge in whose court the judgment was had, shall be prima facie evidence of conviction in such cases; (b) is declared insane by a court of competent jurisdiction; provided, however, that when a license shall have been revoked or suspended for this cause, such license may be reactivated by the commission upon a declaration of sanity being made; (c) has a judgment entered against him in a civil action upon grounds of fraud, misrepresentation, or deceit with reference to any transaction for which a license is required.

C. The commission may also temporarily suspend or permanently revoke a license of a broker or salesman where the license of such licensee, issued by another jurisdiction, is suspended or revoked for acts or omissions which would be grounds for suspension or revocation under chapter 20, title 54, Idaho Code. A certified copy of the findings of fact, conclusions of law, memorandum opinion and/or final order from the appropriate administrative agency or court shall be prima facie evidence of the suspension or revocation and the facts stated therein.

D. If the commission temporarily suspends or permanently revokes a license, and/or imposes a civil penalty, the commission may withhold execution of said suspension, revocation and/or civil penalty on such terms and for such time as it may prescribe.

E. In the event of the revocation or suspension of the broker's license issued to the designated broker of a partnership or corporation, the license issued to such partnership or corporation shall be revoked or suspended by the commission. However, the commission may withhold execution of the revocation or suspension on such terms and for such time as it may prescribe.

F. All civil penalties collected by the commission under the provisions of this chapter shall be deposited in the state treasury to the credit of the special real estate account established pursuant to section 54-2037, Idaho Code.

SECTION 10. That Section 54-2049, Idaho Code, be, and the same is hereby amended to read as follows:

54-2049. TRUST FUNDS TO BE DEPOSITED IN NEUTRAL DEPOSITORY OR TRUST FUND ACCOUNT. Every person, whether operating as an individual or in a partnership or in a corporate capacity, shall immediately

place in a neutral escrow depository in this state all funds entrusted to him, by his principal or by others, in his capacity as a real estate broker or agent, or shall maintain a trust fund account in a licensed title insurance company, bank or approved depository in this state, and shall place therein all such entrusted funds on receipt thereof. In no case shall entrusted funds be commingled with funds of a real estate broker, firm or agent, except that the broker or firm may deposit an amount of their own funds, in an amount to be determined by the commission, for the purpose of opening and maintaining the account.

SECTION 11. That Section 54-2050, Idaho Code, be, and the same is hereby amended to read as follows:

54-2050. RULES ~~AND--REGULATIONS~~ GOVERNING TRUST FUNDS PRESCRIBED BY COMMISSION. The commission may prescribe rules ~~and-regulations~~ governing the maintenance of records and accounting of trust funds referred to in section 54-2049, Idaho Code. The failure to comply with the provisions of section 54-2049, Idaho Code, or any rule ~~or-regulation~~ established by the commission hereunder or under the provisions of section 54-2027, Idaho Code, shall be deemed a ground for revocation or suspension of license under section 54-2040, Idaho Code.

Approved March 13, 1995.

CHAPTER 98

(H.B. No. 27, As Amended)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1347A, IDAHO CODE, TO DELETE THE SUNSET CLAUSE AND TO REQUIRE REPORTING TO THE JOINT FINANCE-APPROPRIATIONS COMMITTEE; AMENDING SECTION 72-1350, IDAHO CODE, TO PROVIDE THAT THE BALANCE IN THE EMPLOYMENT SECURITY FUND AND THE RESERVE FUND ON SEPTEMBER 30 SHALL BE USED TO CALCULATE THE TAXABLE WAGE RATE SCHEDULE FOR EACH CALENDAR YEAR; AMENDING SECTION 72-1366, IDAHO CODE, TO PROVIDE THAT INDIVIDUALS IDENTIFIED VIA A PROFILING SYSTEM AS NEEDING REEMPLOYMENT SERVICES SHALL BE REQUIRED TO PARTICIPATE IN REEMPLOYMENT SERVICES AS A CONDITION OF ELIGIBILITY FOR REGULAR UNEMPLOYMENT INSURANCE BENEFITS, WITH CERTAIN EXCEPTIONS AND TO CORRECT AN ERROR.

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

SECTION 1. That Section 72-1347A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1347A. EMPLOYMENT SECURITY RESERVE FUND -- SPECIAL ADMINISTRATION FUND. (a) There is hereby established in the state treasury a special trust fund, separate and apart from all other public moneys or

funds of this state, to be known as the employment security reserve fund, hereinafter "reserve fund." Except as provided herein, all proceeds from the reserve tax defined in subsection (b) of this section shall be paid into the reserve fund and shall be mingled and undivided. The moneys in the reserve fund may be used by the director for loans to the employment security fund, section 72-1346, Idaho Code, as security for loans from the federal unemployment insurance trust fund, and for the repayment of any interest bearing advances, including interest, made under title XII of the social security act, 42 USC 1321 through 1324, and shall be continuously available to the director for expenditure in accordance with the provisions of this section. The state treasurer shall be the ex officio treasurer and custodian of the reserve fund and shall invest said moneys in accordance with existing law and rules promulgated pursuant thereto. The state treasurer shall disburse the moneys from the reserve fund in accordance with the directions of the director.

(b) Effective January 1, 1991, a reserve tax shall be and is hereby imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code. The reserve tax shall be due and payable at the same time and in the same manner as contributions. For calendar year 1991 and each year thereafter if the reserve fund is less than one percent (1%) of state taxable wages in the penultimate year as of December 31 of the preceding calendar year, the reserve tax rate for all eligible, standard-rated and deficit employers shall be equal to the taxable wage rate then in effect less the assigned contribution rate. The terms and conditions of the provisions of this chapter which apply to the payment and collection of contributions also apply to the payment and collection of the reserve tax imposed by this subsection, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section and the collection of the reserve tax created in this subsection, the director is granted all rights, authority, and prerogatives granted the director under the provisions of this chapter. Moneys collected from an employer delinquent in paying contributions and reserve taxes shall first be applied to pay any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to pay delinquent contributions to the employment security fund, section 72-1346, Idaho Code, and delinquent reserve taxes to the reserve fund pursuant to this section. Any interest and penalties collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any interest or penalties refunded under this subsection shall be paid out of that same fund. Reserve taxes paid pursuant to this subsection may not be deducted in whole or in part by any employer from the wages of individuals in its employ. All reserve taxes collected pursuant to this subsection shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the reserve fund established in subsection (a) of this section. Except as to reserve taxes unpaid on the date on which they are due and payable, no reserve taxes shall be collected or paid into the reserve

fund during a calendar year if, as of December 31 of the preceding calendar year, the balance of the reserve fund equals or exceeds one percent (1%) of the state taxable wages for the penultimate calendar year, or exceeds forty-nine percent (49%) of the actual balance of the employment security fund, section 72-1346, Idaho Code. ~~This subsection is repeated effective January 1, 1996, unless, prior to that date, the Idaho legislature approves the continuation of this subsection by repeating this sunset clause.~~

(c) The interest earned from investment of the reserve fund moneys shall be deposited in a fund hereby established in the state treasurer's office, to be known as the department of employment special administration fund, hereinafter "special administration fund." The moneys in the special administration fund shall be held separate and apart from all other public moneys or funds of this state and shall be mingled and undivided. The state treasurer shall be the ex officio treasurer and custodian of this fund and may invest said moneys in accordance with existing law and rules promulgated pursuant thereto. Any interest earned on said moneys shall be deposited in the special administration fund. In the absence of a specific appropriation, the moneys in the special administration fund are hereby perpetually appropriated to the director and may be expended with the approval of the advisory council appointed pursuant to section 72-1336, Idaho Code, for costs related to employment service programs and unemployment insurance programs administered under the employment security law. The director shall report annually to the legislature joint finance appropriations committee and the advisory council the expenditures and disbursements made from the fund during the preceding fiscal year, and the expenditures and disbursements and/or commitments made during the current fiscal year to date.

(d) Administrative costs for the collection of the reserve tax defined in subsection (b) of this section, and any penalties or interest thereon, shall be paid from federal administrative grants received under title III of the social security act, as amended, to the extent permitted by federal law, and then from the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, until such time as the special administration fund established in subsection (c) of this section, has sufficient moneys to cover such administrative costs but in any event, no later than July 1, 1992. After July 1, 1992, such administrative costs shall be paid from federal administrative grants received under title III of the social security act, as amended, to the extent permitted by federal law, and then from the special administration fund.

SECTION 2. That Section 72-1350, Idaho Code, be, and the same is hereby amended to read as follows:

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

(b) All covered employers, except those eligible and electing the cost reimbursement payment method, shall be assigned taxable wage rates annually by the director in accordance with the following.

(c) A desired employment security fund size shall be determined for each calendar year by calculating from the penultimate year, the ten (10) year average of annual benefits paid to wages covered, multiplied by one and one-half (1.5). The resulting ratio, when applied to the covered wages of the penultimate year, represents the desired fund size. This calculation is hereafter referred to as the average cost multiple (ACM).

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

(e) The taxable wage rate schedule for each calendar year shall be determined by comparing the ratio of the actual balance of the employment security fund, section 72-1346, Idaho Code, and the reserve fund, section 72-1347A, Idaho Code, on ~~December-31~~ September 30, to the wages covered in the penultimate year against the taxable wage schedule ratios as provided in subsection (d) of this section.

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

(g) Schedules of Taxable Wage Rates

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

(h) Employers will be assigned contribution rates equal to the taxable wage rates provided in each schedule for eligible, standard-rated and deficit employers, based upon their experience as determined under the provisions of sections 72-1319, 72-1319A and 72-1351, Idaho Code. Provided, however, that for calendar year 1991 and each calendar year thereafter, if a reserve tax is imposed pursuant to section 72-1347A, Idaho Code, the contribution rates for all employers, with the exception of any deficit employer who has been assigned a taxable wage rate from rate class six pursuant to this section, shall be eighty percent (80%) of the taxable wage rates then in effect.

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

SECTION 3. That Section 72-1366, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

(d) During the whole of any week with respect to which he claims benefits or credit to his waiting period he was able to work, available for suitable work, and seeking work; provided, however, that no claimant shall be considered ineligible in any week of unemployment for failure to comply with the provisions of this subsection if such failure is due to an illness or disability which occurs after he has filed a claim and registered for work and after the beginning of such illness or disability, no suitable work has been available for the

claimant that would have provided wages greater than one-half (1/2) of the claimant's weekly benefit amount; and, provided further, that no claimant shall be deemed to be unavailable for the whole of the week who, because of compelling personal circumstance, is required to be absent from his normal market area, provided that such absence does not exceed a major minor portion of the week.

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

(f) His unemployment is not due to his failure without good cause to apply for available suitable work or to accept suitable work when offered to him. The longer a claimant has been unemployed, the more willing he must be to seek types of work other than in his ordinary trade or occupation and to accept work at a lower rate of pay.

(g) In determining for the purposes of this act, whether or not work is suitable for an individual, the degree of risk involved to his health, safety, morals, his physical fitness, experience, training, past earnings, length of unemployment and prospects for obtaining local employment in his customary occupation, the distance of the work from his residence, and other pertinent factors shall be considered. No employment shall, in any event, be deemed suitable and benefits shall not be denied to any otherwise eligible individual for refusing to accept new work or to hold himself available for work under any of the following conditions:

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

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

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

(h) No claimant who is otherwise eligible shall be denied benefits for any week due to an inability to comply with the requirements contained in subsections (d) and (f) of this section, if:

(1) The claimant is a participant in a program sponsored by title III of the job training partnership act and attends a job training course under that program; or

(2) The claimant attends a job training course authorized pursuant to the provisions of section 236(a)(1) of the trade act of 1974; or

(3) The claimant lacks skills to compete in the labor market and attends a job training course with the approval of the director. The director may approve job training courses that meet the following criteria:

(a) The purpose of the job training is to teach the claimant skills that will enhance the claimant's opportunities for employment; and

(b) The job training can be completed within one (1) year, except that this requirement may be waived pursuant to rules and regulations that the director shall prescribe.

This subsection shall apply only if the claimant submits with each

claim report a written certification from the training facility that the claimant is attending and satisfactorily completing the job training course, or demonstrates good cause for failure to attend the job training.

(i) No claimant who is otherwise eligible shall be denied benefits under subsection (e) of this section for leaving employment to attend job training pursuant to subsection (h) of this section, provided that the claimant obtained the employment after enrollment in or during scheduled breaks in the job training course, or that the employment was not suitable. For purposes of this subsection, the term "suitable employment" means work of a substantially equal or higher skill level than the individual's past employment, and wages for such work are not less than eighty percent (80%) of the average weekly wage in the individual's past employment.

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

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

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

(k) A benefit claimant shall not be entitled to benefits for any week with respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation or insurance law of another state or of the United States; provided, that if the appropriate agency of such other state or of the United States shall finally determine that he is not entitled to such unemployment compensation or insurance benefits, he shall not by provisions of this subsection be denied benefits. For purposes of this section, a law of the United States providing any payments of any type and in any amounts for periods of unemployment due to involuntary unemployment shall be considered an unemployment compensation law of the United States.

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

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

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

(o) Benefits based on service in employment defined in sections

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

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

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

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

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

(q) (1) With respect to weeks of unemployment beginning after December 31, 1977, benefits based on wages earned for services performed in an instructional, research, or principal administrative capacity for an educational institution shall not be paid for any week of unemployment commencing during the period between two (2) successive academic years, or during a similar period between two (2) terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms.

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

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

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

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

(s) (1) Benefits shall not be payable on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of sections 207 and 208 or section 212(d)(5) of the Immigration and Nationality Act).

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

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

(t) An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the director, unless the director determines that:

- (1) The individual has completed such services; or
(2) There is justifiable cause for the claimant's failure to participate in such services.

Approved March 13, 1995.

CHAPTER 99
(H.B. No. 238)

AN ACT

RELATING TO BANKS AND BANKING; AMENDING SECTION 26-101, IDAHO CODE, TO DEFINE IDAHO CODE CHAPTERS IN THE IDAHO BANK ACT; AMENDING SECTION 26-107, IDAHO CODE, TO MAKE ADDITIONAL IDAHO BANK ACT SECTIONS APPLICABLE TO NATIONAL BANKS; AMENDING SECTION 26-301, IDAHO CODE, TO DELETE OBSOLETE LIMITATIONS; AMENDING SECTION 26-710, IDAHO CODE, TO BRING REQUIREMENTS INTO COMPLIANCE WITH FEDERAL LAW; AMENDING SECTION 26-1101, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE, TO AUTHORIZE IDAHO BANKS TO EXERCISE POWERS ALLOWED TO NATIONAL BANKS AND BANKS FROM OTHER STATES AFTER NOTICE TO THE DEPARTMENT, TO ALLOW WAIVER OF BANK ACT PROVISIONS IF CORRESPONDING NATIONAL BANK REQUIREMENTS ARE ELIMINATED AND EXEMPTING CERTAIN ENFORCEMENT PROVISIONS FROM THE ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION 26-1104, IDAHO CODE, TO ALLOW FLEXIBILITY IN THE IMPOSITION OF BANK SUPERVISION FEES FOR INTERSTATE BANKS; AMENDING CHAPTER 11, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-1116, IDAHO CODE, TO AUTHORIZE THE ISSUANCE OF CEASE AND DESIST ORDERS AND TO IMPOSE CIVIL PENALTIES AND TO ALLOW THE DEPARTMENT OF FINANCE TO PETITION THE COURTS FOR INJUNCTIVE AND OTHER RELIEF FOR VIOLATIONS OF THE IDAHO BANK ACT; AMENDING CHAPTER 11, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-1117, IDAHO CODE, TO ALLOW THE DISTRICT COURTS TO GRANT INJUNCTIVE AND OTHER RELIEF UPON A SHOWING BY THE DEPARTMENT OF A VIOLATION OF THE IDAHO BANK ACT BY A PERSON NOT AUTHORIZED TO ENGAGE IN BANKING OR TRUST BUSINESS; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 16, TITLE 26, IDAHO CODE, TO PERMIT INTERSTATE BRANCHING IN IDAHO, TO PROVIDE A SHORT TITLE, TO STATE A PURPOSE, TO DEFINE TERMS, TO PROVIDE FOR THE APPROVAL OF CERTAIN MERGERS, TO IMPOSE CERTAIN CONDITIONS AND TO WAIVE FEDERAL LIMITS UPON DEPOSIT CONCENTRATIONS; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 17, TITLE 26, IDAHO CODE, TO PERMIT BANKING IN IDAHO BY INTERNATIONAL BANKS, TO PROVIDE A SHORT TITLE AND SCOPE, TO DEFINE TERMS, TO AUTHORIZE INTERNATIONAL BANKING OFFICES, TO LIMIT APPLICATION OF THE CHAPTER, TO PROVIDE THE APPLICATION OF THE IDAHO BUSINESS CORPORATION ACT, TO SET REQUIREMENTS FOR INTERNATIONAL BANK BUSINESS OPERATIONS, TO PROVIDE FOR ACTIONS AGAINST INTERNATIONAL BANKS, TO PROVIDE FOR LICENSE APPLICATIONS, TO PROVIDE FOR LICENSE RENEWALS, REVOCATIONS, AND PERMISSIBLE ACTIVITIES, TO PROVIDE FOR SECURITIES AND OTHER COMMERCIAL PAPER TO BE HELD WITHIN THIS STATE AT THE INTERNATIONAL BANK OR ANY OTHER BANK WITH THE APPROVAL OF THE DIRECTOR OF THE DEPARTMENT OF FINANCE, TO PROVIDE FOR CERTIFIED FINANCIAL DATA TO BE SUPPLIED TO THE DEPARTMENT OF FINANCE AND TO PROVIDE FOR RESTRICTIONS ON INVESTMENTS, TO PROVIDE FOR WRITTEN REPORTS TO THE DEPARTMENT OF FINANCE, TO PRO-

VIDE FOR AN ORDERLY DISSOLUTION OF INTERNATIONAL BANKS, TO PROVIDE FOR INTERNATIONAL REPRESENTATIVE OFFICES, TO PERMIT ADMINISTRATIVE RULES AND TO PROVIDE FOR CEASE AND DESIST ORDERS; TO AMEND THE CHAPTER HEADING, CHAPTER 26, TITLE 26, IDAHO CODE; AMENDING SECTION 26-2601, IDAHO CODE, TO CHANGE THE TITLE OF CHAPTER 26, TITLE 26, IDAHO CODE; AMENDING SECTION 26-2602, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND CLARIFY THE PURPOSE OF CHAPTER 26, TITLE 26, IDAHO CODE; AMENDING SECTION 26-2603, IDAHO CODE, TO CLARIFY DEFINITIONS; AMENDING SECTION 26-2604, IDAHO CODE, TO INCORPORATE NEW AUTHORITY AND DELETE OBSOLETE LANGUAGE; AMENDING SECTION 26-2605, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 26-2606, IDAHO CODE, TO CLARIFY REQUIREMENTS AND TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 26-2607, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 26-2608, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 26-2609, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 26-2610, IDAHO CODE, TO PERMIT COOPERATIVE AGREEMENTS AND INFORMATION SHARING WITH OTHER STATE, FEDERAL AND FOREIGN BANKING REGULATORS AND OTHERS AND TO ALLOW EXAMINATIONS OUTSIDE IDAHO; AMENDING SECTION 26-2611, IDAHO CODE, TO CLARIFY LANGUAGE; AMENDING SECTION 26-2612, IDAHO CODE, TO CLARIFY LANGUAGE; AMENDING CHAPTER 26, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2613, IDAHO CODE, TO PROVIDE THAT BANKS AND BANK HOLDING COMPANIES ARE "ISSUING PUBLIC CORPORATIONS" UNDER CHAPTERS 16 AND 17, TITLE 30, IDAHO CODE; AMENDING SECTION 28-46-202, IDAHO CODE, TO ADD A REPORTING REQUIREMENT ON THE SUM OF UNPAID LOAN BALANCES UNDER THE IDAHO CREDIT CODE; AMENDING SECTION 28-46-203, IDAHO CODE, TO CLARIFY THAT THE ANNUAL CHARGE ON UNPAID LOAN BALANCES UNDER THE IDAHO CREDIT CODE IS A TAX; AMENDING SECTION 28-46-301, IDAHO CODE, TO CLARIFY FEDERAL EXEMPTIONS; AND AMENDING SECTION 67-2702, IDAHO CODE, TO DELETE THE LIMITATION THAT THE DIRECTOR OF THE DEPARTMENT OF FINANCE MAY ONLY RAISE FEES UP TO TWENTY PERCENT IN ANY ONE YEAR.

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

SECTION 1. That Section 26-101, Idaho Code, be, and the same is hereby amended to read as follows:

26-101. TITLE. This act, comprising chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 26, title 26, Idaho Code, as such chapters may be hereafter amended, shall be known as the "Idaho Bank Act" and shall be applicable to all corporations, copartnerships, cooperative associations and persons engaged in the business of banking in the state of Idaho.

SECTION 2. That Section 26-107, Idaho Code, be, and the same is hereby amended to read as follows:

26-107. SECTIONS APPLICABLE TO NATIONAL BANKS. The provisions of sections 26-215, 26-301 through and including, 26-309, 26-716, 26-717, 26-718, 26-1203, 26-1206, 26-1207, 26-1208, and 26-1209, 26-1601 through 26-1605, 26-2601 through 26-2612, Idaho Code, shall also apply to national banks.

SECTION 3. That Section 26-301, Idaho Code, be, and the same is hereby amended to read as follows:

26-301. BRANCH BANKS -- REQUIREMENTS. No bank shall maintain any branch bank except as hereinafter provided. Any bank organized under the laws of Idaho may, upon written application to and with the approval of the director, establish and operate branch banks for the transaction of its business at any location within this state provided; ~~that such bank shall have a paid in common stock of not less than two hundred fifty thousand dollars (\$250,000) and a surplus equal to not less than twenty percent (20%) of its common stock.~~

SECTION 4. That Section 26-710, Idaho Code, be, and the same is hereby amended to read as follows:

26-710. LOANS TO OFFICERS. ~~(1) Except as authorized under this section, no bank may extend credit in any manner to any of its own executive officers. Any extension of credit under this section must be approved by the board of directors of the bank, and may be made only if such credit extension comports with the principles of safety and soundness and is in compliance with regulation O of the board of governors of the federal reserve system, 12 C.F.R. 215;~~

~~(a) the bank would be authorized to make it to borrowers other than its executive officer~~

~~(b) it is on terms not more favorable than those afforded other borrowers;~~

~~(c) the executive officer has submitted a detailed current financial statement~~

~~(d) it is on condition that is shall become due and payable on demand of the bank at any time when the executive officer is indebted to any other bank or banks on account of extensions of credit of any one (1) of three (3) categories respectively referred to in subsections (2), (3) and (4) of this section in an aggregate amount greater than the amount of credit of the same category that could be extended to him by the bank of which he is an officer;~~

~~(2) A bank may make a loan not exceeding the loan limit of the bank under section 26-703, Idaho Code, to any executive officer of the bank if, at the time the loan is made:~~

~~(a) it is secured by a first lien on a dwelling which is after the making of the loan, expected to be owned by the officer and used by him as his residence; and~~

~~(b) no other loan by the bank to the officer under authority of this subsection is outstanding;~~

~~(3) A bank may make extensions of credit to any executive officer of the bank, not exceeding the aggregate amount of sixty thousand dollars (\$60,000) outstanding at any one time to finance the education of the children of the officer;~~

~~(4) A bank may make extensions of credit for purposes not otherwise set out in this section to any executive officer of the bank, not exceeding the aggregate amount of fifty thousand dollars (\$50,000) outstanding at any one time;~~

~~(5) Except to the extent permitted under subsection (4) of this~~

~~section, a bank may not extend credit to a partnership in which one (1) or more of its executive officers are partners having either individually or together a majority interest. For the purposes of subsection (4), the full amount of any credit so extended shall be considered to have been extended to each officer of the bank who is a member of the partnership.~~

~~(6) Whenever an executive officer of a bank becomes indebted to any bank or banks (other than the one of which he is an officer) on account of extensions of credit of any one (1) of the three (3) categories respectively referred to in subsections (2), (3) and (4) of this section in an aggregate amount greater than the aggregate amount of credit of same category that could lawfully be extended to him by the bank, he shall make a written report to the board of directors of the bank stating the date and amount of each such extension of credit, the security therefor, and the purposes for which the proceeds have been or are to be used.~~

SECTION 5. That Section 26-1101, Idaho Code, be, and the same is hereby amended to read as follows:

26-1101. ADMINISTRATION -- RULES AND REGULATIONS POWERS. (1) Every bank and bank holding company shall be subject to the inspection and supervision of the director of the department of finance as provided in this act.

(2) The director may from time to time adopt promulgate, amend and rescind rules, ~~regulations and forms~~ necessary or proper to carry out the provisions of this act. No rule, ~~regulation or form~~ may be adopted unless the director finds that the action is necessary or appropriate for the protection of the interests of bank depositors or for the welfare of banks and consistent with the purpose of this act.

(3) Notwithstanding any other provision of this the Idaho bank act, to the contrary notwithstanding, the director may by regulation authorize state banks, until ninety (90) days after the close of the next regular session of the legislature, to engage in any activity in which a bank but subject to the jurisdiction of the federal government may be authorized by federal rule or law to engage. limitations provided for in this section:

(a) A bank may engage in any activity in which it could engage, exercise any power it could exercise, or make any loan or investment which it could make if it were operating as a national bank or which has been approved by the responsible federal agency for any state-chartered bank in the United States.

(b) Before engaging in any activity or exercising any power afforded under this subsection (3), a bank shall first notify the director of its intent to do so. This notice shall be sent to the director by U.S. mail, postage prepaid, certified or registered, with return receipt requested. Should the director take no action on the request within twenty (20) days of delivery to the director, the right to engage in the action or power so requested shall be deemed granted.

(c) Should the director deny the request, the affected bank shall have the right to request a hearing before the director, which hearing shall be held within thirty (30) days of the date of the

denial.

(d) The director shall have the discretion to deny any request which is inconsistent with the purposes of the Idaho bank act.

(e) No such approval shall operate to deny the director of any of his authority under the Idaho bank act and such permitted activity shall be subject to supervision by the director.

(f) The director may, by order, waive or modify any requirement under this act if the corresponding federal requirement for national banks is eliminated or modified.

(4) Banks which are subsidiaries of bank holding companies may receive deposits, renew time deposits, close loans, service loans, and receive payments on loans as agent for other depository institutions which are subsidiaries of the same bank holding company.

(45) All rules, regulations and forms must be adopted promulgated pursuant to the provisions of chapter 52, title 67, Idaho Code. Unless expressly provided in the Idaho bank act, proceedings under the Idaho bank act shall not be considered "contested cases" under chapter 52, title 67, Idaho Code.

SECTION 6. That Section 26-1104, Idaho Code, be, and the same is hereby amended to read as follows:

26-1104. FEES. (1) On January 15 of each year, the director shall fix and collect from each bank a fee based upon the amount of the total assets of the bank as of December 31 of the preceding calendar year, which fees shall not exceed the amounts set forth in the following schedule:

TOTAL ASSETS	MAXIMUM FEE
\$0 to \$1 million.....	\$1,500 Flat Fee
\$1 million to \$10 million.....	\$2,000 + \$.25 per thousand dollars of assets in excess of \$1 million
\$10 million to \$50 million.....	\$4,250 + \$.19 per thousand dollars of assets in excess of \$10 million
\$50 million to \$100 million....	\$11,850 + \$.12 per thousand dollars of assets in excess of \$50 million
\$100 million to \$500 million...	\$17,850 + \$.10 per thousand dollars of assets in excess of \$100 million
\$500 million to \$1 billion.....	\$57,850 + \$.09 per thousand dollars of assets in excess of \$500 million
\$1 billion to \$3 billion.....	\$102,850 + \$.08 per thousand dollars of assets in excess of \$1 billion
\$3 billion to \$10 billion.....	\$262,850 + \$.07 per thousand dollars of assets in excess of \$3 billion
\$10 billion to \$20 billion.....	\$369,425 + \$.03 per thousand dollars of assets in excess of \$10 billion
\$20 billion and over.....	\$689,425 + \$.02 per thousand dollars of assets in excess of \$20 billion

(2) In addition to the foregoing each bank shall pay to the director an additional sum not to exceed one hundred dollars (\$100)

for each office and branch office maintained by said bank. The director shall collect from each bank for each special examination of its condition an amount sufficient to reimburse the director for the actual expenses incurred in connection therewith.

(3) For banks operating in Idaho with a home state other than Idaho pursuant to chapter 16, title 26, Idaho Code, the director shall, in his discretion, set annual fees on any basis, provided that such fees shall not be higher than if only the branches operating solely in Idaho were considered in making the fee calculation. Under this subsection (3), the director, in his discretion, shall adjust annual fees according to the level of participation of the department of finance in the supervision process, subject to the maximum fee provided in subsection (1) of this section.

(4) For banks chartered under this act with branches in states other than Idaho pursuant to chapter 16, title 26, Idaho Code, the director shall, in his discretion, set annual fees on any basis, provided that such fees shall not be any higher than if the branches operated outside Idaho were not a factor in the fee calculation.

(5) All fees, fines, examination and miscellaneous charges collected by the director pursuant to the Idaho bank act shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.

SECTION 7. That Chapter 11, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-1116, Idaho Code, and to read as follows:

26-1116. CIVIL ENFORCEMENT. (1) If the director believes that any person, not authorized to engage in banking business or trust business by the laws of this state or the United States, has engaged or is about to engage in any act or practice constituting a violation of any provision of the Idaho bank act or any rule or order hereunder, the director may:

(a) Issue a cease and desist order;

(b) Issue an order, pursuant to chapter 52, title 67, Idaho Code, imposing a civil penalty in an amount which may not exceed twenty-five thousand dollars (\$25,000) for any single violation or one hundred thousand dollars (\$100,000) for multiple violations in a single proceeding or a series of related proceedings; or

(c) Initiate any of the actions specified in subsection (2) of this section.

(2) The director may institute any of the following actions in the appropriate courts of this state, or in the appropriate courts of another state, in addition to any legal or equitable remedies otherwise available:

(a) An action for a declaratory judgment;

(b) An action for a permanent or temporary injunction, restraining order or writ of mandamus to enjoin the violation and to ensure compliance with the provisions of the Idaho bank act or any rule or order of the director;

(c) An action for disgorgement and other equitable remedies; and

(d) An action for appointment of a receiver or conservator for

the defendant or the defendant's assets.

SECTION 8. That Chapter 11, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-1117, Idaho Code, and to read as follows:

26-1117. POWER OF THE COURT TO GRANT RELIEF. (1) (a) Upon a showing by the director that a person, not authorized to engage in banking business by the laws of this state or the United States, has violated, or is about to violate, any provision of the Idaho bank act or any rule or order of the director, the court may grant appropriate legal or equitable remedies.

(b) Upon a showing of a violation by a person, not authorized to engage in banking business or trust business by the laws of this state or the United States, of the provisions of the Idaho bank act or a rule or order of the director, the court, in addition to traditional legal and equitable remedies, including temporary restraining orders, permanent or temporary injunctions, and writs of prohibition or mandamus, may grant the following special remedies:

(i) Imposition of a civil penalty in an amount which may not exceed twenty-five thousand dollars (\$25,000) for any single violation or one hundred thousand dollars (\$100,000) for multiple violations in a single proceeding or a series of related proceedings;

(ii) Disgorgement;

(iii) Declaratory judgment;

(iv) Restitution to depositors wishing restitution; and

(v) Appointment of a receiver or conservator for the defendant or the defendant's assets.

(c) Appropriate remedies when the defendant is shown only about to violate the provisions of the Idaho bank act or a rule or order of the director shall be limited to:

(i) A temporary restraining order;

(ii) A temporary or permanent injunction;

(iii) A writ of prohibition or mandamus; or

(iv) An order appointing a receiver or conservator for the defendant or the defendant's assets.

(2) The court shall not require the director to post a bond in any action brought under this chapter.

SECTION 9. That Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 16, Title 26, Idaho Code, and to read as follows:

CHAPTER 16
IDAHO INTERSTATE BRANCHING ACT

26-1601. SHORT TITLE. This chapter shall be known, and may be cited as the "Idaho Interstate Branching Act."

26-1602. STATEMENT OF PURPOSE. It is the policy of the state of Idaho to allow out-of-state banks, chartered either by other states or by the federal government, by merger with an existing Idaho bank, to branch within the state of Idaho on the terms and conditions set out in this chapter and chapter 3, title 26, Idaho Code; further, it is the policy of the state of Idaho to allow banks chartered by or located in this state to establish, operate, and maintain branches in other states in any manner authorized by the law of such other states. It is an express purpose of this chapter to authorize mergers between banks in Idaho and banks located in other states as contemplated by section 44(a)(3)(A) of the federal deposit insurance act, as amended in 1994.

26-1603. DEFINITIONS. As used in this chapter, and unless the context otherwise requires:

(1) "Home state" means:

(a) With respect to a state chartered bank, the state from which the bank received the charter under which it operates;

(b) With respect to a national bank, the state in which the main office of the national bank is located.

(2) "Host state" means, with respect to any bank, a state other than the home state of the bank in which the bank maintains, or seeks to establish and maintain a branch.

26-1604. MERGER APPROVAL. (1) A bank whose home state is a state other than Idaho may acquire control of, acquire all or substantially all of the assets of, or merge with a bank whose home state is Idaho. Except as authorized in this chapter, no bank, the home state of which is a state other than Idaho, may establish or maintain an office in this state, or conduct the business of banking in this state.

(2) A bank whose home state is Idaho may not enter into any transaction the result of which would be the acquisition of a branch or branches of the bank with an out-of-state bank without the acquisition of all or substantially all of the assets of the preexisting Idaho bank; provided that, in the event that a bank is required by the federal government to divest one (1) or more branches in connection with an interstate transaction, such branches may be sold to financial institutions located in Idaho subject to the approval of the director.

(3) A bank whose home state is Idaho may acquire control of, acquire all or substantially all of the assets of, or merge with a bank whose home state is a state other than Idaho. A bank with a home state other than Idaho shall apply to and receive the approval of the director prior to any acquisition transaction which, if approved, would result in a bank the home state of which is Idaho becoming a branch or branches of the out-of-state bank. The director may accept copies of applications for such transactions made to other state or federal bank supervisory agencies. Without the prior approval of the director pursuant to this chapter, any merger transaction between a bank chartered by or located in this state and any out-of-state bank is unlawful.

(4) Banks chartered by this state and national banks, the main offices of which are located in this state, may establish or maintain branch banks in other states only in accordance with this chapter.

(5) A bank, the home state of which is Idaho, shall apply to and receive the approval of the director prior to any merger transaction which, if approved, would result in one (1) or more banks chartered by or located in one (1) or more other states becoming branches of a bank whose home state is Idaho.

26-1605. CONDITIONS. (1) The director shall not approve the acquisition of a bank, the home state of which is Idaho, if:

(a) The bank to be acquired has been in existence and engaged in the business of banking in this state for less than five (5) years;

(b) The statutes of the home state of the acquiring bank would not expressly allow a bank chartered in this state to acquire a bank in such state.

(2) Upon notification by a bank, the home state of which is Idaho, that such bank intends to operate a branch in another state, the department will have thirty (30) days within which to object or otherwise act upon such an acquisition.

(3) If the director finds a violation of Idaho law concerning the activities of a bank which has Idaho as a host state, or that such a bank is operating in an unsafe and unsound condition, the director may take any enforcement or corrective action authorized under the Idaho bank act. The director may limit the authority of any bank operating in Idaho to accept or retain deposits originating in Idaho if the bank is operating in an unsafe or unsound manner.

26-1606. DEPOSIT CONCENTRATIONS. (1) There shall be under the Idaho bank act, including this chapter and chapter 26, title 26, Idaho Code, no deposit cap or concentration limit in Idaho.

(2) The director may, by order, waive any federal deposit concentration limit that has the effect of being more limiting than subsection (1) of this section. In determining to waive the federal concentration limit, the director shall apply a standard that does not discriminate against out-of-state banks, out-of-state bank holding companies, or subsidiaries thereof, upon a finding that the waiver promotes:

(a) Availability of financial services;

(b) The marketability of Idaho banks; or

(c) Other public interest.

(3) This section is not intended to affect the applicability, if any, of federal or state antitrust laws.

SECTION 10. That Title 26, IDAHO CODE, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 17, Title 26, Idaho Code, and to read as follows:

CHAPTER 17
IDAHO INTERNATIONAL BANKING ACT

26-1701. TITLE AND SCOPE. (1) This chapter shall be known, and may be cited as the "Idaho International Banking Act."

(2) This chapter is intended to set forth the terms and conditions under which an international banking corporation may enter and

do business in Idaho.

26-1702. DEFINITIONS. (1) As used in this chapter, unless the context otherwise requires:

(a) "Director" means the director of the department of finance.

(b) "Federal international bank institutions" means a branch, agency, or representative office of an international banking corporation established and operating under the federal international banking act of 1978, 12 U.S.C. sec. 3101 et seq., as amended, and its regulations.

(c) "Foreign country" means a country other than the United States, but including a territory or possession of the United States.

(d) "International bank agency" means a business or any part of a banking business conducted in this state or through an office located in this state, other than a federal international bank institution, which exercises powers as set forth in section 26-1709, Idaho Code, on behalf of an international banking corporation.

(e) "International bank branch" means a business or any part of a banking business conducted in this state, or through an office located in this state, other than a federal international bank institution, which exercises powers as set forth in section 26-1709, Idaho Code, on behalf of an international banking corporation.

(f) "International banking corporation" means a banking corporation organized and licensed under the laws of a foreign country or a political subdivision of a foreign country.

(g) "International representative office" means a business location of a representative of an international banking corporation other than a federal international bank institution, established to act in a liaison capacity with existing and potential customers of the international banking corporation and to generate new loans and other activities for the international banking corporation that is operating outside the state.

(2) Legal and financial terms used in this chapter refer to equivalent terms used by the country in which the international banking corporation is organized.

26-1703. AUTHORITY FOR OPERATION OF INTERNATIONAL BANKING OFFICES. (1) An international banking corporation with a home state other than Idaho may establish and operate, directly or indirectly, a federal international bank institution in this state in accordance with applicable federal law.

(2) An international banking corporation with no home state may establish and operate, directly or indirectly, a federal international bank institution in this state in accordance with applicable federal law.

(3) An international banking corporation with a home state other than Idaho may establish and operate, directly or indirectly, an international bank branch, an international bank agency, or an international representative office in accordance with this chapter and applicable federal law.

(4) An international banking corporation with no home state may establish and operate, directly or indirectly, an international bank branch, an international bank agency, or an international representative office in accordance with this chapter and applicable federal law.

(5) For the purposes of this section, the home state of an international banking corporation that has branches, agencies, subsidiary commercial lending companies, or subsidiary banks, or any combination of branches, agencies, subsidiary commercial lending companies, or subsidiary banks in more than one (1) state is whichever of the states is so elected by the international banking corporation. If the international banking corporation does not elect a home state, the board of governors of the federal reserve system or the director, as applicable, shall elect the home state.

26-1704. APPLICATION OF THIS CHAPTER. International banking corporations, other than federal international bank institutions, are subject to this chapter, except where it appears, from the context or otherwise, that a provision is clearly applicable only to banks or trust companies organized under the laws of this state or the United States. An international banking corporation has no greater right under, or by virtue of, this chapter than is granted to banks organized under the laws of this state.

26-1705. APPLICATION OF THE IDAHO BUSINESS CORPORATION ACT. Where not inconsistent with this chapter and the Idaho bank act, the provisions of the Idaho business corporation act shall apply to international banking corporations doing business in this state.

26-1706. REQUIREMENTS FOR CARRYING ON BANKING BUSINESS. (1) No international banking corporation, other than a federal international bank corporation, shall transact a banking business or maintain in this state any office for carrying on a banking business or any part of a banking business unless the corporation:

(a) Is authorized by its articles to carry on a banking business and has complied with the laws of the country under which it is chartered;

(b) Has furnished to the director any proof as to the nature and character of its business and as to its financial condition as the director may require;

(c) Has filed with the director:

(i) A duly executed instrument in writing, by its terms of indefinite duration and irrevocable, appointing the director its true and lawful attorney upon whom all process in any action against it may be served with the same force and effect as if it were a domestic corporation and has been lawfully served with process within the state;

(ii) A written certificate of designation, which may be changed from time to time thereafter by the filing of a new certificate of designation, specifying the name and address of the officer, agent, or other person to whom the director shall forward the process; and

(iii) A certified copy of any filings required to be made by

foreign corporations to the secretary of state by the Idaho business corporation act.

(d) Has paid to the director a fee set by the director to defray the cost of investigation and supervision.

(e) Has received a license duly issued to it by the director.

(2) The director shall not issue a license to an international banking corporation unless it is chartered in a foreign country that permits banks chartered by the United States or any of its states to establish similar facilities in that country.

26-1707. ACTIONS AGAINST INTERNATIONAL BANKING CORPORATIONS. (1) A "resident of this state" may maintain an action against an international banking corporation doing business in this state for any cause of action. For purposes of this subsection, the term resident of this state includes any individual domiciled in this state, or any corporation, partnership, or trust formed under the laws of this state.

(2) An international banking corporation or a nonresident of this state may maintain an action against an international banking corporation doing business in this state in the following cases only:

(a) Where the action is brought to recover damages for the breach of a contract made or to be performed within this state or relating to property situated within this state at the time of the making of the contract;

(b) Where the subject matter of the litigation is situated within this state;

(c) Where the cause of action arose within this state, except where the object of the action is to affect the title of real property situated outside this state; or

(d) Where the action is based on a liability for acts done within this state by an international banking corporation or its international bank agency, international bank branch, or international representative office.

(3) The limitations contained in subsection (2) of this section, do not apply to a corporation formed and existing under the laws of the United States and that maintains an office in this state.

26-1708. APPLICATION FOR LICENSE. (1) Every international banking corporation, before being licensed by the director to transact a banking business in this state as an international bank branch or as an international bank agency or before maintaining in this state any office to carry on a banking business or any part of a banking business, shall subscribe and acknowledge and submit to the director, at the director's office, a separate application, in duplicate, which shall state:

(a) The name of the international banking corporation;

(b) The location by street and post office address and county where its business is to be transacted in this state and the name of the person who is in charge of the business and affairs of the office;

(c) The location where its initial registered office will be located in this state;

(d) The amount of its capital actually paid in and the amount subscribed for and unpaid; and

(e) The actual value of the assets of the international banking corporation, which must be at least fifty million dollars (\$50,000,000) in excess of its liabilities, and a complete and detailed statement of its financial condition as of a date within sixty (60) days before the date of the application; except that the director may, when necessary or expedient, accept the statement of financial condition as of a date within one hundred twenty (120) days before the date of the application.

(2) When the application is submitted to the director, the international banking corporation shall also submit a duly authenticated copy of its article of incorporation, or equivalent corporate document, and an authenticated copy of its bylaws, or an equivalent of the bylaws that is satisfactory to the director, and pay an investigation and supervision fee to be established by rule or order. The international banking corporation shall also submit to the director a certificate issued by the banking or supervisory authority of the country in which the international banking corporation is organized and licensed stating that the international banking corporation is duly organized and licensed and lawfully existing in good standing, and is empowered to conduct a general banking business.

(3) The director may approve or disapprove the application, but the director shall not approve the application unless, in the director's opinion, the applicant meets every requirement of this chapter and any other applicable provision of this chapter and any rules adopted under this chapter. The director may specify any conditions as the director deems appropriate, considering the public interest, the need to maintain a sound and competitive banking system, and the preservation of an environment conducive to the conduct of an international banking business in this state.

(4) An international banking corporation may operate more than one (1) international bank branch in this state, each at a different place of business, provided each branch office is separately licensed to transact a banking business or any part of a banking business under this chapter. An international banking corporation may operate more than one (1) international bank agency in this state, each at a different place of business, provided each agency office is separately licensed to transact a banking business or any part of a banking business under this chapter.

(5) Notwithstanding subsection (4) of this section, no international banking corporation licensed to maintain one (1) or more international bank branches in this state shall be licensed to maintain an international bank agency in this state except upon termination of the operation of its international bank branches under section 26-1713(2), Idaho Code and no international banking corporation licensed to maintain one (1) or more international bank agencies in this state shall be licensed to maintain an international bank branch in this state except upon the termination of the operation of its international bank agencies under section 26-1713(2), Idaho Code.

26-1709. EFFECT, RENEWAL, AND REVOCATION OF LICENSES -- PERMISSIBLE ACTIVITIES. (1) When the director has issued a license to an international banking corporation, it may engage in the business authorized in this act at, and only at, the office specified in the

license for a period not exceeding one (1) year from the date of the license or until the license is surrendered or revoked. No license is transferable or assignable. Every license shall be, at all times, conspicuously displayed in the place of business specified in the license.

(2) The international banking corporation may renew the license annually upon application to the director upon forms to be supplied by the director for that purpose. The application for renewal shall be submitted to the director no later than sixty (60) days before the expiration of the license. The license may be renewed by the director upon a determination, with or without examination, that the international banking corporation is in a safe and satisfactory condition, that it has complied with applicable requirements of law, and that the renewal of the license is proper and has been duly authorized by proper corporate action. Each application for renewal of an international banking corporation license shall be accompanied by an annual renewal fee to be determined by the director by rule.

(3) The director may revoke the license, with or without examination, upon a determination that the international banking corporation does not meet the criteria established by subsection (2) of this section for renewal of licenses.

(4) If the director refuses to renew the license and, as a result, the license is revoked, all the rights and privileges of the international banking corporation to transact the business for which it was licensed shall immediately cease, and the license shall be surrendered to the director within twenty-four (24) hours after written notice of the decision has been mailed by the director to the registered office of the international banking corporation set forth in its application, as amended, or has been personally delivered to any officer, director, employee, or agent of the international banking corporation who is physically present in this state.

(5) An international banking corporation licensed under this act to carry on business in this state as an international bank agency may conduct a general banking business through its international bank agency in the same manner as banks existing under the laws of this state, except that no international banking corporation shall, through its bank agency, exercise fiduciary powers or receive deposits, but may maintain for the account of others credit balances incidental to or arising out of the exercise of its lawful powers.

26-1710. SECURITIES, BONDS AND OTHER COMMERCIAL PAPER TO BE HELD IN THIS STATE. (1) An international banking corporation licensed under this chapter shall hold, at its office in this state, currency, bonds, notes, debentures, drafts, bills of exchange, or other evidence of indebtedness or other obligations payable in the United States or in United States funds or, with the prior approval of the director, in funds freely convertible into United States funds in an amount that is not less than one hundred eight percent (108%) of the aggregate amount of liabilities of the international banking corporation payable at or through its office in this state or as a result of the operations of the international bank branch or international bank agency, including acceptances, but excluding:

(a) Accrued expenses; and

(b) Amounts due and other liabilities to other offices, agencies, or branches of and wholly owned, except for a nominal number of directors' shares, and subsidiaries of the international banking corporation.

(2) For the purpose of this chapter, the director shall value marketable securities at principal amount or market value, whichever is lower, and may determine the value of any nonmarketable bond, note, debenture, draft, bill of exchange, or other evidence of indebtedness or of any other obligation held by or owed to the international banking corporation in this state. In determining the amount of assets for the purpose of computing the above ratio of assets, the director may exclude any particular assets, but may give credit, subject to any rules adopted by the director, to deposits and credit balances with unaffiliated banking institutions outside this state if the deposits or credit balances are payable in United States funds or in currencies freely convertible into United States funds. In no case shall credit given for the deposits and credit balances exceed in aggregate amounts any percentage, but not less than eight percent (8%) as the director may from time to time prescribe, of the aggregate amount of liabilities of the international banking corporations.

(3) If, by reason of the existence or the potential occurrence of unusual or extraordinary circumstances, the director considers it necessary or desirable for the maintenance of a sound financial condition, for the protection of creditors and the public interest and to maintain public confidence in the business of the international bank agency of the international banking corporation, the director may reduce the credit to be given as provided in this section for deposits and credit balances with unaffiliated banking institutions outside this state and may require the assets to be held in this state under this chapter with any bank or trust company existing under the laws of this state that the international banking corporation designates and the director approves.

(4) An international bank branch and international bank agency shall file any reports with the director as the director may require in order to determine compliance by the international bank branch or international bank agency with this section.

26-1711. FINANCIAL CERTIFICATION -- RESTRICTIONS ON INVESTMENTS, LOANS AND ACCEPTANCES. (1) Before opening an office in this state, and annually thereafter so long as a bank office is maintained in this state, an international banking corporation licensed under this act shall certify to the director the amount of its paid-in capital, its surplus, and its undivided profits, each expressed in the currency of the country of its incorporation. The dollar equivalent of this amount, as determined by the director, is considered to be the amount of its capital, surplus, and undivided profits.

(2) Purchases and discounts of bills of exchange, bonds, debentures, and other obligations and extensions of credit and acceptances by an international bank agency within this state are subject to the same limitations as to amount in relation to capital, surplus, and undivided profits as are applicable to banks organized under the laws of this state. With the prior approval of the director, the capital notes and capital debentures of the international banking corporation

may be treated as capital in computing the limitations.

26-1712. REPORTS. An international banking corporation licensed under this act shall, at the times and in the form prescribed by the director, make written reports in the English language to the director, under the oath of one (1) of its officers, managers, or agents transacting business in this state, showing the amount of its assets and liabilities and containing any other matters required by the director. If an international banking corporation fails to make a report, as directed by the director, or if a report contains a false statement knowingly made, this is grounds for revocation of the license of the international banking corporation.

26-1713. DISSOLUTION. (1) When an international banking corporation licensed to maintain an international bank branch or an international bank agency in this state is dissolved or its authority or existence is otherwise terminated or canceled in the jurisdiction of its incorporation, a certificate of the official responsible for records of banking corporations of the jurisdiction of incorporation of the international banking corporation attesting to the occurrence of this event or a certified copy of an order or decree of a court of the jurisdiction directing the dissolution of the international banking corporation or the termination of its existence or the cancellation of its authority shall be delivered to the director. The filing of the certificate, order, or decree has the same effect as the revocation of the international banking corporation's license as provided in section 26-1709(4), Idaho Code.

(2) An international banking corporation that proposes to terminate the operation in this state of an international bank branch, an international bank agency, or an international representative office shall comply with procedures as the director may prescribe by rule or order to insure an orderly cessation of business in a manner that is not harmful to the public interest and shall surrender its license to the director or shall surrender its right to maintain an office in this state, as applicable.

(3) The director shall continue as agent of the international banking corporation upon whom process against it may be served in any action based upon any liability or obligation incurred by the international banking corporation within this state before the filing of the certificate, order, or decree; and the director shall promptly cause a copy of the process to be mailed by registered or certified mail, return receipt requested, to the international banking corporation at the post office address specified for this purpose on file with the director's office.

26-1714. INTERNATIONAL REPRESENTATIVE OFFICES. (1) An international banking corporation that does not transact a banking business or any part of a banking business in or through an office in this state, but maintains an office in this state for other purposes is considered to have an international representative office in this state.

(2) An international representative office located in this state shall register with the director annually on forms prescribed by the

director. The registration shall be filed before January 31 of each year, shall be accompanied by a registration fee prescribed by rule or order, and shall list the name of the local representative, the street address of the office, and the nature of the business to be transacted in or through the office.

(3) The director may review the operations of an international representative office annually or at any greater frequency as is necessary to assure that the office does not transact a banking business.

(4) An international banking corporation desiring to convert its existing registered international representative office to a licensed international bank branch or licensed international bank agency shall submit to the director the application required in section 26-1708, Idaho Code, and is required to meet the minimum criteria for licensing of an international bank branch or licensed international bank agency under this chapter.

(5) An international representative office may act in a liaison capacity with existing and potential customers of an international banking corporation and in undertaking these activities may, through its employees or agents, without limitation, solicit loans, assemble credit information, make proprietary inspections and appraisals, complete loan applications and other preliminary paperwork in preparation for making a loan, but may not solicit or accept deposits. No international representative office shall conduct any banking business or part of a banking business in this state.

26-1715. RULES. The department of finance may promulgate administrative rules necessary to implement this chapter.

26-1716. CEASE AND DESIST. Upon a finding that any action of an international banking corporation or its international banking agency, international banking branch, or international representative office subject to this chapter may be in violation of any Idaho banking law, the director, pursuant to chapter 52, title 67, Idaho Code, and after a reasonable notice to the international banking corporation, international bank agency, international bank branch, or international representative office and an opportunity for it to be heard, may order it to cease and desist from the action. If the international banking corporation, international bank agency, international bank branch, or international representative office fails to appeal the decision in accordance with chapter 52, title 67, Idaho Code, and continues to engage in the action in violation of the director's order to cease and desist the action, it is subject to a penalty of one thousand dollars (\$1,000) to be recovered with costs by the director in any court of competent jurisdiction in a civil action prosecuted by the director. This penalty is in addition to and not in lieu of any other law applicable to the failure of an international banking corporation, international bank agency, international bank branch, or international representative office to comply with an order of the director.

SECTION 11. That the heading for Chapter 26, Title 26, Idaho Code, be, and the same is hereby amended to read as follows:

~~FINANCIAL-INSTITUTION-ACQUISITION~~

IDAHO INTERSTATE BANKING ACT

SECTION 12. That Section 26-2601, Idaho Code, be, and the same is hereby amended to read as follows:

26-2601. SHORT TITLE. This chapter shall be known as the "~~Financial-Institution-Acquisition-Act~~ Idaho Interstate Banking Act."

SECTION 13. That Section 26-2602, Idaho Code, be, and the same is hereby amended to read as follows:

26-2602. STATEMENT OF PURPOSE. It is the policy of the state of Idaho to allow ~~reciprocal~~ acquisitions ~~between of Idaho financial institutions or Idaho financial institution holding companies and out-of-state financial institutions or~~ by out-of-state financial institution holding companies ~~located within this region,~~ under the terms and conditions set forth in this chapter. ~~It is an express purpose of this chapter to authorize the transactions of the type set forth in section 26-2605, Idaho Code, for purposes of 12 U.S.C. section 1842 and any successor legislation to that section.~~

SECTION 14. That Section 26-2603, Idaho Code, be, and the same is hereby amended to read as follows:

26-2603. DEFINITIONS. As used in this chapter:

(1) "Applicant" means ~~an out-of-state financial institution or~~ an out-of-state financial institution holding company which has submitted an application under section 26-2605, Idaho Code.

(2) "Control." A person has "control" of a financial institution or financial institution holding company if the person:

(a) Directly or indirectly, owns, controls or has the power to vote twenty-five percent (25%) or more of any class of voting securities of the financial institution or financial institution holding company;

(b) The person, directly or indirectly, controls the election of a majority of the directors or trustees of the financial institution or financial institution holding company; or

(c) The person, directly or indirectly, directs or exercises a controlling influence over the management or policies of the financial institution or financial institution holding company.

There is a rebuttable presumption that a person has control of a financial institution or financial institution holding company if the person owns, controls or has the power to vote five percent (5%) or more of the voting securities of the financial institution or financial institution holding company. Owning voting securities in a fiduciary capacity does not constitute "control" unless the director determines, after notice and an opportunity for hearing, that the person exercises a controlling influence over the management or policies of the financial institution or financial institution holding company. No person shall be deemed to have control of a financial institution or financial institution holding company by virtue of the person's ownership or control of shares acquired by him in connection with his underwriting of shares in the financial institution or financial

institution holding company which are held only for such period of time as will permit the sale thereof on an orderly and reasonable basis, and no person shall be deemed to have control of a financial institution or financial institution holding company by virtue of his ownership or control of shares acquired and held in the ordinary course of securing or collecting a debt previously contracted in good faith and which is held only for such period of time as will permit the sale thereof on an orderly and reasonable basis, which period of time shall have a duration of no more than two (2) years.

(3) "Director" means the director of the department of finance.

(4) "Financial institution" means any state bank, national bank, trust company, savings and loan association, savings bank, federal savings and loan association, federal savings bank, or credit union, as those terms are defined in title 26, Idaho Code, or any federal credit union organized under the federal credit union act (12 U.S.C. section 1751, et seq.). The term also includes any other institution which holds and receives deposits, savings or share accounts; issues certificates of deposit; or provides to its customers any deposit accounts which are subject to withdrawal by check, instrument, order or electronic means to effect third-party payments.

(5) "Financial institution holding company" means a person, other than an individual, that has or acquires control over any financial institution.

(6) "Idaho financial institution" means:

(a) A a financial institution whose operations are principally conducted chartered by or incorporated in this the state of Idaho;

(b) With respect to financial institutions chartered by the federal government, those which have their main office located in Idaho.

(7) "Idaho financial institution holding company" means a financial institution holding company whose principal place of business is, and whose operations are principally conducted in, this state. "Idaho financial institution holding company" also means an out-of-state financial institution holding company which lawfully has control of an Idaho financial institution on the effective date of this chapter.

(8) "In danger of failing" means a financial institution is in danger of failing if: (i) the financial institution is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course and there is no reasonable prospect for it to do so without federal or other governmental assistance; or (ii) the financial institution has incurred or is likely to incur losses that will deplete all or substantially all of its capital and there is no reasonable prospect for replenishing the financial institutions' capital without federal or other governmental assistance.

(9) "Person" means a natural person, corporation, partnership, association, cooperative association, unincorporated association, trust or any other legal or commercial entity.

(10) "Principally conducted." The operations of a financial institution are "principally conducted" in the state in which the total deposits of the financial institution are largest. The operations of a financial institution holding company are principally conducted in the state in which the financial institution holding

company's financial institution subsidiary having the largest percentage of the total deposits of all of the financial institution subsidiaries of the holding company is located.

(11) "Out-of-state financial institution" means a financial institution whose operations are principally conducted outside this state.

(12) "Out-of-state financial institution holding company" means a financial institution holding company whose principal place of business is, and whose operations are principally conducted, outside this state.

SECTION 15. That Section 26-2604, Idaho Code, be, and the same is here amended to read as follows:

26-2604. PROHIBITED ACQUISITION. ~~(1) Except as authorized in this chapter, or chapter 16, title 26, Idaho Code, and by the laws of the United States, no out-of-state financial institution or out-of-state financial institution holding company, nor any subsidiary or affiliate thereof, may establish or maintain an office of, or conduct the business of, a financial institution in this state; nor may such out-of-state financial institutions or out-of-state financial institution holding companies, or any subsidiaries or affiliates thereof, directly or indirectly, acquire control of, acquire substantially all of the assets of, merge with, consolidate with, or assume the deposit liabilities of an Idaho financial institution or an Idaho financial institution holding company.~~

~~(2) The provisions of this chapter do not restrict the lawful exercise by any financial institution or financial institution holding company under the jurisdiction of the department or organized under the laws of the United States or of any other state and having an office in this state as of the effective date of this chapter of any authority, right, power, or privilege in effect and available to such financial institution or financial institution holding company as of that date under the laws of this state, the United States, or any other state.~~

~~(3) The provisions of this chapter do not prevent the consummation of transactions lawfully entered into prior to the effective date of this chapter nor does it prohibit foreign persons lawfully engaged in activities authorized under the laws of this state or of the United States prior to the effective date of this chapter from continuing to engage in such activities so long as they are lawful under any other laws of this state, the United States, or the laws of any other state.~~

SECTION 16. That Section 26-2605, Idaho Code, be, and the same is hereby amended to read as follows:

26-2605. ACQUISITION BY OUT-OF-STATE COMPANY. If an application has been submitted by such ~~out-of-state financial institution or~~ out-of-state financial institution holding company to, and prior written approval has been obtained from the director, pursuant to section 26-2606, Idaho Code, an ~~out-of-state financial institution or an~~ out-of-state financial institution holding company may:

- (a) Acquire control of;
- (b) Acquire all or substantially all of the assets of;

- (c) Merge or consolidate with; or
- (d) Assume the deposit liabilities of an Idaho financial institution ~~or an Idaho financial institution holding company.~~

SECTION 17. That Section 26-2606, Idaho Code, be, and the same is hereby amended to read as follows:

26-2606. REQUIREMENTS FOR ACQUISITION. No person shall effect any of the transactions described in section 26-2605, Idaho Code, or make any public offer to do so unless it shall first have complied with the provisions of chapters 5 and 9, title 26, Idaho Code, and this section.

(1) An applicant must request authorization to engage in any of the transactions described in section 26-2605, Idaho Code, shall pay such application fee as the director may prescribe for such transactions and shall file with the director:

- (a) An application in such form as the director may prescribe;
- (b) Such other information as the director may require pursuant to any rule ~~or regulation~~, or which he determines to be necessary to allow him to make the findings in the case of any specific transactions which are required in this section;
- (c) Unless the applicant is an Idaho resident, a domestic corporation or a foreign corporation qualified to do business in this state, a written consent to service of process in any action or suit arising out of or in connection with said proposed action, said service to be on a resident of this state;
- (d) A written undertaking on the part of the applicant to provide the director, if requested, the ~~financial institution or~~ financial institution holding company examination records ~~or such of them as may be requested by the director, of the primary administrative regulator and deposit insurance agency of the financial institution~~ and any and all examination reports of such financial institution holding company involved in the transaction subsidiaries as the director may designate.

(2) The director may, as a condition upon acceptance of an application as complete or upon approval of an application, require cooperation from the administrative regulator or regulators of the out-of-state ~~financial institution or~~ financial institution holding company and its subsidiaries involved in the transaction.

(3) Within thirty (30) days of acceptance of the application as complete, the director shall act upon the application by approving or disapproving it and shall state in writing his findings of fact, conclusions and order. The director may approve an application subject to such terms and conditions as he may consider necessary to protect the public interest and carry out the purposes of this chapter. The director may not approve an application for a transaction in which the applicant is a foreign corporation which has not qualified to do business in this state under title 30, Idaho Code, and which is required to do so.

(4) The director shall disapprove any application filed under this section if he finds:

- (a) That the proposed transaction would be detrimental to the safety and soundness of the applicant or to any Idaho financial

institution or Idaho financial institution holding company which is a party to the proposed transaction or to a subsidiary or affiliate of that institution or holding company;

(b) The applicant, its executive officers, directors or principal shareholders do not have a record of sound performance, efficient management, financial responsibility and integrity such that it would be against the interest of the depositors, other customers, creditors or shareholders of an Idaho financial institution or an Idaho financial institution holding company, or against the public interest to authorize the proposed transaction;

(c) The financial condition of the applicant or any Idaho financial institution or Idaho financial institution holding company which is a party to or participant in the proposed transaction is such that the financial stability of such applicant or other institution or holding company might be jeopardized or the interests of depositors or other customers of such applicant or other institutions or holding companies might be prejudiced;

(d) ~~The Idaho financial institution or Idaho financial institution holding company to be acquired has been chartered and actively engaged in business for less than four five (45) years prior to the date of the application; provided, however, that this subsection (4) shall not be construed to prohibit the approval of the acquisition of any Idaho financial institution or Idaho financial institution holding company formed solely to facilitate the acquisition of all of the voting shares of an Idaho financial institution which itself has been chartered and actively engaged in business for four (4) years or more prior to the date of the application;~~

(e) The consummation of the proposed transaction will tend substantially to lessen competition within this state unless the director finds that the anticompetitive effects of the proposed transaction are clearly outweighed by the benefit of meeting the convenience and needs of the community to be served; or

(f) The applicant has not established a record of meeting the credit needs of the communities which it or its subsidiary financial institution(s) services.

(5) Subsection (4)(d) of this section shall not be construed as prohibiting either:

(a) The approval of the acquisition of any Idaho financial institution or Idaho financial institution holding company formed solely to facilitate the acquisition of all of the voting shares of an Idaho financial institution which itself has been chartered and actively engaged in business for five (5) years or more prior to the date of the application; or

(b) The acquisition of an Idaho financial institution holding company which has been in existence for less than five (5) years if each of the financial institutions controlled by the financial institution holding company have been chartered and actively engaged in business for five (5) years or more.

SECTION 18. That Section 26-2607, Idaho Code, be, and the same is hereby amended to read as follows:

26-2607. ACQUISITION OF FAILING INSTITUTION. (1) Notwithstanding any provision of the laws of this state to the contrary, if the director determines, in his discretion, that an Idaho financial institution is in danger of failing, or takes possession of a failing Idaho financial institution pursuant to the provisions of title 26, Idaho Code, and if the director deems it to be in the public interest and necessary to protect depositors, creditors and other customers of that financial institution, the director may solicit offers from, and authorize or require the acquisition of such failing Idaho financial institution by a financial institution or financial institution holding company organized and operated under the laws of any state or the United States. Acquisition may be through merger, consolidation, purchase of all or substantially all of the assets and assumption of liabilities, or purchase of all or a controlling part of the shares of the acquired institution.

(2) The director may not, under this section, accept any offers from, or authorize or require any acquisition by a ~~financial institution or~~ financial institution holding company as described in subsection (1) of this section, unless he finds that:

(a) The ~~financial institution or~~ subsidiaries of the financial institution holding company ~~has~~ have demonstrated an acceptable record of meeting the credit needs of the communities it serves; and

(b) The ~~financial institution or~~ financial institution holding company ~~has~~ and its subsidiaries have a record of sound performance, capital adequacy, financial capacity and efficient management such that the acquisition would not jeopardize the financial stability of the acquired institution and would not be detrimental to the interests of depositors, creditors, or other customers of the acquired institution or the public interest.

(3) To protect the interest of depositors, creditors and other customers of a failing Idaho financial institution, the director may waive any of the procedures set forth in section 26-2606, Idaho Code, or in any regulation rule of the department if he deems it necessary to implement the purposes of this section.

SECTION 19. That Section 26-2608, Idaho Code, be, and the same is hereby amended to read as follows:

26-2608. CONDITIONS FOR APPROVAL. The director may make the acquisition of an Idaho financial institution ~~or Idaho financial institution holding company~~ by an ~~out-of-state financial institution or~~ out-of-state financial institution holding company subject to any conditions, restrictions, and requirements that would apply to the acquisition by an ~~Idaho financial institution or~~ Idaho financial institution holding company of a financial institution or a financial institution holding company in the state where such acquiring ~~out-of-state financial institution or~~ financial institution holding company's operations are principally conducted, which conditions, restrictions and requirements would not apply to acquisitions by a financial institution or financial institution holding company all of whose financial institution subsidiaries are located in that state.

SECTION 20. That Section 26-2609, Idaho Code, be, and the same is hereby amended to read as follows:

26-2609. PENALTIES. (1) Any person who willfully violates any provision of this chapter or any regulation rule or order issued by the director pursuant to this chapter shall forfeit and pay a civil penalty of not more than one thousand dollars (\$1,000) per day for each day during which the violation continues. The director may assess the civil penalty after giving notice and an opportunity to the person to submit data, views and arguments, and after giving due consideration to the size, financial resources and good faith of the person charged, the gravity of the violation and any data, views and arguments submitted. The director shall collect the civil penalty by bringing an action in the district court of the county in which the office of the director is located. Any applicant for approval of an acquisition is considered to have consented to the jurisdiction and venue of the court by the filing of any application for approval.

(2) The director may secure injunctive relief in the district court of the county in which the office of the director is located to prevent any change in control pending completion of the procedures set forth in this chapter.

SECTION 21. That Section 26-2610, Idaho Code, be, and the same is hereby amended to read as follows:

26-2610. COOPERATIVE AGREEMENTS. (1) The director is authorized to enter into cooperative and reciprocal agreements with other financial institution regulatory agencies, both federal and state, and from bank supervisory authorities from foreign countries, to facilitate the regulation of financial institutions and financial institution holding companies doing business in this state. The director may accept reports of examinations and other records from such other agencies in lieu of conducting his own examinations of financial institutions controlled by financial institution holding companies located in other states. The director may share examination reports with such other agencies. The director may examine such institutions in Idaho, in the financial institution's home state or such other location as may be necessary. The director may take any action jointly with other regulatory agencies having concurrent jurisdiction over financial institutions and financial institution holding companies doing business in this state or may take such actions independently in order to carry out his responsibilities.

(2) The director may, in his discretion, enter into agreements with a professional association of which the department is a member. The purposes of such agreements may include the facilitation of examination of banks or bank holding companies operating in other states in addition to Idaho. Notwithstanding any other provision of law, such examination agreements may provide for the exchange of bank information, including examination reports, with such a professional association; provided however, that such communication shall not constitute a public disclosure of such records under chapter 3, title 9, Idaho Code, nor a waiver of the statutory privilege in section 26-1111, Idaho Code.

SECTION 22. That Section 26-2611, Idaho Code, be, and the same is hereby amended to read as follows:

26-2611. NO REPEAL BY IMPLICATION. Nothing contained in this chapter, or any amendment thereto, shall be construed to amend or modify the provisions of any other chapter of this title governing the supervision or regulation of financial institutions and financial institution holding companies or the organization and powers of the department of finance and the director with respect thereto as may be provided in such other chapter.

SECTION 23. That Section 26-2612, Idaho Code, be, and the same is hereby amended to read as follows:

26-2612. SEVERABILITY. If a any court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this chapter, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this chapter, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this chapter so adjudged to be invalid or unconstitutional.

SECTION 24. That Chapter 26, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2613, Idaho Code, and to read as follows:

26-2613. BANKS AS "ISSUING PUBLIC CORPORATIONS." Notwithstanding any other provision of law, banks chartered by the state of Idaho and bank holding companies as defined in section 26-501, Idaho Code, shall be considered "issuing public corporations" as used in chapters 16 and 17, title 30, Idaho Code.

SECTION 25. That Section 28-46-202, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-202. NOTIFICATION. (1) Persons subject to this part shall file notification with the administrator within thirty (30) days after commencing business in this state, and thereafter, on or before January 31 of each year. The notification shall state:

- (a) Name of the person;
- (b) Name in which business is transacted if different from (a);
- (c) Address of principal office, which may be outside this state;
- (d) Addresses of all offices or retail stores, if any, in this state at which regulated consumer credit transactions are entered into, or in the case of a person taking assignments of obligations, the offices or places of business within this state at which business is transacted;
- (e) If regulated consumer credit transactions are entered into otherwise than at an office or retail store in this state, a brief description of the manner in which they are entered into;
- (f) Address of designated agent upon whom service of process may be made in this state; ~~and~~

(g) Whether regulated consumer loans are made; and

(h) The sum of all unpaid balances owed to the person as of December 31 of the preceding calendar year in connection with regulated consumer credit transactions.

(2) If information in a notification becomes inaccurate after filing, no further notification is required until the following January 31.

SECTION 26. That Section 28-46-203, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-203. FEES AND TAXES. (1) A person required to file notification shall on or before January 31 of each year pay to the administrator an annual fee to be fixed by the administrator, but not to exceed fifty dollars (\$50.00) per year.

(2) Persons required to file notification who are sellers or lenders shall ~~pay an additional fee to be fixed by the administrator at the time and in the manner stated in subsection (1) of this section not to exceed~~ tax of ten dollars (\$10.00) for each one hundred thousand dollars (\$100,000) or part thereof in excess of one hundred thousand dollars (\$100,000), of the unpaid balances outstanding as of December 31 of the preceding calendar year arising from regulated consumer credit ~~sales and regulated consumer loans~~ transactions made in this state and held either by the seller or lender, or by an assignee who has not filed notification.

(3) Persons required to file notification who are assignees shall ~~pay an additional fee to be fixed by the administrator at the time and in the manner stated in subsection (1) of this section not to exceed~~ tax of ten dollars (\$10.00) for each one hundred thousand dollars (\$100,000), or part thereof, of the unpaid balances of obligations arising from regulated consumer credit ~~sales and regulated consumer loans~~ transactions made in this state taken by assignment and outstanding as of December 31 of the preceding calendar year, ~~but an assignee need not pay a fee with respect to an obligation on which the assignor or other person has already paid a fee.~~

(4) The administrator may, in his discretion, allow an exemption from payment of the ~~fees herein~~ described in subsection (1) of this section to supervised financial organizations which are already required to pay similar supervision and examination fees; provided any person holding a permit under chapter 22, title 26, Idaho Code, need not pay such fees.

(5) For the purpose of administering the Idaho credit code, all moneys received by the administrator pursuant to this act the Idaho credit code shall be remitted to the state treasurer for the credit of the finance administrative account.

SECTION 27. That Section 28-46-301, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-301. AUTHORITY TO MAKE REGULATED CONSUMER LOANS. The administrator shall receive and act on all applications for licenses to make regulated consumer loans under this act. Applications shall be filed in the manner prescribed by the administrator, shall contain

such information as the administrator may reasonably require, and shall be accompanied by the fee required by subsection (5) of section 28-46-305, Idaho Code. Unless a person is exempt under federal law or has first obtained a license from the administrator authorizing him to make regulated consumer loans, he shall not engage in the business of:

- (1) Making regulated consumer loans; or
- (2) Taking assignments of and undertaking direct collection of payments from or enforcement of rights against debtors arising from regulated consumer loans.

SECTION 28. 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 rule 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 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 adminis-

trative 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 year's appropriations by twenty-five percent (25%) or more shall be transferred to the general account.

Approved March 13, 1995.

CHAPTER 100
(H.B. No. 264)

AN ACT

RELATING TO CHEMIGATION; AMENDING SECTION 22-1408, IDAHO CODE, TO CLARIFY THAT THE PENALTY FOR CHEMIGATING WITHOUT A LICENSE IS A CIVIL PENALTY, TO DESIGNATE WHERE THE CAUSE OF ACTION SHALL BE PROSECUTED; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. That Section 22-1408, Idaho Code, be, and the same is hereby amended to read as follows:

22-1408. CONDUCTING CHEMIGATION WITHOUT A LICENSE. Any person who engages in, conducts or carries on chemigation without having a valid license in full force and effect pursuant to this chapter shall be liable for a civil fine penalty of not less than one thousand dollars (\$1,000) and not more than twenty-five thousand dollars (\$25,000). The director may file a civil action to enforce this section in a court of competent jurisdiction in the county in which the violation occurred. All civil finer penalties collected pursuant to this section shall be remitted to the water pollution control account. The burden of proof for such liability shall be met by showing a preponderance of the evidence. The civil liability contained in this section shall be in addition to, and not in lieu of, any liability contained in chapter 1, title 39, Idaho Code.

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

Approved March 13, 1995.

CHAPTER 101
(H.B. No. 205)

AN ACT

RELATING TO DEALERS IN FARM PRODUCE; AMENDING SECTION 22-1303, IDAHO CODE, TO PROVIDE FOR ADDITIONAL BOND OR OTHER SECURITY AND TO MAKE

A TECHNICAL CORRECTION; AND AMENDING SECTION 22-1308, IDAHO CODE, TO AUTHORIZE THE DIRECTOR TO PROMULGATE RULES.

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, ADDITIONAL BOND, 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 and the director may require from the applicant the posting of an additional bond or other security in an amount prescribed by rule. The additional bond or other security is in addition to the bond required in section 22-1304, Idaho Code. Failure of the applicant to timely post the additional bond or other security constitutes grounds for refusal to grant a license under this chapter.

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 endorsement 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 (\$125) for each year.

(b) Dealers: One hundred twenty-five dollars (\$125) for each year.

(c) Brokers: One hundred twenty-five dollars (\$125) for each year.

(d) Agents: Thirty-five dollars (\$35.00) 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.

SECTION 2. That Section 22-1308, Idaho Code, be, and the same is hereby amended to read as follows:

22-1308. RULES -- ENFORCEMENT OF ACT. (1) For the purpose of implementing the provisions of this chapter, the director is authorized, in conformance with chapter 52, title 67, Idaho Code, to promulgate rules.

(2) For the purpose of enforcing the provisions of this chapter the director is authorized to receive verified complaints against any commission merchant, dealer, broker, cash buyer, or agent, or any person, assuming or attempting to act as such, and upon receipt of such verified complaint shall have full authority to make any and all necessary investigations relative to the said complaint. He shall have at all times free and unimpeded access to all buildings, yards, warehouses, storage and transportation facilities in which any produce is kept, stored, handled or transported. He shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before him, together with all books, memoranda, papers, and other documents, articles or instruments; to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation, and all parties disobeying the orders of subpoenas of said director shall be guilty of contempt and shall be certified to the district court of the state for punishment for such contempt. Copies of records, inspection certifi-

cates, certified reports and all papers on file in the office of the director shall be prima facie evidence of the matters therein contained.

Approved March 13, 1995.

CHAPTER 102
(H.B. No. 256)

AN ACT

RELATING TO COMMON CARRIERS; AMENDING SECTION 61-801, IDAHO CODE, TO EXEMPT VEHICLES HAULING MANURE FROM PUBLIC UTILITIES COMMISSION JURISDICTION; 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 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 such 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 children 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 manure; 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 13, 1995.

CHAPTER 103
 (H.B. No. 177)

AN ACT

RELATING TO TRAFFICKING IN UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2732B, IDAHO CODE, TO REDUCE THE PENALTY FOR TRAFFICKING IN HEROIN WHEN THE QUANTITY INVOLVED IS TWENTY-EIGHT GRAMS OR MORE, TO DELETE PROVISIONS ALLOWING THE IMPOSITION OF A SENTENCE BELOW THE MANDATORY MINIMUM LEVEL AND TO PROVIDE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 37-2732B, Idaho Code, be, and the same is hereby amended to read as follows:

37-2732B. TRAFFICKING -- MANDATORY SENTENCES. (a) Except as authorized in this chapter, and notwithstanding the provisions of section 37-2732, Idaho Code:

(1) Any person who knowingly manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, one (1) pound of marijuana or more, or twenty-five (25) marijuana plants or more, as defined in section 37-2701, Idaho Code, is guilty of a felony, which felony shall be known as "trafficking in marijuana." If the quantity of marijuana involved:

(A) is ~~in excess of~~ one (1) pound or more, but less than five (5) pounds, or consists of twenty-five (25) marijuana plants or more but fewer than fifty (50) marijuana plants, regardless of size or weight of the plants, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of one (1) year and fined not less than five thousand dollars (\$5,000);

(B) is five (5) pounds or more, but less than twenty-five (25) pounds, or consists of fifty (50) marijuana plants or

more but fewer than one hundred (100) marijuana plants, regardless of size or weight of the plants, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of three (3) years and fined not less than ten thousand dollars (\$10,000);

(C) is twenty-five (25) pounds or more, or consists of one hundred (100) marijuana plants or more, regardless of size or weight of the plants, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of five (5) years and fined not less than fifteen thousand dollars (\$15,000).

(D) The maximum number of years of imprisonment for trafficking in marijuana shall be fifteen (15) years, and the maximum fine shall be fifty thousand dollars (\$50,000).

(E) For the purposes of this section, the weight of the marijuana is its weight when seized or as determined as soon as practicable after seizure, unless the provisions of subsection (c) of this section apply.

(2) Any person who knowingly manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, twenty-eight (28) grams or more of cocaine or of any mixture or substance containing a detectable amount of cocaine is guilty of a felony, which felony shall be known as "trafficking in cocaine." If the quantity involved:

(A) is twenty-eight (28) grams or more, but less than two hundred (200) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of three (3) years and fined not less than ten thousand dollars (\$10,000);

(B) is two hundred (200) grams or more, but less than four hundred (400) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of five (5) years and fined not less than fifteen thousand dollars (\$15,000);

(C) is four hundred (400) grams or more, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ten (10) years and fined not less than twenty-five thousand dollars (\$25,000).

(D) The maximum number of years of imprisonment for trafficking in cocaine shall be life, and the maximum fine shall be one hundred thousand dollars (\$100,000).

(3) Any person who knowingly manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, twenty-eight (28) grams or more of methamphetamine or of any mixture or substance containing a detectable amount of methamphetamine is guilty of a felony, which felony shall be known as "trafficking in methamphetamine." If the quantity involved:

(A) is twenty-eight (28) grams or more, but less than two hundred (200) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of three (3) years and fined not less than ten thousand dollars (\$10,000);

(B) is two hundred (200) grams or more, but less than four hundred (400) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of five (5) years and fined not less than fifteen thousand dollars (\$15,000);

(C) is four hundred (400) grams or more, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ten (10) years and fined not less than twenty-five thousand dollars (\$25,000).

(D) The maximum number of years of imprisonment for trafficking in methamphetamine shall be life, and the maximum fine shall be one hundred thousand dollars (\$100,000).

(4) Any person who knowingly manufactures, delivers, brings into this state, or who is knowingly in actual or constructive possession of the below-specified quantities of any of the following immediate precursors to methamphetamine (namely ephedrine, methylamine, methyl formamide, phenylacetic acid, phenylacetone, or pseudoephedrine) as defined in section 37-2707(g)(1), Idaho Code, or any compound, mixture or preparation which contains a detectable quantity of these substances, is guilty of a felony which shall be known as "trafficking in immediate precursors of methamphetamine." If the quantity:

(A) of ephedrine is five hundred (500) grams or more;

(B) of methylamine is one-half (1/2) pint or more;

(C) of methyl formamide is one-quarter (1/4) pint or more;

(D) of phenylacetic acid is five hundred (500) grams or more;

(E) of phenylacetone is four hundred (400) grams or more;

(F) of pseudoephedrine is five hundred (500) grams or more;

such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ten (10) years and fined not less than twenty-five thousand dollars (\$25,000). The maximum number of years of imprisonment for trafficking in immediate precursors of methamphetamine shall be life, and the maximum fine shall be one hundred thousand dollars (\$100,000).

(5) Any person who knowingly manufactures, delivers or brings into this state, or who is knowingly in actual or constructive possession of, two (2) grams or more of heroin or any salt, isomer, or salt of an isomer thereof, or two (2) grams or more of any mixture or substance containing a detectable amount of any such substance is guilty of a felony, which felony shall be known as "trafficking in heroin." If the quantity involved:

(A) is two (2) grams or more, but less than seven (7) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of three (3) years and fined not less than ten thousand dollars (\$10,000);

(B) is seven (7) grams or more, but less than twenty-eight (28) grams, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ten (10) years and fined not less than fifteen thousand dollars (\$15,000);

(C) is twenty-eight (28) grams or more, such person shall be sentenced to a mandatory minimum fixed term of imprisonment of ~~twenty-five~~ fifteen (215) years and fined not less than twenty-five thousand dollars (\$25,000).

(D) The maximum number of years of imprisonment for trafficking in heroin shall be life, and the maximum fine shall be one hundred thousand dollars (\$100,000).

(6) A second conviction for any trafficking offense as defined in

subsection (a) of this section shall result in a mandatory minimum fixed term that is twice that otherwise required under this section.

(7) Notwithstanding any other provision of law, with respect to any person who is found to have violated the provisions of this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for parole prior to serving the mandatory minimum fixed term of imprisonment prescribed in this section; ~~except as provided in subsection (a)(8) of this section.~~ Further, the court shall not retain jurisdiction.

~~(8) Upon motion of the prosecuting attorney, the court shall have the authority to impose a sentence below the mandatory minimum level upon any person who is convicted of a violation of the provisions of this section and who provides substantial assistance in the identification, arrest and prosecution of any of his accomplices, accessories, coconspirators, principals, sources of supply, or of any other person involved in dealing in a controlled substance in violation of the provisions of this section or section 37-2732, Idaho Code. The investigating agency shall be given an opportunity to be heard in aggravation or mitigation in reference to any such motion. Upon good cause shown, the state's motion may be filed and heard in camera. The judge hearing the state's motion may reduce or suspend the sentence if he finds that the defendant has rendered substantial assistance. The provisions of this section shall not be construed as creating a right for a person to provide assistance to law enforcement.~~

(b) Any person who agrees, conspires, combines or confederates with another person or solicits another person to commit any act prohibited in subsection (a) of this section is guilty of a felony and is punishable as if he had actually committed such prohibited act.

(c) For the purposes of subsections (a) and (b) of this section the weight of the controlled substance as represented by the person selling or delivering it is determinative if the weight as represented is greater than the actual weight of the controlled substance.

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

Approved March 13, 1995.

CHAPTER 104
(H.B. No. 176)

AN ACT

RELATING TO MARRIAGE; PROVIDING LEGISLATIVE INTENT; REPEALING SECTIONS 32-203 AND 32-204, IDAHO CODE; AMENDING SECTION 32-201, IDAHO CODE, TO REVISE WHAT CONSTITUTES MARRIAGE AND TO PROVIDE THAT NO COMMON-LAW MARRIAGE MAY BE ENTERED INTO ON AND AFTER JANUARY 1, 1996; AMENDING SECTION 32-301, IDAHO CODE, TO PROVIDE CRITERIA AS

TO WHAT CONSTITUTES A VALID MARRIAGE; AMENDING SECTION 32-302, IDAHO CODE, TO REQUIRE THE PRESENTATION OF A MARRIAGE LICENSE AND TO PROVIDE GRAMMATICAL CHANGES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. It is the intent of this act to promote the stability and best interests of marriage and the family. Marriage is the institution that is the foundation of the family and of society. Its stability is basic to morality and civilization and of vital interest to society and the state. Common-law marriages entered into in this state on and after January 1, 1996, will no longer be recognized.

SECTION 2. That Sections 32-203 and 32-204, Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Section 32-201, Idaho Code, be, and the same is hereby amended to read as follows:

32-201. WHAT CONSTITUTES MARRIAGE -- NO COMMON-LAW MARRIAGE AFTER JANUARY 1, 1996. (1) Marriage is a personal relation arising out of a civil contract between a man and a woman, to which the consent of parties capable of making it is necessary. Consent alone will not constitute marriage; it must be followed by the issuance of a license and a solemnization;--or as authorized and provided by law. Marriage created by a mutual assumption of marital rights, duties or obligations shall not be recognized as a lawful marriage.

(2) The provisions of subsection (1) of this section requiring the issuance of a license and a solemnization shall not invalidate any marriage contract in effect prior to January 1, 1996, created by consenting parties through a mutual assumption of marital rights, duties or obligations.

SECTION 4. That Section 32-301, Idaho Code, be, and the same is hereby amended to read as follows:

32-301. HOW SOLEMNIZED. ~~Marriage must~~ All marriages shall be solemnized, authenticated and recorded as provided in this chapter;--but noncompliance with its provisions does not invalidate any lawful marriage. On and after January 1, 1996, any marriage contracted or entered into in violation of the provisions of this title shall be void.

SECTION 5. That Section 32-302, Idaho Code, be, and the same is hereby amended to read as follows:

32-302. DUTY OF PERSON OFFICIATING. All persons herein authorized to solemnize marriages must first require the presentation of the marriage license and must ascertain and be assured of:

1. The identity of the parties.
2. Their real and full names and places of residence.
3. That they are of sufficient age to be capable of contracting marriage.

4. If either the male or the female is under the age of eighteen (18) ~~or the female under the age of eighteen (18) years~~, the consent of the father, mother or guardian, if any such, is given, or that such ~~nonaged~~ underaged person has been previously but is not at the time married; and that the parties applying for the rites of marriage, and making such contract, have a legal right so to do.

SECTION 6. This act shall be in full force and effect on and after January 1, 1996.

Approved March 13, 1995.

CHAPTER 105
(H.B. No. 252, As Amended)

AN ACT

RELATING TO LIENS FOR MEDICAL ASSISTANCE; AMENDING SECTION 56-218, IDAHO CODE, TO PROVIDE AN EXPANDED DEFINITION OF ESTATE SUBJECT TO ESTATE RECOVERY CLAIM AND TO PROVIDE LIENS AND SECURITY INTERESTS ON THE PROPERTY OF ESTATES SUBJECT TO AN ESTATE RECOVERY CLAIM AND GIVING SUCH CLAIMS PREFERENCE; AND AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-218A, IDAHO CODE, TO PROVIDE FOR LIENS AND RECOVERY AGAINST THE PROPERTY OF CERTAIN INDIVIDUALS RECEIVING MEDICAL ASSISTANCE.

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

SECTION 1. That Section 56-218, Idaho Code, be, and the same is hereby amended to read as follows:

56-218. RECOVERY OF CERTAIN MEDICAL ASSISTANCE. (1) Except where exempted or waived in accordance with federal law medical assistance pursuant to this chapter paid on behalf of an individual who was fifty-five (55) years of age or older when the individual received such assistance may be recovered from the estate, or if there be no estate the estate of the surviving spouse, if any, shall be charged for such aid paid to either or both; provided, however, that claim for such medical assistance correctly paid to the individual may be established against the estate, but there shall be no adjustment or recovery thereof until after the death of the surviving spouse, if any, and only at a time when the individual has no surviving child who is under twenty-one (21) years of age or is blind or permanently and totally disabled as defined in 42 U.S.C. 1382c. Transfers of real or personal property by recipients of such aid without adequate consideration are voidable and may be set aside by an action in the district court.

(2) Except where there is a surviving spouse, or a surviving child who is under twenty-one (21) years of age or is blind or permanently and totally disabled as defined in 42 U.S.C. 1382c, the amount of any medical assistance paid under this chapter on behalf of an individual who was fifty-five (55) years of age or older when the individual received such assistance is a claim against the estate in

any guardianship or conservatorship proceedings and may be paid from the estate.

(3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed against the recipient.

(4) For purposes of this section, the term "estate" shall include:

(a) All real and personal property and other assets included within the individual's estate, as defined for purposes of state probate law; and

(b) Any other real and personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of such interest), including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust or other arrangement.

(5) Claims made pursuant to this section shall be classified and paid as a debt with preference as defined in section 15-3-805(5), Idaho Code.

(6) The department may file a lien against the property of any estate subject to a claim under this section. In order to perfect a lien against real property, the department shall, within ninety (90) days after the department is notified in writing of the death of the individual for whom medical assistance was paid under this chapter, file the lien in the same general form and manner as provided in section 56-218A(3)(a), Idaho Code, in the office of the recorder of the county in which the property of the estate is located. The lien shall be recorded, indexed, and extended in the manner provided in sections 56-218A(3)(a) and 56-218A(5), Idaho Code. In order to perfect a security interest in personal property, the department shall, within ninety (90) days after the department is notified in writing of the death of the individual for whom medical assistance was paid under this chapter, file the security interest in accordance with chapter 9, title 28, Idaho Code. Failure to file a lien or a security interest does not affect the validity of claims made pursuant to this section.

(7) The director shall promulgate rules reasonably necessary to implement this section including, but not limited to, rules establishing undue hardship waivers for the following circumstances:

(a) The only asset of the estate provides the primary source of support for other family members; or

(b) The estate has a value below an amount specified in the rules; or

(c) Recovery under the lien by the department will entitle the heirs of the deceased individual to public assistance.

SECTION 2. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-218A, Idaho Code, and to read as follows:

56-218A. MEDICAL ASSISTANCE LIENS DURING LIFE OF RECIPIENT. (1) The department may recover and may impose a lien against the real

property of any individual prior to his death for medical assistance paid or about to be paid under this chapter on behalf of an individual:

(a) Who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the state plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs; and

(b) With respect to whom the department has determined, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home.

(2) No lien may be imposed on the home of an individual under subsection (1) of this section if any of the following is lawfully residing in such home:

(a) The spouse of such individual;

(b) Such individual's child under age twenty-one (21) years;

(c) Such individual's child who is blind or permanently and totally disabled as defined in 42 U.S.C. 1382c; or

(d) A sibling of such individual who holds an equity interest in such home and who was residing in such home for a period of at least one (1) year prior to the individual's admission to the medical institution.

(3) (a) In order to perfect the lien, the department shall file in the office of the recorder of the county in which the real property of the individual is located a verified statement in writing setting forth the name and last known address of the individual, the name and address of the official or agent of the department filing the lien, a brief description of the medical assistance received by the individual, the amount paid or about to be paid by the department on behalf of the individual, and, if applicable, the fact that the amount of the lien may increase over time. The county recorder shall record the claim in the real property records of the county where the claim shall be indexed, as deeds and other conveyances are required by law to be indexed.

(b) The department shall file any lien under this section within ninety (90) days of the final determination of the department, after hearing if any, required in subsection (1)(b) of this section, with the exception of property against which the department is prevented from filing a lien pursuant to subsection (2) of this section. With respect to the property described in subsection (2) of this section, the department shall file a lien within ninety (90) days after the department is notified in writing that subsection (2) of this section ceases to apply to the property.

(4) Any lien imposed in accordance with subsection (1) of this section shall dissolve upon the individual's discharge from the medical institution and return home.

(5) The lien, or any extension thereof, may, within five (5) years from the date of filing for record, be extended by filing for record in the office of the county recorder a new verified statement setting forth the information required in subsection (3)(a) of this section, and from the time of filing the lien shall be extended in

such county for five (5) years, unless fully released or otherwise discharged.

(6) No recovery shall be made under this section for medical assistance correctly paid except from such individual's estate as defined in subsection (4) of section 56-218, Idaho Code, and subject to subsections (3), (5) and (6) of section 56-218, Idaho Code, or upon sale of the property subject to a lien and may be made only after the death of such individual's surviving spouse, if any, and only at a time:

(a) When he has no surviving child who is under age twenty-one (21) years, or who is blind or permanently and totally disabled as defined in 42 U.S.C. 1382c; or

(b) In the case of a lien on an individual's home under subsection (1) of this section, when none of the following is lawfully residing in such home who has lawfully resided in such home on a continuous basis since the date of the individual's admission to the medical institution:

(i) A sibling of the individual, who was residing in the individual's home for a period of at least one (1) year immediately before the date of the individual's admission to the medical institution; or

(ii) A son or daughter of the individual, who was residing in the individual's home for a period of at least two (2) years immediately before the date of the individual's admission to the medical institution and who establishes to the satisfaction of the state that he or she provided care to such individual which permitted such individual to reside at home rather than in an institution.

(7) The director shall promulgate rules reasonably necessary to implement this section including, but not limited to, rules establishing undue hardship waivers, as provided in section 56-218(7), Idaho Code, and a procedure for notice and opportunity for hearing on the department's determination that an individual cannot reasonably be expected to be discharged from a medical institution and to return home.

Approved March 13, 1995.

CHAPTER 106
(H.B. No. 206, As Amended)

AN ACT

RELATING TO UNIFORMITY OF STATE PESTICIDE REGULATION; AMENDING SECTION 22-3426, IDAHO CODE, TO CLARIFY THAT FIRE PREVENTION PERSONNEL OR FIRE EXTINGUISHING PERSONNEL MAY CONDUCT INSPECTIONS PURSUANT TO AND ENFORCE THE UNIFORM FIRE CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 22-3426, Idaho Code, be, and the same is hereby amended 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 without 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. Nothing contained in this section shall prohibit or limit fire prevention personnel or fire extinguishing personnel of a city, county or fire protection district from conducting inspections pursuant to or enforcing the Uniform Fire 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 13, 1995.

CHAPTER 107
(H.B. No. 160)

AN ACT

RELATING TO PROPRIETARY SCHOOLS; AMENDING SECTION 33-2401, IDAHO CODE, TO REDEFINE "DEGREE" TO CLARIFY THAT THE GOVERNING AUTHORITY OF A PROPRIETARY SCHOOL HAS AUTHORITY TO CONFER A DEGREE CONSISTENT WITH ACCREDITING REQUIREMENTS.

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

SECTION 1. That Section 33-2401, Idaho Code, be, and the same is hereby amended to read as follows:

33-2401. DEFINITIONS. For the purposes of chapter 24, title 33, Idaho Code, the following words have the following meanings:

(1) "Accredited" means that a school has been recognized or approved as meeting the standards established by an accrediting agency recognized by the board or the United States department of education.

(2) "Agent" means any individual who solicits students for courses in Idaho.

(3) "Agent's permit" means a nontransferable written document issued to an agent by the board.

(4) "Board" means the state board of education.

(5) "Course of study" means either a single course or a set of related courses for which a student enrolls.

(6) "Degree" means any academic, vocational or honorary title or designation, mark, appellation, series of letters, numbers or words such as, but not limited to, "bachelor's," "master's," "doctorate," or "fellow," which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, voca-

tional, educational or professional program of study beyond the secondary school level or for a recognized title conferred for meritorious recognition and an associate of arts or associate of science degree awarded by a community college or other institution which may be used for any purpose whatsoever.

The state of Idaho recognizes and confirms the authority of any board of directors, board of trustees or comparable authority of an accredited school to confer degrees consistent with the requirements specified by the accrediting agency of the school.

(7) "Person" means any individual or other legal entity conducting courses.

(8) "Principal" means any person conducting courses.

(9) "Proprietary school" referred to as "school" means any postsecondary or vocational educational school operated for a profit, or on a nonprofit basis, which maintains a place of business within the state of Idaho or solicits business within the state of Idaho offering degrees, career or job training programs and which is not specifically exempted by the provisions of this chapter.

(10) "Registrant" means a person or principal who has been issued a certificate authorizing the conduct of courses.

(11) "Student" means an Idaho resident enrolled in a proprietary school.

Approved March 13, 1995.

CHAPTER 108
(H.B. No. 172)

AN ACT

RELATING TO SCHOOL FUNDING; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION THERETO OF A NEW SECTION 33-1002D, IDAHO CODE, TO REQUIRE A REPORT CONCERNING EXPENDITURE OF FUNDS FOR ALTERNATIVE HIGH SCHOOL PROGRAMS.

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

SECTION 1. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1002D, Idaho Code, and to read as follows:

33-1002D. ALTERNATIVE SCHOOL REPORT. Annually, prior to the tenth legislative day, the department of education shall file with the legislature a report detailing the alternative high school programs within the state. On July 1 of each year, or as soon thereafter as feasible, each school district receiving moneys pursuant to the alternative high school secondary support units factor in section 33-1002, Idaho Code, or section 33-1002C, Idaho Code, shall file with the state department a comprehensive report of the amount of money received in

the district, the expenditure on alternative school programs, and the programs provided. This information shall be compiled by the department for transmission to the legislature.

Approved March 13, 1995.

CHAPTER 109
(H.B. No. 218)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING SECTION 49-406, IDAHO CODE, TO PROVIDE FOR A RENEWAL PROCESS FOR OLD TIMER PLATES AND ESTABLISH A RENEWAL FEE, TO PROVIDE FOR PLATE REDESIGN, TO PROVIDE APPLICATION TO SPECIFIED PLATE HOLDERS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 49-406A, IDAHO CODE, TO RENAME THE VINTAGE PLATE A CLASSIC PLATE, TO PROVIDE A RENEWAL PROCESS FOR CLASSIC PLATES AND ESTABLISH A RENEWAL FEE, TO PROVIDE FOR PLATE REDESIGN, TO PROVIDE APPLICATION TO SPECIFIED PLATE HOLDERS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-406, Idaho Code, be, and the same is hereby amended to read as follows:

49-406. IDAHO OLD TIMER -- SPECIAL LICENSE PLATE PROGRAM -- REGISTRATION AND STANDARD LICENSE PLATES. (1) Any motor vehicle manufactured prior to January 1, 1943, that is ~~restored and~~ maintained to its original likeness using original-type parts and materials, without major modifications ~~and which is a collector's item~~ shall be known as an "Idaho Old Timer." Any motor vehicle which is altered from ~~the its~~ original design ~~as a street rod, hot rod or customized show car,~~ is not an "Idaho Old Timer" as herein defined.

(2) Any motor vehicle which qualifies as an "Idaho Old Timer" shall be used for exhibits, parades, tours, club activities and such occasional use as is necessary for operation and maintenance of the vehicle, and shall not be used for business or commercial purposes, ~~racing or rallies,~~ or ~~for regular personal~~ as customary and usual transportation as driving to and from school or work.

(3) ~~The "Idaho Old Timer" special license plate shall be of a color and design acceptable to representatives of the "Idaho Old Timer" interest group and approved by the department, utilizing a numbering system as determined by the department.~~

(4) Applicants for special "Idaho Old Timer" license plates shall pay an initial program fee of twenty-five dollars (\$25.00) and a license plate manufacturing fee of ten dollars (\$10.00) for each set of "Idaho Old Timer" plates. ~~"Idaho Old Timer" plates shall be renewed as provided in subsection (2) of section 49-443, Idaho Code. At the time of renewal, there shall be a plate manufacturing fee of ten dollars (\$10.00).~~ The initial program fee shall be deposited in the state highway account, and the plate manufacturing fee shall be deposited in

the plate manufacturing account.

(4) Once every three (3) years, on a schedule set by the department, an ownership verification form shall be mailed to each plate holder on file with the department. The owner shall provide such information as is requested by the department to verify ownership of the vehicle(s) and that the special license plate(s) is still in use by the owner. A fee of three dollars (\$3.00) shall be charged by the department for each vehicle. This fee shall be deposited in the state highway account to defray costs of the license plate program. If the owner no longer has an interest in a vehicle(s) the owner may retain the plates as specified in subsection (7) of this section. If the ownership verification form is not returned by the date specified by the department, the registration record will be purged from the files of the department. Any further use of the plate is lost to the owner and the plate number becomes available for issue to another applicant.

During the year of general reissue of license plates as specified in section 49-443(2), Idaho Code, reissue of "Old Timer" plates shall not be required unless there is a general consensus among the majority of plate holders that a new plate design is needed. Representatives of the plate holders shall make the request known to the department a minimum of one hundred eighty (180) days before the first month of general reissue. The cost of manufacturing a new design will be set by the department based upon the cost of manufacturing supplies and administering the reissue. The equivalent costs of each set of plates will be charged to each plate holder who purchases the new plates. If a new plate design is authorized, the design and color shall be approved by representatives of the interest group. The design, color and numbering scheme shall also be subject to approval of the department. The existing plate design will be canceled and all plate holders, present and future shall purchase and display the new plates.

(5) An applicant for the special "Idaho Old Timer" plates shall execute an affidavit on a form provided by the department that the vehicle qualifies as an old timer and shall only be used for the purposes allowed.

The department shall have the authority to refuse to issue special plates and may demand the return of such plates if the applicant has failed to comply with the provisions of this section.

(6) If an "Idaho Old Timer" is to be used for personal as customary and usual transportation, or for business or commercial purposes, the owner shall register the vehicle under the provisions of section 49-402, or section 49-434, Idaho Code, as applicable, and shall obtain and display the standard issue of license plates. It shall be permissible to display both the standard issue of plates and the special "Idaho Old Timer" plates.

(7) Whenever title or interest in an Old Timer vehicle is transferred or assigned, the transferor may retain the special plates for use on another vehicle which qualifies by providing the information required in subsection (5) of this section and by paying the required transfer fee. If the vehicle is also registered under the provisions of section 49-402 or section 49-434, Idaho Code, the provisions of section 49-431, Idaho Code, relating to the procedure for assignment and transfer of interest, shall apply.

(8) "Old Timer" plate holders on record with the department on

January 1, 1994, may retain the black on silver plate design in effect that date. If a new license plate was purchased and the special program fee of fifteen dollars (\$15.00) was paid the plate holder may request a refund of the special program fee less an administrative cost as determined by the department. A request for refund must be made in writing and must be received by the department no later than December 31, 1995. No request for refund shall be honored after that date. If the plate holder no longer has the black on silver plate, a new black on silver plate may be requested from the department.

"Old Timer" plate holders who were first time applicants and purchased a maroon on silver plate after January 1, 1994, shall request a black on silver plate from the department. The maroon on silver design will become invalid on December 31, 1995.

SECTION 2. That Section 49-406A, Idaho Code, be, and the same is hereby amended to read as follows:

49-406A. IDAHO VINTAGE CLASSIC -- SPECIAL LICENSE PLATE PROGRAM -- REGISTRATION AND STANDARD LICENSE PLATES. (1) Any motor vehicle or motorcycle which is at least thirty (30) years old that does not qualify as an "Idaho Old Timer" and that is restored and maintained to its original likeness using original-type parts and materials, without major modifications and which is a collector's item shall be known as an "Idaho Vintage Classic." Any motor vehicle which is altered from the its original design as a street rod, hot rod or customized show car, or a modified motorcycle or a customized show motorcycle, is not an "Idaho Vintage Classic" as herein defined.

(2) Any motor vehicle or motorcycle which qualifies as an "Idaho Vintage Classic" shall be used for exhibits, parades, tours, club activities and such occasional use as is necessary for operation and maintenance of the vehicle, and shall not be used for business or commercial purposes, racing or rallies, or as customary and usual transportation as driving to and from school or work.

(3) ~~The Idaho Vintage special license plate shall be of a color and design acceptable to representatives of the "Idaho Vintage" interest group and approved by the department, utilizing a numbering system as determined by the department.~~

(4) Applicants for special "Idaho Vintage Classic" license plates shall pay an initial program fee of twenty-five dollars (\$25.00) and a license plate manufacturing fee of ten dollars (\$10.00) for each set of Idaho vintage classic plates. ~~Idaho vintage plates shall be renewed as provided in subsection (2) of section 49-443, Idaho Code. At the time of renewal, there shall be a plate manufacturing fee of ten dollars (\$10.00).~~ The initial program fee shall be deposited in the state highway account, and the plate manufacturing fee shall be deposited in the plate manufacturing account.

(4) Once every three (3) years, on a schedule set by the department, an ownership verification form shall be mailed to each plate holder on file with the department. The owner shall provide such information as is requested by the department to verify ownership of the vehicle(s) and that the special plate(s) is still in use by the owner. A fee of three dollars (\$3.00) shall be charged by the department for each vehicle. This fee shall be deposited in the state high-

way account to defray costs of the license plate program. If the owner no longer has an interest in a vehicle(s) the owner may retain the plates as specified in subsection (7) of this section. If the ownership verification form is not returned by the date specified by the department, the registration record will be purged from the files of the department. Any use of the plate(s) is lost to the owner and the plate number becomes available for issue to another applicant.

During the year of a general reissue of license plates specified in section 49-443(2), Idaho Code, the reissue of "Classic" plates shall not be required unless there is a general consensus among the majority of plate holders that a new plate design is needed. Representatives of the plate holders shall make the request known to the department a minimum of one hundred eighty (180) days before the first month of general reissue. The cost of manufacturing a new design will be set by the department based upon the cost of manufacturing supplies and administering the reissue. The equivalent cost of each set of plates will be charged to each plate holder who purchases the new plates. If a new plate design is authorized, the design and color shall be approved by representatives of the interest group. The design, color and numbering scheme shall also be subject to the approval of the department. The existing plate design will be canceled and all plate holders, present and future shall purchase and display the new plates.

(5) An applicant for the special "Idaho Vintage Classic" plates shall execute an affidavit on a form provided by the department that the vehicle or motorcycle qualifies as an "Idaho vintage Classic" and shall only be used for the purposes allowed.

The department shall have the authority to refuse to issue special plates and may demand the return of such plates if the applicant has failed to comply with the provisions of this section.

(6) If an "Idaho Vintage Classic" is to be used ~~for--personal~~ as customary and usual transportation, or for business or commercial purposes, the owner shall register the vehicle under the provisions of section 49-402, or section 49-434, Idaho Code, as applicable, and shall obtain and display the standard issue of license plates. It shall be permissible to display both the standard issue of plates and the special "Idaho Vintage Classic" plates.

(7) Whenever title or interest in an Idaho vintage classic motor vehicle or motorcycle is transferred or assigned, the transferor may retain the special plates for use on another vehicle which qualifies by providing the information required in subsection (5) of this section and by paying the required transfer fee. If the vehicle is also registered under the provisions of section 49-402 or section 49-434, Idaho Code, the provisions of section 49-431, Idaho Code, relating to the procedure for assignment and transfer of interest, shall apply.

(8) Classic plate holders on record with the department on January 1, 1994, may retain the black on white design in effect on that date. If a new license plate was purchased and the special program fee of fifteen dollars (\$15.00) was paid, the plate holder may request a refund of the special program fee less an administrative cost as determined by the department. A request for refund must be made in writing and must be received by the department no later than December 31, 1995. No request for refund shall be honored after that date. If

the plate holder no longer has the black on white plates, a new black on white plate shall be requested from the department.

Vintage plate holders who were first time applicants and purchased a blue on silver plate after January 1, 1994, shall request a black on white plate from the department. The blue on silver design will become invalid on December 31, 1995.

Approved March 13, 1995.

CHAPTER 110
(H.B. No. 130)

AN ACT

RELATING TO THE STATUTE OF LIMITATIONS ON COLLECTION AND ENFORCEMENT OF SALES TAXES; AMENDING SECTION 63-3633, IDAHO CODE, TO REMOVE THE STATUTE OF LIMITATIONS ON COLLECTION AND ENFORCEMENT OF SALES TAXES COLLECTED BY A RETAILER HOLDING A SELLER'S PERMIT WHEN SUCH TAXES ARE NOT REMITTED TO THE STATE TAX COMMISSION.

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

SECTION 1. That Section 63-3633, Idaho Code, be, and the same is hereby amended to read as follows:

63-3633. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION. Except as otherwise provided in this section:

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

(b) In the case of a false or fraudulent return with the intent to evade tax, or a willful attempt in any manner to defeat or evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(c) In the case of taxes owed by a person who has failed to file a return as provided in section 63-3623, Idaho Code, the amount of taxes imposed in this chapter shall be assessed within seven (7) years of the time the return upon which the tax asserted to be due should have been filed. ~~Provided, however, that this~~

(d) The periods of limitation upon assessment and collection provided in this section shall not apply:

(1) In cases where the facts disclose a false or fraudulent act

with the intent to evade tax, ~~nor shall it apply in cases where or~~
(2) To taxes collected by a retailer, or seller has--collected
~~taxes under this chapter and or any other person who~~ has failed to
 pay over such taxes to the state tax commission.

(de) In the case of taxes due during the lifetime of a decedent, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within six (6) months after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent.

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

Approved March 14, 1995.

CHAPTER 111
 (H.B. No. 132)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3002, IDAHO CODE, TO INCLUDE REFERENCES TO IDAHO TAXABLE INCOME; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3011, IDAHO CODE, TO DEFINE THE TERM "GROSS INCOME"; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3011A, IDAHO CODE, TO DEFINE THE TERM "ADJUSTED GROSS INCOME"; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3011B, IDAHO CODE, TO DEFINE THE TERM "TAXABLE INCOME"; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3011C, IDAHO CODE, TO DEFINE THE TERM "IDAHO TAXABLE INCOME"; AMENDING SECTION 63-3013, IDAHO CODE, TO FURTHER DEFINE THE TERM "RESIDENT"; AMENDING SECTION 63-3013A, IDAHO CODE, TO FURTHER DEFINE THE TERM "PART-YEAR RESIDENT"; AMENDING SECTION 63-3021, IDAHO CODE, TO FURTHER DEFINE THE TERM "NET OPERATING LOSS" TO CONFORM TO IDAHO TAXABLE INCOME; AMENDING SECTION 63-3022, IDAHO CODE, AS AMENDED BY THE SECOND REGULAR SESSION OF THE FIFTY-SECOND IDAHO LEGISLATURE, TO CHANGE THE SECTION FROM A DEFINITION OF TAXABLE INCOME TO A SECTION PROVIDING ADJUSTMENTS TO TAXABLE INCOME, TO CONFORM REFERENCES TO IDAHO TAXABLE INCOME, TO DELETE REFERENCES TO BUSINESS SITUS AND TO ADD REFERENCES TO TRANSACTING BUSINESS, TO CLARIFY PROVISIONS RELATING TO INCOME FROM IDAHO SOURCES AND TO MAKE OTHER TECHNICAL AND LANGUAGE CHANGES; AMENDING SECTION 63-3022B, IDAHO CODE, TO CONFORM A REFERENCE TO TAXABLE INCOME; AMENDING SECTION 63-3022C, IDAHO CODE, TO CONFORM A REFERENCE TO TAXABLE INCOME; AMENDING SECTION 63-3022E, IDAHO CODE, TO CONFORM A REFERENCE TO TAXABLE INCOME;

AMENDING SECTION 63-3022F, IDAHO CODE, TO CONFORM A REFERENCE TO TAXABLE INCOME AND CLARIFY LANGUAGE; AMENDING SECTION 63-3022G, IDAHO CODE, TO INSERT A REFERENCE TO IDAHO TAXABLE INCOME; AMENDING SECTION 63-3022H, IDAHO CODE, TO CONFORM REFERENCES TO TAXABLE INCOME; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3022J, IDAHO CODE, TO RECODIFY THE EXISTING DEDUCTION FOR CERTAIN TECHNOLOGICAL EQUIPMENT; AMENDING SECTION 63-3023, IDAHO CODE, TO DELETE THE TERM "BUSINESS SITUS" AND ADD A DEFINITION OF THE TERM "TRANSACTING BUSINESS," TO DELETE REFERENCES TO CERTAIN RESIDENT REGISTERED BROKER-DEALERS AND INVESTMENT ADVISERS OR INSTITUTIONS AND TO RECODIFY THE EXCLUSION FROM TAXATION FOR CERTAIN FINANCIAL ORGANIZATIONS WITH LIMITED ACTIVITY IN THIS STATE; REPEALING SECTION 63-3023A, IDAHO CODE; AMENDING SECTION 63-3024, IDAHO CODE, TO APPLY THE INCOME TAX RATES FOR INDIVIDUALS, TRUSTS AND ESTATES TO IDAHO TAXABLE INCOME, TO CONFORM REFERENCES TO IDAHO TAXABLE INCOME AND TO CORRECT OBSOLETE LANGUAGE RELATING TO RULES; AMENDING SECTION 63-3025, IDAHO CODE, RELATING TO TAXATION OF CORPORATIONS TO CONFORM REFERENCES TO IDAHO TAXABLE INCOME; AMENDING SECTION 63-3025A, IDAHO CODE, RELATING TO TAXATION OF FRANCHISES OF CORPORATIONS TO IMPOSE THE TAX ON INCOME ATTRIBUTABLE TO THIS STATE AND TO CONFORM REFERENCES TO IDAHO TAXABLE INCOME; REPEALING SECTION 63-3025B, IDAHO CODE; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3025B, IDAHO CODE, TO RECODIFY THE EXEMPTION FROM TAX FOR ORGANIZATIONS EXEMPT FROM IDAHO INCOME TAXES; REPEALING SECTION 63-3026, IDAHO CODE; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3026, IDAHO CODE, RELATING TO COMPUTING IDAHO TAXABLE INCOME OF RESIDENT INDIVIDUALS, TRUSTS AND ESTATES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3026A, IDAHO CODE, RELATING TO COMPUTING IDAHO TAXABLE INCOME OF PART-YEAR OR NONRESIDENT INDIVIDUALS, TRUSTS AND ESTATES; AMENDING SECTION 63-3027, IDAHO CODE, TO CONFORM REFERENCES TO THE TERMS "TRANSACTING BUSINESS," "IDAHO TAXABLE INCOME" AND "TAXABLE INCOME," TO CLARIFY THE COMPUTATION OF IDAHO TAXABLE INCOME OF CORPORATIONS NOT SUBJECT TO COMBINATION UNDER SECTION 63-3027(t), IDAHO CODE, AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 63-3027A, IDAHO CODE; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3027A, IDAHO CODE, RELATING TO COMPUTING IDAHO TAXABLE INCOME OF CORPORATIONS NOT SUBJECT TO SECTION 63-3027, IDAHO CODE; AMENDING SECTION 63-3029, IDAHO CODE, RELATING TO THE CREDIT FOR TAXES PAID ANOTHER STATE, TO PROVIDE THE CREDIT TO INDIVIDUALS DOMICILED IN THIS STATE FOR TAXES PAID ON INCOME EARNED IN ANOTHER STATE; AMENDING SECTION 63-3030, IDAHO CODE, RELATING TO THE REQUIREMENT TO FILE TAX RETURNS, TO CONFORM REFERENCES TO "GROSS INCOME," "DOMICILE" AND TO CLARIFY LANGUAGE RELATING TO THE FILING REQUIREMENTS OF CORPORATIONS AND S CORPORATIONS; AMENDING SECTION 63-3035, IDAHO CODE, RELATING TO WITHHOLDING OF INCOME TAX FROM WAGES AND SALARIES, TO CONFORM A REFERENCE TO IDAHO TAXABLE INCOME AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3046B, IDAHO CODE, RELATING TO FAILURE TO FILE PARTNERSHIP RETURNS, TO DELETE REFERENCES TO BUSINESS SITUS AND SUBSTITUTE REFERENCES TO TRANSACTING BUSINESS; AMENDING SECTION 63-3068, IDAHO CODE, RELAT-

ING TO THE STATUTE OF LIMITATIONS FOR ISSUING A NOTICE OF DEFICIENCY AND COLLECTION OF TAX, TO CONFORM A REFERENCE TO IDAHO TAXABLE INCOME; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-3002, Idaho Code, be, and the same is hereby amended to read as follows:

63-3002. DECLARATION OF INTENT. It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law; to achieve this result by the application of the various provisions of the Federal Internal Revenue Code relating to the definition of income, exceptions therefrom, deductions (personal and otherwise), accounting methods, taxation of trusts, estates, partnerships and corporations, basis and other pertinent provisions to gross income as defined therein, resulting in an final amount called "taxable income" in the Internal Revenue Code, and then to impose the provisions of this act thereon to derive a sum called "Idaho taxable income"; to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state. All of the foregoing is subject to modifications in Idaho law including, without limitation, modifications applicable to unitary groups of corporations, which include corporations incorporated outside the United States.

SECTION 2. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3011, Idaho Code, and to read as follows:

63-3011. GROSS INCOME. The term "gross income" means gross income as defined in section 61(a) of the Internal Revenue Code.

SECTION 3. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3011A, Idaho Code, and to read as follows:

63-3011A. ADJUSTED GROSS INCOME. The term "adjusted gross income" means adjusted gross income as defined in section 62 of the Internal Revenue Code.

SECTION 4. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3011B, Idaho Code, and to read as follows:

63-3011B. TAXABLE INCOME. The term "taxable income" means federal taxable income as determined under the Internal Revenue Code.

SECTION 5. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3011C, Idaho Code, and to read as follows:

63-3011C. IDAHO TAXABLE INCOME. The term "Idaho taxable income" means taxable income as modified pursuant to the Idaho adjustments specifically provided in this chapter.

SECTION 6. That Section 63-3013, Idaho Code, be, and the same is hereby amended to read as follows:

63-3013. RESIDENT. The term "resident," for income tax purposes, means any individual who:

(a) ~~Has resided in this state for the entire taxable year; or~~
(b) ~~Is domiciled in the state of Idaho; except~~ for the entire taxable year; or

(b) Maintains a place of abode in this state for the entire taxable year and spends in the aggregate more than two hundred seventy (270) days of the taxable year in this state. Presence within the state for any part of a calendar day shall constitute a day spent in the state unless the individual can show that his presence in the state for that day was for a temporary or transitory purpose.

(c) For purposes of this section:

(1) An individual who has been absent from this state for at least four hundred forty-five (445) days in any consecutive fifteen (15) month period, and during such period at least two hundred fifty (250) days have been spent in a foreign country shall not be considered a resident of this state if he does not maintain a permanent place of abode in this state at which his spouse (unless he and his spouse are legally separated) or minor or dependent children are present for more than sixty (60) days during any calendar year.

(2) An individual who has been absent from this state for more than fifteen (15) consecutive months and who has not been present in this state for more than sixty (60) days during any calendar year following the end of the fifteen (15) month period shall not be considered a resident of this state for that calendar year if he does not maintain a permanent place of abode in this state at which his spouse, unless he and his spouse are legally separated, or minor or dependent children are residing for more than sixty (60) days during the calendar year and if he does not hold an elective or appointive office of the government of the United States (other than the armed forces of the United States or career appointees in the United States foreign service) and is not employed on the staff of an elective officer in the legislative branch of the government of the United States.

(3) In order to qualify under the exceptions set forth under paragraphs (1) and (2) above the individual must not be claiming Idaho as his tax home for federal income tax purposes.

SECTION 7. That Section 63-3013A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3013A. PART-YEAR RESIDENT. The term "part-year resident," for income tax purposes, means any individual who enters or leaves the state during the taxable year and has resided or was domiciled within the state for a period of less than twelve (12) months during the taxable year. ~~The tax of such taxpayer shall be determined in the manner provided for nonresidents, as set forth in section 63-3027A, Idaho Code, is not a resident and who:~~

(a) Has changed his domicile from Idaho or to Idaho during the taxable year; or

(b) Has resided in Idaho for more than one (1) day during the taxable year. An individual shall be deemed to reside within Idaho for any calendar day in which that individual has a place of abode in this state and is present in this state for more than a temporary or transitory purpose. Presence for any fraction of a calendar day shall be counted as a whole day.

SECTION 8. That Section 63-3021, Idaho Code, be, and the same is hereby amended to read as follows:

63-3021. NET OPERATING LOSS. (a) The term "net operating loss" means the amount by which Idaho taxable income as defined in this chapter, after making the modifications specified in subsection (b) of this section, is less than zero.

(b) Add the following amounts:

(1) The amount of any net operating loss deduction included in Idaho taxable income.

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

(i) Any amount deducted due to losses in excess of gains from sales or exchanges of capital assets; and

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

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

(4) Any deduction for the standard or itemized deductions provided for in section 63 of the Internal Revenue Code, or section 63-3022(1), Idaho Code, except for any deduction allowable under section 165(c)(3) of the Internal Revenue Code (relating to casualty losses) pertaining to property physically located inside Idaho at the time of the casualty.

SECTION 9. That Section 63-3022, Idaho Code, as amended by the Second Regular Session of the Fifty-second Idaho Legislature, be, and the same is hereby amended to read as follows:

63-3022. ADJUSTMENTS TO 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 sections 63-3027 and 63-3027B through 63-3027E, Idaho Code additions and subtractions set forth in

this section, and in sections 63-3022A through 63-3022J, Idaho Code, are to be applied to the extent allowed in computing Idaho taxable income:

(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 Idaho taxable 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 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) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the regulations rules of the state tax commission and once made is irrevocable for the year in which it is made. The term "income" as used in this subsection (d) means Idaho taxable income as defined in this chapter after making the modifications specified in as modified by section 63-3021(b), Idaho Code.

(2) Net operating losses incurred by a corporation during a year in which such corporation ~~had no Idaho~~ did not transact business ~~situs in Idaho~~ 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, a portion of the salary salaries, wages, fees or other compensation of its nonresident officers or directors shall be treated as income from sources within the this 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 t~~ The portion of such salary salaries, wages, fees or other compensation paid to such nonresident officer is reported to this state as income by such nonresident officer, it shall be apportioned or director which shall be treated as income from sources within this state shall be determined by applying to the total of such income the apportionment factor of the corporation paying the salary salaries, wages, fees 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. If such salaries, wages, fees or other compensation are not reported to this state as income, such corporation shall not deduct as part of its expenses for the taxable year that portion of such salaries, wages, fees or other compensation which is to be treated as income from Idaho sources under this subsection. 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 Idaho 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 by the armed forces of the United States for services performed outside this state, by the armed forces of the United States; The deduction is allowed 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~~ determining the deductions amount and exemptions as described in allowed pursuant to section 63-3027A 63-3026A(4), 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~~ did not transact business situs in Idaho. 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~~ transacted business in this state 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;~~ transacted business in this state, a portion of the salaries, wages, fees, and other compensation paid to nonresident shareholders or partners, and a portion of 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 portion of such salaries, wages, fees, and other compensations paid to such nonresident shareholders or partners or items and the portion 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 which shall be treated as income from sources within this state, shall be determined 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 the Idaho portion of 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~~ an individual, there shall be allowed as a deductions from gross income either (1) or (2) at the option of the taxpayer:

- (1) a. The standard deduction as defined by 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 10. That Section 63-3022B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022B. DEDUCTION FOR INSULATION OF RESIDENCES. For taxable years commencing on and after January 1, 1976, an individual taxpayer may deduct from taxable income ~~as defined in section 63 of the Internal Revenue Code~~ an amount actually paid or accrued by the individual taxpayer during the taxable year for the actual installation, but not replacement, of insulation within any existing building in the state of Idaho which serves as a place of residence of the individual taxpayer. As used in this section, "insulation" means any material commonly used in the building industry and actually installed for the purpose of retarding the passage of heat energy into or out of a building, including but not limited to, such items as fiberglass insulation, weather stripping, double pane windows, and storm doors and windows. As used in this section, "existing building" means any building in being, under construction, or subject to an outstanding legal building permit on the effective date of this act.

SECTION 11. That Section 63-3022C, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022C. DEDUCTION FOR ALTERNATIVE ENERGY DEVICE AT RESIDENCE. (1) An individual taxpayer who installs an alternative energy device to serve a place of residence of the individual taxpayer in the state of Idaho may deduct from taxable income ~~as defined in section 63 of~~

~~the Internal Revenue Code~~; the following amounts actually paid or accrued by the individual taxpayer: forty percent (40%) of the amount that is properly attributable to the construction, reconstruction, remodeling, installation or acquisition of the alternative energy device in the year when such device is completed or acquired and is placed in service by the taxpayer; and twenty percent (20%) per year thereafter for a period of three (3) succeeding years; provided, however, that said deduction shall not exceed five thousand dollars (\$5,000) in any one (1) taxable year.

(2) An individual taxpayer who purchases a residence in the state of Idaho served by an alternative energy device for which none or less than all of the total deduction allowable under this section has been taken, may take the deduction specified in this section, or the unused balance of the deduction.

(3) As used in this section, "alternative energy device" means any system or mechanism or series of mechanisms using solar radiation, wind or geothermal resource as defined in section 42-4002, Idaho Code, primarily to provide heating, to provide cooling, to produce electrical power, or any combination thereof. Alternative energy device includes a fluid to air heat pump operating on a fluid reservoir heated by solar radiation or geothermal resource. An alternative energy device shall also include either (i) a natural gas or propane heating unit; or (ii) a wood burning or pellet stove which meets the most current environmental protection agency certification and which is used to replace during the same tax year a wood burning stove designed for residential heating and that does not meet environmental protection agency requirements for certification, provided the wood burning stove is surrendered to the division of environmental quality of the department of health and welfare or its agent for destruction in accordance with applicable federal and state rules.

SECTION 12. 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 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 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 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 13. That Section 63-3022F, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022F. DEDUCTION FROM TAXABLE INCOME FOR CERTAIN BENEFITS RELATING TO RESIDENTIAL CONSERVATION AND WEATHERIZATION PROGRAMS. Individual taxpayers may deduct from taxable income, ~~as defined in section 63-3022, Idaho Code,~~ any amounts which are+

~~(a) included in the taxpayer's federal taxable income as defined in section 63 of the internal revenue code; and if and to the extent such amounts are~~

(b) ~~the~~ result of the taxpayer's participation in residential conservation or weatherization programs administered by public utilities regulated by the Idaho public utilities commission pursuant to orders issued by the Idaho public utilities commission. The deduction allowed herein includes, but is not limited to, reduction or forgiveness of principal amounts loaned for residential conservation or weatherization improvements.

SECTION 14. That Section 63-3022G, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022G. MONEYS PAID TO JAPANESE-AMERICANS FOR REPARATIONS FOR WORLD WAR II DISPLACEMENT. (1) Amounts paid to eligible individuals shall not be included as Idaho taxable income ~~for purposes of this chapter~~ if the payment was made from the United States civil liberties public education fund which is created by public law 100-383 (102 Stat. 905).

(2) As used in this section, the term "eligible individual" means any living individual of Japanese ancestry who, during the evacuation, relocation and internment period was a United States citizen or a permanent resident alien, and who was confined, held in custody, relocated or otherwise deprived of liberty or property as a result of:

(a) Executive order number 9066 dated February 19, 1942;

(b) The act entitled "An act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving or committing any act in military areas or zones" approved March 21, 1942 (56 Stat. 173); or

(c) Any other executive order, presidential proclamation, law of the United States, directive of the armed forces of the United States or other action made by or on behalf of the United States or its agents, representatives, officers or employees respecting the evacuation, relocation or internment of individuals solely on the basis of Japanese ancestry.

(3) As used in this section, the term "evacuation, relocation and internment period" means that period beginning on December 7, 1941, and ending on June 30, 1946.

(4) As used in this section the term "permanent resident alien"

means an alien lawfully admitted into the United States for permanent residence.

SECTION 15. 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~~ taxable 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~~ taxable 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 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 income attributable to shareholders of subchapter S corporations and 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 16. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3022J, Idaho Code, and to read as follows:

63-3022J. DEDUCTION OF VALUE FOR TECHNOLOGICAL EQUIPMENT. (1) For taxable years commencing on and after January 1, 1985, any individual or corporation may deduct from taxable income an amount equal to the fair market value of technological equipment donated to public elementary or public secondary schools or public libraries and library districts located within the state of Idaho, except that the amount of the deduction shall not reduce taxable income to less than zero. The

deduction allowed pursuant to this section shall be in addition to any other deduction allowed pursuant to this chapter. In order to take the deduction pursuant to this section, the taxpayer shall receive a written statement from the donee in which the donee agrees to accept the technological equipment donated.

(2) For the purposes of this section, "technological equipment" means a computer, computer software, scientific equipment or apparatus to be used by the school or library directly or indirectly in the education program of the school or library and which is donated to the school or library no later than five (5) years after its manufacture has been substantially completed.

(3) For the purposes of this section, a public elementary or public secondary school means one that is located within this state and receives funding pursuant to chapter 10, title 33, Idaho Code.

(4) For the purposes of this section, a public library or library district means one that is located within this state and receives funding pursuant to chapters 26 and 27, title 33, Idaho Code.

(5) The state tax commission shall promulgate rules to administer the provisions of this section. The rules shall be promulgated in compliance with chapter 52, title 67, Idaho Code.

SECTION 17. That Section 63-3023, Idaho Code, be, and the same is hereby amended to read as follows:

63-3023. TRANSACTIONING BUSINESS SIFTS. (a) The term "business situs" shall include or be constituted by the owning or operating of business facilities or property or conducting business or farming operations, including soliciting business, within the state of Idaho, working for salary or wages, being a member of a partnership which transacts business within this state, being a stockholder of a corporation having income from Idaho sources having elected to file federal returns thereon pursuant to subchapter S of the Internal Revenue Code, being a person who is the beneficiary of any estate or trust deriving income, other than dividends and/or interest, from Idaho sources, or any other activity from which income is received, realized or derived from Idaho sources; provided, however, the receipt of income derived solely from interest and/or dividends from sources within the state of Idaho is expressly declared to be insufficient to establish business situs unless coupled with one or more of the qualifications hereinbefore set forth. Subject only to the limitations of the constitutions of the United States and of the state of Idaho, and except as expressly provided in subsection (b) of this section, the term "transacting business" shall include owning or leasing, whether as lessor or lessee, of any property, including real and personal property, located in this state, or engaging in or the transacting of any activity in this state, for the purpose of or resulting in economic or pecuniary gain or profit.

(b) Notwithstanding the provisions of subsection (a) of this section, transactions and investments made, placed or directed by Idaho resident registered broker-dealers and investment advisers or institutions exempt from registration under the Idaho securities act in securities listed with or through the New York Stock Exchange, the American Stock Exchange or any other stock exchange registered with the

~~United--States--Securities-and-Exchange-Commission-and-approved-by-the director-of-the-department-of-finance-which-generate-dividends;-inter-est;-capital-gains-or-similar-profits-or-returns-for-nonresidents-not otherwise--subject--to--Idaho--income--taxation-shall-not-create-Idaho business-situs-for-said-nonresidents~~ any corporation, bank, trust company, mutual savings bank, savings and loan association, national banking association or other corporation, association or trust organized and existing under the laws of any state or territory of the United States other than the state of Idaho or existing under the laws of the United States including, without restriction of the generality of the foregoing, employee pension fund organizations, charitable foundations, trust funds, real estate investment trusts, or other such funds and trusts engaged in the investment of moneys, and trustees of such organizations, which does not maintain an office within the state of Idaho for any purpose shall not be deemed to be transacting business within the state of Idaho during any taxable year by reason of carrying on in this state any one (1) or more of the following activities:

(1) Creating, acquiring or purchasing of loans, secured or unsecured, or any interest therein;

(2) Collecting and servicing of loans in any manner whatsoever and the making of credit investigations and physical inspections and appraisals of real or personal property securing any loans or proposing to secure any loans;

(3) Soliciting of applications for loans which are sent outside this state for approval; and

(4) Filing of security interests; maintaining or defending any action or suit; holding, selling, assigning, transferring, collecting or enforcing any loans, or foreclosing or other disposition thereof, including acquiring title to property securing such loans by foreclosure, deed in lieu of foreclosure, or otherwise, as a result of default under the terms of the mortgage, deed of trust or other security instruments relating thereto, or the holding, protecting and maintaining of said property so acquired or the disposition thereof.

SECTION 18. That Section 63-3023A, Idaho Code, be, and the same is hereby repealed.

SECTION 19. That Section 63-3024, Idaho Code, be, and the same is hereby amended to read as follows:

63-3024. INDIVIDUALS' TAX AND TAX ON ESTATES AND TRUSTS. For each taxable year, a tax measured by Idaho taxable income as defined in this chapter is hereby imposed upon every individual, trust, or estate required by this chapter to file a return.

(a) The tax imposed upon individuals, trusts and estates shall be computed at the following rates:

When the <u>Idaho</u> taxable income is:	The rate is:
Less than \$1,000	Two percent (2.0%)
\$1,000 but less than \$2,000	\$20, plus four percent (4.0%) of the amount over \$1,000

\$2,000 but less than \$3,000	\$60, plus four and one-half percent (4.5%) of the amount over \$2,000
\$3,000 but less than \$4,000	\$105, plus five and one-half percent (5.5%) of the amount over \$3,000
\$4,000 but less than \$5,000	\$160, plus six and one-half percent (6.5%) of the amount over \$4,000
\$5,000 but less than \$7,500	\$225, plus seven and one-half percent (7.5%) of the amount over \$5,000
\$7,500 but less than \$20,000	\$412.50, plus seven and eight-tenths percent (7.8%) of the amount over \$7,500
Over \$20,000	\$1,387.50, plus eight and two-tenths percent (8.2%) of the amount over \$20,000

(b) In case a joint return is filed by husband and wife pursuant to the provisions of section 63-3031, Idaho Code, the tax imposed by this section shall be twice the tax which would be imposed on one-half (1/2) of the aggregate Idaho taxable income. For the purposes of this section, a return of a surviving spouse, as defined in section 2(a) of the Internal Revenue Code, and a head of household, as defined in section 2(b) of the Internal Revenue Code, shall be treated as a joint return and the tax imposed shall be twice the tax which would be imposed on one-half (1/2) of the Idaho taxable income.

(c) The state tax commission shall compute and publish Idaho income tax liability for taxpayers at the midpoint of each bracket of ~~adjusted-gross-income-(as-defined-in-section-62-of-the-Internal-Revenue-Code);-adjusted-as-required-by-section-63-3022;-Idaho-Code;~~ Idaho taxable income in fifty dollar (\$50.00) steps to fifty thousand dollars (\$50,000), rounding such calculations to the nearest dollar. Taxpayers having incomes within such brackets shall file returns based upon and pay taxes according to the schedule thus established. The state tax commission shall ~~publish-regulations~~ promulgate rules defining the conditions upon which such returns shall be filed.

SECTION 20. That Section 63-3025, Idaho Code, be, and the same is hereby amended to read as follows:

63-3025. TAX ON CORPORATE INCOME. For taxable years commencing on and after January 1, 1987, a tax is hereby imposed on the Idaho taxable income ~~derived-from-sources-within-this-state-by~~ of a corporation which transacts or is authorized to transact business in this state or which has income attributable to this state. The tax shall be equal to eight percent (8%) of ~~all~~ Idaho taxable income; provided, however, that the tax shall not be less than twenty dollars (\$20.00); provided further that the twenty dollar (\$20.00) minimum payment shall not be collected from nonproductive mining corporations. The tax imposed by this section shall not apply to corporations taxed pursuant to the provisions of section 63-3025A, Idaho Code.

SECTION 21. That Section 63-3025A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3025A. FRANCHISE TAX. For taxable years commencing on and after January 1, 1987, a franchise tax shall be imposed upon any corporation for the privilege of exercising its corporate franchise

within the state during such taxable year, including but not limited to, corporations engaged in business in Idaho for the exclusive purpose of performing contracts with the United States department of energy at the Idaho national engineering laboratory, which tax shall be measured by taxable income derived from sources within which is attributable to this state under the provisions of this chapter and which tax shall be equal to eight percent (8%) of ~~all~~ Idaho taxable income; provided, however, that the tax shall not be less than twenty dollars (\$20.00); provided further that the twenty dollar (\$20.00) minimum payment shall not be collected from nonproductive mining corporations; but the twenty dollar (\$20.00) minimum tax shall apply to corporations qualified to file returns and actually filing returns under the provisions of subchapter "S" of Internal Revenue Code.

SECTION 22. That Section 63-3025B, Idaho Code, be, and the same is hereby repealed.

SECTION 23. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3025B, Idaho Code, and to read as follows:

63-3025B. ORGANIZATIONS EXEMPT FROM THE TAX IMPOSED BY THIS ACT. An organization described in section 501 of the internal revenue code, and the additional organizations listed below shall be specifically exempt from taxation under this act unless such exemption is denied under section 502, 503 or 504 of the internal revenue code:

(1) Fraternal beneficiary societies, orders, or associations, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system;

(2) Farmer's or other mutual hail, cyclone, casualty, or fire insurance companies or associations (including interinsurers and reciprocal underwriters of the same class) the income of which is used or held only for the purpose of paying losses or expenses;

(3) Farmer's, fruit grower's, or like associations organized and operated on a cooperative basis:

(a) For the purpose of marketing the products of members, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them; or

(b) For the purpose of purchasing supplies and equipment for the use of members and turning over such supplies and equipment to them at actual cost, plus necessary expenses.

Exemption shall not be denied any such association because it has capital stock if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the state on the value of the consideration for which the stock was issued or eight percent (8%) per annum, whichever is greater, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate directly or indirectly in the profits of the association, dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association; nor shall exemp-

tion be denied any such association because there is accumulated and maintained by it a reserve required by state law or a reasonable reserve for any necessary purpose;

(4) Federal land banks and national farm loan associations, as provided in the federal farm loan act, as amended;

(5) Provided however, that federal savings and loan associations shall not be exempt hereunder;

(6) Provided further that unrelated business income as defined in the internal revenue code shall be subject to taxation under this act.

SECTION 24. That Section 63-3026, Idaho Code, be, and the same is hereby repealed.

SECTION 25. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3026, Idaho Code, and to read as follows:

63-3026. COMPUTING IDAHO TAXABLE INCOME OF RESIDENT INDIVIDUALS, TRUSTS AND ESTATES. The Idaho taxable income of resident individuals, trusts or estates shall be computed by making appropriate adjustments under the provisions of section 63-3022, Idaho Code, to the taxable income of the taxpayer.

SECTION 26. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3026A, Idaho Code, and to read as follows:

63-3026A. COMPUTING IDAHO TAXABLE INCOME OF PART-YEAR OR NONRESIDENT INDIVIDUALS, TRUSTS AND ESTATES. (1) For nonresident individuals, trusts, or estates the term "Idaho taxable income" includes only those components of Idaho taxable income as computed for a resident which are derived from or related to sources within Idaho. This is to be computed without the deductions for either the standard deduction or itemized deductions or personal exemptions except as provided in subsection (4) of this section.

(2) For part-year resident individuals, trusts or estates the term "Idaho taxable income" includes the total of: (a) Idaho taxable income as computed for a resident for the portion of the tax period during which a taxpayer is domiciled in or is residing in Idaho, plus (b) those components of Idaho taxable income which are derived from or related to sources within Idaho for that portion of the tax period during which a taxpayer is not domiciled in and is not residing in Idaho. This is to be computed without the deductions for either the standard deduction or itemized deductions or personal exemptions except as provided in subsection (4) of this section.

(3) For the purposes of subsections (1) and (2) of this section:

(a) Income shall be considered derived from or relating to sources within Idaho when such income is attributable to or resulting from:

(i) Any business, trade, profession or occupation conducted or carried on in this state, including the distributive share

of partnership income and deductions, and the pro rata share of S corporation income and deductions;

(ii) The ownership or disposition of any interest in real or tangible personal property located in this state;

(iii) The ownership or disposition of any interest in intangible personal property only to the extent that such property is employed in a business, trade, profession or occupation conducted or carried on in this state. Provided however, that interest income from an installment sale of real or tangible personal property shall constitute income from sources within this state to the extent that the property sold was located within this state. Provided further, that interest income received by a partner or shareholder of a partnership or S corporation shall constitute income from sources within this state to the extent that the partnership or S corporation is transacting business within this state;

(iv) Income of estates and trusts distributed or distributable to nonresident or part-year resident beneficiaries when such income is from a resident estate or trust, or when such income is derived from or related to sources within this state;

(v) The conduct of pari-mutuel wagering, charitable gaming or any other form of gambling taking place within this state, except as expressly limited in section 67-7439, Idaho Code.

(b) Notwithstanding the provisions of subsection (3)(a) of this section, transactions and investments made, placed or directed by Idaho resident registered broker-dealers and investment advisers or institutions exempt from registration under the Idaho securities act in securities listed with or through the New York Stock Exchange, the American Stock Exchange or any other stock exchange registered with the United States securities and exchange commission and approved by the director of the department of finance which generate dividends, interest, capital gains or similar profits or returns for nonresidents not otherwise subject to Idaho income taxation shall not result in the intangible property being deemed to have a situs outside the domicile of the owner.

(c) Compensation paid by the United States for active service in the armed forces of the United States, performed by an individual not domiciled in this state, shall not constitute income derived from or related to sources within this state.

(d) The income of nonresident or part-year resident individuals, trusts or estates which is derived from or related to sources both within and without this state shall be attributable to this state in the manner prescribed in the rules of the state tax commission.

(4) In computing the Idaho taxable income of a part-year or nonresident individual, trust or estate, the standard deduction or itemized deductions, as defined in section 63-3022(1), Idaho Code, if applicable, and the exemptions, as defined in section 151 of the internal revenue code or any allowance in lieu of such deduction, shall be allowed in the proportion that paragraph (a) of this subsection bears to paragraph (b) of this subsection:

(a) The Idaho taxable income of the taxpayer modified as follows:

(i) No allowance shall be made for either the standard

deduction or itemized deductions;

(ii) No deduction shall be made for personal exemptions or any allowance in lieu of such deduction.

(b) The Idaho taxable income as would be calculated for a resident of Idaho modified as follows:

(i) No allowance shall be made for either a standard deduction or itemized deductions;

(ii) No deduction shall be made for personal exemptions or any allowance in lieu of such deduction;

(iii) Compensation for active military service in the armed forces shall not be deducted;

(iv) Income earned within the original exterior boundaries of any federally created Indian reservation by an enrolled Indian in a federally recognized Indian tribe on a federally recognized Indian reservation shall be added if not otherwise included.

(5) An adjustment may be made to eliminate distortions in the amount of net income attributable to a taxpayer's activities within the state of Idaho. Such deductions shall be limited to circumstances involving itemized deductions as referred to in subsection (4) of this section and which reflect:

(a) A failure to reflect the net income or deduction after reimbursements have been received; or

(b) A failure to reflect the net amount of mortgage interest income or expense from activities within Idaho.

(6) For the purposes of subsections (1) and (2) of this section, deductions and adjustments allowed in computing the Idaho taxable income of nonresident and part-year resident individuals, trusts and estates shall be prescribed in the rules of the state tax commission. Such rules shall be based upon:

(a) Whether or not the deduction or adjustment is related to the production of income reportable to Idaho;

(b) Whether or not the deduction or adjustment is related to income received, expenses paid, or events of tax consequence which occurred during a portion of a taxable year that the taxpayer was domiciled in or residing in Idaho; or

(c) Any other appropriate basis for making the adjustment. An "appropriate basis" is one which the state tax commission finds is needed to insure that the amount of Idaho taxable income is fairly and reasonably related to a taxpayer's activities in this state.

SECTION 27. That Section 63-3027, Idaho Code, be, and the same is hereby amended to read as follows:

63-3027. COMPUTING IDAHO TAXABLE INCOME OF MULTISTATE OR UNITARY CORPORATIONS. The Idaho taxable income of any multistate or unitary corporation with-a transacting business situs-in both within and with-out 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) (1) Notwithstanding the election allowed in Article III.1 of the multistate tax compact enacted as section 63-3701, Idaho Code, 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 two (2) times the sales factor, and the denominator of which is four (4), except as provided in paragraph (2) of this subsection.

(2) If a corporation, or a parent corporation of a combined group filing a combined report under sections 63-3027 and 63-3701, Idaho Code, is an electrical corporation as defined in section 61-119, Idaho Code, or is a telephone corporation as defined in section 62-603, Idaho Code, all business income of the corporation shall be apportioned to this state 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, Idaho 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 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 sum is the Idaho taxable income or loss ~~for a~~ of the corporation.

(3) In the case of a corporation not subject to subsection (t) of this section, the income or loss referred to in paragraph (1)(i) of this subsection, shall be the taxable income of the corporation after making appropriate adjustments under the provisions of section 63-3022, Idaho Code.

(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.

(1) 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.

(m) 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.

(n) 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 com-

compensation paid everywhere during the tax period.

(o) 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.

(p) 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.

(q) 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.

(r) 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.

(s) 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.

(t) For purposes of this 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, when necessary to accurately reflect income, shall be allocated or apportioned as if the group of corporations were a single corporation, in which event:

(1) The Idaho 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~~ is transacting 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~~ after making appropriate adjustments under the provisions of 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.

(u) 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.

SECTION 28. That Section 63-3027A, Idaho Code, be, and the same is hereby repealed.

SECTION 29. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3027A, Idaho Code, and to read as follows:

63-3027A. COMPUTING IDAHO TAXABLE INCOME OF CORPORATIONS NOT SUBJECT TO SECTION 63-3027, IDAHO CODE. The Idaho taxable income of any corporation transacting business in this state which is not subject to the provisions of section 63-3027, Idaho Code, shall be computed by making appropriate adjustments under the provisions of section 63-3022, Idaho Code, to the taxable income of the taxpayer.

SECTION 30. That Section 63-3029, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029. CREDIT FOR INCOME TAXES PAID ANOTHER STATE OR TERRITORY. (a) Whenever a resident ~~person, excluding corporations;~~ individual has become liable for income tax to another state, ~~as a nonresident of such state;~~ upon his taxable income, or any part thereof, ~~for the taxable year earned while domiciled in this state,~~ which income is derived from sources without this state and subject to taxation under this chapter, the amount of income tax payable by him under this chapter shall be credited with the income tax so payable by him to such other state or territory. "Income tax to another state" includes only a tax imposed by one of the United States, a possession of the United States, a political subdivision of any of the foregoing, or by the District of Columbia. The credit granted shall be limited to the proportion of the tax computed under this chapter, but before the allowance of this credit, which the adjusted gross income ~~as defined in section 62 of the Internal Revenue Code~~ from such other state or territory bears to total adjusted gross income ~~as defined in section 62 of the Internal Revenue Code~~; provided, however, that such credit shall not be in excess of the actual tax payable to such other state or territory and that such adjusted gross income shall ~~be corrected to reflect additions to and subtractions from income~~ required by this act.

(b) The credit shall not be allowed if such other state allows ~~the individuals~~ a credit against taxes imposed by such state for taxes paid or payable under this act.

(c) To substantiate the credit allowed under this section, the state tax commission may require a copy of any receipt showing payment

of income taxes to another state and/or a copy of any return or returns filed with such other state or territory, or both.

(d) A part-year resident is entitled to a credit, determined in the manner prescribed by the state tax commission, for income taxes paid to another state, as defined in subsection (a) of this section, in regard to income which is:

- (1) Earned while the taxpayer resided is domiciled in this state; and
- (2) Subject to tax in such other state.

SECTION 31. 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 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 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 domiciled in or residing in Idaho, and from Idaho sources while not a resident of domiciled in and not residing in 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~~ which is transacting business in this state, authorized to transact business in this state or having income attributable to this state, unless exempt from the tax imposed in this act;

(5) Every corporation reporting as an S corporation pursuant to Internal Revenue Code sections 1361 through 1379 to the federal government, which is transacting business in this state, authorized to transact business in this state or which has one (1) or more shareholder who is a resident of this state. A corporation which is reporting as an S corporation to the federal government must report to the state of Idaho as an 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 an S corporation on its income tax return filed with this state;

(6) 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;

(67) 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);

(78) 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;

(89) 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);

~~(910) Every partnership having a resident partner and every partnership having a~~ which transacts business situs in the or which has one (1) or more partner which is a resident of this state of Idaho. Such return shall be a supplemental information return and shall include the names and addresses of the ~~individuals~~ persons 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 person.~~ 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 32. 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 sixty thousand dollars (\$60,000) per annum or an average of five thousand dollars (\$5,000) per month per annum, make return of and pay to the state tax commission 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 therefrom in accordance with the provisions of the Internal Revenue Code, the amount deducted therefrom in accordance with the provisions of this section, and such pertinent and necessary information as the state tax commission may require.

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

netic 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 Idaho 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.

SECTION 33. 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 either Idaho residents or are persons with a other than individuals who are transacting business situs in Idaho.

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

SECTION 34. That Section 63-3068, Idaho Code, be, and the same is hereby amended to read as follows:

63-3068. PERIOD OF LIMITATIONS FOR ISSUING A NOTICE OF DEFICIENCY AND COLLECTION OF TAX. (a) Except as otherwise provided in this section, a notice of deficiency, as provided in section 63-3045, Idaho Code, for the tax imposed in this chapter shall be issued within three (3) years from either the due date of the return, without regard to extensions, or from the date the return was filed, whichever is later.

(b) If an assessment has been made as provided in this chapter, then such tax shall be collected either by levy, or by a proceeding brought in court, within a period of six (6) years from the date of assessment of the tax and provided, further, that this shall not be in

derogation of any of the remedies elsewhere provided in this chapter.

(c) In the case of a fraudulent return or a false return with the intent to evade the tax imposed in this chapter, or a willful attempt in any manner to defeat or evade the tax imposed in this chapter, a notice of deficiency may be issued, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(d) In the case of a failure to file a return, for any reason, a notice of deficiency may be issued, the tax imposed in this chapter may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(e) In the case of income received during the lifetime of a decedent, a notice of deficiency shall be issued, the tax shall be assessed or any proceeding in court without assessment for the collection of such tax shall be begun, within six (6) months after written request therefore (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent.

(f) When ~~state~~ Idaho taxable income ~~and/or~~ tax credits for any taxable year have been adjusted as a result of a final federal determination, the period of limitation for issuing a notice of deficiency shall be reopened and shall not expire until the later of one (1) year from the date of delivery of the final federal determination to the state tax commission by the taxpayer, three (3) years from the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. For purposes of this subsection the term "final federal determination" shall mean the final resolution of all issues which were adjusted by the internal revenue service. When the final federal determination is submitted, the taxpayer shall also submit copies of all schedules and written explanations provided by the internal revenue service. Upon the expiration of the period of limitations as provided in subsections (a) and (1) of this section, only those specific items of income, deductions, gains, losses, or credits which were adjusted in the final federal determination shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(g) If an adjustment, which was made within the period of limitations as provided in this section, affects the amount of tax credit, net operating loss, or capital loss, claimed in a taxable year other than the tax year in which the adjustment is made, then adjustments to the credit, net operating loss, or capital loss claimed in such other tax year may be made and a resulting notice of deficiency may be issued even though such notice of deficiency would otherwise be barred under the provisions of this section.

(h) Notwithstanding any other provisions of this section, when an amended Idaho return is filed within the period of limitations as provided in subsections (a) and (1) of this section, the period of limitations for issuing a notice of deficiency shall be three (3) years from the date the amended return was filed. However, upon the expiration of the period of limitations as provided in subsections (a) and (1) of this section, only those specific items of income, deductions, gains, losses, or credits, which were adjusted in the amended Idaho

return shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(i) If a taxpayer has filed an amended federal return, and no corresponding Idaho amended return has been filed with the state tax commission, then the period of limitations for issuing a notice of deficiency shall be reopened and shall not expire until three (3) years from the date of delivery to the tax commission by the taxpayer of the amended federal return. However, upon the expiration of the period of limitations as provided in subsections (a) and (1) of this section, then only those specific items of income, deductions, gains, losses, or credits, which were adjusted in the amended federal return shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(j) Notwithstanding any other provisions of this section, a notice of deficiency, related to items on the return of any pass-through entity, as defined in this section, which other taxpayers are required by law to report, shall be issued to such other taxpayers within the later of three (3) years from the due date of the other taxpayers' return, without regard to extensions, three (3) years from the date the other taxpayers' returns were filed, or three (3) years from the date of filing of the pass-through entity's return. If the pass-through entity files an amended return, notices of deficiency may be issued to the other taxpayers within three (3) years from the date the amended return for the pass-through entity was filed with the state tax commission. If the pass-through entity files an amended return with the internal revenue service, or the internal revenue service issues a final determination to the pass-through entity, then the period of limitations for issuing a notice of deficiency to the other taxpayers shall be reopened and shall not expire until three (3) years from the date of delivery to the tax commission by the pass-through entity of the amended federal return or the later of one (1) year from the date of delivery to the state tax commission by the pass-through entity of the final federal determination, three (3) years from the due date of the pass-through entity's return, without regard to extensions, or three (3) years from the date the pass-through entity's return was filed.

(k) For purposes of this section, "pass-through entity" means a partnership, S-corporation, trust, limited liability company or any other entity whose items of income, deductions, gains, losses and credits must be reported by other taxpayer(s). For further purposes of this section, the term "other taxpayer" shall include, by way of unlimiting example, such taxpayers as partners, shareholders, beneficiaries, joint venturers or investors.

(l) Prior to the expiration of the time prescribed in this section for the issuance of a notice of deficiency for the tax imposed in this chapter, both the state tax commission, its delegate or deputy, and the taxpayer may consent in writing to extend the period of time within which a notice of deficiency may be issued. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. When a pass-through entity extends the period of limitations in accordance

with this subsection, the period of limitations for the other taxpayers is automatically extended for the same period for the purpose of issuing a notice of deficiency to the other taxpayers reflecting the adjustments to the pass-through entity's return.

(m) The expiration of the period of limitations as provided in this section shall be suspended for the time period during which the state tax commission is prohibited from issuing a notice of deficiency, making the assessment, or from collecting by levy or a proceeding in court, and for thirty (30) days thereafter.

SECTION 35. This act shall be in full force and effect on and after January 1, 1996.

Approved March 14, 1995.

CHAPTER 112
(H.B. No. 174)

AN ACT

RELATING TO MORTICIANS AND FUNERAL DIRECTORS; AMENDING SECTION 54-1104, IDAHO CODE, TO PROVIDE THAT AN EXEMPTED INDIVIDUAL SHALL NOT PERFORM THE FUNCTIONS OF A LICENSED MORTICIAN OR FUNERAL DIRECTOR UNLESS HE IS LICENSED AS REQUIRED BY LAW.

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

SECTION 1. That Section 54-1104, Idaho Code, be, and the same is hereby amended to read as follows:

54-1104. EXEMPTIONS FROM PROVISIONS OF ACT. There is hereby exempted from the terms and provisions of this act and from the enforcement of the provisions hereof, the following:

A. Manufacturers, wholesalers and jobbers of caskets, funeral supplies, vaults or other burial receptacles not engaged in performing mortician services and not selling to the public, except when said sales to the public are sales with immediate delivery of the funeral supplies purchased.

B. Cemeteries selling vaults or burial receptacles to the public.

C. Any duly authorized representative of any church, fraternal order or other association or organization honoring the dead who performs a funeral or other religious service under the authority of and pursuant to the religious tenets or practices of such organization. This exemption does not authorize, permit or allow such person to perform the functions of a mortician or funeral director under section 54-1102 A. or B., Idaho Code, unless he shall be licensed as required by law.

Approved March 14, 1995.

CHAPTER 113
(H.B. No. 207)

AN ACT

RELATING TO GRAZING DISTRICTS; AMENDING SECTION 57-1204, IDAHO CODE, TO RENAME THE GRAZING DISTRICT BOARDS, TO PROVIDE FOUR YEAR TERMS FOR MEMBERS, AND TO GOVERN PROCEDURES; AND AMENDING SECTION 57-1205, IDAHO CODE, TO RENAME THE STATE GRAZING BOARDS CENTRAL COMMITTEE.

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

SECTION 1. That Section 57-1204, Idaho Code, be, and the same is hereby amended 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~~ state ~~..... grazing board of district no.~~ in accordance with the following designations:

- (a) District No. 1 or Boise district;
- (b) District No. 2 or Burley district;
- (c) District No. 3 or Idaho Falls district;
- (d) District No. 4 or Salmon district;
- (e) District No. 5 or 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, or bylaws, 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 beginning on or before January 1, 1995, is two (2) years; beginning on January 1, next after his election. Beginning January 1, 1997, the term of each member shall be four (4) years.

(c) In November of 1994⁶ and in November of each second fourth 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. Each state district grazing board shall set forth in its charter, rules and regulations, or bylaws, the procedure for the election of board members.

~~(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, advisers, or consultants, may be appointed, or hired, or contracted with by each board. The board shall set the remuneration of each employee individual or entity retained by the board and the remuneration shall be considered as administrative expense of the board concerned. The members of each state district grazing board shall may 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.

SECTION 2. That Section 57-1205, Idaho Code, be, and the same is hereby amended to read as follows:

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 central committee. 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 14, 1995.

CHAPTER 114
(H.B. No. 260)

AN ACT

RELATING TO LEAVE OF ABSENCES OF COUNTY OFFICERS; AMENDING SECTION 31-847, IDAHO CODE, TO DELETE THE REQUIREMENT THAT THE BOARD OF COUNTY COMMISSIONERS CONSENT TO ABSENCES BY REASON OF BEING A MEMBER OF THE ARMED FORCES OR BEING CALLED TO SERVE IN CIVILIAN WAR WORK, TO PROVIDE AN EXCEPTION TO THE REQUIREMENT THAT SUCH ABSENCES SUSPEND THE SALARY OF SUCH OFFICERS, TO PROVIDE THAT THE BOARD MAY ADOPT A POLICY PERMITTING SUCH OFFICERS TO RECEIVE THEIR REGULAR SALARY FOR SUCH PERIODS OF ABSENCE NOT TO EXCEED FOUR WEEKS PER YEAR REDUCED BY ANY COMPENSATION RECEIVED FOR THE PERFORMANCE OF SUCH MILITARY OR CIVILIAN WAR WORK, AND TO CLARIFY THAT THIS SECTION DOES NOT APPLY TO APPOINTED DEPUTIES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 31-847, Idaho Code, be, and the same is hereby amended to read as follows:

31-847. LEAVE OF ABSENCE TO OFFICERS. The board of commissioners may grant to any county officer of their respective counties leave of

absence from their county and the state, for a period not exceeding ninety (90) days, during which time the absence of such officer does not work forfeiture of his office; provided, that before the granting of such leave of absence, the officer (except county commissioners) must appoint a deputy to perform the duties of his office, as by statute in such cases made and provided, and must present to, and file with, the board of commissioners of his county the written consent of each person liable on his official bond, that such leave of absence be granted; be it further provided, that no leave of absence shall be granted to more than any one (1) county commissioner at the same time; providing, however, that where any elective or appointive county officer is required to absent himself by reason of being a member of the armed forces of the nation or by reason of official call to service in civilian war work, ~~the said board of county commissioners to consent~~ to such period of absence for a period shall not to exceed the date of the next succeeding general election, such absence shall not work forfeiture of the office of such officer, and such absence shall suspend the salary of such officer during such period, except that the board may adopt a policy by which such officer may, for periods of absence not to exceed four (4) weeks per year, receive his or her regular salary reduced by an amount equal to any monetary compensation received for the performance of such military or civilian war work. For purposes of this section, appointive county officers do not include deputies appointed pursuant to section 31-2003, 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 passage and approval, and retroactively to January 1, 1995.

Approved March 14, 1995.

CHAPTER 115
(H.B. No. 270)

AN ACT

RELATING TO INDEPENDENT CANDIDATES FOR POLITICAL OFFICE; AMENDING SECTION 34-708, IDAHO CODE, TO PROVIDE A TIME FOR FILING A DECLARATION OF CANDIDACY.

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

SECTION 1. That Section 34-708, Idaho Code, be, and the same is hereby amended to read as follows:

34-708. INDEPENDENT CANDIDATES. (1) No person may offer himself as an independent candidate at the primary election.

(2) Any person who desires to offer himself as an independent candidate for federal, state, district, or county office may do so by complying strictly with the provisions of this section. In order to be recognized as an independent candidate, ~~prior to June 25 of the year~~

~~in which a general election is to be held but after the primary election~~, each such candidate must file with the proper officer as provided by section 34-705, Idaho Code, a declaration of candidacy as an independent candidate, between 8 a.m. on the tenth Monday preceding the primary election and 5 p.m. on the eighth Friday preceding the primary election. Such declaration must state that he is offering himself as an independent candidate, must declare that he has no political party affiliation, and must declare the office for which he seeks election. Each such declaration must be accompanied by a petition containing the names of qualified electors in the same number as is required for political party candidates filing for the same office according to the provisions of chapter 6, title 34, Idaho Code, and must be accompanied by the filing fees required by chapter 6, title 34, Idaho Code, for political party candidates filing for the same office.

(3) If all of the requirements of this section have been met, the proper officer shall cause the name of each independent candidate who has qualified to be placed on the general election ballot, according to instructions of the secretary of state.

Approved March 14, 1995.

CHAPTER 116
(S.B. No. 1060, As Amended)

AN ACT

RELATING TO THE DEPARTMENT OF LAW ENFORCEMENT; AMENDING SECTION 67-2901, IDAHO CODE, TO PLACE THE IDAHO STATE POLICE DIVISION UNDER THE DIRECT SUPERVISION OF THE DIRECTOR OF THE DEPARTMENT OF LAW ENFORCEMENT, TO PROVIDE THE DUTIES OF THE DIRECTOR WITH RESPECT TO THE IDAHO STATE POLICE DIVISION AND TO PROVIDE FOR TERM GROUP LIFE INSURANCE FOR ELIGIBLE POLICE OFFICER MEMBERS OF THE DEPARTMENT; AMENDING CHAPTER 29, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2903, IDAHO CODE, TO ESTABLISH THE STATE POLICE DIVISION OF THE DEPARTMENT OF LAW ENFORCEMENT; AMENDING CHAPTER 29, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2904, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT, TERM AND SALARY OF THE ADMINISTRATOR OF THE IDAHO STATE POLICE DIVISION; REPEALING SECTIONS 19-4801, 19-4802 AND 19-4803, IDAHO CODE; AMENDING SECTION 19-4804, IDAHO CODE, TO REDESIGNATE THE SECTION; REPEALING SECTIONS 19-4805 AND 19-4806, IDAHO CODE; AMENDING SECTION 19-4807, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 19-4809, IDAHO CODE, TO REDESIGNATE THE SECTION; REPEALING SECTION 19-4810, IDAHO CODE; AMENDING SECTION 19-4811, IDAHO CODE, TO REDESIGNATE THE SECTION AND PROVIDE CORRECT NOMENCLATURE; AMENDING SECTION 67-2931, IDAHO CODE, TO REDESIGNATE THE SECTION AND MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 29, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2910, IDAHO CODE, TO PROVIDE FOR THE BUREAU OF CRIMINAL IDENTIFICATION IN THE DEPARTMENT OF LAW ENFORCEMENT; AMENDING SECTION 19-4812, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THE DUTIES OF THE

DIRECTOR OF THE DEPARTMENT WITH RESPECT TO THE BUREAU OF CRIMINAL IDENTIFICATION; AMENDING SECTION 19-4813, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO AMEND CODE REFERENCES; AMENDING SECTION 67-2903, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 67-2904, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 67-2905, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 67-2906, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 67-2929, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-2930, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTIONS 6-610A AND 18-8102, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 37-2701, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 39-7105, 49-102, 49-202, 49-509 AND 49-1814, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 59-1303, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE 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 67-2901, Idaho Code, be, and the same is hereby amended to read as follows:

67-2901. DEPARTMENT CREATED -- DIRECTOR -- DIVISIONS -- POWERS AND DUTIES -- FAILURE OF PEACE OFFICERS TO OBEY ORDERS, MISDEMEANOR -- DEPUTIES -- COMPENSATION AND POWERS. (1) There is hereby created the department of law enforcement. 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 governor, with the advice and consent of the senate, shall appoint a director of the department of law enforcement who shall serve at the pleasure of the governor. The director shall receive such salary as fixed by the governor.

(3) The department of law enforcement shall be composed of such divisions as may be established by law and other administrative units as may be established by the director for the proper and efficient administration of the powers and duties assigned to the director or the department. The director shall appoint, subject to the approval of the governor, an administrator for each division within the department.

(4) The director shall exercise all of the powers and duties necessary to carry out the proper administration of the department, and may delegate duties to employees and officers of the department.

(5) The department of law enforcement shall have power to enforce all of the penal and regulatory laws of the state, to preserve order, and exercise any and all powers, duties and authority of any sheriff or other peace officer anywhere in the state of Idaho, in the same manner and with like authority as the sheriffs of the counties; said department may employ from time to time, to carry out any of the provisions of this subdivision, such deputies or special deputies as may be deemed, by the governor of the state of Idaho, necessary to carry out these duties and powers, and deputies shall have power to deputize other persons as deputies when necessary; said department may call

into the police service of the state any and all peace officers of the state, of any city, or of any county, and may deputize private citizens, when deemed necessary by the governor of the state, to preserve order and enforce law in any extraordinary emergency when the governor shall have declared, by order in writing, the existence of such extraordinary emergency; the governor shall designate by order such peace officers or private persons as are to be called into the service of the state, and when such peace officers or deputized citizens are so called into the police service of the state such officers shall act under the direction of the director of said department in such manner as may be directed and ordered by the governor; failure on the part of any such peace officer of the state, or person so deputized, to so act and obey such orders shall constitute a misdemeanor; the governor shall fix the compensation of such deputies. The jurisdiction of the director of the department of law enforcement and his deputies, both regular and special, and all peace officers or other persons called into the police service of the state by him or his deputies, shall be coextensive with the territory of the state of Idaho and not limited by the lines of any political or municipal subdivisions.

(6) The director shall operate and supervise a forensic laboratory which will provide to state and local agencies having responsibility for enforcement of the penal laws of this state assistance in the collection, preservation and analysis of evidence in criminal cases.

(7) The director shall provide security and protection for the governor and the governor's immediate family to the extent and in the manner the governor and the director deem adequate and appropriate.

(8) The director shall provide security and protection for both houses of the legislature while in session as in the opinion of the speaker of the house and the president of the senate and the director deem necessary.

(9) The director may award to an officer, upon retirement, that officer's badge, service-revolver duty weapon and handcuffs, providing that a committee of three (3) of the officer's peers certifies to the director that the retiring officer has served meritoriously for a minimum of fifteen (15) years and should therefore be so honored.

(10) The director, within the limits of any appropriation made available for such purposes, shall for such Idaho state police division:

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

(b) Appoint such personnel to such rank, grade and position as are deemed by him to be necessary for the efficient operation and administration of the Idaho state police division, and only those applicants shall be appointed or promoted who best meet the prescribed standards and prerequisites; provided however, that all employees shall be selected in the manner provided for in chapter 53, title 67, Idaho Code, and shall be probationers and on probation for a period of one (1) year from the date of appointment;

(c) Formulate and place in effect such rules for the Idaho state police division as from time to time appear to him advisable;

(d) Prescribe by official order the uniform and equipment of the

employees in the Idaho state police division;

(e) Station employees in such localities as he shall deem advisable for the enforcement of the laws of the state;

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

(11) (a) The director shall issue to every eligible police officer member of the Idaho department of law enforcement, as defined in section 59-1303(3), Idaho Code, and pursuant to the contract provided for by the personnel group insurance administrator in the department of administration, a term group life insurance certificate in the face amount of fifty thousand dollars (\$50,000) on the life of such members. Said insurance certificate shall set forth the name or names of such beneficiary or beneficiaries as the insured may name or designate.

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

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

(d) The director is hereby directed to hereafter include in the budget of the Idaho state police division, the police services division, and the alcoholic beverage control division of the department of law enforcement an amount sufficient to pay the annual costs accruing with respect to policies of insurance purchased under the provisions of this chapter.

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

SECTION 2. That Chapter 29, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2903, Idaho Code, and to read as follows:

67-2903. STATE POLICE DIVISION ESTABLISHED. There is hereby established as a division of the department of law enforcement an Idaho state police force to be known as the "Idaho state police."

SECTION 3. That Chapter 29, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 67-2904, Idaho Code, and to read as follows:

67-2904. DIVISION ADMINISTRATOR -- APPOINTMENT, TERM, SALARY. The director of the department of law enforcement shall appoint the administrator of the Idaho state police division who shall serve at the pleasure of the director, and the salary of the administrator shall be fixed for each term by the director within the limits of any appropriation made therefor.

SECTION 4. That Sections 19-4801, 19-4802 and 19-4803, Idaho Code, be, and the same are hereby repealed.

SECTION 5. That Section 19-4804, Idaho Code, be, and the same is hereby amended to read as follows:

~~19-4804~~ 19-4804-2905. POWERS AND DUTIES OF THE IDAHO STATE POLICE. Members of the Idaho state police shall have the power and it shall be their duty to:

- a. enforce all of the penal and regulatory laws of the state;
- b. prevent and detect crime and apprehend criminals and maintain order;
- c. require all persons using the highways in the state to do so carefully, safely, and with the exercise of care for the persons, property and safety of others;
- d. safeguard and protect the surface and other physical portions of the state highways and enforce any laws for highway safety;
- e. enforce all of the laws of the state enacted for the identification, inspection and transportation of livestock and all laws of the state designed to prevent the theft of livestock;
- f. regulate traffic on all highways and roads in the state;
- g. perform all of the duties and exercise all of the powers of peace officers vested in the director of the department of law enforcement;
- h. execute and serve any warrant of arrest or search warrant issued by proper authority of the state, according to the tenor thereof, in any part of the state;
- i. arrest without warrant, any person committing or attempting to commit in their presence or view a breach of the peace or any other violation of any of the laws of the state;
- j. members of the Idaho state police shall be subject to the call of the governor and are empowered to cooperate with any other department or authority of the state, with counties and municipalities, or any locality in detecting crime, apprehending criminals and preserving law and order throughout the state; but the Idaho state police shall not be used as a posse in any municipality, except when ordered by the governor to do so; provided nothing herein contained shall be construed to vest direction or control over any sheriff, policeman, marshal or constable in the Idaho state police or any employer or officer thereof;
- k. each member of the Idaho state police shall take and subscribe to an oath of office to support the constitution and laws of the United States and the state of Idaho, and to honestly and faithfully

perform the duties imposed upon him under the provisions of the laws of Idaho as a member of the Idaho state police. The oath of the superintendent shall be filed with the secretary of state, and the oaths of all other members with the superintendent.

SECTION 6. That Sections 19-4805 and 19-4806, Idaho Code, be, and the same are hereby repealed.

SECTION 7. That Section 19-4807, Idaho Code, be, and the same is hereby amended to read as follows:

~~19-4807~~19-2906. COOPERATION AND EXCHANGE OF INFORMATION. The Idaho state police shall cooperate and exchange information with any other department or authority of the state or with other police forces, both within this state and outside it, and with federal agencies to achieve greater success in preventing and detecting crimes and apprehending criminals.

SECTION 8. That Section 19-4809, Idaho Code, be, and the same is hereby amended to read as follows:

~~19-4809~~19-2907. JAILORS TO RECEIVE PRISONERS FROM IDAHO STATE POLICE. Any person having charge of a jail, prison or reformatory or other place of detention shall receive any prisoner arrested by the Idaho state police within the jurisdiction served by such jail and shall detain that prisoner in custody until otherwise ordered by a court of competent jurisdiction, or by the superintendent. Such person in charge shall have the right to refuse to receive any juvenile not being charged with a felony and not in the process of being certified as an adult, in accordance with section 16-1806A, Idaho Code.

SECTION 9. That Section 19-4810, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 19-4811, Idaho Code, be, and the same is hereby amended to read as follows:

~~19-4811~~19-2908. SALARIES AND EXPENSES -- SOURCE OF PAYMENT. All salaries, costs of equipment, and expenses of maintaining and operating the Idaho state police division shall be paid from the law enforcement account and such other funds as are or may hereafter be appropriated for the purpose of operating and maintaining the Idaho state police division.

SECTION 11. That Section 67-2931, Idaho Code, be, and the same is hereby amended to read as follows:

~~67-2931~~67-2909. AUTHORITY TO SUBMIT FINGERPRINTS TO STATE CRIMINAL IDENTIFICATION BUREAU AND FEDERAL BUREAU OF INVESTIGATION. All units of state, city and local governments, as well as any agency in the state created by the legislature who which require by statute, regulation rule, or, local or county ordinance, fingerprinting of applicants or licensees, are hereby authorized to submit fingerprints to the

state criminal identification bureau, of the department of law enforcement, for examination and further submission, if necessary, to the federal bureau of investigation. Such identification records resulting from submission of fingerprints shall be used only for the official use of the requesting party.

SECTION 12. That Chapter 29, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2910, Idaho Code, and to read as follows:

67-2910. STATE CRIMINAL IDENTIFICATION BUREAU ESTABLISHED. There is hereby established as a bureau of the department of law enforcement a state criminal identification bureau to be known as the "Bureau of Criminal Identification."

SECTION 13. That Section 19-4812, Idaho Code, be, and the same is hereby amended to read as follows:

~~19-4812~~267-2911. CRIMINAL IDENTIFICATION, RECORDS AND STATISTICS.

(1) Definitions as used in this section and section ~~19-4813~~ 67-2912, Idaho Code:

(a) "Bureau" means the criminal identification, ~~records and communications~~ bureau in the department of law enforcement of the state of Idaho.

(b) "Law enforcement agency" means a governmental unit of one or more persons employed full time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(c) "Offense" means an act which is a felony or a misdemeanor.

(2) The bureau shall have the power and it shall be their duty

to:

(a) Obtain and file fingerprints, descriptions, photographs and any other available identifying data on persons who have been arrested, taken into custody or served a criminal summons, in this state:

1. for an offense which is a felony;
2. for an offense which is a misdemeanor involving burglary tools, commercial gambling, dealing in gambling devices, contributing to the delinquency of a child, dealing in stolen property, controlled substances, firearms, dangerous weapons, explosives, pandering, prostitution, sex offenses where children are victims, or worthless checks;
3. for an offense charged as disorderly conduct but which relates to an act connected with one or more of the offenses under subdivision 2;
4. as a fugitive from justice;
5. for any other offense designated by the director of the bureau department of law enforcement.

(b) Accept for filing fingerprints and other identifying data, taken at the discretion of the law enforcement agency involved, on

persons arrested, taken into custody or served a criminal summons for offenses other than those listed in paragraph (a).

(c) Obtain and file fingerprints and other available identifying data on unidentified human corpses found in this state.

(d) Obtain and file information relating to identifiable stolen or lost property.

(e) Obtain and file a copy or detailed description of each arrest warrant issued in this state in which the law enforcement agency desires the return of the person described in said warrant but which is not served because the whereabouts of the person named on the warrant is unknown or because that person has left the state. All available identifying data shall be obtained with the copy of the warrant, including any information indicating that the person named on the warrant may be armed, dangerous or possessed of suicidal tendencies.

(f) Collect information concerning the number and nature of all offenses designated by the director of the bureau department of law enforcement, including, but not limited to, Part I and Part II offenses as defined by the federal bureau of investigation under its system of uniform crime reports for the United States which are known to have been committed in this state, the legal action taken in connection with such offenses from the inception of the complaint to the final discharge of the defendant and such other information as may be useful in the study of crime and the administration of justice. The director of the bureau department of law enforcement may determine any other information to be obtained regarding crime statistics. However, the information shall include such data as may be requested by the federal bureau of investigation under its system of uniform crime reports for the United States.

(g) Furnish all reporting officials with forms and instructions which specify in detail the nature of the information required under paragraphs (a) to (f), inclusive, the time it is to be forwarded, the method of classifying and such other matters as shall facilitate collection and compilation.

(h) Cooperate with and assist all law enforcement agencies in the state in the establishment of a state system of criminal identification and in obtaining fingerprints and other identifying data on all persons described in paragraphs (a), (b) and (c).

(i) Offer assistance and, when practicable, instructions to all local law enforcement agencies in establishing efficient local bureaus of identification and records systems.

(j) Compare the fingerprints and descriptions that are received from law enforcement agencies with the fingerprints and the descriptions already on file and, if the person arrested or taken into custody is a fugitive from justice or has a criminal record, immediately notify the law enforcement agencies concerned and supply copies of the criminal records to these agencies.

(k) Make available all statistical information obtained to the governor and the legislature.

(l) Prepare and publish reports and releases at least once a year and no later than July 1, containing the statistical information gathered under this section and presenting an accurate picture of

crime in this state and of the operation of the agencies of criminal justice.

(m) Make available upon request, to all local and state law enforcement agencies in this state, to all federal law enforcement and criminal identification agencies, and to state law enforcement and criminal identification agencies in other states, any information in the files of the bureau which aid these agencies in the performance of their official duties. For this purpose the bureau shall operate on a twenty-four (24) hour a day basis, seven (7) days a week. Such information may also be made available to any other agency of this state or political subdivision thereof, and to any other federal agency as authorized, and upon assurance by the agency concerned that the information is to be used for official purposes only.

(n) Cooperate with other agencies of this state, the criminal justice agencies of other states, and the uniform crime reports and the national crime information center systems of the federal bureau of investigation in developing and conducting an interstate, national and international system of criminal identification, records and statistics.

(o) Permit any individual upon completion of satisfactory fingerprint identification to review all criminal history record information pertaining to that individual contained within the files of the criminal identification bureau.

SECTION 14. That Section 19-4813, Idaho Code, be, and the same is hereby amended to read as follows:

19-481367-2912. COOPERATION IN CRIMINAL IDENTIFICATION, RECORDS AND STATISTICS. (1) All persons in charge of law enforcement agencies shall obtain, or cause to be obtained, the fingerprints in duplicate, according to the fingerprint system of identification established by the director of the federal bureau of investigation, full face, profile and full length photographs, if possible, and other available identifying data, of each person arrested, taken into custody or served a criminal summons for an offense of a type designated in section 19-481267-2911(2)(a), Idaho Code, of all persons arrested, taken into custody or served a criminal summons as fugitives from justice, and fingerprints in duplicate and other identifying data of all unidentified human corpses in their jurisdictions, but photographs need not be taken if it is known that photographs of the type listed, taken within the previous year, are on file at the bureau. Fingerprints and other identifying data of persons arrested, taken into custody or served a criminal summons for offenses other than those designated in section 19-481267-2911(2)(a), Idaho Code, may be taken at the discretion of the law enforcement agency concerned. Any person arrested, taken into custody or served a criminal summons and subsequently released without charge, or cleared of the offense through court proceedings, shall have any fingerprint record taken in connection therewith returned upon request and pursuant to judicial order.

(2) Fingerprints and other identifying data required to be taken under subsection (1) shall be forwarded to the bureau within fourteen

(14) days after taking for filing and classification but the period of fourteen (14) days may be extended to cover any intervening holiday or weekend.

(3) All persons in charge of law enforcement agencies shall forward to the bureau copies or detailed descriptions of the arrest warrants and the identifying data described in section ~~19-481267-2911~~(2)(c), Idaho Code, immediately upon determination of the fact that the warrant cannot be served for the reason stated. If the warrant is subsequently served or withdrawn, the law enforcement agency concerned must immediately notify the bureau of such service or withdrawal. In any case, the law enforcement agency concerned must annually, no later than January 31 of each year, confirm to the bureau all arrest warrants of this type which continue to be outstanding.

(4) All persons in charge of state penal and correctional institutions shall obtain fingerprints, according to the fingerprint system of identification established by the director of the federal bureau of investigation, and full face and profile photographs of all persons received on commitment to these institutions. The prints and photographs so taken shall be forwarded to the bureau, together with any other identifying data requested, within ten (10) days after the arrival at the institution of the person committed. Full length photographs in release dress shall be taken immediately prior to the release of such persons from these institutions. Immediately after release, these photographs shall be forwarded to the bureau.

(5) All persons in charge of law enforcement agencies, all clerks of court, all persons in charge of state, county and municipal penal and correctional institutions, and all persons in charge of state and county probation and parole offices shall supply the bureau with the information described in section ~~19-481267-2911~~(2)(f), Idaho Code, on the basis of the forms and instructions to be supplied by the bureau under section ~~19-481267-2911~~(2)(g), Idaho Code. Provided, however, that clerks of court are not required to provide said information to the bureau if they have previously provided the information to the law enforcement agency submitting the offense report and the law enforcement agency has forwarded the information to the bureau.

(6) All persons in charge of law enforcement agencies in this state shall furnish the bureau with any other identifying data required in accordance with guidelines established by the bureau. All law enforcement agencies and penal and correctional institutions in this state having criminal identification files shall cooperate in providing to the bureau copies of such items presently in these files as will aid in establishing the nucleus of the state criminal identification file.

SECTION 15. That Section 67-2903, Idaho Code, be, and the same is hereby amended to read as follows:

67-290313. SEARCH AND RESCUE ACCOUNT. There is hereby created in the dedicated fund the search and rescue account.

(1) Moneys in the account shall be maintained in two (2) subaccounts, identified respectively as the "cost reimbursement subaccount" and the "equipment purchase matching subaccount." Moneys in the cost reimbursement subaccount are perpetually appropriated to

and shall be used by the director of the department of law enforcement for the purpose of defraying costs of search and rescue missions conducted by the county sheriff's office at a maximum of one thousand five hundred dollars (\$1,500) per rescue mission, regardless of the number of counties or county search and rescue organizations involved. Of the additional fine imposed pursuant to section 36-1405, Idaho Code, fifty percent (50%) shall be deposited to the credit of the cost reimbursement subaccount. In the event the balance in the cost reimbursement subaccount exceeds fifty thousand dollars (\$50,000), the amount in excess shall be transferred to the equipment purchase matching subaccount.

(2) Fifty percent (50%) of the moneys received pursuant to the provisions of section 36-1405, Idaho Code, and any amount in excess of fifty thousand dollars (\$50,000) in the cost reimbursement subaccount, shall be deposited in the search and rescue account to the credit of the equipment purchase matching subaccount, and are perpetually appropriated to the director of the department of law enforcement for the purposes of the subaccount. Moneys in the equipment purchase matching subaccount shall be used by the director to match local funds for the purchase of equipment for use by local search and rescue units, at a maximum amount of one thousand dollars (\$1,000) per unit in any single year.

SECTION 16. That Section 67-2904, Idaho Code, be, and the same is hereby amended to read as follows:

67-290414. IDAHO LAW ENFORCEMENT ACCOUNT ESTABLISHED. For the purposes of the department of law enforcement, there is established in the dedicated fund of the state of Idaho the Idaho law enforcement account, to which shall be deposited funds as provided by law.

SECTION 17. That Section 67-2905, Idaho Code, be, and the same is hereby amended to read as follows:

67-290515. STATISTICAL REPORT OF MALICIOUS HARASSMENT CRIMES. The director of law enforcement shall annually submit to the governor and the chairman of the judiciary and rules committee in the senate and the chairman of the judiciary, rules and administration committee in the house of representatives a report on malicious harassment crimes, as that crime is defined in section 18-7902, Idaho Code. Report content shall be limited to statistical data and shall be presented in conformance with the provisions of section 9-335, Idaho Code.

All city, county and state law enforcement units shall be required to report to the director all incidences of, complaints on, and arrests for malicious harassment crimes within their respective jurisdictions. The director shall develop a standard procedure and shall prescribe and provide a standard form for complete and uniform reporting.

SECTION 18. That Section 67-2906, Idaho Code, be, and the same is hereby amended to read as follows:

67-290616. REPORTS OF MURDERS. (1) As used in this section:

(a) "Director" means the director of the department of law enforcement of the state of Idaho.

(b) "Murder" has the meaning provided in section 18-4003, Idaho Code.

(2) Any law enforcement agency within the state of Idaho having primary responsibility for the investigation of the case shall provide information relating to any suspected murder to the director within twenty-five (25) days after its discovery. The law enforcement agency shall submit the information on a form which shall be developed and provided by the director. The form shall contain only information necessary to aid law enforcement personnel in comparing murders and suspected murders and discovering those exhibiting similar characteristics. The director shall enter information submitted by an investigating agency into a file maintained and controlled by the director and shall compare such information to information on other murders or suspected murders, for the purpose of discovering similarities in criminal methods and suspect descriptions. The director shall advise the concerned investigating agencies if the director finds murders exhibiting similar criminal methods or suspect descriptions.

(3) When an investigating law enforcement agency terminates active investigation of a suspected murder due to an arrest having been made in the case, death of the primary suspect, or whatever other reason, the investigating agency shall so notify the director within thirty (30) days following such termination. Notification shall include the reason for terminating active investigation.

(4) All suspected murders coming under the jurisdiction of any law enforcement agency in the state of Idaho occurring less than one (1) year before the effective date of this section shall be reported to the director as provided in this section within sixty-five (65) days after the effective date of this section or thirty (30) days after the director provides forms for such purpose, whichever is later.

SECTION 19. That Section 67-2929, Idaho Code, be, and the same is hereby amended to read as follows:

67-292917. HAZARDOUS WASTE. Wherever hazardous waste, as defined in section 39-4403, Idaho Code, is being transported within the state, within the state to without the state, or from without the state to within the state, the operator or owner of the motor vehicle or trailer, as defined in chapter 1, title 49, Idaho Code, transporting hazardous waste is hereby required to stop at such ports of entry or checking stations and submit to inspection or weighing for compliance with the laws of the state of Idaho. Additionally, such owner or operator of the motor vehicle or trailer transporting hazardous waste is hereby required and directed to allow employees of the department of health and welfare, the public utilities commission or the state police or any peace officer on duty to inspect and review all manifests and bills of lading to ensure that such hazardous waste is being shipped in a manner which will not endanger the health, welfare or safety of the citizens of the state of Idaho and is being shipped in compliance with the laws of the state of Idaho and any rules ~~and regulations~~ promulgated pursuant thereto.

SECTION 20. That Section 67-2930, Idaho Code, be, and the same is hereby amended to read as follows:

67-293018. PENALTIES. (1) Any person failing to stop at any port of entry or checking station when so required by section 67-292917, Idaho Code, or who refuses to submit to the inspection or weighing as provided in that section or who refuses to allow inspection or review of any manifest or bill of lading, shall be guilty of a misdemeanor and shall be subject to a fine of not more than ten thousand dollars (\$10,000), imprisonment for a period of not more than six (6) months or by both such fine and imprisonment. This penalty shall be in addition to any other civil or criminal penalties which may be provided by law.

(2) If a person violates the provisions of subsection (1) of this section and it is determined that the violation of subsection (1) of this section was caused in whole or by the knowing, willful or negligent act or omission of a generator of hazardous waste incorrectly filling out a manifest or bill of lading, by an act or omission of a person who caused the hazardous waste to be transported on the highways or roads of this state, the generator of the hazardous waste or the person causing the hazardous waste to be transported shall be guilty of a misdemeanor and shall be subject to a fine of not more than ten thousand dollars (\$10,000), imprisonment for a period of not more than six (6) months or by both such fine and imprisonment. This penalty shall be in addition to any other civil or criminal penalties which may be provided by law.

SECTION 21. That Section 6-610A, Idaho Code, be, and the same is hereby amended to read as follows:

6-610A. EMPLOYER FURNISHING DEFENSE FOR PUBLIC OFFICER IN CRIMINAL ACTIONS -- REQUIREMENTS. (1) If a criminal action or proceeding is brought against an employee who is a sheriff, constable, peace officer, ~~state police officer~~ commissioned officer of the department of law enforcement, or any other person charged with the duty of enforcement of the criminal laws of this state, the employer of the employee charged in the criminal action shall reimburse the employee for reasonable expenses the employee incurred in providing his defense in the criminal action if:

(a) The criminal action or proceeding is brought on account of an act or omission which occurred in the course and scope of the employee's duties as an employee of the employer; and

(b) The employee provides his own defense in the criminal action and the employee is found not guilty of the criminal charges or the charges are dropped.

(2) For the purposes of this section, employer shall mean the state of Idaho or any office, department, agency, authority, commission, board or other instrumentality thereof, and political subdivisions of the state of Idaho including any city, county or municipal corporation.

SECTION 22. That Section 18-8102, Idaho Code, be, and the same is hereby amended to read as follows:

18-8102. DEFINITIONS. As used in this chapter:

(1) "Civil disorder" means any public disturbance involving acts of violence by an assemblage of two (2) or more persons which acts cause an immediate danger of or result in damage or injury to the property or person of any other individual.

(2) "Governmental military force" means the national guard, as defined in section 101(9) of title 10, United States code; the organized militia of any state or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, not included with the definition of national guard as defined by such section 101(9); and the armed forces of the United States.

(3) "Law enforcement agency" means a governmental unit of one or more persons employed full time or part time by the state or federal government, or a political subdivision thereof, for the purpose of preventing and detecting crime and enforcing laws or local ordinances and the employees of which are authorized to make arrests for crimes while acting within the scope of their authority.

(4) "Peace officer" means any duly appointed officer of a law enforcement agency as defined herein including, but not limited to a duly appointed investigator or agency agent of the department of law enforcement, an officer of the Idaho state police division, or any other division of the department of law enforcement, department of fish and game, a sheriff or deputy sheriff of a county, or a marshal or police officer of a city.

SECTION 23. That Section 37-2701, Idaho Code, be, and the same is hereby amended to read as follows:

37-2701. DEFINITIONS. As used in this act:

(a) "Administer" means the direct application of a controlled substance whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(1) A practitioner (or, in his presence, by his authorized agent), or

(2) The patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(c) "Board" means the state board of pharmacy created in chapter 17, title 54, Idaho Code, or its successor agency.

(d) "Bureau" means the Bureau of Narcotic and Dangerous Drugs, United States Department of Justice, or its successor agency.

(e) "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V of article II of this act.

(f) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade-name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(g) "Deliver" or "delivery" means the actual, constructive, or

attempted transfer from one (1) person to another of a controlled substance, whether or not there is an agency relationship.

(h) "Director" means the director of the department of law enforcement of the state of Idaho.

(i) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(j) "Dispenser" means a practitioner who dispenses.

(k) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(l) "Distributor" means a person who distributes.

(m) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(n) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this act. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used,

intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(f) Miniature cocaine spoons, and cocaine vials;

(g) Chamber pipes;

(h) Carburetor pipes;

(i) Electric pipes;

(j) Air-driven pipes;

(k) Chillums;

(l) Bongs;

(m) Ice pipes or chillers;

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;

2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

3. The proximity of the object, in time and space, to a direct violation of this act;

4. The proximity of the object to controlled substances;

5. The existence of any residue of controlled substances on the object;

6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this act shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

7. Instructions, oral or written, provided with the object concerning its use;

8. Descriptive materials accompanying the object which explain or

depict its use;

9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the community;
14. Expert testimony concerning its use.

(o) "Financial institution" means any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or under the jurisdiction of an agency of the United States.

(p) "Immediate precursor" means a substance which the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(q) "Law enforcement agency" means a governmental unit of one (1) or more persons employed full time or part time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(r) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, and includes extraction, directly or indirectly, from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:

(1) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(2) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for delivery.

(s) "Marijuana" means all parts of the plant of the genus Cannabis, regardless of species, and whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. It does not include the mature stalks of the plant unless the same are intermixed with prohibited parts thereof, fiber produced from the stalks, oil or cake made from the seeds or the achene of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom or where the same are intermixed with

prohibited parts of such plant), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. Evidence that any plant material or the resin or any derivative thereof, regardless of form, contains any of the chemical substances classified as tetrahydrocannabinols shall create a presumption that such material is "marijuana" as defined and prohibited herein.

(t) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(u) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 37-2702, Idaho Code, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(v) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(w) "Peace officer" means any duly appointed officer or agent of a law enforcement agency, as defined herein, including but not limited to a duly appointed investigator or agent of the department of law enforcement, an officer or employee of the board of pharmacy, who is authorized by the board to enforce this act, an officer of the Idaho state police division or any other division of the department of law enforcement, a sheriff or deputy sheriff of a county, or a marshal or policeman of any city.

(x) "Person" means individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(y) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(z) "Practitioner" means:

(1) A physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of his professional practice or research in this state;

(2) A pharmacy, hospital, or other institution licensed, regis-

tered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of their professional practice or research in this state.

(aa) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(bb) "Simulated controlled substance" means a substance that is not a controlled substance, but which by appearance or representation would lead a reasonable person to believe that the substance is a controlled substance. Appearance includes, but is not limited to, color, shape, size, and markings of the dosage unit. Representation includes, but is not limited to, representations or factors of the following nature:

(1) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(2) Statements made to the recipient that the substance may be resold for inordinate profit; or

(3) Whether the substance is packaged in a manner normally used for illicit controlled substances.

(cc) "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(dd) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(ee) "Utility" means any person, association, partnership or corporation providing telephone and/or communication services, electricity, natural gas or water to the public.

SECTION 24. That Section 39-7105, Idaho Code, be, and the same is hereby amended to read as follows:

39-7105. LOCAL EMERGENCY RESPONSE AUTHORITIES -- DESIGNATION. (1) It is the purpose of the provisions of this section to provide for the designation of local emergency response authorities for hazardous substance incidents.

(2) Cities and counties shall designate the local emergency response authorities for hazardous substance incidents that occur within their respective jurisdictions. Cities and counties are encouraged to appoint a response authority whose members will become trained in hazardous substance incident response.

(a) The governing body of every city shall designate by ordinance or resolution a local emergency response authority for hazardous substance incidents occurring within the corporate limits of such city. A city may designate the county as its emergency response authority and participate in the county plan for hazardous substance incident response, and shall notify the county of that designation in writing.

(b) The board of county commissioners of every county in the state shall designate by ordinance or resolution a local emergency

response authority for hazardous substance incidents occurring within the unincorporated area of such county.

(c) The governing body of every city and every board of county commissioners shall notify the commission and Idaho emergency medical services communications center of its designated local emergency response authority. Such notification shall be in writing and shall occur as soon as practicable, and, in any event, no later than sixty (60) calendar days after this chapter becomes effective. Thereafter, any changes in such designations shall be communicated to the commission and Idaho emergency medical services communications center no later than ten (10) working days before such change becomes effective.

(d) If no local emergency response authority having the ability to respond to a hazardous substance incident exists within a city or county or if such a political subdivision is unable to obtain the services of an emergency response authority by way of a mutual aid agreement, contract or otherwise, such city or county may petition the commission to designate an emergency response authority to respond to hazardous substance incidents within the petitioning political subdivision's jurisdiction. The commission, in consultation with such political subdivision, may thereafter designate appropriate local emergency response authorities.

(3) If a hazardous substance incident occurs in an area in which no local emergency response authority has been designated, or if the Idaho state police division of the department of law enforcement has been designated as the local emergency response authority, the Idaho state police division shall be the local emergency response authority for such hazardous substance incident for the purposes of this section.

SECTION 25. That Section 49-102, Idaho Code, be, and the same is hereby amended to read as follows:

49-102. DEFINITIONS -- A.

(1) "Abandon" means to leave a vehicle on private property without the permission of the person having rights to the possession of the property, or on a highway or other property open to the public for the purposes of vehicular traffic or parking, or upon or within the right-of-way of any highway, for twenty-four (24) hours or longer.

(2) "Abandoned vehicle" means any vehicle observed by an authorized officer or reported by a member of the public to have been left within the limits of any highway or upon the property of another without the consent of the property owner for a period of twenty-four (24) hours or longer, except that a vehicle shall not be considered abandoned if its owner-operator is unable to remove it from the place where it is located and has notified a law enforcement agency and requested assistance.

(3) "Accident" means any event that results in an unintended injury or property damage attributable directly or indirectly to the motion of a motor vehicle or its load, a snowmobile or special mobile equipment.

(4) "Actual physical control" means being in the driver's position of a motor vehicle with the motor running or the vehicle moving.

(5) "Administrator" means the federal highway administrator, the chief executive of the federal highway administration, an agency within the U.S. department of transportation.

(6) "Age of a motor vehicle" means the age determined by subtracting the manufacturer's year designation of the vehicle from the year in which the designated registration fee is paid. If the vehicle has the same manufacturer's year designation as the year in which the fee is paid, or if a vehicle has a manufacturer's year designation later than the year in which the fee is paid, the vehicle shall be deemed to be one (1) year old.

(7) "Air-conditioning equipment" means mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.

(8) "Alcohol or alcoholic beverage" means:

(a) Beer as defined in 26 U.S.C. 5052(a), of the internal revenue code;

(b) Wine of not less than one-half of one per cent (.005%) of alcohol by volume; or

(c) Distilled spirits as defined in section 5002(a)(8), of the internal revenue code.

(9) "Alley" means a public way of limited use intended only to provide access to the rear or side of lots or buildings in urban districts.

(10) "All terrain vehicle" or "ATV" means any recreation vehicle with two (2) or more tires, weighing under six hundred fifty (650) pounds, less than forty-eight (48) inches in width, traveling on low pressure tires of less than five (5) psi, and designed to be ridden by one (1) person. Such vehicles shall be registered under the provisions of section 49-402, Idaho Code, for operation on public highways, unless exempted under the provisions of section 49-426, Idaho Code.

(11) "Amateur radio operator." (See "Radio operator, amateur", section 49-119, Idaho Code)

(12) "Ambulance" means a motor vehicle designed and used primarily for the transportation of injured, sick, or deceased persons, on stretchers, cots, beds, or other devices for carrying persons in a prone position.

(13) "Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a driver's license.

(14) "Approved driver training course" means a training course from a school licensed under the provisions of chapter 21 of this title.

(15) "Approved testing agency" means a person, firm, association, partnership or corporation approved by the director of the department of law enforcement which is:

(a) In the business of testing equipment and systems;

(b) Recognized by the director as being qualified and equipped to do experimental testing; and

(c) Not under the jurisdiction or control of any single manufacturer or supplier for an affected industry.

(16) "Armed forces" mean the army, navy, marine corps, coast guard and the air force of the United States.

(17) "Authorized emergency vehicle." (See "Vehicle", section 49-123, Idaho Code)

(18) "Authorized officer" means any member of the Idaho state police division of the department of law enforcement, or any regularly employed and salaried deputy sheriff, or other county employee designated to perform the function of removing abandoned vehicles or junk vehicles by the board of county commissioners of the county in which a vehicle is located, or any regularly employed and salaried city peace officer or other city employee designated to perform the function of removing abandoned vehicles or junk vehicles by the city council, or a qualified person deputized or appointed by the proper authority as reserve deputy sheriff or city policeman, authorized within the jurisdiction in which the abandoned vehicle or junk vehicle is located.

(19) "Authorized transportation department employee" means any employee appointed by the board to perform duties relating to enforcement of vehicle laws as have been specifically defined and approved by order of the board (see section 40-510, Idaho Code).

(20) "Auto transporter" means a vehicle combination constructed for the purpose of transporting vehicles.

SECTION 26. That Section 49-202, Idaho Code, be, and the same is hereby amended to read as follows:

49-202. DUTIES OF DEPARTMENT. (1) All registration and driver's license records in the office of the department shall be public records and open to inspection by the public during normal business hours. If the department has contracted for a service to be provided by another entity, an additional fee shall be charged by that contractor whether the service is rendered during normal business hours, other than normal business hours or on weekends.

(2) In addition to other fees required by law to be collected by the department, the department shall collect the following:

- (a) For certifying a copy of any record pertaining to any vehicle license, any certificate of title, or any driver's license . \$8.00
- (b) For issuing every Idaho certificate of title \$8.00
- (c) For furnishing a duplicate copy of any Idaho certificate of title \$8.00
- (d) For issuance or transfer of every certificate of title on a new or used vehicle or other titled vehicle in an expedited manner (rush titles), in addition to any other fee required by this section \$15.00
- (e) For furnishing a replacement of any receipt of registration \$3.00
- (f) For answering inquiries as to registration or ownership of motor vehicles or driver's license records, per vehicle registration, accident report records, title or per driver's license record \$4.00
- Additional contractor fee, not to exceed \$4.00
- (g) For services in furnishing copies of files of vehicle or other registrations, vehicle titles, or driver's licenses per hour \$10.00
- (h) Placing "stop" cards in vehicle registration or title files, each \$12.00
- (i) For issuance of an assigned or replacement vehicle identification number (VIN)\$10.00

- (j) For a vehicle identification number (VIN) inspection whether conducted by a city or county peace officer or any other peace officer or designated agent of the state of Idaho, per inspection \$3.00
- (k) For all replacement registration stickers, each \$1.00
- (l) For issuing letters of temporary vehicle clearance to Idaho based motor carriers \$10.00
- (m) For all sample license plates, each \$12.00
- (3) The fees required in this section shall not apply when the service is furnished to any federal, state, county or city peace officer when such service is required in the performance of their duties as peace officers.

(4) The department may enter into agreements with private companies or public entities to provide the services for which a fee is collected in subsection (2)(f) of this section. Such private contractor shall collect the fee prescribed and remit the fee to the department. The contractor shall also collect and retain the additional fee charged for his services.

(5) The department shall pay three dollars (\$3.00) of the fee collected by a county assessor or other agent of the department as provided in subsection (2)(a) through (f) of this section, to the county assessor of the county or agent collecting such fee, which shall be deposited with the county treasurer and credited to the county current expense fund. The remainder of the fees collected as provided in that subsection shall be paid by the department to the state treasurer and placed in the state highway account. The fee collected under subsection (2)(j) of this section for a VIN inspection shall be placed in the city general fund if conducted by a city peace officer, in the county current expense fund if conducted by a county peace officer, shall be retained by the special agent authorized to perform the inspection, or paid to the state treasurer and placed to the credit of the department of law enforcement if conducted by the Idaho state police division or in the state highway account if conducted by the department.

(6) The department as often as practicable may provide to law enforcement agencies the record of stolen and recovered motor vehicles and suspensions and revocations of driver licenses via the Idaho law enforcement telecommunications system (ILETS).

(7) The department shall provide the forms prescribed in chapter 5 of this title, shall receive and file in its office in Boise, Idaho, all instruments required in chapter 5 of this title to be filed with the department, shall prescribe a uniform method of numbering certificates of title, and maintain in the department indices for such certificates of title. All indices shall be by motor or identification number and alphabetical by name of the owner, and the department shall maintain two (2) separate files on each vehicle, one, a motor or identification number file, the other a file by the name of the owner.

(8) The department shall file each registration received under a distinctive registration number assigned to the vehicle and to the owner thereof, alphabetically under the name of the owner, and numerically and alphabetically under the name of the vehicle.

(9) The department shall not renew a driver's license when fees required by law have not been paid or where fees for past periods are

due, owing and unpaid including nonsufficient fund checks.

(10) The department shall not grant the registration of a vehicle when:

(a) The applicant is not entitled to registration under the provisions of this title; or

(b) The applicant has neglected or refused to furnish the department with the information required in the appropriate form or reasonable additional information required by the department, or has failed to comply with the provisions of section 49-436, Idaho Code, in past registration periods; or

(c) The fees required by law have not been paid, or where fees for past registration periods are due, owing and unpaid including nonsufficient fund checks.

(11) The department has the authority to request any person, based upon evidence, to submit to medical, highway, or written examinations, to protect the safety of the public upon the highways.

(12) The department shall revoke the registration of any vehicle:

(a) Which the department shall determine is unsafe or unfit to be operated or is not equipped as required by law;

(b) Whenever the person to whom the registration card or registration plate has been issued shall make or permit to be made any unlawful use of the same or permit their use by a person not entitled thereto;

(c) For any violation of vehicle registration requirements by the owner or operator in the current or past registration periods;

(d) Whenever a motor carrier as defined in section 61-801, Idaho Code, has his permit revoked for any cause except at the request of the permit holder, as provided in section 61-808, Idaho Code, or whenever an interstate carrier has his registration revoked by reason of a revocation of his interstate commerce commission operating authority;

(e) For nonpayment by the owner or operator of the vehicle of use fees computed under sections 49-434 and 49-435, Idaho Code;

(f) For failure of the owner or operator to file the reports required or nonpayment of fees assessed against the owner by the department pursuant to audit under the provisions of section 49-436, Idaho Code;

(g) Identified by any city or county administering a program established by ordinance for the inspection and readjustment of motor vehicles (which program is part of an approved state implementation plan adopted by both the state and federal governments under 42 USC section 7410) as having failed to comply with an ordinance requiring motor vehicle emission inspection and readjustment; provided that no vehicle shall be identified to the department under this subsection (g) unless (i) the city or county certifies to the department that the owner of the motor vehicle has been given notice and had the opportunity for a hearing concerning compliance with the ordinance and has exhausted all remedies and appeals from any determination made at such hearing; and (ii) the city or county reimburses the department for all direct costs associated with the registration revocation procedure.

(13) The department shall not reregister or permit a vehicle to operate on a special trip permit until all fees, penalties and inter-

est have been paid.

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

(15) The department shall cancel a driver's license when fees required by law have not been paid or where fees for past periods are due, owing and unpaid including nonsufficient fund checks;

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

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

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

(19) The department shall cooperate with the United States in the elimination of road hazards, whether of a physical, visual or mental character.

(20) The department shall place and maintain traffic-control devices, conforming to the board's manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this title or to regulate, warn, or guide traffic. No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the department except by the latter's permission.

(21) The department may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall find that the structure cannot with safety to itself withstand vehicles traveling at a speed otherwise permissible under this title, shall determine and declare the maximum speed of vehicles which the structure can safely withstand, and shall cause or permit suitable signs stating the maximum speed to be erected and maintained before each end of the structure.

(22) Whenever the department shall determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs.

(23) The department shall regulate or prohibit the use of any controlled-access highway by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

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

(25) Wherever a highway crosses one or more railroads at grade, the department or local authorities within their respective jurisdictions shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when in the determination of public highway agencies the existence of stop signs at a given crossing would constitute a greater hazard than their absence based on a recognized engineering study.

Nothing in this subsection shall be construed as granting immunity to any railroad company as to liability, if any, for an accident which might occur at a crossing where stop signs are erected and in place, but liability, if any, shall be determined as provided by law. Liability on the part of governmental authorities on account of absence of any stop sign at a crossing shall be determined as provided by law.

(26) The department and local authorities are authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of those zones and when signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey those directions.

(27) The department and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this title or title 40, Idaho Code.

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

SECTION 27. That Section 49-509, Idaho Code, be, and the same is hereby amended to read as follows:

49-509. STOLEN VEHICLES -- REPORTING BY OFFICERS -- PUBLICATION OF LISTS -- RECOVERED CARS -- NOTICE. (1) It shall be the duty of every sheriff, chief of police, constable, officer of the Idaho state police officer division of the department of law enforcement, or officer having knowledge of a stolen vehicle, to immediately furnish the department of law enforcement with full information in connection therewith, and it shall be the duty of the department of law enforcement whenever it shall receive a report of the theft or conversion of a vehicle, whether the same has been registered or not, and whether owned in this state or any other state, to make a distinctive record of it together with the make and manufacturer's serial number, and file the same in numerical order of the manufacturer's serial number with the index records of the vehicles of the same make.

(2) The department of law enforcement shall prepare a report listing vehicles stolen and recovered as disclosed by reports submitted to it, and the report shall be distributed as deemed advisable. At least once each month the department of law enforcement shall furnish reports of stolen and recovered vehicles to every county sheriff and the police department in every municipality of over three thousand (3,000) population within this state, and shall transmit copies of the reports to the motor vehicle departments of other states. In the event

of the receipt by the department of law enforcement of a certificate of title to a stolen vehicle, the department of law enforcement shall immediately notify the owner, and if upon investigation it appears that the certificate of title was improperly issued, the transportation department shall immediately cancel it. In the event of the recovery of a stolen or converted vehicle the owner shall immediately notify the department of law enforcement, which shall cause the record of the theft or conversion to be removed from its file.

SECTION 28. That Section 49-1814, Idaho Code, be, and the same is hereby amended to read as follows:

49-1814. DISPOSITION OF LOW-VALUED VEHICLES. (1) If the vehicle is appraised at a value not exceeding two hundred dollars (\$200), the provisions of sections 49-1809 through 49-1811, Idaho Code, shall not apply, and the person or public agency which removed the vehicle shall:

(a) Within forty-eight (48) hours after the appraisal, notify the department of the removal of the vehicle;

(b) Prepare a certificate containing a description of the vehicle stating the appraised value of the vehicle and indicating one of the following:

1. The agency which requested the tow has submitted certified statement that a declaration of opposition has not been received.

2. The registered and legal owners have signed a certified release disclaiming any interest, which release shall be included with the certificate.

3. The vehicle is in a condition that vehicle identification numbers are not available to determine owners of record.

(c) Upon completion of the certificate, execute and deliver a bill of sale, together with a copy of the certificate, either to the possessory lien holder, who shall endorse the bill of sale to an automobile parts dealer or to a scrap processor for disposal.

(2) Automobile parts dealers acquiring vehicles which are the subject of certificates prepared and forwarded pursuant to this section shall be excused from any fees which would otherwise be due to the department.

(3) A public agency may authorize, by contract, the removal or disposal of low-valued vehicles. The contract shall be issued to the lowest responsible bidder. Bills of sale shall then be executed and delivered, pursuant to subsection (1)(c), to the contractor.

(4) The following persons shall have the authority to make appraisals for purposes of this chapter:

(a) Any member of the Idaho state police division of the department of law enforcement;

(b) Any regularly employed and salaried deputy sheriff or other employee designated by the sheriff of any county;

(c) Any regularly employed and salaried peace officer or other employee designated by the chief of police of any city;

(d) Any officer or employee of the motor vehicle bureau of the department designated by the director;

(e) Any regularly salaried employee of a city, county, or city

and county designated by a board of county commissioners or by a city council; or

(f) Any regularly employed and salaried peace officer or other employee of the department of parks and recreation designated by the director of that department.

(5) An appraiser, upon completion of an appraisal within the meaning of this chapter, shall notify the department of the appraisal and of the facts upon which the appraisal was based.

SECTION 29. That Section 59-1303, Idaho Code, be, and the same is hereby amended to read as follows:

59-1303. ADDITIONAL DEFINITIONS FOR POLICE OFFICER STATUS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) Police officer membership status for retirement purposes may be fixed only by law, or by order of the retirement board.

(3) Members holding or filling the following positions or offices are designated by law as police officer members for retirement purposes during the time of their appointment to that position or during their term of office:

(a) (i) The director, and deputy director of the department of law enforcement, and the superintendent administrator of the Idaho state police division, and the assistant directors of the ~~alcohol-beverage-control--division--and~~ police services division.

(ii) Commissioned personnel of the state police division, police services division and alcohol beverage control division holding positions which involve active law enforcement services, for which current POST certification is required to continue in employment in the position, POST instructors, and department of law enforcement training instructors.

(iii) Brand inspectors and brand inspector supervisors.

(iv) Employees of the department of law enforcement serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.

(b) (i) County sheriffs;

(ii) Deputy county sheriffs holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; deputy county sheriffs holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility or whose duties require active participation in county law enforcement activities pertaining to crime prevention or reduction; deputy sheriffs, even though POST certified or required to be POST certified, holding positions whose principal full time duties are those of a telephone operator, clerk, stenographer, animal control officer,

records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.

- (c) (i) City police chiefs;
(ii) City police officers holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; city police officers holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility or whose duties require active participation in city law enforcement activities pertaining to crime prevention or reduction; police officers, even though POST certified or required to be POST certified, holding positions whose principal full time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.
- (d) Employees of the department of fish and game serving in a conservation officer position for which current POST certification is necessary to continue in employment in that position and which position has as its primary accountability the enforcement of wildlife protection laws and regulations.
- (e) (i) The director of the department of correction, the deputy director for probation and parole, and wardens of institutions;
(ii) Employees of the department of correction accountable for the custody, safety, safekeeping or supervision of persons confined in a department confinement facility and whose work station is located within the confinement facility;
(iii) Probation and parole supervisors, probation and parole investigators, and probation and parole officers;
(iv) Correctional peace officer training instructors;
(v) Employees of the department of correction serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.
- (f) Employees of the adjutant general and military division of the state where military membership is a condition of employment.
- (g) Magistrates of the district court, and court employees designated by court order to have primary responsibility for court security or transportation of prisoners.
- (h) Paramedics and paramedic trainees.
- (i) Criminal investigators of the attorney general's office, and criminal investigators of a prosecuting attorney's office.
- (j) The director of security and the criminal investigators of the Idaho state lottery.
- (4) A member may be designated by the retirement board as a police officer member for retirement purposes if the position held is one in which the principal duties involve hazardous law enforcement

duties.

(a) For purposes of this section, "hazardous law enforcement duties" mean principal duties which:

- (i) Will reasonably expect to increase the probability of early superannuation;
- (ii) Is associated with life-threatening risk or presents a position of peril either to the member or to others, or which can place the public safety in jeopardy; and
- (iii) Either compels others to observe the law, pertains to crime prevention, or pertains to crime reduction, including police, courts, prosecution, correction, or rehabilitation.

(b) If continued employment in a position is conditioned on maintaining current POST certification, such condition shall be evidence to be considered that the employee is a police officer member for retirement purposes.

(i) After July 1, 1985, a requirement for POST certification for classified state employees may be made only by the personnel commission.

(c) Occasional assignments to hazardous law enforcement duties does not create a condition for designation as a police officer member for retirement purposes.

(5) Any employer or agency that believes that any employee, not specifically designated as a police officer by law, is incorrectly classified as a nonpolice officer member, may petition the retirement board for inclusion of that employee's position as one to be filled by a police officer member for retirement purposes. The petition shall be in writing and shall explain in detail the principal duties of the position and include written evidence which establishes that the criteria of subsection (4) are met. The board shall review the petition and evidence, together with such information and evidence as may be presented by the staff of the retirement system. The board may decide the matter based upon the ~~informatin~~ information supplied, may request additional information, or may request an oral presentation before the board. The decision of the board shall be final, but a similar petition may be resubmitted after six (6) months.

(6) On and after July 1, 1985, no active member shall be classified as a police officer for retirement purposes unless the employer shall have certified to the board, on a form provided by the board, that such member is an employee whose primary position with the employer is one designated as such within the meaning of this chapter, and the board shall have accepted such certification. Acceptance by the board of an employer's certification shall in no way limit the board's right to review and reclassify the position for retirement purposes based upon an audit or other relevant information presented to the board.

(7) An active member classified as a police officer for retirement purposes whose position is reclassified to that of a general member for retirement purposes as a result of a determination that the position does not meet the requirements of this chapter for police officer status for retirement purposes shall become a general member but shall not lose retirement benefits earned and accrued prior to the reclassification. If that member continues to be employed in that same position until retired, that member then will be deemed to be a police

officer member for the purposes of retirement eligibility.

SECTION 30. 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, 1995.

CHAPTER 117
(S.B. No. 1074)

AN ACT

RELATING TO INSURERS; AMENDING SECTION 41-316, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR SHALL ACCEPT CERTAIN DEPOSITS MADE IN OTHER STATES ON BEHALF OF FOREIGN TITLE INSURERS.

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

SECTION 1. That Section 41-316, Idaho Code, be, and the same is hereby amended to read as follows:

41-316. DEPOSIT -- FOREIGN OR ALIEN INSURERS. (1) This section shall apply as to all foreign and alien 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 one million dollars (\$1,000,000), except that:

(a) As to foreign insurers, except foreign title 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 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 foreign title insurers, in lieu of such Idaho deposit, the director shall accept the certificate or certificates in proper form from the public official or officials having supervision over title insurers in any other state or states to the effect that a like deposit or total deposits by such insurer, in an equal or greater amount than required in this section, are

being maintained in public custody or control for the protection generally of the insurer's policyholders or its policyholders and creditors.

(c) 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) 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.

Approved March 14, 1995.

CHAPTER 118

(S.B. No. 1097, As Amended)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTIONS 21-401, 21-805, 21-805B, 21-806, 21-809, 21-814, 22-2717, 22-2719, 22-2721, 22-2725, 22-4301, 23-917, 23-1304, 25-2604, 27-106, 27-107, 27-111, 27-112, 27-121, 31-206, 31-402, 31-403, 31-409, 31-1002, 31-1008, 31-1405, 31-1406, 31-1410, 31-1411, 31-1412, 31-1903, 31-1905, 31-3513, 31-3515, 31-3605, 31-3702, 31-3703, 31-4304, 31-4305, 31-4307, 31-4319, 31-4320, 31-4323, 31-4324, 31-4510, 34-1710, 34-2201, 39-1323, 39-1324, 39-1325a, 39-1330, 39-1334, 39-1339, 39-1340, 39-1342, 39-2802, 39-2806, 42-1767, 42-2801, 42-3115, 42-3117, 42-3125, 42-3202, 42-3202B, 42-3207, 42-3211, 42-3218, 42-3222,

42-3223, 42-3224, 42-3234, 42-3705, 42-3706, 42-3708, 42-3717, 42-4204, 42-4207, 42-4208, 42-4209, 42-4409, 42-4410, 42-4416, 42-5104, 42-5107, 42-5108, 42-5109, 42-5115, 59-911, 63-4103, 67-4902, 67-4907, 67-4911, 67-4922, 67-4923, 67-4924, 67-4928, 67-6526, 70-1102, 70-1105, 70-1106, 70-1111, 70-1204, 70-1208, 70-1209, 70-1210, 70-1212, 70-1215, 70-1217, 70-1218, 70-1706, and 70-1716, IDAHO CODE, TO PROVIDE FOR THE ADMINISTRATION AND CONSOLIDATION OF ELECTIONS IN CONFORMANCE WITH THE PROVISIONS OF THE UNIFORM DISTRICT ELECTIONS LAW FOR AFFECTED POLITICAL SUBDIVISIONS AND TAXING DISTRICTS, AND TO MAKE TECHNICAL CORRECTIONS; FURTHER AMENDING SECTIONS 21-806, 22-2721, 22-4301, 31-1410, 39-1330, 42-3211, 42-3706, 42-4204, 42-5104, 67-4911 AND 70-1212, IDAHO CODE, TO PROVIDE THAT NO ELECTION SHALL BE HELD WHEN ONLY ONE QUALIFIED CANDIDATE HAS BEEN NOMINATED FOR A POSITION TO BE FILLED; AND REPEALING SECTIONS 31-1410A, 39-1330A, 39-1330B, 42-3211b AND 70-1216, IDAHO CODE.

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

SECTION 1. That Section 21-401, Idaho Code, be, and the same is hereby amended to read as follows:

21-401. AUTHORITY TO PROVIDE FACILITIES -- EXPENSE -- ISSUANCE OF BONDS -- DUTIES OF COMMISSIONERS AND COUNCILMEN -- RESTRICTION ON LEASE OF FACILITIES. Counties, highway districts and cities are hereby authorized to acquire by purchase, lease, condemnation, or otherwise, take over and hold lands not exceeding in area one thousand two hundred eighty (1280) acres either wholly or partly within or without the boundaries or corporate limits of such counties, highway districts or cities, or wholly or partly within or without the state of Idaho, for the purpose of constructing and maintaining aviation fields, airports, hangars and other air navigation facilities; to provide equipment necessary or incidental to the maintenance and operation of such aviation fields or airports; to maintain, operate and manage such aviation fields, airports and grounds and prescribe rules and regulations for the maintenance, operation and management thereof, and fix fees and rentals to be charged for the use of the same or any part thereof; to survey, plat, map, grade, ornament and otherwise improve such lands and all appurtenances thereto, whether owned and operated or owned or leased by such counties, highway districts or cities, and all approaches and avenues leading to or adjacent thereto; to lease for aviation purposes or for any purposes connected therewith and incidental thereto and for such commercial purposes as the governing bodies of such counties, highway districts and cities may determine upon all or any part of the land or lands so required, under such regulations and upon such terms and conditions as shall be established by such governing bodies, and not subject to the limitation as to length of term prescribed in section 31-836, Idaho Code; to construct, operate and maintain hangars, buildings and equipment necessary or convenient to the maintenance and operation of aviation fields or airports.

Counties, highway districts and cities are hereby empowered to provide for all costs and expenses necessary or incident to the exercise of the foregoing powers or the attainment of the foregoing

objects or any of them, out of the general funds or out of any of the funds made available for such purposes, of such counties, highway districts and cities, or to issue bonds pursuant to law for the payment of any or all of such costs and expenses except for the maintenance and operation of such aviation fields or airports; provided, that no bonds shall be issued for the purposes aforesaid unless and until authorized by a vote of two-thirds (2/3) of the qualified electors of the county, highway district or municipality, voting at such election held subject to the provisions of section 34-106, Idaho Code. Nothing contained in this act shall be construed to increase the maximum of any tax levies for counties, highway districts or cities.

The boards of county commissioners of their respective counties, the highway commissioners of their respective highway districts and the councilmen of their respective cities, shall have jurisdiction and power under such limitations and restrictions as are prescribed by law to carry into full force and effect all of the provisions of this law.

Such aviation fields or airports shall in no case be leased to any person, association or corporation under such terms or conditions as to give such person, association or corporation, the exclusive right to the use of such aviation fields or airports.

SECTION 2. That Section 21-805, Idaho Code, be, and the same is hereby amended to read as follows:

21-805. REGIONAL AIRPORT AUTHORITY -- ESTABLISHMENT BY ELECTION. A regional airport authority may be established by the vote of the electors of such region, voting at an election called and held as herein provided in chapter 14, title 34, Idaho Code, with special provisions as provided in this chapter:

(a) A petition signed by not less than five percent (5%) of the electors from each voting precinct county in the region, describing the degree of percentage of financial participation of each such county in the district and the proposed location of the regional airport, and praying for the organization of the region as a regional airport authority, together with a true copy thereof, shall be filed with the Idaho transportation department. Prior to filing such petition each board of county commissioners of the counties in the region shall verify the validity of the signatures within the county.

(b) Upon approval of the petition, the Idaho transportation department shall advise the boards of county commissioners of the counties in the region of the date of the election, ~~but no later than sixty--(60)--days--after--approval--of--the--petition;~~ and each such board shall enter an order that an special election be held ~~on such date~~ for the purpose of voting on the question of the creation of such regional airport authority. Notice of election must be posted, notice shall be published, the election shall be conducted and the returns thereof canvassed as required in ~~elections on the question of creating junior college districts~~ chapter 14, title 34, Idaho Code. Provided, however, as a condition of voting in such election, an elector shall meet the qualifications prescribed in section 34-40~~±~~2, Idaho Code, and in addition shall be a resident of the proposed regional airport authority. The ballot shall contain the words "Regional Airport Authority--Yes" and "Regional Airport Authority--No," each followed by a box in which

the voter may express his choice by marking a cross "X." The board of county commissioners of each county shall conduct such election and canvass the returns thereof as though it were the only county in which such election were being held. The returns of the election so canvassed shall be certified promptly to the Idaho transportation department and if a majority of all of the votes cast in three (3) or more contiguous counties be in the affirmative, then the Idaho transportation department shall enter an order declaring such regional airport authority established within the limits of those counties that did vote in the affirmative, and shall certify such fact to the board of county commissioners of each county in the region in which an affirmative vote was cast. Counties which voted in the negative shall be excluded from the regional airport authority and shall be so notified by the Idaho transportation department. The cost of providing such election shall be paid by the respective boards of county commissioners, from any funds available to such county. Provided, however, if the interim board of trustees is convinced that it would be impracticable for the three (3) contiguous counties to establish a regional airport authority, and so certifies to the Idaho transportation department and the board of county commissioners of those counties that did vote in the affirmative, the election shall be null and void and the authority shall not be created.

SECTION 3. That Section 21-805B, Idaho Code, be, and the same is hereby amended to read as follows:

21-805B. WITHDRAWAL FROM EXISTING AUTHORITY -- ELECTION -- INDEBTEDNESS APPORTIONMENT -- TRUSTEE REPRESENTATION. Subsequent to the organization of a regional airport authority, the electors of any county which has joined the regional airport authority may call for an election to have such county withdraw from the authority in the manner, and subject to the provisions, herein in this section provided:

(1) Such election for withdrawal may be called for by the submission to the board of trustees of the regional airport authority of petitions containing the statements and information hereinafter set forth, signed by not less than five percent (5%) of the qualified electors of each county which is a member of the authority, as defined in section 34-402, Idaho Code, existing as of the date of submission of such petitions to the county clerks for verification as hereinafter provided.

(2) Prior to submitting such petition for withdrawal to the board of trustees of the regional airport authority, the electors submitting such petition shall obtain from the county clerks of each county which is a member of the authority, and submit to the board of trustees with such petitions, a verification of the validity of the signatures upon such petitions; a verification as to which of such signatures are those of electors qualified in accordance with the provisions of section 34-402, Idaho Code, at the time of the submission of the petition; and a certification as to the total number of qualified electors existing in the county as of the date of the submission of such petition to the clerk.

(3) The petitions submitted shall specify the county whose withdrawal from the authority is sought, and shall contain the names,

addresses and dates of signing of each of the electors signing such petition, and the following statements: that the persons signing are bona fide residents of a county within the authority and electors qualified under the provisions of section 34-402, Idaho Code; that the persons signing desire to have an election held to determine whether or not the county specified in the petition should withdraw from the regional airport authority; and that the persons signing understand that if such withdrawal should become effective following an election, the taxpayers and property of the county withdrawing would remain liable following such withdrawal for that county's proportionate proportionate share of all bonded, warrant, and other indebtedness incurred by the regional airport authority prior to the time of such withdrawal as determined by the board of trustees in accordance with the provisions herein provided.

(4) Upon receiving such petitions and the verifications and certifications from the county clerks of each county which is a member of the authority, the board of trustees shall, at its next regularly scheduled meeting, determine the percentage that the assessed valuation of the county whose withdrawal is petitioned bears to the total assessed valuation figures utilized in the authority's most recent ad valorem budget certification, and shall forward such petitions, county clerks' verifications and certifications, and assessed valuation percentage determination to the Idaho transportation department with a request that the Idaho transportation department enter an order directing the board of county commissioners of each county which is a member of the authority to hold an election for the purpose of determining whether or not the withdrawal petitioned for should be approved or disapproved.

(5) Upon receipt of such petitions, county clerks' verifications and certifications, assessed valuation percentage computation, and request from the regional airport authority, the Idaho transportation department shall, within ten (10) days of receipt thereof, enter and forward to the board of county commissioners of each county which is a member of the authority an order directing such boards of county commissioners to conduct an election within their counties, in the manner herein described, to determine whether or not such withdrawal from the regional airport should be approved, and to canvass the returns thereof, and to certify the results of such canvass to the Idaho transportation department and the regional airport authority. Such order shall direct that such election shall be held ~~within sixty (60) days from the date of~~ on the next election held as provided in section 34-106, Idaho Code, following such order; shall specify the amount of the existing regional airport authority indebtedness for which the county will remain liable should withdrawal be approved; and shall order that such information be set forth on the notice of election and ballot to be prepared by the counties.

(6) Upon receipt of such order from the Idaho transportation department, the county commissioners of each county which is a member of the authority shall enter an order directing that an election shall be held ~~within the county within sixty (60) days of the date of~~ on the next election held as provided in section 34-106, Idaho Code, following the order from the Idaho transportation department to determine whether or not the withdrawal from the regional airport authority

petitioned for should be approved. Such election shall thereafter be conducted ~~in the following manner~~ as provided in chapter 14, title 34, Idaho Code, by the county commissioners; and notice thereof shall be published in a newspaper of general circulation within the county once ~~a week for three (3) consecutive weeks immediately~~ not less than twelve (12) days prior to the election, and a second time not less than five (5) days preceding the holding of the election. ~~Such~~ The notice shall specify that the purpose thereof is to determine whether or not the county specified in the petition should withdraw from the regional airport authority; shall designate the polling places within the county where electors may vote upon such question; shall specify the times during which the polling places will be open; shall specify that persons wishing to vote must possess the qualifications of electors as set forth in section 34-402, Idaho Code; and shall state that if such withdrawal becomes effective, the taxpayers and property of the county whose withdrawal is approved shall remain liable following such withdrawal for the percentage of all bonded, warrant, and other indebtedness of the regional airport authority determined by the board of trustees and certified to the Idaho transportation department as hereinabove provided, existing as of the date of such election. The county commissioners shall arrange for such polling places; appoint the necessary election judges and other personnel required to conduct such election; and shall conduct such election at the time and at the polling places specified in the notice thereof. At its next regularly scheduled meeting following the holding of such election the boards of county commissioners shall canvass and certify the results thereof to the Idaho transportation department and the regional airport authority. All costs and expenses incurred in conducting such election shall be paid by the counties conducting such election.

(7) The ballot used in such election shall indicate the percentage of the existing liability of the authority for which the county taxpayers and property of the withdrawing county shall remain liable if withdrawal from the authority is approved, and the question to be submitted to the voters by such ballot shall be whether or not the county specified should withdraw from the regional airport authority, and shall be followed by a box in which the voter may express his choice, either yes or no, by marking an "X" in the appropriately designated box.

(8) If a majority of the voters voting at such election shall vote in the affirmative for the withdrawal of the county from the regional airport authority, the board of trustees of the regional airport authority at their next regular meeting following certification of such election results to them by the boards of county commissioners, shall determine the total amount of all bonded, warrant, and other indebtedness of the authority existing as of the date of such election, and shall certify the amounts of all such indebtednesses, and to whom owed, to the Idaho transportation department within ten (10) days following such meeting. If the certifications from the boards of county commissioners shall indicate that a majority of the voters voting at such election voted in the negative on the question of whether such counties should withdraw from the authority, the board of trustees need not make such determination or certification to the Idaho transportation department.

(9) If the Idaho transportation department receives a certification from the boards of county commissioners that such election has been held, that the votes thereof have been canvassed, and that a majority of the persons voting at such election have voted in the affirmative to have such county withdraw from the regional airport authority, the Idaho transportation department shall upon receipt of certification from the board of trustees of the regional airport authority of the amount of bonded, warrant, and other indebtedness of the authority existing as of the date of such election, enter and deliver to the board of county commissioners of each county which is a member of the authority and the board of trustees of the regional airport authority an order that the electors having voted in the affirmative for such withdrawal, the county specified is detached from the regional airport authority. Such order shall further itemize the total bonded, warrant, and other indebtedness of the regional airport authority existing as of the date of such election, and shall order that the county detached from the authority is, and shall remain, liable for the percentage of such indebtedness previously determined by the order of the Idaho transportation department ordering such election, and such detached county shall thereafter remain liable to the regional airport authority for the amount determined by applying the percentage so determined to the existing indebtedness so determined.

(10) Notwithstanding the detachment of such county from the regional airport authority, the board of trustees of the regional airport authority shall annually thereafter, until the full amount owing by such detached county is paid, determine and certify annually to the board of county commissioners of such detached county the dollar amount necessary to be raised by an ad valorem tax on all property within the county to pay such detached county's share of all bonded, warrant, and other indebtedness existing as of the date of the election approving such detachment as herein set forth. The county commissioners of such detached county shall thereafter compute the amount of ad valorem tax necessary to raise the amount so certified and shall levy and collect such tax in the same manner as other ad valorem taxes levied by the county. After such detachment the detached county and the property therein shall not be subject to taxation by the regional airport authority for the future operations of the regional airport authority or for the repayment of any indebtedness incurred by the authority subsequent to the date of the election approving such detachment.

(11) Nothing in this act shall be construed as impairing the validity of any bonds or warrants of the regional airport authority outstanding at the time of the detachment of any county therefrom pursuant to the provisions of this section; nor shall the detachment of any county from the regional airport authority pursuant to the provisions of this section in any way affect the rights of holders of general obligation bonds issued by the regional airport authority at any time when the detached county was a participating member of the regional airport authority.

(12) From and after entry of the order of detachment by the Idaho transportation department the office of trustee of any trustee elected from a legislative district lying wholly within such detached county shall terminate, and the trustee occupying such office shall thereaf-

ter have no authority to sit as a member of the board of trustees of the authority. Any trustee elected from a legislative district lying partly within such detached county and partly within other counties remaining within the authority shall retain his office as a member of the board of trustees of the authority, but shall from the date of the entry of the order by the Idaho transportation department ordering such detachment represent only that area in the legislative district from which he was elected which lies within counties remaining in the authority after such detachment.

SECTION 4. That Section 21-806, Idaho Code, be, and the same is hereby amended to read as follows:

21-806. ELECTION OF BOARD OF TRUSTEES. At the next succeeding primary election following the creation of any such regional airport authority, the electors of each of the legislative districts within the participating counties within such region shall elect, on a non-partisan basis, a member of the authority's permanent board of trustees, hereinafter referred to as the board, except that in the northern and north central regions, one (1) additional board member shall be elected from each such region at large. At the first such election, members elected from even-numbered legislative districts, together with the member elected at large from the northern region and the member elected at large from the north central region, shall be elected for four (4) year terms of office, and members elected from odd-numbered legislative districts shall be elected for two (2) year terms of office. Thereafter all such members shall be elected for four (4) year terms of office, and shall serve until their successors are elected and qualified. The term of office of members so elected shall commence on December 1 of the year in which they were elected.

Notice of the election and the conduct thereof shall be as prescribed ~~for the election of junior college district trustees in chapter 14, title 34, Idaho Code.~~ As a condition of voting, an elector shall meet the qualifications prescribed in section 34-40~~1~~2, Idaho Code, and in addition shall be a resident of the regional airport authority.

In any election for member of the board, 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 that office, it shall not be necessary for the candidate to stand for election and the board shall declare such candidate elected as a member of the board and the secretary of the district shall immediately make and deliver to such person a certificate of election.

The person receiving the largest number of votes shall be declared elected. If it be necessary to resolve a tie between two (2) or more persons, the interim board or the permanent board, as the case may be, shall determine by lot which thereof shall be declared elected. The clerk of the board shall promptly notify any person by mail of his election, inclosing enclosing a form of oath to be subscribed by him as herein provided.

When elections held pursuant to this section coincide with other elections held by the state of Idaho or any subdivision thereof, or any municipality or school district, the board of trustees may make

agreement with the body holding such election for joint boards of election and the payment of fees and expenses of such boards of election on such proportionate basis as may be agreed upon.

Elections of board members shall, after the first such election, be held every other year in even-numbered years, and shall be held on such uniform day ~~of such uniform month~~ consistent with the provisions of section 34-106, Idaho Code, as the board shall determine. Vacancies on the board shall be filled by appointment of remaining members, for the expiration of such term of office. The board members shall take and subscribe the oath of office required in the case of state officers and said oath shall be filed with the secretary of state. Members shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

SECTION 5. That Section 21-809, Idaho Code, be, and the same is hereby amended to read as follows:

21-809. BOND ISSUE -- SUBMISSION TO ELECTORS FOR APPROVAL. No general obligation bonds shall be issued until the question whether the bonds shall be issued is submitted to the qualified electors of the participating counties of the region and approved by a two-thirds (2/3) majority of those voting upon the question. As used in this section, "qualified elector" means a person entitled to vote in a school bond election. The question may be submitted at any general election or at a special election called for such purpose by the board of the authority. Notice of the submission of such proposition at any such election shall be published ~~at least once in a daily or weekly newspaper or newspapers of general circulation within the participating counties within the region, not less than fifteen (15) days prior to said election~~ as provided in section 34-1406, Idaho Code. In all other respects, procedures for such elections shall be in the same manner as for junior college bond elections as provided in chapter 14, title 34, Idaho Code. The ballot to be voted at said election shall read substantially as follows:

Shall the ... Airport Authority	YES
be authorized to issue general obligation	
bonds in the amount of (fill in the amount)	NO
for the purpose of (state purpose)?	

If two-thirds (2/3) of the electors of the region voting upon such proposition vote in favor thereof, such bonds may be issued.

SECTION 6. That Section 21-814, Idaho Code, be, and the same is hereby amended to read as follows:

21-814. DISSOLUTION OF AUTHORITY. A regional airport authority shall be, or may be, dissolved in accordance with the provisions herein provided:

(a) If following the withdrawal pursuant to the provisions of section 21-805B, Idaho Code, of any county from a previously organized regional airport authority there shall remain in such authority less than three (3) counties, such regional airport authority shall be dissolved in accordance with the provisions herein set forth in subdivision section (b) of this section in the same manner as though the elec-

tion for dissolution therein specified had been held and approved.

(b) The board of trustees of any regional airport authority may, at any regularly scheduled meeting, approve by majority vote, the calling of an election within the counties comprising the authority, to determine whether or not the regional airport authority should be dissolved, upon a finding by a majority of the board that there no longer exists any worthwhile reason for the regional airport authority's continuing in existence.

(1) Upon the determination by majority vote that it desires to call an election to determine whether or not the regional airport authority should be dissolved, the board of trustees of such authority shall further determine the percentage that the assessed valuation of each county within the authority bears to the total assessed valuation of all counties within the authority, based upon the assessed valuation used in the authority's last certification of dollar amounts to the counties for ad valorem tax purposes, and shall forward to the Idaho transportation department the boards of trustees' certification that such dissolution election has been called for and the board's computation of the percentage that the assessed valuation of each county within the authority bears to the total assessed valuation of all counties within the authority.

(2) Upon receiving such certification from the board of trustees of the regional airport authority, the Idaho transportation department shall within ten (10) days from receipt thereof enter an order directing the county commissioners of each of the counties within such regional airport authority to hold an election upon a the date specified in of the next election held pursuant to section 34-106, Idaho Code, following such order; not more than sixty (60) days from the date of issuance thereof; for the purpose of determining whether or not the regional airport authority should be dissolved. Such order shall specify the percentage that the assessment valuation of each county within the authority bears to the total assessed valuation of all counties within the authority, as determined by the board of trustees, and shall direct that the notice of election and questions to be submitted to the voters shall indicate that if dissolution be approved, each of the counties shall remain liable for such counties' respective percentage of all bonded, warrant, and other indebtedness existing at the time of dissolution, or thereafter incurred for the purposes of winding up the affairs of the authority.

(3) Upon receipt of such order from the Idaho transportation department, the county commissioners of each county within the regional airport authority shall enter an order directing that an election shall be held within such county on the date specified in such order to determine whether or not the regional airport authority shall be dissolved. Such election shall be conducted in the manner set forth in subsections (6) and (7), section 21-805B, Idaho Code, except that the notice of election and the question submitted to the voters shall specify that the question to be determined is whether or not the regional airport authority should be dissolved, rather than whether or not a specified county should withdraw from the authority.

(4) At the next regularly scheduled meeting following such election, the boards of county commissioners of the respective counties, having held such elections shall canvass and certify the results thereof to the Idaho transportation department and the regional airport authority.

(5) If a majority of all of the voters voting at such elections in all of the counties within the regional airport authority shall vote in the affirmative for the dissolution of the regional airport authority, the board of trustees of the regional airport authority at their next regular meeting following receipt of certification of such election results to them by the respective boards of county commissioners shall determine the total amount of all bonded, warrant, and other indebtedness of the authority existing as of the date of such election, and shall certify the amounts of all such indebtednesses and to whom owed to the Idaho transportation department within ten (10) days following such meeting. If the certification from the county commissioners shall indicate that a majority of the voters in all of the counties voting at such election have voted in the negative on the question of whether the authority should be dissolved, the board of trustees need not make such determination or certification to the Idaho transportation department.

(6) If the Idaho transportation department receives a certification from the county commissioners of each of the respective counties that such election has been held, and the votes thereof canvassed, and it appears from such certifications that a majority of all of the persons voting at such elections within all such counties have voted in the affirmative to have the regional airport authority dissolved, the Idaho transportation department shall upon receipt of certification from the board of trustees of the regional airport authority of the amount of bonded, warrant, and other indebtedness of the authority existing as of the date of such election, enter and deliver to the respective county commissioners of each county within such authority an order that a majority having voted for dissolution of the regional airport authority it is dissolved. Such order shall further itemize the total bonded, warrant, and other indebtedness of the regional airport authority existing as of the date of such dissolution, and shall order that each county within the authority, including any that may still owe a portion of the liability after having previously withdrawn, shall remain liable for the percentage of such indebtedness previously determined by the order of the transportation department and each such county shall thereafter remain liable to the regional airport authority for the amount determined by applying the percentages so determined to the existing indebtedness so determined together with any other necessary expenses which may thereafter be incurred for the purpose of winding up the business of the regional airport authority.

(7) After the entry of such order of dissolution by the Idaho transportation department, the board of trustees of the regional airport authority shall have no right or authority to incur any additional expenses in conducting and carrying on the business of the authority except those necessary to wind up the affairs of the

authority. In winding up the affairs of the authority, the board of trustees shall continue to exercise all of the rights and powers granted to them by law to the extent necessary to wind up the authority's affairs including the right to determine and certify annually to the respective boards of county commissioners of the counties obligated to pay therefor under the order of the Idaho transportation department the dollar amounts necessary to be raised by ad valorem taxes on all property within such counties to pay such counties' share of all bonded, warrant, and other indebtednesses existing as of the date of the dissolution of such authority, and all necessary expenses incurred thereafter in winding up the affairs of the authority. The county commissioners of each such county shall thereafter compute the amount of ad valorem tax necessary to raise the amount so certified and shall levy and collect such taxes in the same manner as other ad valorem taxes levied by the county.

(8) When all bonded, warrant, and other indebtednesses of the regional airport authority existing as of the date of the dissolution of election have been paid, together with all necessary expenses incurred in winding up the affairs thereof, the board of trustees of the regional airport authority shall refund to the counties having constituted such authority each county's pro rata share of any money or other assets of the authority which have not been disbursed; such pro rata share to be based upon the same percentage that the counties were required to pay upon the indebtednesses of the regional airport authority in winding up its affairs.

(9) Upon completion of the winding up of the affairs of the regional airport authority, the board of trustees thereof shall certify such fact to the Idaho transportation department; and upon receipt of such certification the Idaho transportation department shall enter and forward to the counties its order that the affairs of the regional airport authority have been wound up; that the board of trustees of the regional airport authority is dissolved; and that all powers of the board of trustees are terminated as of the date of such order.

(10) All dollar certification amounts previously certified to the counties included within the regional airport authority prior to its dissolution which remain uncollected or undisbursed to the regional airport authority at the time of the entry of the order by the Idaho transportation department winding up the affairs of the regional airport authority and terminating its board of trustees shall be retained by such counties and placed in their general fund.

(11) Nothing in this act shall be construed as impairing the validity of any bonds or warrants of the regional airport authority outstanding at the time of the entry of the order of dissolution of the authority by the Idaho transportation department pursuant to the provisions of this section; nor shall the dissolution of the regional airport authority pursuant to the provisions of this section in any way affect the rights of holders of general obligation bonds issued by the regional airport authority prior to the time of the entry of such order of dissolution.

SECTION 7. That Section 22-2717, Idaho Code, be, and the same is hereby amended to read as follows:

22-2717. DEFINITIONS. Whenever used or referred to in this act, unless a different meaning clearly appears from the context:

(1) "District" or "soil conservation district" means a governmental subdivision(s) of this state, and a public body corporate and politic, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) "Supervisor" means one (1) of the members of the governing body of a district elected or appointed in accordance with the provisions of this act.

(3) "Commission" or "state soil conservation commission" means the agency created in section 22-2718, ~~of this act~~ Idaho Code.

(4) "Petition" means a petition filed under the provisions of subsection A of section 22-2719, Idaho Code, for the creation of a district.

(5) "Nominating petition" means a petition filed under the provisions of section 22-2721, Idaho Code, to nominate candidates for the office of supervisor of a soil conservation district.

(6) "State" means the state of Idaho.

(7) "Agency of this state" includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

(8) "United States" or "agencies of the United States" includes the United States of America, the soil conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(9) "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivisions, agency, or instrumentality, corporate or otherwise, of either of them.

(10) "Landowner" includes any person, firm, or corporation who shall hold title to any lands lying within a district organized under the provisions of this act. A buyer on contract, who is the occupier of land, shall be construed as landowner.

(11) "Due notice" means notice published at least twice, with an interval of at least seven (7) days between the two (2) publication dates, in a newspaper ~~of~~ or other publication of general circulation within the appropriate area, or if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice adjournment may be made from time to time without the necessity of renewing such notice for such adjournment dates.

(12) "Qualified elector" means any person who is qualified to vote pursuant to the requirements of section 34-104, Idaho Code, ~~except that elector registration shall not be required in order to qualify as an elector under the provisions of this chapter.~~

SECTION 8. That Section 22-2719, Idaho Code, be, and the same is hereby amended to read as follows:

22-2719. CREATION OF SOIL CONSERVATION DISTRICTS. A. Any twenty-five (25) owners of land lying within the limits of the territory proposed to be organized into a district may file a petition with the state soil conservation commission asking that a soil conservation district be organized to function in the territory described in the petition. Such petition shall set forth:

- (1) The proposed name of said district;
- (2) That there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory described in the petition;
- (3) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate;
- (4) A request that the state soil conservation commission duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory; and that the commission determine that such a district be created.

Where more than one (1) petition is filed covering parts of the same territory, the state soil conservation commission may consolidate all of any such petitions.

B. Within thirty (30) days after such petition has been filed with the state soil conservation commission, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this act chapter, and upon all questions relevant to such inquiries. All owners of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given the hearing shall be adjourned and the due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the commission shall determine upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need in the interest of the public health, safety and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determination and in defining such boundaries, the commission shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land use practices, the

desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to the existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this act chapter, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislature determinations set forth in section 22-2716, Idaho Code. The territory to be included within such boundaries need not by be contiguous. If the commission shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six (6) months shall have expired from the date of the denial of such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

C. After the commission has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this act chapter is administratively practicable and feasible. To assist the commission in the determination of such administrative practicability and feasibility, it shall be the duty of the commission, within-a-reasonable time at the next election held after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum, subject to the provisions of section 34-106, Idaho Code, within the proposed district upon the proposition of the creation of the district, and to cause ~~due~~ notice of such referendum election to be given as provided in section 34-1406, Idaho Code. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below described and lying in the county(ies) of and" and "Against creation of a soil conservation district of the lands below described and lying in the county(ies) of and" shall appear, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the commission. All qualified electors who own lands or reside within the proposed district shall be eligible to vote in said referendum.

D. The commission shall pay all expenses for the issuance of such notice and the conduct of such hearings and referenda election, and shall supervise the conduct of such hearings and referenda election. It shall issue appropriate regulations governing the conduct of such hearings and referenda,~~and providing for the registration prior to the date of the referendum (of) all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum election~~. No informalities in the

conduct of ~~such referendum~~ the election or in any matter relating thereto shall invalidate ~~said referendum~~ the election or the result thereof if notice thereof shall have been given substantially as herein provided and ~~said--referendum~~ the election shall have been fairly conducted.

E. The commission shall publish the result of ~~such referendum~~ the election and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the commission shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the commission shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the commission shall give due regard and weight to the attitudes of the owners of lands lying within the defined boundaries, the number of landowners and qualified electors eligible to vote in ~~such referendum~~ the election who shall have voted, the proportion of the votes cast in ~~such referendum~~ the election in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the landowners of the proposed district, the probable expense of carrying on erosion control and other conservation operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determination set forth in section 22-2716, Idaho Code; provided, however, that the commission shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a majority of the votes cast in the referendum election upon the proposition of creation of the district shall have been cast in favor of the creation of such district.

F. If the commission shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint two (2) supervisors to act, with the three (3) supervisors elected as provided hereinafter, as the governing body of the district. Such district shall be a governmental subdivision of this state and a public body corporate and politic, upon the taking of the following proceedings:

The two (2) appointed supervisors shall present to the secretary of state an application signed by them which shall set forth (and such application need contain no detail other than the mere recitals): (1) that a petition for the creation of the district was filed with the state conservation commission pursuant to the provisions of this act chapter, and that the proceedings specified in this act chapter were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this act chapter; and that the commission has appointed them as supervisors; (2) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3) the term of office of each of the supervisors; (4) the name which is proposed for the district; and (5) the location

of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by the laws of this state to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence.

The application shall be accompanied by a statement by the state soil conservation commission, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the commission did duly determine that there is need, in the interest of the public health, safety and welfare, for a soil conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and an election referendum held on the question of the creation of such district, and that the result of such referendum the election showed a sixty per cent (60%) majority of the votes cast in such-referendum the election to be in favor of the creation of the district; that thereafter the commission did duly determine that the operation of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the commission.

The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other soil conservation district of this state or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office.

If the secretary of state shall find that the name proposed for the district is identical with that of any other soil conservation district of this state, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the state soil conservation commission which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name free of such defects, the secretary of state shall record the application and statement with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this state and a public body corporate and politic. The secretary of state shall make and issue to the said supervisors a certificate under the seal of the state, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the state soil conservation commission as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this act except as provided in section 22-2720, Idaho Code.

G. After six (6) months shall have expired from the date of entry of a determination by the state soil conservation commission that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination,

subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this act chapter.

H. Petitions for including additional territory within an existing district may be filed with the state soil conservation commission and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The commission shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this act chapter for petitions to organize a district. Where the total number of landowners in the area proposed for inclusion shall be less than twenty-five (25), the petition may be filed when signed by a two-thirds ($2/3$) majority of the owners of such area, and in such case no referendum election need be held. In referenda elections upon petitions for such inclusion, all owners of land and qualified electors lying within the proposed additional area shall be eligible to vote.

I. Incorporated cities, not already included within a district, may be included by presentation of a request of the district approved by the governing body along with a request of the city approved by the mayor and council, to the state soil conservation commission. The commission shall consider and act on such joint request at the earliest convenience. If the joint request is denied, the commission shall so notify the district and city in writing and state the reasons for such denial. After six (6) months shall have expired from the date of denial of such joint request, a subsequent joint request may again be made. If the joint request is approved, the commission shall then cause the necessary papers to be filed with the secretary of state. This shall include an amended legal description of the boundaries of the total district.

SECTION 9. That Section 22-2721, Idaho Code, be, and the same is hereby amended to read as follows:

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

A. Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, nominating petitions may be filed with the state soil conservation commission to nominate candidates for supervisors of each

district. The commission shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the commission unless it shall be subscribed by ~~ten (10) or more~~ not less than five (5) persons who are qualified electors owning land or residing within the boundaries of the district. The commission shall give due notice of an election to be held, subject to the provisions of section 34-106, Idaho Code, for the election of three (3) supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall appear arranged in the alphabetical order of the surnames, upon ballots, with a square before each name and directions to insert a mark in the square before any three (3) names to indicate the voter's preference. The three (3) candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district. The commission shall pay all the expenses of such election, shall supervise the conduct thereof, ~~shall prescribe regulations governing the conduct of such election and the determination of the eligibility of voters therein,~~ and shall publish the results thereof.

B. All elections in districts, excluding the first election as provided in subparagraph A hereof of this section, shall be conducted by the district supervisors of the districts involved. Such election shall be held on the first Tuesday succeeding the first Monday of November in each even-numbered year. Such elections shall be held ~~after due notice has been given by the district supervisors and the elections~~ in compliance with the provisions of chapter 14, title 34, Idaho Code, and shall be conducted under such additional rules and regulations as may be prescribed by the state soil conservation commission. The cost of conducting such elections shall be borne by the district involved. The board of supervisors shall certify to the state soil conservation commission the names of the elected supervisors. The state soil conservation commission shall issue certificates of election to each elected supervisor so certified. The state soil conservation commission may authorize each district to contract with the county clerk or county clerks of the county or counties in which the district is located to conduct the election for the soil conservation district. If a district election is conducted by a county clerk, the county clerk must provide a ballot for the district election, and must provide a process that allows only qualified electors of the district to vote in that district's election.

In any election for supervisor, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that the number of qualified candidates who have been nominated is equal to the number of supervisors to be elected, it shall not be necessary for the candidates to stand for election, and the board of supervisors shall declare such candidates elected as supervisors, and the state soil conservation commission shall immediately make and deliver to such persons certificates of election.

C. The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of each supervisor shall be four (4) years commencing on the ~~second Monday~~ first day of January next following election, except that the two (2) supervisors who are first appointed shall be designated to serve for terms of

two (2) years. A supervisor shall hold office until a qualified successor has been elected or appointed. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term, or for a full term shall be made by a vote of the majority of the supervisors duly qualified and acting at the time the vacancy shall arise and the supervisors shall certify the name of the appointed supervisor to the state soil conservation commission who shall issue a certificate of such appointment.

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

In the event the district has a special project, approved by the state soil conservation commission, making project funds available from federal or other sources, a supervisor may receive compensation not to exceed thirty-five dollars (\$35.00) per day plus actual and necessary expenses from project funds for services directly related to the project.

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

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

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

SECTION 10. That Section 22-2725, Idaho Code, be, and the same is hereby amended to read as follows:

22-2725. DISCONTINUANCE OF DISTRICTS. At any time after five (5) years after the organization of a district under the provisions of this act chapter, any twenty-five (25) owners of land lying within the boundaries of such district may file a petition with the state soil conservation commission praying that the operations of the district be terminated and the existence of the district discontinued. The commission may conduct such public meetings, and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such petition has been received by the commission it shall give due notice of the holding of a referendum; an election, subject to the provisions of section 34-106, Idaho Code, and shall supervise such--referendum the election, and issue appropriate regulations governing such referendum;--and--issue--appropriate--regulations--governing--the--conduct--thereof election as are consistent with chapter 14, title 34, Idaho Code, the question to be submitted by ballots upon which the words "For terminating the existence of the (name of the soil conservation district to be here inserted)" shall appear, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All qualified electors who own land or reside within the proposed district shall be eligible to vote in said referendum election. No formalties informalities in the conduct of such--referendum the election or in any matters relating thereto shall invalidate said--referendum the election or the result thereof if notice thereof shall have been given substantially as herein provided and said--referendum the election shall have been fairly conducted.

The commission shall publish the result of such--referendum the election and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the commission shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny this petition. If the commission shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the commission shall give due regard and weight to the attitudes of the owners of lands lying within the district, the number of landowners eligible to vote in such--referendum the election who shall have voted, the proportion of the votes cast in such--referendum the election in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the landowners of the district, the probable expense of carrying on such erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in section 22-2716, Idaho Code, provided, however, that the commission shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum election shall have been cast in favor of the continuance of such district.

Upon receipt from the state soil conservation commission of a cer-

tificate that the commission has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the state treasury. The supervisors shall thereupon file an application duly verified, with the secretary of state for the discontinuance of such district, and shall transmit with such application the certificate of the state soil conservation commission setting forth the determination of the commission that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

Upon issuance of a certificate of dissolution under the provisions of this section, all contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The state soil conservation commission shall be substituted for the district or supervisors as party to such contracts.

The state soil conservation commission shall not entertain petitions for the discontinuance of any district nor conduct referenda elections upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this act chapter, more often than once in five (5) years.

SECTION 11. That Section 22-4301, Idaho Code, be, and the same is hereby amended to read as follows:

22-4301. ESTABLISHMENT -- PETITION -- ELECTION. (1) The county commissioners of any county shall, upon petition signed by not less than fifty (50) resident real property holders 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 a weather modification district within the county as may be designated in the petition.

(a) A petition to form a weather modification 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 give notice of an election to be held, subject to the provisions of section 34-106, Idaho Code, in such proposed district for the purpose of determining whether or not the proposed district shall be organized and to elect the first board of trustees for the district. Such notice shall include the date and hours of the election, the polling places, the maximum number of ~~mits~~ percent of market value for assessment purposes of taxable property within the district which the proposed district will be permitted to levy, the general purposes of the proposed district, a description of lands to be included in the proposed district, a statement that a map of the proposed district is available in the office of the board of county commissioners, and the names and terms of the members to be elected to the first board of trustees. The notice shall be published once each week for three (3) consecutive weeks prior to such election, in a newspaper of general circulation within the county.

(d) The election shall be held and conducted ~~as nearly as may be in the same manner as general elections in this state, except that electors need not be registered in order to vote in such election~~ consistent with the provisions of chapter 14, title 34, Idaho Code. The board of county commissioners shall appoint three (3) judges of election, one (1) of whom shall act as clerk for the election. ~~Each elector may be required to take an oath that he has been a resident of the proposed district for thirty (30) or more days next preceding the election, and otherwise possesses all the qualifications of an elector before casting his vote.~~ At such election the electors shall vote for or against the organization of the district, and the members of the first board of trustees.

(e) The judges of election shall certify the returns of the election to the board of county commissioners. If a majority of the votes cast at said election are in favor of the organization, the board of county commissioners shall declare the district organized and give it a name by which, in all proceedings, it shall thereafter be known, and shall further designate the first board of trustees elected, and thereupon the district shall be a legal taxing district.

(f) On the ~~second~~ first Tuesday of ~~January~~ February, in the second calendar year after the organization of any district, and on the ~~second~~ first Tuesday of ~~January~~ February every year thereafter an election shall be held, which shall be known as the annual election of the district.

At the first annual election in any district hereafter organized, and each third year thereafter, there shall be elected by the qualified electors of the district, one (1) member of the board to serve for a term of three (3) years; at the second annual election and each third year thereafter, there shall be elected one (1) member of the board to serve for a term of three (3) years, and at the third annual election, and each third year thereafter, there shall be elected one (1) member of the board to serve for a term of three (3) years.

Not later than ~~thirty (30) days~~ the sixth Friday before any such election, nominations may be filed with the secretary of the board and if a nominee does not withdraw his name before the first publication of the notice of election, his name shall be placed on the ballot. The

board shall provide for holding such election and shall appoint judges to conduct it. The secretary of the district shall give notice of election by publication, and shall arrange such other details in connection therewith as the board may direct. The returns of the election shall be certified to and shall be canvassed and declared by the board. The candidate or candidates receiving the most votes shall be elected.

In any election for trustees, 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 trustee position, it shall not be necessary for the candidate to stand for election, and the board of trustees of the district shall declare such candidate elected as trustee, and the secretary of the district shall immediately make and deliver to such person a certificate of election.

SECTION 12. That Section 23-917, Idaho Code, be, and the same is hereby amended to read as follows:

23-917. REFERENDUM -- LOCAL OPTION. No license shall be issued hereunder until on or after July 1, 1947. Within sixty (60) days after the effective date of this act a petition in writing signed by not less than twenty percent (20%) of the registered, qualified electors of any city or village may be filed with the clerk of said city or village as their protest against the issuance of any license in said city or village under the provisions of this act. In the event said petition is presented, the governing body of any such city or village shall, within five (5) days after the presentation of said petition, meet and determine the sufficiency thereof by ascertaining whether said petition is signed by the required number of registered, qualified electors of the city or village affected. In the event the governing body of said city or village determines that said petition is signed by the required percentage of registered, qualified electors, said governing body shall forthwith make an order calling an election to be held within said city or village, subject to the provisions of section 34-106, Idaho Code, in the manner provided by law for holding elections for city or village officers. All the laws of the state of Idaho relating to the holding of elections of city or village officers for such city or village, whether special character charter or general law of the state, shall apply to the holding of the election provided for in this section, except where specifically modified herein. ~~Such election shall be held on a day fixed by the governing body of said city or village not more than thirty (30) days after the call thereof.~~ In addition to the other requirements of law the notice of election shall notify the electors of the issue to be voted upon at said election.

SECTION 13. That Section 23-1304, Idaho Code, be, and the same is hereby amended to read as follows:

23-1304. COUNTY OPTION -- RESOLUTION OF COUNTY COMMISSIONERS -- ORDER FOR ELECTION -- FORM OF BALLOT -- EFFECT OF ELECTION OR RESOLUTION. There is hereby granted to the board of county commissioners of each of the several counties of this state the right and authority to

permit the sale of wine, as defined in this act chapter, within the borders of the several counties of this state, which may be exercised in the following manner:

(a) the board of county commissioners of each county of this state may, by resolution regularly adopted, provided that retail sale of wine, as defined in this act chapter, shall be permitted within the county, and upon a certification of such resolution to the director, a retail wine license shall thereafter be issued for premises within such county so long as such resolution remains in effect; or

(b) the board of county commissioners of each of the several counties of this state may submit the question of permitting the sale of wine at retail within the boundaries of the county to the electors of the county.

The board of county commissioners may make an order calling an election to be held, subject to the provisions of section 34-106, Idaho Code, within said county in the manner provided by law for holding elections for county officers. All laws of the state of Idaho relating to the holding of elections for county officers shall apply to the holdings of the election provided for in this section, except where specifically modified herein.

Such election may also be called upon written petition of registered electors equal in number to twenty percent (20%) of the registered, qualified electors of the county for the last general election under the following conditions:

(a) The petition for such an election shall be in substantially the following form:

RETAIL WINE SALE PETITION

To the Honorable County Commissioners of the County of, State of Idaho:

We, the undersigned citizens and registered, qualified electors of the County of, respectively respectfully demand that the Board of County Commissioners submit the question of permitting the sale of wine at retail within the boundaries of the County of to the electors of the county in the manner provided in section 23-1304, Idaho Code.

We, each for himself, say: I am a registered elector of the County of and my residence, post office address, county, election precinct and the date I signed this petition are correctly written after my name.

Name Residence Post Office County Election Precinct Date
(If in a city, street and number)

(Here follow twenty numbered lines for signatures)

(b) Before or at the time of beginning to circulate any petition for an election to determine sale of wine at retail, the person or persons, organization or organizations, under whose authority the petition is to be circulated, shall send or deliver to the county clerk a copy of such petition duly signed by at least twenty (20) electors eligible to sign such petition. The county clerk shall immediately examine the petition and specify the form and kind and size of paper on which the petition shall be printed and circulated for further signatures. All petitions and sheets for signatures shall be

printed on a good quality bond or ledger paper, on pages eight and one-half (8 1/2) inches in width by thirteen (13) inches in length, with a margin of one and three-fourths (1 3/4) inches at the top for binding, and the sheets for signatures shall have numbered lines thereon from one (1) to twenty (20) for signatures. The petition shall be prepared in sections, with each section numbered consecutively. Each section of a petition must have a printed copy of the petition as the first page, and each section shall have attached to it not more than ten (10) sheets for signatures.

(c) The county clerk shall indicate in writing on the petition that he has approved it as to form and the date of such approval. Upon approval as to form, the county clerk shall inform the person or persons, organization or organizations, under whose authority the petition is to be circulated, in writing, that the petition must be perfected with the required number of signatures within one hundred eighty (180) days following the date of approval as to form. Any petition that has not been perfected with the required number of certified signatures within the one hundred eighty (180) days allowed shall be declared null and void ab initio in its entirety, except for the extension allowed for in subparagraph subsection (g) of this section.

(d) Each and every signature sheet of each petition containing signatures shall be verified on the face thereof in substantially the following form by the person who circulated said sheet of the petition, by his or her affidavit thereon, as a part thereof:

State of Idaho
County of

I,, swear, under penalty of perjury, that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

....(Signature)

....Post Office Address

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

(Notary Seal)

.....

(Notary Public)

Residing at

(e) All petitions with attached signature sheets shall be presented to the county clerk on the same day and a cursory examination of the petitions shall be made by him. The cursory examination shall be made to determine whether the petitions apparently contain the necessary number of signatures. If the total number of signatures on the petitions is not sufficient to satisfy the number required by this law, all petitions with attached signature sheets shall be returned to the person or organization attempting to file them, and further signatures may be gathered. If the cursory examination of the signature sheets reveals:

- (1) erasures on any signature;
- (2) illegible or unidentifiable signatures; or
- (3) signatures not properly identified by all the information required on the sheet,

the county clerk shall summarily reject such signature and such signatures shall not be counted. Each rejected signature shall be drawn

through with ink and initialed by the county clerk or his deputy. If the total number of signatures not rejected is not sufficient to satisfy the number required by law, all petitions with attached signature sheets shall be returned to the person or organization attempting to file them, and further signatures may be gathered.

(f) All petitions presented to the county clerk found to apparently contain the necessary number of signatures, after the cursory examination provided for in paragraph subsection (e) above of this section, shall be filed with the county clerk and become public records of the county not to be returned. The county clerk shall examine each signature purported to be that of a registered elector and compare each such signature with the registration documents available to him. The county clerk shall summarily reject all signatures which are not the signatures of registered electors; and such rejected signatures shall not be counted. Each rejected signature shall be drawn through with ink and initialed by the clerk or his deputy. The county clerk may take not to exceed twenty (20) days after filing of the petition to complete his examination. The county clerk shall certify each signature found to comply with all of the requirements of this act by an appropriate mark following each signature. The county clerk shall total the number of certified signatures and certify the number thereof to the board of county commissioners.

(g) In the event that a petition filed with the 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 sixty (60) days of the date that the clerk finds the petition defective for lack of certified signatures. If the petition is not perfected within the sixty (60) day period, the clerk shall declare the petition null and void ab initio in its entirety.

(h) In the event the county clerk shall certify to the board of county commissioners that a petition contains the required number of signatures of registered, qualified electors, said governing body shall forthwith make an order calling an election to be held, subject to the provisions of section 34-106, Idaho Code, within said county in the manner provided by law for holding elections for county officers. ~~Such election shall be held on a day fixed by the county commissioners not more than thirty (30) days after the call thereof.~~

In addition to the other requirements of law, the notice of election shall notify the electors of the issue to be voted upon at said election. The county recorder must furnish the ballots to be used in such election, which ballots must contain the following words:

"Sale of wine at retail, Yes,"

"Sale of wine at retail, No."

and the elector in order to vote must mark an "X" opposite one (1) of the questions in the space provided therefor. Upon a canvass of the votes cast, the county recorder shall certify the result thereof to the director. If a majority of the votes cast are "Sale of wine at retail, Yes," licenses shall be issued in said county as in this act chapter provided. If a majority of the votes cast are "Sale of wine at retail, No," then no license shall be issued in said county unless

thereafter authorized by a subsequent election in said county which may be called in the manner provided for herein.

No resolution or election prohibiting the sale of wine within the boundaries of any county of this state shall have an effective date prior to the end of the then current calendar year if at the time of the adoption thereof there shall be any outstanding valid retail wine licenses in good standing for premises within such county.

The signer of any petition under this act chapter may remove his own name from the petition by crossing out, obliterating, or otherwise defacing his own signature at any time prior to the time when the petition is filed. The signer of any such petition may have his name removed from the petition at any time after the petition has been filed, but prior to the time when an election has been ordered, by presenting or submitting to the county clerk a signed, acknowledged statement that the signer desires to have his name removed from the petition. The statement shall contain sufficient information to clearly identify the signer. The county clerk shall immediately strike the signer's name from the petition, and adjust the total of certified signatures on the petition accordingly. The statement shall be attached to, and become a part of, the petition.

A person is guilty of a felony punishable by imprisonment in the state penitentiary, not to exceed two (2) years, who:

- (a) Signs any name other than his own to any petition.
- (b) Knowingly signs his name more than once on the same petition.
- (c) Wilfully or knowingly circulates, publishes or exhibits any false statement or representation concerning the contents, purport or effect of any petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such petition.
- (d) Circulates or causes to circulate any petition, knowing the same to contain false, forged or fictitious names.
- (e) Makes any false affidavit concerning any petition or the signatures appended thereto.
- (f) Knowingly makes any false return, certification or affidavit concerning any petition or the signatures appended thereto.
- (g) Threatens any person with punitive or retaliatory action for the purpose of obtaining signatures or hindering or delaying the obtaining of signatures upon a petition.

SECTION 14. That Section 25-2604, Idaho Code, be, and the same is hereby amended to read as follows:

25-2604. CONTROL DISTRICTS. The board of commissioners of any county in the state may create special control districts in the county for the control of agricultural pests infesting any such district, may levy an annual tax, not exceeding two hundredths per cent (.02%) of market value for assessment purposes of all property within such district, may appoint three (3) commissioners to govern the affairs of the pest control district. The pest control district, through the authority of the board of commissioners may require the landowners or their agents in such control district to either control such agricultural pests on their own lands in such district within a specified time, or to pay the cost of controlling them if the same are con-

trolled by agents of the district after failure of the landowner, or his agent, to perform such duty within the time limited in any notice to such owner, or agent. Cost of control services performed by employees of a pest control district shall constitute a lien against the property and any water right appurtenant thereto at the time of rendition of such service and shall be collectable as any other taxes. Charges for control services performed by a control district shall be determined by the board of county commissioners but in no case shall charges exceed the actual cost of performing such service. Such control district may be established in any precinct in the county.

Before the same shall be established, however, it shall be necessary that a petition be filed with the clerk of the board of commissioners requesting the creation of the same, which petition shall be signed by at least twenty-five (25) qualified electors of each precinct included in the proposed control district.

The commissioners shall order a public hearing on such petition at a time and place to be fixed in such order, of which hearing notice shall be given in such manner as the commissioners may order, which time, however, shall not be less than fourteen (14) days from the giving of the said notice. After such hearing, said board may by order create such control district not less than fourteen (14) days after such hearing, fix its boundaries, provide for a control program in such district and create the necessary machinery to carry out such program unless a petition of protest has been filed with the clerk of the board of commissioners. Said petition of protest shall meet the same requirements as to the number of signers and for the same number of precincts and for the same district boundaries as petitions in favor previously filed and shall be filed with the clerk of the board of commissioners not later than fourteen (14) days following said hearing.

In the event that a petition of protest is filed, the board of commissioners shall not declare the creation of a control district but shall call an special election, subject to the provisions of section 34-106, Idaho Code, for the purpose of determining whether or not a control district shall be created. The cost of conducting ~~such special~~ the election shall be paid from any county fund, the use of which for this purpose is not prohibited by statute. ~~Said special~~ The election shall be conducted in each precinct within the proposed control district ~~between the hours of 12 noon and 8 p.m.~~ according to the provisions of chapter 14, title 34, Idaho Code, and shall require the employment of two (2) election judges and one (1) clerk for each precinct. A qualified elector is any individual who is qualified to vote pursuant to the requirements of section 34-104, Idaho Code, ~~except that elector registration shall not be required in order to qualify as an elector under the provisions of this chapter.~~

SECTION 15. That Section 27-106, Idaho Code, be, and the same is hereby amended to read as follows:

27-106. NOTICE OF ELECTION. After the county commissioners have made their order finally fixing and determining the boundaries of the proposed district, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held, sub-

ject to the provisions of section 34-106, Idaho Code, in such proposed cemetery maintenance district for the purpose of determining whether or not the same shall be organized under the provisions of this chapter. Such notice shall plainly and clearly designate the boundaries of such proposed cemetery maintenance district as designated in the petition and shall state that a map showing the boundaries of said district is on file in his office.

Such notice shall be published ~~once in each week for three (3) successive publications~~ first not less than twelve (12) days prior to the election and a second publication not less than five (5) days prior to such election, in a newspaper published within the county aforesaid. Such notice shall require the electors to cast ballots which shall contain the words "... cemetery maintenance district, yes," or "... cemetery maintenance district, no" or words equivalent thereto. No person shall be entitled to vote at any election held under the provisions of this chapter unless he shall possess all the qualifications required of electors under the general laws of the state, and be a resident of the proposed district for thirty (30) days or more next preceding the election.

SECTION 16. That Section 27-107, Idaho Code, be, and the same is hereby amended to read as follows:

27-107. ELECTION -- QUALIFICATION OF ELECTORS -- CANVASS. Such election shall be conducted ~~as nearly as practicable~~ in accordance with the general laws of the state; ~~except that the provisions of the election laws as to the form and distribution of ballots shall not apply; and no previous registration shall be necessary.~~ The board of county commissioners shall establish as many election precincts within such proposed cemetery maintenance district as may be necessary, and define the boundaries thereof, which said precincts may thereafter be changed by the cemetery maintenance board of such district in case such district be organized. ~~There shall be added to the usual electors oath; in case of challenge; the following words: "And I have been a resident within the boundaries of the proposed cemetery maintenance district for thirty (30) days or more next preceding the election."~~ Said board of county commissioners shall also appoint three (3) judges of election for each such election precinct, who shall perform the same duties; ~~as near as may be;~~ as judges of election under the general laws of the state; and the result of such election shall be certified, and canvassed and declared by the board of county commissioners.

SECTION 17. That Section 27-111, Idaho Code, be, and the same is hereby amended to read as follows:

27-111. ELECTION OF COMMISSIONERS. (1) ~~On the first Monday of December, 1927;~~ first Tuesday following the first Monday in November and every alternate year thereafter, three (3) cemetery maintenance district commissioners shall be elected by the electors of each cemetery district as defined in section 27-104, Idaho Code. The board of cemetery maintenance commissioners shall ~~have power to make such regulations for the~~ conduct of such the election in a manner ~~as are not~~

inconsistent with any statutory provisions of chapter 14, title 34, Idaho Code. ~~At their meeting next preceding such election, the board of cemetery maintenance commissioners shall divide the district into three (3) subdivisions as nearly equal in population, area and mileage as practicable, to be known as cemetery maintenance commissioners subdistricts one (1), and two (2) and three (3). Thereafter such subdivisions may be revised or modified as changes in conditions demand.~~ Of the commissioners comprising the board at any one (1) time, not more than one (1) shall be an elector of the same cemetery maintenance commissioners subdistrict. ~~At the election on the first Monday in December, 1927~~ A commissioner shall be an elector of the subdistrict which he represents at the time of his declaration of candidacy and during his term of office. A qualified elector of the cemetery maintenance district shall be eligible to vote for each of the cemetery maintenance district commissioners. At the first election following the formation of a cemetery maintenance district, commissioners from cemetery maintenance subdistricts one (1) and two (2) shall be elected for terms of four (4) years, and the commissioner from cemetery maintenance subdistrict three (3) shall be elected for a term of two (2) years; thereafter the term of office of all commissioners shall be four (4) years. ~~At elections for cemetery maintenance commissioners, the polls shall be open from one o'clock in the afternoon to seven o'clock in the evening. Except as otherwise provided by statute, such elections and a~~ All other elections held under this law, shall be held as nearly as practicable in conformity with the general laws of the state, including chapter 14, title 34, Idaho Code.

(2) In any election for cemetery maintenance district commissioners, if, after the expiration of the date for filing ~~written nominations~~ a declaration of intent as a write-in candidate for the office of commissioner, it appears that only one (1) qualified candidate has been nominated for each position to be filled, it shall not be necessary to hold an election, and the board of commissioners shall ~~within three (3) days after expiration of the date for filing written nominations~~ declare such candidate elected as commissioner, and the secretary shall immediately make and deliver to such person a certificate of election signed by him bearing the seal of the district. The procedure set forth in this subsection shall not apply to any other cemetery maintenance district election.

SECTION 18. That Section 27-112, Idaho Code, be, and the same is hereby amended to read as follows:

27-112. ANNEXATION OR EXCLUSION OF TERRITORY FROM DISTRICT -- PROCEDURE. After the organization of a cemetery maintenance district, additional territory adjoining such district, and lying within the same county may be added thereto and shall thereupon and thenceforth be included in such district, by the affirmative vote of a majority of the qualified electors of such additional territory voting on the question at an election held therefor, which vote may be taken either at an general or a special election held as provided in sections 27-106 and 34-106, Idaho Code. But such additional territory shall not be annexed to or be included within the district unless such annexation and inclusion be first approved by the cemetery maintenance

board of the existing district by resolution entered on the minutes of such board prior to the election on the question of annexation. The same procedure, with such modifications in the form of petition, notices, ballots, etc., as may be necessary shall be adopted as in this law provided in sections 27-102 and 27-104--27-107, Idaho Code, inclusive: A petition signed by a majority of the owners of lands lying within the boundaries of the area proposed to be annexed such lands lying within the boundaries of any cemetery maintenance district heretofore created requesting the withdrawal and exclusion of lands described in said petition from such district and setting forth that the people residing upon said lands are not served by the cemetery or cemeteries within the boundaries of said district, that said people are served by other cemeteries within the county, and that the exclusion and withdrawal of said lands from said district will not reduce the market value for assessment purposes of the lands remaining in said district below five million dollars (\$5,000,000), may be presented and filed with the board of county commissioners of the county within which said district is located. Upon the presentation and filing of such petition said board of county commissioners shall immediately fix a time and place for a hearing on said petition when and where any elector of said district may appear and be heard in support of or opposition to said petition. Notice of said hearing shall be given by said board by publication in one (1) issue of a newspaper of general circulation in said cemetery district at least ten (10) days prior to the date of said hearing and a copy of said notice shall be served by registered mail or personally on the president and secretary of the cemetery district commissioners. If after a hearing on said petition the board of county commissioners determines that the people residing upon the land sought to be withdrawn from such cemetery district are not served by the cemetery or cemeteries within such district, that said people are served by other cemeteries within the county, and that the exclusion and withdrawal of said lands from said district will not reduce the market value for assessment purposes of the lands remaining therein below five million dollars (\$5,000,000), said commissioners shall make and enter such findings in the minutes of their meeting and make and enter an order authorizing and directing the withdrawal and exclusion of said lands from said cemetery district. Provided that the land so ordered to be withdrawn and excluded from said cemetery district be either annexed to an adjoining cemetery district which does serve said petitioners, or, if not served by an adjoining cemetery district, that said lands be included in the formation of a new cemetery district which does serve said petitioners.

A copy of such findings and order shall be served upon the president and secretary of the cemetery district commissioners, and county assessor, personally, or by registered mail. If the entry of such findings and order be made prior to the 4th Monday of June the lands annexed shall be excluded and withdrawn from the said cemetery district of which they were formerly a part and shall not be subject to assessment made and levied by said former district for the current fiscal year or subsequent years; provided, however, that such lands shall be subject to assessment made and levied for the current fiscal year and subsequent years by the new cemetery district of which they are made a part. If the entry of such findings and order be made sub-

sequent to the 4th Monday of June the lands annexed shall be subject to assessment made and levied by the cemetery district of which they were formerly a part for the current fiscal year but shall thereafter be subject to assessment made and levied by the new cemetery district of which they are made a part. If said county commissioners do not find such facts they shall make and enter findings as to the facts which may exist and deny such petition. The costs in connection with giving the notices herein required shall be paid by petitioners.

SECTION 19. That Section 27-121, Idaho Code, be, and the same is hereby amended to read as follows:

27-121. LEVIES BY CEMETERY MAINTENANCE BOARD COMMISSIONERS. (1) At the last regular meeting of the cemetery maintenance board prior to the second Monday of September in each year, the cemetery board of each cemetery maintenance district may levy for cemetery purposes a property tax in each cemetery maintenance district of not more than ~~twenty-cents-(20¢)-on-each-one-hundred-dollars-(\$100)-in-assessed~~ four hundredths of one percent (.04%) of market value for assessment purposes of taxable property within the cemetery maintenance district. Upon the levy being made by the cemetery maintenance board under this section, it shall be the duty of the secretary of the district to transmit to the county auditor and county assessor and state board of equalization, certified copies of the resolution providing for such levy as provided in section 63-915, Idaho Code. Said taxes shall be collected as provided by in section 63-918, Idaho Code.

(2) An additional property tax of not more than ~~thirty-cents (30¢)-on-each-one-hundred-dollars-(\$100)-in-assessed~~ six hundredths of one percent (.06%) of market value for assessment purposes of taxable property within the cemetery maintenance district may be levied by the cemetery board for the sole and express purpose of acquisition of burial ground. The proceeds from such levy may be accumulated by the board for future acquisitions, or pledged to the repayment of indebtedness incurred pursuant to section 27-122, Idaho Code, provided, that the proposal to levy such additional amount of property tax, or portion thereof, shall have been approved by at least two-thirds (2/3) of the qualified electors residing in the cemetery maintenance district at a previous ~~special-or-general~~ election held in accordance with the provisions of section 34-106, Idaho Code.

SECTION 20. That Section 31-206, Idaho Code, be, and the same is hereby amended to read as follows:

31-206. PROCEDURE IN CASE OF CONTEST. It shall be the duty of said court, on the first day of and during said term of court, to hear all evidence for and against said petition or petitions as to the lists of names filed in said court under this chapter, and to strike from such petition or petitions all names proved by competent evidence to be fictitious, and the names of persons having no legal right to sign the same under this chapter. In case there shall be no contest, or if the court finds, after striking from said petition or petitions all names proved to be fictitious, and all names not legally signed thereto, that it still contains the number of names of legal voters

required by this chapter, the court shall order said election according to the prayer of said petition and subject to the provisions of section 34-106, Idaho Code. In case of a contest to said petition or petitions, it shall be the duty of the clerk of said court, on request of the persons contesting any petition under the provisions of this chapter, to issue subpoenas for such witnesses as said persons shall name; and it shall be the duty of said clerk, on request of any legal voter of the county for the purpose of sustaining any petition, in like manner to issue subpoenas for such witnesses as he shall name. Said subpoenas to be made returnable to the term of court at which such contest will be made.

SECTION 21. That Section 31-402, Idaho Code, be, and the same is hereby amended to read as follows:

31-402. TIME FOR HOLDING ELECTIONS TO CONSOLIDATE COUNTIES. All elections for the consolidation of counties shall be held on the first Tuesday in September August in the year general elections are held.

SECTION 22. That Section 31-403, Idaho Code, be, and the same is hereby amended to read as follows:

31-403. PETITION FOR CONSOLIDATION. Not less than ninety (90) days nor more than six (6) months prior to the date specified in section 31-402, Idaho Code, a petition may be circulated in any county praying for the consolidation of such county with another county. Such petition shall be entitled in the district court of the former county, and shall be in substantially the following form:

"The undersigned qualified electors of County, State of Idaho, hereby petition the court or judge thereof to order an election to be held on the first Tuesday in September August next hereafter to determine whether said County shall be consolidated with County (naming the county with which it is desired to consolidate), under the provisions of the law applicable to such elections."

Such petition may consist of any number of copies required for convenient and rapid circulation and the various copies shall be considered as one (1) petition. If said petition, within the time limits hereinbefore fixed, is signed by a number of qualified electors of the county which it is proposed to consolidate, equal in number to two-thirds (2/3) of all votes cast therein at the last general election, such petition shall thereupon, and not later than eighty (80) days prior to said first Tuesday in September August, be filed with the clerk of the district court of such county. Such petition shall be deemed a proposal to consolidate said county with the county named therein.

SECTION 23. That Section 31-409, Idaho Code, be, and the same is hereby amended to read as follows:

31-409. CONDUCT OF ELECTION. The polls in the several election precincts on the day any such election is held shall be open ~~from ten (10) o'clock in the forenoon until eight (8) o'clock in the evening of said day~~ as provided in chapter 14, title 34, Idaho Code. No adjourn-

ments or intermissions whatever shall take place until the polls shall be closed and the votes counted.

SECTION 24. That Section 31-1002, Idaho Code, be, and the same is hereby amended to read as follows:

31-1002. BOND ELECTION. Whenever the interests of any county require it, and the board of commissioners of the county deem it for the public good to purchase a site and erect thereon a courthouse and jail, or either thereof, and furnish the same; and the expense of purchasing such site, or erecting such buildings of suitable size and capacity and furnishing the same would exceed the revenue of one (1) year applicable to that purpose, and the board deems it for the public good to bond the county for the purpose of providing funds therefor, the board of commissioners may, by a resolution adopted at a regular or any special meeting called for that purpose, call an special election for such purpose, subject to the provisions of section 34-106, Idaho Code, or submit, at any general election, the question of issuing negotiable coupon bonds to an amount deemed necessary to defray the expenses of purchasing such site and erecting and furnishing such buildings.

SECTION 25. That Section 31-1008, Idaho Code, be, and the same is hereby amended to read as follows:

31-1008. COUNTY BUILDING CONSTRUCTION FUND -- LEVY OF TAX -- SPECIAL ELECTION. In lieu of the issuance of bonds for the purpose specified in section 31-1002, Idaho Code, the board of county commissioners of any county shall have power, in addition to the power specified in said section 31-1002, Idaho Code, when in their judgment the best interests of the county so required, to create and establish a fund for the purpose specified in said section 31-1002, Idaho Code, and for said purposes are hereby authorized and empowered, by resolution adopted at a regular meeting of said board, or at any special meeting called for that purpose, to levy, in addition to all other taxes now authorized by law, an annual tax of not exceeding six hundredths percent (.06%) of market value for assessment purposes of all taxable property in such county for the current year, to be certified, extended and collected at the same time and in the same manner as taxes for general county purposes, and to be apportioned, when collected, to a special fund to be known as the "County Building Construction Fund," provided, that in the resolution and for the purposes hereinbefore mentioned such board shall call an special election, subject to the provisions of section 34-106, Idaho Code, or submit, at any general election, the question of creating such fund to defray the expenses of purchasing such site and erecting and furnishing such buildings, at which election only such electors may vote as are qualified to vote at elections held for the issuance of general obligation bonds, and which election shall in all respects be governed and held in the same manner as is now required by law for the holding of elections to determine the question of the issuance of general obligation bonds. If, at such election two-thirds (2/3) of the qualified voters voting at such election shall have voted to create such funds, then

such board of county commissioners may annually levy the taxes for the purposes hereinbefore mentioned. Such fund shall remain intact, subject to investment as hereinafter provided, until the same shall, when augmented by the proceeds of similar levies in succeeding years, be adequate in the judgment of such board to defray the entire cost of purchasing a site and constructing the improvements aforesaid and completely furnishing the same, and no part of such fund shall be expended until complete plans and specifications have been adopted and contracts entered into insuring the completion of such purchase and construction within the limitations of such fund, nor shall the construction of any courthouse or jail be undertaken until such fund is adequate to insure the proper equipment and furnishing thereof; provided, that no such fund shall be accumulated in excess of two per cent (2%) of the assessed valuation of the property within such county; and provided further, that such fund may be used to supplement the proceeds of any bonds issued pursuant to the provisions of sections 31-1002 and 31-1004, Idaho Code, for the purposes aforesaid.

SECTION 26. That Section 31-1405, Idaho Code, be, and the same is hereby amended to read as follows:

31-1405. NOTICE OF ELECTION. After the county commissioners have made their order finally fixing and determining the boundaries of the proposed district, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held, subject to the provisions of section 34-106, Idaho Code, in such proposed fire protection district for the purpose of determining whether or not the same shall be organized under the provisions of this chapter. Such notice shall plainly and clearly designate the boundaries of such proposed fire protection district, and shall state the name of the proposed district as designated in the petition and shall state that a map showing the boundaries of said district is on file in his office.

Such notice shall be published ~~once in each week for three (3) successive publications~~ first not less than twelve (12) days prior to the election, and a second publication not less than five (5) days prior to such election, in a newspaper published within the county aforesaid. Such notice shall require the electors to cast ballots which shall contain the words "... fire protection district, yes," or "... fire protection district, no" or words equivalent thereto. No person shall be entitled to vote at any election held under the provisions of this chapter unless he shall possess all the qualifications required of electors under the general laws of the state, and be a resident of the proposed district.

If the district is to be situated in two (2) or more counties, the boards of county commissioners shall provide that the election be held on the same day in each county.

SECTION 27. That Section 31-1406, Idaho Code, be, and the same is hereby amended to read as follows:

31-1406. ELECTION -- QUALIFICATION OF ELECTORS -- CANVASS. Such election shall be conducted ~~as nearly as practicable~~ in accordance with the general laws of the state, ~~except that the provisions of the~~

~~election laws as to the form and distribution of ballots shall not apply, and no previous registration shall be necessary including the provisions of chapter 14, title 34, Idaho Code.~~ The board of county commissioners shall establish as many election precincts within such proposed fire protection district as may be necessary, and define the boundaries thereof, which said precincts may thereafter be changed by the fire protection board of such district in case such district be organized. ~~There shall be added to the usual electors oath, in case of challenge, the following words: "And I have been a resident within the boundaries of the proposed fire protection district for thirty (30) or more days next preceding the election."~~ Each board of county commissioners shall also appoint three (3) judges of election for each such election precinct, who shall perform the same duties, as near as may be, as judges of election under the general laws of the state; and the result of such election shall be certified, and canvassed and declared by the board of county commissioners.

SECTION 28. That Section 31-1410, Idaho Code, be, and the same is hereby amended to read as follows:

31-1410. ELECTION OF COMMISSIONERS. On the first Tuesday following the first Monday of December ~~November, 1943~~ following the organization of a fire protection district, three (3) fire protection district commissioners shall be elected. Every alternate year thereafter, one (1) or two (2) commissioners shall be elected in the manner following: The board of fire protection commissioners shall have power to make such regulations for the conduct of such election as are not inconsistent with any the statutory provisions of chapter 14, title 34, Idaho Code. At their meeting next preceding such election, the board of fire protection commissioners shall divide the district into three (3) subdivisions as nearly equal in population, area and mileage as practicable, to be known as fire protection commissioners subdistricts one, two and three. Thereafter such subdivisions may be revised but, of the commissioners comprising the board, not more than one (1) commissioner shall be an elector of the same fire protection commissioners subdistrict. At the first ~~election on the first Monday in December, 1943,~~ following organization of a fire protection district commissioners from fire protection subdistricts one and two shall be elected for terms of four (4) years, and the commissioner from fire protection subdistrict three shall be elected for a term of two (2) years; thereafter the term of office of all commissioners shall be four (4) years. ~~At elections for fire protection commissioners, the polls shall be open from twelve o'clock noon to seven o'clock p.m. Except as otherwise provided by statute, such~~ elections and all other elections held under this law, shall be held as nearly as practicable in conformity with the general laws of the state including chapter 14, title 34, Idaho Code.

In any election for fire protection 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 the fire protection district shall declare such candidate

electd as commissioner, and the secretary of the district shall immediately make and deliver to such person a certificate of election.

The results of any election for fire protection district commissioner shall be certified to the county clerk of the county or counties in which the district is located.

SECTION 29. That Section 31-1411, Idaho Code, be, and the same is hereby amended to read as follows:

31-1411. ANNEXATION OF TERRITORY IN SAME COUNTY -- PETITION -- HEARING -- ORDER -- CERTIFICATION TO COUNTY COMMISSIONERS -- ALTERNATE PROCEDURE -- ELECTION. After the organization of a fire protection district, additional contiguous or noncontiguous territory lying within the same county may be added thereto and shall thereupon and thenceforth be included in such district. Noncontiguous territory annexed to an existing fire protection district shall consist of not less than forty (40) contiguous acres. The owners or contract purchasers of all the land sought to be annexed shall petition the fire protection board and request annexation of the territory particularly described in said petition. Upon receipt of any such petition the fire protection board shall hold a hearing not less than ten (10) nor more than thirty (30) days thereafter, and said board shall cause notice of such hearing, designating the time and place, to be published in at least one (1) issue of a newspaper of general circulation within the district. Any person supporting or objecting to such petition shall be heard at such hearing, if in attendance, and at the close of such hearing said board shall approve or reject said petition. If the board approves said petition it shall make an order to that effect and certify a copy of said order containing an accurate legal description of the annexed territory to the board of county commissioners of the county where said fire district is situated. Said board of county commissioners shall thereupon enter an order of annexation and cause the same to be recorded so as to include the annexed property on the tax rolls as in this chapter provided.

In the event that all the owners or contract purchasers of the land sought to be annexed do not join in said petition or the petition is denied as above set forth, additional territory may nevertheless be annexed by the affirmative vote of a majority of the qualified electors of such additional territory voting on the question at an election held therefor, which vote may be taken either at an general or special election held as provided in section 31-1405, Idaho Code. But such additional territory shall not be annexed to or be included within the district unless such annexation and inclusion be first approved by the fire protection board of the existing district by resolution entered on the minutes of such board prior to the election on the question of annexation. The same procedure, ~~with such modifications in the form of petition, notices, ballots, etc., as may be necessary~~ shall be adopted as ~~in this law~~ provided in sections 31-1402 to 31-1406, Idaho Code.

SECTION 30. That Section 31-1412, Idaho Code, be, and the same is hereby amended to read as follows:

31-1412. ANNEXATION OF TERRITORY IN ADJOINING COUNTY. After the organization of a fire protection district, additional territory, contiguous or noncontiguous thereto and located wholly within an adjoining county, may be added to the district and become a part thereof as hereinafter provided in this section. Noncontiguous territory annexed to an existing fire protection district shall consist of not less than forty (40) contiguous acres. The proceedings for annexation shall be the same as the proceedings for the creation and organization of a fire protection district with the following exceptions and modifications:

a. Such proceeding may be initiated by two (2) or more of the holders of title or evidence of title to lands aggregating not less than one hundred (100) acres, or of less area but having market value for assessment purposes of at least one hundred twenty-five thousand dollars (\$125,000).

b. A petition, such as is required by section 31-1403, Idaho Code, shall be filed with the board of county commissioners of the county in which is situated the territory proposed to be annexed but shall accurately describe the boundaries of the territory, and name and describe the fire protection district to which annexation is sought, shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed, and showing the location of the intervening county line. The petition must be accompanied by a certified copy of a resolution of the board of fire protection commissioners of the original district consenting to the annexation.

c. The notice of hearing on the petition shall state that certain territory described in the petition, is proposed to be annexed to a fire protection district named in the petition and that any taxpayer within the boundaries of the territory proposed to be annexed may offer objections at the time and place specified. The order entered by the local board of county commissioners on the petition shall, if the petition be granted, fix the boundaries of the annexed territory and direct that a map of it be prepared under the direction of the clerk of the board, and certified copies of the order and map shall be transmitted to the clerk of the board of county commissioners of the county in which the original fire protection district is situated.

d. An election shall be held, subject to the provisions of section 34-106, Idaho Code, in the territory proposed to be annexed for the purpose of voting upon the annexation and the notice shall accurately describe the boundaries of the territory proposed to be annexed, shall state the name of the district to which annexation is sought, and that a map showing the boundaries of the district and of the territory proposed to be annexed is on file in the office of the clerk of the local board of county commissioners. The notice shall prescribe the form of ballot to be cast, which shall contain the words "In favor of annexation to Fire Protection District" and "Against annexation to Fire Protection District," and shall direct that the voter indicate his choice thereon by a cross (X).

e. The territory proposed to be annexed shall constitute one (1) election precinct and there shall be added to the usual elector's oath, in case of challenge, the following words: "And I am a resident within the boundaries of the territory proposed to be annexed to

Fire Protection District." The returns of the election shall be canvassed by the board of the county commissioners of the county in which the territory proposed to be annexed is situated, and if it shall appear from the canvass that more than one-half (1/2) of the voters are in favor of the annexation, the board shall, by order entered on its minutes, declare the territory a part of the fire protection district to which annexation is sought, and a certified copy of the order shall be transmitted to the fire protection board of the original district, and also to the board of the county commissioners of the county in which the original district is situated. A certified copy of the order shall also be filed in the office of the county recorder of the county in which the territory proposed to be annexed is situated. At the first meeting of the board of county commissioners following the annexation of property from another county, the board of county commissioners shall resubdivide the expanded fire protection district into three (3) subdivisions, as nearly equal in population and area as practicable. Not more than one (1) fire protection district commissioner shall reside in each subdistrict. If, because of resubdistricting, two (2) or more commissioners reside in the same subdistrict, they shall draw lots to determine who shall remain in office. The county commissioners shall appoint, as necessary, persons to fill vacancies created as a result of annexation. An appointee shall serve the remainder of the term of office he or she is appointed to fill. Certified copies of appointments of secretary and treasurer of the district shall be filed with the clerk of the board of county commissioners and with the tax collector of each county in which any portion of the district is situated and all taxes levied by the district shall be certified to, and extended, collected and remitted by, the proper officers of the county in which is situated the property subject to the levy.

SECTION 31. That Section 31-1903, Idaho Code, be, and the same is hereby amended to read as follows:

31-1903. BUILDING, ROAD, AND BRIDGE BONDS. When the interests of the county require it and the board of commissioners of the county deem it for the public good to bond the county to fund or refund the outstanding obligations or indebtedness of the county or bond the county for the purpose of acquiring funds for purchasing a site and erecting a courthouse and jail, a public auditorium or a jail thereon, or for the construction or repair of roads or bridges, or to assist any city or village in said county in constructing a free bridge over any navigable stream within, or partly within, or adjoining, the limits of any such city or village, or for purchasing, improving and equipping air navigation facilities as defined in Chapter 4, Title 21, Idaho Code, which facilities may be wholly or partly within or without the limits of such county, or wholly or partly within or without the state of Idaho, or for any one or more said purposes, and the indebtedness or liability of the county that may be created by the bonding, funding or refunding aforesaid, or in purchasing a site and erecting a courthouse and jail, a public auditorium or a jail thereon, and for the construction or repair of roads or bridges, or for assisting any city or village in the construction of any such free bridge as

aforesaid, or for purchasing, improving and equipping air navigation facilities, or for any one or more of said purposes, exceeds the income or revenue of the county for that year, the board of commissioners may issue bonds of the county as provided by sections 31-1901 and 31-1902, Idaho Code, and by the "municipal bond law" of the state of Idaho: provided, that the issuance of such bonds, except funding or refunding bonds, be first authorized by a vote of two-thirds (2/3) of the qualified electors of the county, voting at an election held, subject to the provisions of section 34-106, Idaho Code, for that purpose, as hereinafter provided and as provided in the "municipal bond law" and, provided, further, that before the board of county commissioners shall issue any bonds to fund or refund the indebtedness of the county as in the section provided, they shall deduct from the legal indebtedness of the county, at the time of the issue of said bonds, the cash on hand in the county treasury applicable to the discharge of said indebtedness, and may issue bonds for the remainder of the indebtedness.

SECTION 32. That Section 31-1905, Idaho Code, be, and the same is hereby amended to read as follows:

31-1905. CONDUCT OF BOND ELECTION. If the question of bonding the county as herein provided is submitted to the voters, the election shall be held as provided in section 34-106, Idaho Code, and shall be conducted in all respects in conformity with title 34, Idaho Code. ~~Such an election may be held in conjunction with a primary or general election; provided that~~ The number of qualified electors of the county voting at such bond election shall be solely determined by the number of votes cast on the specific question of bonding the county.

SECTION 33. That Section 31-3513, Idaho Code, be, and the same is hereby amended to read as follows:

31-3513. ELECTION FOR ISSUANCE OF BONDS. The county commissioners may, when they deem the welfare of their counties require it, or when petitioned thereto by a number of resident taxpayers of their respective counties equal to five per cent (5%) of the number of persons voting for the secretary of state of the state of Idaho, at the election next preceding the date of such petition, submit to the qualified electors of said county at any general election, ~~or at a special election called for such purpose~~ held as provided in section 34-106, Idaho Code, the proposition whether negotiable coupon bonds of the county to the amount stated in such proposition shall be issued and sold for the purpose of providing such hospital, hospital grounds, nurses' homes, nursing homes, residential care homes, shelter care facilities, medical clinics, superintendent's quarters, or any other necessary buildings, and equipment, and may on their own initiative submit to the qualified electors of the county at any general election the proposition whether negotiable coupon bonds of the county to the amount stated in such proposition shall be issued and sold for the purpose of providing for the extension and enlargement of existing hospital, hospital grounds, nurses' homes, nursing homes, residential care homes, shelter care facilities, medical clinics or grounds, superintendent's

quarters, or any other necessary buildings, and equipment, and when authorized thereto by two-thirds (2/3) vote at such election, shall issue and sell such coupon bonds and use the proceeds therefrom for the purposes authorized by such election. Said proposition may be submitted to the qualified electors at an special election called for the purpose held subject to the provisions of section 34-106, Idaho Code, if the board of county commissioners shall by resolution so determine. No person shall be qualified to vote at any election held under the provisions of this section unless he shall possess all the qualifications required of electors under the general laws of this state.

The board shall be governed in calling and holding such election and in the issuance and sale of such bonds, and in the providing for the payment of the principal and interest thereon by the provisions of sections 31-1901 through 31-1909, Idaho Code, and by the provisions of chapter 2, title 57, Idaho Code; provided, however, that when such bonds have been issued and sold and a period of two (2) years or more has elapsed from the date of sale of said bonds and for any reason the proceeds from the sale of said bonds or other moneys appropriated for the purpose for which said bonds were issued, have not been used for the purpose for which they were appropriated or said bond issue made, the board may, with the written consent of all of the bondholders first having been obtained, submit to the qualified electors, as herein defined, the question of spending such moneys for a definite purpose. The purpose for which it is decided to spend such moneys shall be clearly and plainly stated on the ballot. If a majority of the qualified electors shall vote in favor of spending such moneys for the purpose stated, the board of county commissioners shall proceed in the same manner as if such different purpose had been the original purpose for such bond issue or appropriation. Provided, further that if less than a majority of the qualified electors shall vote in favor of spending such moneys for such different purpose, or if no such election should be had, when all of the bonds shall have been retired, such excess moneys shall be placed in the general fund.

SECTION 34. That Section 31-3515, Idaho Code, be, and the same is hereby amended to read as follows:

31-3515. LEASE OR SALE. Such counties acting through their boards of county commissioners shall have the right to lease such hospitals upon such terms and for such a length of time as they may decide, or to sell the same; provided, however, that no such lease or sale, except those leases entered into between such counties and the Idaho health facilities authority as provided in section 31-836, Idaho Code, shall be final or valid unless and until it has been approved by a majority of the qualified electors of said county voting on such question at an general-or-special election held subject to the provisions of section 34-106, Idaho Code; except if a hospital district has been created under the provisions of chapter 13, title 39, Idaho Code, a board of county commissioners shall have the right to lease, as provided in section 31-836, Idaho Code, such hospitals within a created hospital district to the hospital district without submitting the question of lease or sale to the qualified electors of the county or the respective hospital district.

SECTION 35. That Section 31-3605, Idaho Code, be, and the same is hereby amended to read as follows:

31-3605. ORGANIZATION OF BOARD -- TERM OF EXISTENCE. The county hospital board may be created under the provisions of this act chapter at any time, and when created the members of the county hospital board who have been appointed and qualified shall, within ten (10) days after the appointment of the board, meet, organize and enter upon the performance of its duties. A county hospital board once created shall continue until such time as its discontinuance is ordered by a majority vote of the qualified electors of the county voting upon the question of discontinuance of the county hospital board at an election, general--or--special held subject to the provisions of section 34-106, Idaho Code, at which the question is submitted to the electors for their vote by appropriate action and proceedings of the board of county commissioners.

SECTION 36. That Section 31-3702, Idaho Code, be, and the same is hereby amended to read as follows:

31-3702. BOND ELECTION. The governing bodies of said county and city, when they deem the welfare of their respective municipalities requires it, and when petitioned thereto by a number of taxpayers, in the case of the city equal to thirty per cent (30%) of the number of persons voting for mayor of said city at the last city election held therein, and in the case of the county, when petitioned thereto by a number of resident taxpayers of such county equal to thirty per cent (30%) of the number of persons voting for the secretary of state of the state of Idaho at the last election preceding the date of such petition, shall submit to the qualified electors of such city or county, as the case may be, at any general election to be held therein, or at an special election called therein by the governing bodies of such city or county, subject to the provisions of section 34-106, Idaho Code, the proposition whether the negotiable coupon bonds of such city and/or county to the amount stated in such proposition shall be issued and sold for the purposes mentioned and described in section 31-3701, Idaho Code; Provided, however, in case that either such city or county entering into such contract provided for in section 31-3701, Idaho Code, shall have already voted bonds of such city or county for the purpose of building therein a hospital, such city or county shall be authorized to use the proceeds of such bonds so already voted to pay for its proportionate part of the cost and expense of building, maintaining and operating the facilities provided for in section 31-3701, Idaho Code.

SECTION 37. That Section 31-3703, Idaho Code, be, and the same is hereby amended to read as follows:

31-3703. LEASE OR SALE OF HOSPITAL. Such city and county acting through the respective governing bodies of such municipality and county shall have the right to lease such hospital upon such terms and for such a length of time as they may decide, or to sell the same; provided, however, that no such leasing or sale shall be final or

valid unless and until it has been approved by a majority of the qualified electors of such county and city voting on such question at an general--election--or--a--special election called for that purpose, subject to the provisions of section 34-106, Idaho Code.

SECTION 38. That Section 31-4304, Idaho Code, be, and the same is hereby amended to read as follows:

31-4304. CREATION OF RECREATION DISTRICTS. A recreation district may be created as follows:

(a) Any person or persons may file a petition for the formation of a recreation district with the clerk. Such petition which may be in one or more papers shall clearly designate the boundaries of the proposed district, shall state the name of the proposed district and shall be signed by not less than twenty per cent (20%) of the qualified electors resident within the boundaries of the proposed district. The boundaries of the proposed district shall include contiguous territory having market value for assessment purposes of not less than five million dollars (\$5,000,000) at the last preceding county assessment and shall not include any area included within an already existing recreation district. The petition shall be accompanied by a map showing the boundaries of the proposed district.

(b) The clerk shall, within ten (10) days after the filing of such petition and map, estimate the cost of advertising and holding the election provided in this section and notify in writing the person or any one of the persons filing such petition as to the amount of such estimate. Such person or persons shall within twenty (20) days after receipt of such written notice deposit such estimated amount with the clerk in cash, or such petition shall be deemed withdrawn. If the deposit is made and the district is formed, the person or persons so depositing such sum shall be reimbursed from the first moneys collected by the district from the taxes authorized to be levied by this act chapter.

(c) Within thirty (30) days after the filing of such petition together with such map and the making of such cash deposit, the county commissioners shall determine whether or not the same substantially comply with the requirements of this section. If the county commissioners find that there has not been substantial compliance with such requirements, they shall enter an order to the effect specifying the particular deficiencies, dismissing such petition and refunding such cash deposit. If the county commissioners find that there has been substantial compliance with such requirements, the county commissioners shall forthwith enter an order to that effect and calling an election, subject to the provisions of section 34-106, Idaho Code, upon the formation of such proposed district as provided in this section.

(d) If the county commissioners order an election as provided in this section, such election shall be conducted as-nearly-as-practicable in accordance with the general election laws of the state, except as--hereinafter--provided including the provisions of chapter 14, title 34, Idaho Code. The county commissioners shall establish election precincts, design and print elector's oaths, ballots and other necessary supplies, appoint election personnel and by rule and regulation provide for the conduct and tally of such election. Each qualified elec-

tor who is a resident of the proposed district shall be entitled to vote in such election. ~~No prior registration shall be required but each person offering to vote shall be required to sign an elector's oath prior to receipt of a ballot which oath shall be in the usual form but shall have added thereto the words, "and I am a resident within the boundaries of the proposed recreation district."~~ The clerk shall give notice of such election which notice shall clearly designate the boundaries of such proposed district, shall state the name of the proposed district as designated in the petition, shall state the date of such election and the hours on such date which the polls will be open for receipt of ballots, shall set forth the qualifications of electors, and shall state that a map showing the boundaries of such district is on file in the office of the clerk. Such notice shall be published ~~once each week for three (3) successive publications~~ for the first time, not less than twelve (12) days prior to the election, and the second publication shall be made not less than five (5) days prior to such election in a newspaper published within the county.

(e) Immediately after such election, the judges at such election shall forward the ballots and results of such election to the clerk. The county commissioners shall canvass the vote within ten (10) days after such election. If one-half (1/2) or more of the votes cast at such election are against the formation of such district, the county commissioners shall enter an order so finding and declaring that such district shall not be formed. If more than one-half (1/2) of the votes cast at such election are in favor of forming such district, the county commissioners shall enter an order so finding, declaring such district duly organized under the name designated in such petition, and dividing such district into three (3) subdivisions, as nearly equal in population as possible, to be known as director's sub-district subdistrict one (1), two (2) and three (3). The county commissioners shall cause one (1) certified copy of such order to be filed in the office of the county recorder of such county and shall cause one (1) certified copy of such order to be transmitted to the governor. Immediately upon the entry of such order, the organization of such district shall be complete.

(f) Upon receipt of a certified copy of the order of the county commissioners, the governor shall appoint a qualified elector from each director's sub-district subdistrict who shall constitute the first board of such district. The appointees from director's sub-districts subdistricts one (1) and two (2) shall serve until the first district election thereafter held at which their successors shall be elected and the appointee from director's sub-district subdistrict three (3) shall serve until the second district election thereafter held at which such appointee's successor shall be elected. The certificate of appointment shall be filed with the clerk with a copy forwarded to each appointee.

(g) When the boundaries of the proposed district lie in two (2) or more counties, the county commissioners of each county shall act separately in the election and organization of that part of the proposed district contained in their county but the county commissioners of each such county shall meet together before calling such election, subject to the provisions of section 34-106, Idaho Code, and provide for uniform proceedings in each county and fix the boundaries of each

director's ~~sub-district~~ subdistrict in case such election shall carry.

(h) After such election, the validity of the proceedings hereunder shall not be affected by any defect in the petition or in the number or qualification of the signers thereof, and in no event shall any action be commenced or maintained or defense made affecting the validity of the organization of such district after six (6) months have expired from the date of entering the order declaring the formation of such district.

SECTION 39. That Section 31-4305, Idaho Code, be, and the same is hereby amended to read as follows:

31-4305. DIRECTORS -- QUALIFICATIONS -- VACANCY -- COMPENSATION -- TERM. Each district shall be governed by a board of three (3) directors who shall manage and conduct the business and affairs of such district and all powers granted to such district by this ~~act~~ chapter shall be exercised by such board or its duly authorized officers and agents.

At any time after the creation of the district, the board of directors may, by resolution duly adopted, increase the size of the board from three (3) members to five (5) members. The resolution shall provide for the designation of five (5) director's subdistricts. A qualified elector shall be appointed by the board to each of the newly created director's positions, one (1) of whom shall serve until the first district election thereafter held, and one (1) of whom shall serve until the second district election thereafter held.

Every director appointed or elected shall be a qualified elector and a resident of such district. Not more than one (1) director shall reside in the same director's ~~sub-district~~ subdistrict. Each director shall take and subscribe an oath of office before assuming any duties which oath shall be filed in the records of the board. Any vacancy occurring in the office of director, other than by expiration of the term of office, shall be filled by appointment by the board for the unexpired term. The directors shall receive no compensation for their services as a director but shall be entitled to reimbursement for the amount of their actual and necessary expenses incurred in the performance of their official duties. Following the term of the initial appointment, a director shall be elected for a term of four (4) years which shall begin on the first Monday day of January of the year following such election and shall continue until a successor is elected and has qualified.

SECTION 40. That Section 31-4307, Idaho Code, be, and the same is hereby amended to read as follows:

31-4307. PERSONS WHO MAY VOTE IN ELECTION. Any person may vote at a district election who is a qualified elector and a resident of such district as defined in section 34-104, Idaho Code; ~~except that elector registration shall not be required in order to qualify as an elector under the provisions of this chapter.~~

SECTION 41. That Section 31-4319, Idaho Code, be, and the same is hereby amended to read as follows:

31-4319. ANNEXATION OF ADDITIONAL TERRITORY. After the organization of a district, additional territory adjoining the district and not included within an already existing recreation district, whether located in one (1) or several counties, may be annexed to and included within such district by the affirmative vote of a majority of the qualified electors of such additional territory voting on the question at an election held therefor, ~~which vote may be taken either at a general or special election~~ subject to the provisions of section 34-106, Idaho Code, but such additional territory shall not be annexed to and included within such district unless such annexation and inclusion is first approved by resolution of the board of such district prior to the elections on the question of annexation. The same procedure with such modifications in the form of petition, notices, ballots, etc., as may be necessary shall be adopted as provided in section ~~4 of this act~~ 31-4304, Idaho Code, except that no change shall be made in director's ~~sub-districts~~ subdistricts until the next regular director's election and no appointment of any director shall be made by the governor.

SECTION 42. That Section 31-4320, Idaho Code, be, and the same is hereby amended to read as follows:

31-4320. DISSOLUTION OF DISTRICT -- PROCEDURE. A recreation district may be dissolved as follows:

(a) Any person or persons may file a petition for the dissolution of a recreation district with the clerk. Such petition which may be in one (1) or more papers shall state the name of the district and shall be signed by not less than twenty per cent (20%) of the qualified electors resident within the boundaries of the district.

(b) Within thirty (30) days after the filing of such petition, the county commissioners shall determine whether or not the same substantially complies with the requirements of this section. If the county commissioners find that there has not been substantial compliance with such requirements, they shall enter an order to that effect specifying the particular deficiencies and dismissing the petition. If the county commissioners find that there has been substantial compliance with such requirements, the county commissioners shall forthwith enter an order to that effect and calling an election, subject to the provisions of section 34-106, Idaho Code, upon the dissolution of such district as provided in this section.

(c) If the county commissioners order an election as provided in this section, such election shall be conducted and notice thereof given ~~as nearly as practicable~~ in accordance with the provisions of section ~~4 of this act~~ 31-4304, Idaho Code.

(d) Immediately after such election, the judges at such election shall forward the ballots and results of such election to the clerk. The county commissioners shall canvass the vote within ten (10) days after such election. If one-half (1/2) or more of the votes cast at such election are against the dissolution of such district, the county commissioners shall enter an order so finding and declaring that such district shall not be dissolved. If more than one-half (1/2) of the votes cast at such election are in favor of dissolving such district, the county commissioners shall enter an order so finding and declaring such district duly dissolved. The county commissioners shall cause one

(1) certified copy of such order to be filed in the office of the county recorder of such county. Immediately upon the entry of such order, the dissolution of such district shall be complete.

(e) Upon such dissolution being complete, title to all property of the dissolved district shall vest in the county where such property is situated. The county commissioners shall then: sell and dispose thereof in the manner provided by law for the sale or disposition of county property; apply the proceeds thereof to pay any lawful claims against the dissolved district, if any; and apply the balance remaining, if any, to any public recreation purposes within the county.

(f) When the boundaries of the district lie in two (2) or more counties, the county commissioners of each county shall act separately in the election and dissolution of that part of the district contained in their county but the county commissioners of each such county shall meet together before calling such election and provide for uniform proceedings in each county. If there is any balance remaining after sale and disposition of the property of such dissolved district, it shall be prorated among such counties in proportion to each county's share of the total assessed valuation of such dissolved district for the preceding calendar year.

(g) After such election, the validity of the proceedings hereunder shall not be affected by any defect in the petition or in the number or qualifications of the signers thereof, and in no event shall any action be commenced or maintained or defense made affecting the validity of the dissolution of such district after six (6) months has expired from the date of entering the order declaring the dissolution of such district.

SECTION 43. That Section 31-4323, Idaho Code, be, and the same is hereby amended to read as follows:

31-4323. CREATION OF INDEBTEDNESS FOR WORKS OR IMPROVEMENTS -- ELECTION ON PROPOSED INDEBTEDNESS. Whenever the board of a recreation district shall, by resolution, determine that the interest of said district and the public interest or necessity demand the acquisition, construction, installation, completion or maintenance of any buildings, equipment or apparatus to carry out the objects or purposes of said district requiring the creation of an indebtedness of five thousand dollars (\$5,000) or more, and in any event, when the indebtedness will exceed the income and revenue provided for the year, the board shall order the submission of the proposition of issuing such obligations or bonds or creating other indebtedness to the qualified electors, at an election held, subject to the provisions of section 34-106, Idaho Code, for that purpose. The declaration of public interest or necessity, herein required, and the provision for the holding of such election, may be included within one and the same resolution, which resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works or improvements, as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness. Such resolutions shall also fix the date upon which such election shall be held, and the manner of

holding the same, and the method of voting for or against the incurring of the proposed indebtedness; such resolution shall also fix the compensation to be paid the officers of the election and shall designate the polling place or places and shall appoint for each polling place, from the qualified electors who are taxpayers of the district, the officers of such election, consisting of three (3) judges, one (1) of whom shall act as the clerk, provided, however, that no district shall issue or have outstanding its coupon bonds in excess of two percent (2%) of market value for assessment purposes of the real estate and personal property within the said district, according to the assessment of the year preceding any such issuance of such evidence of indebtedness for any or all of the propositions specified in this election.

SECTION 44. That Section 31-4324, Idaho Code, be, and the same is hereby amended to read as follows:

31-4324. NOTICES OF ELECTION ON PROPOSED INDEBTEDNESS. When such election is ordered to be held, subject to the provisions of section 34-106, Idaho Code, the board shall cause printed or written notices of the intention to hold such an election to be posted at two (2) or more conspicuous places in each precinct within the district, and shall also cause a printed notice of the intention to hold such an election to be published in one or more newspapers within the district, if a newspaper is published therein for the first time not less than twelve (12) days prior to the election and a second publication shall be made not less than five (5) days prior to the election, in accordance with the provisions of section 34-140, Idaho Code. Said notices shall recite the action of the board in deciding to bond the district, the purpose thereof and the amount of the bonds supposed to be issued, the estimated costs of the works or improvements as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness, and shall also specify the date of the election; and the time during which the polls shall be open; ~~which shall not be less than six (6) hours.~~ Notices shall also name the place holding the election. ~~Notices shall be posted, or posted and published as the case may be, at least twenty (20) days before such an election.~~

SECTION 45. That Section 31-4510, Idaho Code, be, and the same is hereby amended to read as follows:

31-4510. POWERS NOT RESTRICTED -- LAW COMPLETE IN ITSELF -- ELECTION. Neither this act chapter nor anything herein contained shall be construed as a restriction or limitation upon any powers which any county might otherwise have under any laws of this state, but shall be construed as cumulative of any such powers. No proceedings, notice or approval shall be required for the issuance of any revenue bonds or any instrument as security therefor, except that no revenue bonds shall be issued hereunder until the board shall by resolution adopted by a majority of the board determine that the interest of the county and the public interest or necessity demand the acquisition, construction, installation and equipment of pollution control facilities to be

financed for or to be sold, leased or otherwise disposed of to persons, associations or corporations other than municipal corporations or other political subdivisions, whereupon the board shall order the submission of the proposition of issuing such revenue bonds for the purposes set forth in said resolution to the vote of the qualified electors of the county as defined in section 34-104, Idaho Code, at an election to be held ~~for that purpose~~ subject to the provisions of section 34-106, Idaho Code. ~~Any election held for the purpose of submitting any proposition or propositions of issuing such revenue bonds may be held separately, or may be consolidated or held concurrently with any other election authorized by law.~~ The declaration of public interest or necessity herein required and the provision for the holding of such election may be included within one and the same resolution, which resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the revenue bonds are proposed to be issued, the amount of principal of the revenue bonds, and the source of revenues pledged to the payment of said bonds.

Such resolution shall also fix the date upon which such election shall be held, subject to the provisions of section 34-106, Idaho Code, the manner of holding the same and the method of voting for or against the issuance of the revenue bonds. Such resolution shall also fix the compensation to be paid the officers of the election and shall designate the precincts and polling places and shall appoint for each polling place, from each precinct from the electors thereof, the officers of such election, which officers shall consist of three (3) judges, one (1) of whom shall act as clerk, who shall constitute a board of election for each polling place. The description of precincts may be made by reference to any order or orders of the board, or by reference to any previous order or resolution of the board or by detailed description of such precincts. Precincts established by the board may be consolidated for special elections held hereunder. ~~In the event any such election shall be called to be held concurrently with any other election or shall be consolidated therewith, the resolution calling the election hereunder need not designate precincts or polling places or the names of officers of election, but shall contain reference to the act or order calling such other election and fixing the precincts and polling places and appointing election officers therefrom.~~ A notice of election shall be published once a week for two (2) consecutive weeks, the first publication shall be not less than twelve (12) days prior to the election, and the last publication of which shall be at least ~~ten (10)~~ five (5) days prior to the date set for said election, in the newspaper of general circulation within the county in which legal notices of the county are customarily published, and no other or further notice of such election or publication of the names of election officers or of the precincts or polling places need be given or made.

The respective election boards shall conduct the election in their respective precincts in the manner prescribed by law for the holding of county elections to the extent the same shall apply and shall make their returns to the board. ~~At any regular or special meeting of the board held not earlier than five (5) days following the date of such election;~~ The returns thereof shall be canvassed and the results

thereof declared as provided in chapter 12, title 34, Idaho Code.

In the event that it shall appear from said returns that a majority of the qualified electors of the county who shall have voted on any proposition submitted hereunder at such election voted in favor of such proposition, the county shall thereupon be authorized to issue and sell such revenue bonds of the county, all for the purpose or purposes and object or objects provided for in the proposition submitted hereunder and in the resolution therefor, and in the amount so provided.

SECTION 46. That Section 34-1710, Idaho Code, be, and the same is hereby amended to read as follows:

34-1710. CONDUCT OF SPECIAL RECALL ELECTION. Special elections for the recall of an officer shall be conducted and the results thereof canvassed and certified in all respects ~~as near as practicable, in like manner~~ as general elections, except as otherwise provided; ~~but in no case shall a special recall election be held within ninety (90) days next preceding a primary, general, or city general election if recall is for a city official.~~ Nothing in this chapter shall preclude the holding of a recall election with another election.

SECTION 47. That Section 34-2201, Idaho Code, be, and the same is hereby amended to read as follows:

34-2201. ELECTION OF DELEGATES. Whenever the Congress of the United States has proposed, or shall hereafter propose, an amendment to the Constitution of the United States, and proposes that it be ratified by conventions in the several states, the governor shall fix by proclamation the date of an election, subject to the provisions of section 34-106, Idaho Code, for the purpose of electing delegates to such convention in the state of Idaho. The proclamation for such election shall be issued by the governor under his hand and the great seal of the state of Idaho at least ninety (90) days before such election and copies thereof shall be transmitted to the board of county commissioners of the counties in which such elections are to be held. Such election ~~may either be at a special election or may be held at the same time as a general election, but~~ shall be held at least as soon as the next general election occurring more than three (3) months after the amendment has been proposed by the Congress of the United States.

SECTION 48. That Section 39-1323, Idaho Code, be, and the same is hereby amended to read as follows:

39-1323. ELECTION IN PROPOSED DISTRICT -- NOTICE -- QUALIFICATIONS OF VOTERS. Such petition may be filed with the clerk of the board of county commissioners at any time, and on such filing and after the county commissioners have made an order finally fixing and determining the boundaries of the proposed district, and have made and entered an order calling an election to be held, subject to the provisions of section 34-106, Idaho Code, in said district ~~not less than thirty (30) days nor more than ninety (90) days after said hearing,~~

said clerk shall cause to be published a notice of an election to be held in such proposed district for the purpose of determining whether or not the same shall be organized under the provisions of this act. Provided, however, if an appeal is taken from such order establishing the boundaries, such election shall not be held ~~in less than thirty (30) days, and no more than ninety (90) days,~~ until after the determination of such appeal. Such notice shall plainly and clearly designate the boundaries in or the boundaries of said districts, and shall state the name of the proposed districts as designated in the petition.

Such notice shall be published ~~once in each week for three (3) successive publications~~ not less than twelve (12) days prior to the election, and a second time not less than five (5) days prior to such election in a newspaper published within the county as aforesaid. At such election the voters shall vote for or against the organization of the district. No person shall be entitled to vote at any election held under the provisions of this act chapter unless he or she shall possess all the qualifications required of electors under the general laws of the state and be a resident of the proposed district.

SECTION 49. That Section 39-1324, Idaho Code, be, and the same is hereby amended to read as follows:

39-1324. ELECTION -- MANNER OF CONDUCTING. Such election shall be held and conducted ~~as nearly as practicable,~~ in accordance with the general election laws of the state, ~~except that there shall be no special registration for such election, but for the purposes of determining the qualifications of electors the judges of the election shall be permitted to use the last official registry list of electors residing in the district, and each person applying to vote whose name does not appear on the official registry lists, before being permitted to vote, shall take an oath that he is a qualified elector and resides within the district~~ including the provisions of chapter 14, title 33, Idaho Code.

The board of county commissioners shall establish as many election precincts within such proposed district as may be necessary, and define the boundaries thereof, which said precincts may thereafter be changed by the hospital board of such district in case such district be organized. Said board of county commissioners shall also appoint three (3) judges of election one (1) of whom shall act as clerk for each such election precinct who shall perform the same duties as judges of election under the general laws of the state, and the result of such election shall be certified, canvassed and declared by the board of county commissioners. The reasonable compensation of said judges and clerks of election, and the expenses of publication of notices, printing of ballots and furnishing of supplies for the election shall be paid by the petitioners, and to this end the board of county commissioners are empowered to require the deposit of all estimated costs in advance of such election.

SECTION 50. That Section 39-1325a, Idaho Code, be, and the same is hereby amended to read as follows:

39-1325a. PETITIONS FOR DISSOLUTION OF HOSPITAL DISTRICTS. (1)

Proceedings for the dissolution of a hospital district may be initiated by a petition containing the signatures of qualified electors of the district or owners of property within the district equal in number to ten per cent (10%) of the qualified electors and taxpayers of the district, the same percentage required for the organization of the district, but not earlier than four (4) years after the date of its establishment.

(2) The petition, when completed and verified, shall be filed with the clerk of the court of the county or counties if more than one (1) county is involved. The county commissioners shall publish notice and hold a hearing on the matter. If necessary, they shall hold an election, subject to the provisions of section 34-106, Idaho Code, on the matter. The hearing and election shall be held in accordance with the terms and provisions of sections 40-1803 through 40-1809, Idaho Code. The disposition of hospital district assets on dissolution and the provision for payment of district indebtedness shall be made in accordance with the provisions of sections 63-4105 and 63-4106, Idaho Code.

(3) If the hospital district embraces territory in more than one (1) county, an election for its dissolution shall be deemed approved only if a majority of the votes cast in each such county were cast in the affirmative. If, upon the canvass of ballots, it be determined that the proposition has been approved, the board of county commissioners of each county shall enter its order to that effect, and the order shall by them be made a matter of record.

SECTION 51. That Section 39-1330, Idaho Code, be, and the same is hereby amended to read as follows:

39-1330. BIENNIAL ELECTION OF BOARD MEMBERS -- TERMS OF OFFICE. On the second first Tuesday of February in the second calendar year after the organization of any district, and on the second first Tuesday of February every second year thereafter, an election shall be held which shall be known as the biennial election of the district.

At the first biennial election in any district hereafter organized and each sixth year thereafter there shall be elected by the qualified electors of the district three (3) members of the board to serve for a term of six (6) years; at the second biennial election and each sixth year thereafter there shall be elected two (2) members of the board to serve for a term of six (6) years; at the third biennial election and each sixth year thereafter there shall be elected two (2) members of the board to serve for terms of six (6) years.

~~Not less than 30 days nor more than 60 days before any such election.~~ Nominations may be filed with the secretary of the board not later than the sixth Friday preceding the election for which the nomination is made, and if a nominee does not withdraw his name before the first publication of the notice of election, his name shall be placed on the ballot. The board shall provide for holding such elections and shall appoint judges to conduct it; the secretary of the district shall give notice of election by publication and shall arrange such other details in connection therewith as the board may direct. The returns of the election shall be certified to and shall be canvassed and declared by the board. The candidate or candidates according to

the number of directors to be elected, receiving the most votes shall be elected. Any new member of the board shall qualify in the same manner as members of the first board qualify.

In any election for director, 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 director's position, it shall not be necessary for the candidate to stand for election, and the board of directors of the district shall declare such candidate elected as a director, and the secretary of the board of the district shall immediately make and deliver to such person a certificate of election.

SECTION 52. That Section 39-1334, Idaho Code, be, and the same is hereby amended to read as follows:

39-1334. ADDITIONAL TAX LEVIES. (a) If it becomes necessary and expedient so to do, it shall be lawful for the board to levy additional taxes and collect revenue for the purpose of creating a reserve sinking fund for the purpose of accumulating moneys with which to add new buildings or necessary equipment, and to provide extensions of and betterments to the improvements of the district, and for such purposes may levy an additional tax not to exceed ~~one (1) mill on the dollar~~ two hundredths of one per cent (.02%) of market value for assessment purposes on all taxable property in the district.

(b) The provisions of section 63-2220, Idaho Code, notwithstanding, if the board finds it necessary to maintain the solvency of a facility or facilities, the board is authorized to levy additional taxes and collect revenue in excess of the limitations prescribed by section 39-1333, Idaho Code, for the sole purpose of retiring current or past due obligations accruing where operating expenses for such a facility or facilities have exceeded all available sources of revenue in the fiscal year preceding the anticipated date of levy; provided, that any such additional levy shall be authorized only if approved by two-thirds (2/3) of the qualified electors of the district voting at an special election called and conducted in the manner specified in sections 39-1339 through 39-1342, Idaho Code. Any such additional levy approved under the provisions of this subsection shall be exempt from the limitations imposed by subsection (1) of section 63-923, Idaho Code.

SECTION 53. That Section 39-1339, Idaho Code, be, and the same is hereby amended to read as follows:

39-1339. CREATION OF INDEBTEDNESS FOR WORKS, IMPROVEMENTS OR EQUIPMENT -- ELECTION ON PROPOSED INDEBTEDNESS. Whenever the board of the hospital district shall by resolution, determine that the interest of said district and the public interest or necessity demand, the acquisition, construction, installation, or completion of any works or other improvements of facilities or the construction, installation and maintenance of a hospital, hospital grounds, medical clinic, nursing home, nurses' quarters and other structural components or fixtures, or for the enlargement, improvement and acquisition of existing hospital, hospital grounds, medical clinic, nursing home, nurses' quarters and

other structural components or fixtures, or the making of any contract with the United States or other persons or corporations, public or private, municipalities or governmental subdivisions to carry out the said public works, acquisitions, improvements, objects or purposes of said district requiring the creation of an indebtedness of one hundred thousand dollars (\$100,000) or more, and in any event when the indebtedness will exceed the income and revenue provided for the year, the board shall order the submission of the proposition of issuing such obligations or bonds or creating other indebtedness to the qualified electors of the district at an election held, subject to the provisions of section 34-106, Idaho Code, for that purpose; whenever the board of the hospital district shall by resolution determine that the interest of said district and the public interest or necessity demand the acquisition of medical or business equipment for said district requiring the creation of an indebtedness of one hundred thousand dollars (\$100,000) or more and, in any event, when the indebtedness will exceed the income and revenue as provided for the year, the board shall order the submission of the proposition of creating such indebtedness to the qualified electors of the district at an election, subject to the provisions of section 34-106, Idaho Code, held for that purpose; provided, however, that no election shall be required for any lease or other transaction entered into between the hospital district and the Idaho health facilities authority. Notwithstanding any other provision, the hospital district shall be entitled to enter into a lease or other transaction regardless of the amount involved with the Idaho health facilities authority upon determination by the board of the hospital district that it is in the interest of the hospital district and best interests of the public to enter into such lease or other transaction. The declaration of public interest or necessity, herein required, and the provision for the holding of such election may be included within one (1) and the same resolution, which resolution, in addition to such declaration of public interest or necessity shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated costs of the works, improvements, or medical or business equipment, as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness. Such resolutions shall also fix the date upon which such election shall be held, and the manner of holding the same, and the method of voting for or against the incurring of the proposed indebtedness; such resolution shall also fix the compensation to be paid the officers of the election and shall designate the polling place or places and shall appoint for each polling place, from the qualified electors of the district, the officers of such election, consisting of three (3) judges, one (1) of whom shall act as the clerk, provided, however, that no district shall issue or have outstanding its coupon bonds in excess of two percent (2%) of the market value for assessment purposes of the real and personal property within the said district, according to the assessment of the year preceding any such issuance of such evidence of indebtedness for any or all of the propositions specified in this election, provided, however, that such bonds shall not be issued, nor shall any indebtedness be incurred, at any time that there shall be a bond issue outstanding and unpaid for the construction, acquisition or

maintenance of a county hospital in the county in which such district is organized.

SECTION 54. That Section 39-1340, Idaho Code, be, and the same is hereby amended to read as follows:

39-1340. NOTICES OF ELECTION ON PROPOSED INDEBTEDNESS. When such election is ordered to be held, subject to the provisions of section 34-106, Idaho Code, the board shall cause printed or written notices of the intention to hold such an election to be posted at two (2) or more conspicuous places in each precinct within the district, and shall also cause a printed notice of the intention to hold such an election to be give notice by publication once not less than twelve (12) days prior to the election and a second time not less than five (5) days prior to the election published in one (1) or more newspapers within the district, if a newspaper is published therein. Said notices shall recite the action of the board in deciding to bond the district, the purpose thereof and the amount of the bonds supposed to be issued, the estimated costs of the works or improvements as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness, and shall also specify the date of the election, the time during which the polls shall be open, which shall not be less than six (6) hours. Notices shall also name the place holding the election. Notices shall be posted, or posted and published as the case may be, at least twenty (20) days before such an election.

SECTION 55. That Section 39-1342, Idaho Code, be, and the same is hereby amended to read as follows:

39-1342. INDEBTEDNESS INCURRED UPON FAVORABLE VOTE -- RESUBMISSION OF PROPOSITION NOT RECEIVED FAVORABLY. In the event that it shall appear from said returns that two-thirds (2/3) of the qualified electors of the district voting at such election shall have voted in favor of such proposition or any proposition submitted hereunder at such election, the district shall thereupon be authorized to incur such indebtedness or obligations, enter into such contract or issue and sell bonds of the district, as the case may be, all for the purpose or purposes, and object or objects provided for in the propositions submitted hereunder and in the resolution therefor and in the amount so provided at a rate of interest not exceeding the rate of interest recited in such resolution. The submission of the proposition of incurring such obligation or bonded or other indebtedness at such an election shall not prevent or prohibit submission of the same, or other propositions, at subsequent election or elections called for such purpose at any time, held subject to the provisions of section 34-106, Idaho Code.

SECTION 56. That Section 39-2802, Idaho Code, be, and the same is hereby amended to read as follows:

39-2802. PROCEDURES FOR FORMATION OF ABATEMENT DISTRICTS. Upon presentation to the board of county commissioners of a petition

requesting the formation of an abatement district, which is signed by qualified resident property owners of the territory of the proposed abatement district, equal to not less than ten percent (10%) of the resident property owners that voted in the last general election, the commissioners shall publish such petition when the following conditions are met: the petition must define the boundaries of the proposed district and assessed tax valuation of the property therein. When the above conditions have been met the county commissioners shall publish the petition, and if after thirty (30) days no protests are received, an election must be called within 30 days held at the next date specified in section 34-106, Idaho Code. The petitioners shall bear the expense of holding the election. If there are written protests, the county commissioners must hold a public hearing within thirty (30) days after receipt of the written protests and within 15 days after the hearing hold an election. Notice of the time and place of such election shall be published at least one (1) week once not less than twelve (12) days prior to the election and a second time not less than five (5) days prior to the election in at least one (1) newspaper having general circulation in the proposed abatement district. Only qualified electors who own land within the district, or the proposed district, and are residents of the county in which the district, or a portion thereof, is located, or are spouses of such landowners residing in such county, may vote on the formation of the district. A majority of the votes cast will establish the district.

SECTION 57. That Section 39-2806, Idaho Code, be, and the same is hereby amended to read as follows:

39-2806. ANNEXATION TO ABATEMENT DISTRICTS. Contiguous territories may be annexed to organized mosquito abatement districts upon petition of a majority of the legal voters in the territory seeking annexation and of the owners of more than half, by assessed value, of the taxable property in such territory, or by written request for annexation of a designated area, submitted to the trustees of the existing mosquito abatement district and signed by all members of the board of county commissioners in which county the territory seeking annexation is located. Upon receiving this petition or written request, the trustees of the existing mosquito abatement district must submit the question of annexation to the legal voters of the district within sixty (60) days at an regular or special election held subject to the provisions of section 34-106, Idaho Code.

SECTION 58. That Section 42-1767, Idaho Code, be, and the same is hereby amended to read as follows:

42-1767. APPROVAL OF PROJECTS -- AUTHORITY OF WATER USERS TO CONTRACT WITH BOARD -- AUTHORIZING THE BOARD'S ACQUISITION OF INTEREST IN PROJECTS. Irrigation districts, canal companies, irrigation companies, water user associations and water associations are authorized to hold elections, subject to the provisions of section 34-106, Idaho Code, for the purpose of submitting a question to their qualified voters, members or stockholders, as the case may be, as to whether the district, company or association should finance the projects and facili-

ties through the Idaho water resource board for the purposes set forth in section 42-1740, Idaho Code. A two-thirds (2/3) vote is required to approve the project. Any irrigation district, canal company, irrigation company, water user association or water association, is hereby authorized to enter into any agreement or agreements with the board with respect to an approved project within the state of Idaho, including but not limited to, agreements providing for the sale, lease or other transfer of title to real and personal property or providing for the maintenance or operation of projects rehabilitated or repaired, or pertaining to the loan or grant of funds for such projects, and said irrigation district, canal company, irrigation company, water user association or water association is hereby authorized to levy assessments as may be necessary therefor. The statutory rights and duties of any such entity shall not in any way be limited or diminished due to any such agreement or agreements with the board. In the event the board acquires an ownership interest, the board shall not assume any liabilities thereon as a result of such transfer of ownership, provided however, that it shall not acquire any voting rights in any irrigation district, canal company, water user's association or similar entity as a result thereof.

SECTION 59. That Section 42-2801, Idaho Code, be, and the same is hereby amended to read as follows:

42-2801. BOARD OF COUNTY COMMISSIONERS -- AUTHORITY IN IRRIGATION AND DRAINAGE PROCEEDINGS. The boards of county commissioners of the several counties of the state of Idaho are hereby authorized and empowered to make all necessary orders for and cause to be constructed and maintained public drainage or irrigation systems, reservoirs, drains and ditches and other irrigation or drainage works for the irrigation or drainage of lands lying in said counties, and for such purposes, to enter into contracts for the construction or use of reservoirs and other irrigation or drainage works, constructed or to be constructed by the United States under the provisions of the federal reclamation laws, or for such works built or to be built by other parties or agencies and to take all steps and do all acts necessary or proper to secure an ample water supply for the lands in the county requiring irrigation and adequate drainage works for the lands requiring drainage, and to promote the beneficial use of the public waters of the state and the health and general welfare of the county by means of such works: provided, that nothing herein contained shall be construed to give such board of county commissioners authority over irrigation works except those acquired or constructed by the several counties under the provisions of this chapter: provided, also, that no county bonds shall be issued or sold for such purposes until such indebtedness has been authorized by two-thirds (2/3) of the electors of the county (having the qualifications provided in section 42-2803, Idaho Code,) voting at an election to be held, subject to the provisions of section 34-106, Idaho Code, for such purpose.

SECTION 60. That Section 42-3115, Idaho Code, be, and the same is hereby amended to read as follows:

42-3115. COMMISSIONERS -- POWERS AND DUTIES. The board of commissioners of flood control districts shall have the following powers and duties:

1. To annually fix and determine, the amount of money required to be raised by taxation to supply funds for costs of construction, costs of operation and maintenance of the work and equipment of the district, and to levy and cause to be collected assessments on real property within the district in an amount not to exceed ~~three--(3)--mills for--each--dollar--of--assessed--valuation~~ six hundredths of one per cent (.06%) of market value for assessment purposes, provided however that a higher levy may be approved and ratified by the qualified voters at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose in the same manner as provided for the approval and ratification of contracts, in section 42-3117, Idaho Code, and said levy shall be certified by the board to the board of county commissioners of the county, or counties, in which said district is located, with directions that at the time and in the manner required by law for levying taxes for county purposes, such board, or boards, of county commissioners shall levy such tax upon the assessed valuation market value for assessment purposes of the real property within the boundaries of the district. Such certification of levies shall be prepared and forwarded by the board of the flood control district to the board, or boards, of county commissioners on or before September 1 of each year.

Such levies shall be levied and collected in the manner provided by law, and the moneys collected shall be turned over to the treasurer or treasurers, of the county, or counties, in which said district is located.

Said moneys shall be public funds and subject to the provisions of the public depository laws of the state.

2. To employ such personnel as may be necessary to carry out the purposes and objects of this act, with the full power to bind said district for the compensation of such personnel.

3. To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments necessary or convenient to the exercise of its power and to promulgate, amend and repeal rules and ~~regulations~~ not consistent with the provisions of this ~~act~~ chapter.

4. To manage and conduct the business and affairs of the district, both within and without the district.

5. To construct, operate and maintain structural works of improvement for the prevention of floodwater and sediment damages, and the conservation, development, utilization, and disposal of water, whether within or without the boundaries of the district, and to enter into contract for the purposes set forth above, provided however, that the board shall not enter into contracts that necessitate an expenditure in excess of fifteen thousand dollars (\$15,000), without first advertising for sealed competitive bids as herein provided. However, where it is determined by order of the board that there is an existing emergency, or where it is determined that the district is in a flood fight resulting from unanticipated conditions, the requirement for sealed competitive bids shall not apply.

6. To prescribe the duties of officers, agents and employees as may be required.

7. To establish the fiscal year of the district and to keep records of all business transactions of the district.

8. To prepare a statement of the financial condition of the district at the end of each fiscal year, in a form to be prescribed by the director or by the legislative council, and publish in at least one (1) issue of some newspaper published, or in general circulation in, the county, or counties, in which such district is located and to file a certified copy of such financial report with the director and the legislative council on or before February 2 of each year.

9. To have an audit of the financial affairs of the district as required in section 67-450B, Idaho Code. A certified copy of said audit shall be filed with the director on or before February 2 following the audit.

10. To obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act chapter; to lease any of its property or interest therein in furtherance of the purposes and provisions of this act chapter, provided that no contract or agreement for the acquisition, purchase or repair of personal property involving expenditure in excess of one thousand dollars (\$1,000), shall be entered into without first advertising for sealed competitive bids as herein provided.

11. To have the power of eminent domain for the use of the district in the construction, operation, maintenance and upkeep of its structures, waterways, dikes, dams, basins, or any other use necessary in the carrying out of the provisions of this act chapter.

12. To convey rights of way and easements for highways, public roads, public utilities, and for other purposes, over district property, as shall be determined by the board to be in the best interests of the district.

13. To convey, by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district, in any real or personal property. Prior to such sale or conveyance, the board shall have the property appraised by three (3) disinterested residents of the district, which appraisal shall be entered in the minutes of the board. The property may be sold at public auction or at a private sale by sealed competitive bids, as the board shall determine, to the highest cash bidder, provided that in no case shall any property of a district be sold for less than its appraised value. All sales by sealed competitive bids shall be advertised as herein provided.

14. To use natural streams and to improve the same for use as a flood control structure. However, in the event that the use of the natural stream involves alteration of the stream channel, no such alteration shall be made by the district until such alteration is approved by the director.

15. To enter into contracts or agreements with the United States or any of its officers, agents, or subdivisions, or with the state or any of its officers, agents or political subdivisions, and to cooperate with such governments, persons or agencies in effectuating, pro-

moting and accomplishing the purposes of this act chapter, provided that the district has sufficient moneys on hand, or in their budget for the year in which said contract is entered into, to defray the expenditure of funds called for in such contract without the creation of any indebtedness.

Whenever any such contract shall, by its terms, require the expenditure of funds by the district in excess of the moneys on hand or the funds to be realized from their budget for the year in which said contract is entered into, then such contract may not be entered into by the district until ratified by two-thirds (2/3) of the qualified voters voting at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose, according to the provisions of this act chapter.

16. To bear its allocated share of the cost of any project resulting from any contract or agreement entered into as provided herein.

17. To take over, administer and maintain pursuant to any agreement or contract entered into in accordance with the provisions of this act, any flood control project within or without the boundaries of the district undertaken in cooperation with the United States or any of its agencies, or with the state of Idaho or any of its agencies, or any combinations thereof.

18. To accept donations, gifts and contributions in money, services, or materials, or otherwise, from the United States or any of its agencies, or the state of Idaho or any of its agencies or any combinations thereof, and to expend such moneys, services, or materials in carrying on its operations.

19. To exercise all other powers necessary, convenient or incidental to carrying out the purposes and provisions of the act chapter.

SECTION 61. That Section 42-3117, Idaho Code, be, and the same is hereby amended to read as follows:

42-3117. CONTRACTS SUBMITTED TO VOTERS -- NOTICE -- ELECTION. Whenever any contract with the United States or any agency thereof or, the state, is proposed to be entered into by any district which would create indebtedness in excess of the moneys on hand or the funds to be realized from their budget for the year in which said contract is entered into, the board shall first submit the question to the qualified voters of the district at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose.

Notice of such election must be given by posting notices in three (3) public places in each of the divisions of the district for four (4) weeks before the said date of election, and the publication therefor four (4) weeks prior to the date of said election by publishing in a newspaper, or newspapers, of general circulation within the district, as the board by its order shall determine, in four (4) separate issues of said newspaper, or newspapers, not less than one (1) week apart as provided in section 34-1406, Idaho Code. The notice must specify the date of the holding of the election, the qualification of the voters, the nature of the contract set forth in general terms, and by reference shall give notice as to where a copy of such contract, proposed to be entered into, may be viewed by the qualified voters, one (1) of which places shall be with each of the commissioners of the

district and such other places as the board may determine by their order. Said notice shall further set forth the amount of the contract, the amount of the funds, if any, which will be received from the United States, and/or the state, the amount that the district will be obligating itself to pay, the duration of construction and obligation of such contract, the estimate of the mill levy required for operation, maintenance and administrative expenses of the district, whether such obligation may be met, within the limitations imposed by the levy authorized by this act chapter, or whether, in addition to voting upon the contract it will be necessary to vote upon an increase in the authorized levy.

The notice shall further state the hours between which the polls will be open, the definite place or places of holding the election, which shall be fixed by the board by its order, which order will require at least one (1) polling place in every division of the district, and the question to be voted upon.

The ballot shall contain the question to be voted upon and shall contain the words "Contract-Yes" and "Contract-No," or other words equivalent.

In the event such contract requires the district to call for a ~~mill~~ levy beyond the limitations imposed in ~~this act~~ section 42-3115, Idaho Code, then the ballot shall contain the question to be voted upon and shall contain the words "Contract and Levy-Yes" and "Contract and Levy-No" or other words equivalent.

In this election, the polling places shall be presided over by a board of election which shall be appointed by the board which shall consist of two (2) judges and a clerk, who shall be qualified voters of the division and the district. Before entering upon their duties each member of the board of election shall take an oath, which shall be administered by any qualified district voter before they shall perform their duties as such member of the board of election.

In such election the ballots used by the voters shall be kept in a sealed container until the polls are closed at the time specified in the notice of election and then shall be counted in open view.

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

The returns of such election shall be canvassed by the board which shall constitute the board of canvassers. All ballot boxes shall be returned to the board immediately upon the close of the polls and the counting of the ballots, and the ballots shall be canvassed not more than ~~three-(3)~~ ten (10) days thereafter.

If upon the canvass of the votes it appears that the contract was approved by two-thirds (2/3) of the qualified voters voting at the election, then the contract will be considered to be approved.

SECTION 62. That Section 42-3125, Idaho Code, be, and the same is hereby amended to read as follows:

42-3125. DIRECTOR MAY SUBMIT CONSOLIDATION TO ELECTION. The director may upon receiving a petition for consolidation of two (2) or more flood control districts, order an election to be held, subject to the provisions of section 34-106, Idaho Code, in each district. If

two-thirds (2/3) of the qualified voters in each district, voting at the election, shall vote in favor of consolidation, the director shall make and enter an order consolidating the districts as in the preceding section. If fewer than two-thirds (2/3) of the qualified voters in any district voting at the election shall vote in favor of the consolidation, nothing further shall be done, unless a new petition shall be filed in the manner herein provided.

SECTION 63. That Section 42-3202, Idaho Code, be, and the same is hereby amended to read as follows:

42-3202. DEFINITION OF TERMS. A water district is one to supply water for domestic, commercial, and/or industrial purposes by any available means, and for that purpose any such district shall have power to extend its water lines to the source of water supply.

A sewer district is one to provide for sewage disposal and for that purpose any such district shall have power to extend its sewer lines to an appropriate outlet.

A district may be created for a combination of water and sewer purposes, or either of said purposes. A district may be entirely within or entirely without, or partly within and partly without one (1) or more municipalities or counties, and the district may consist of noncontiguous tracts or parcels of property.

The word "board" as used in this act chapter shall mean the board of directors of a district.

A "qualified elector" of a district, within the meaning of and entitled to vote under this act chapter, unless otherwise specifically provided herein, is a person qualified to vote at general elections in this state, and who has been a bona fide resident of the district for at least thirty (30) days prior to any election in the district. ~~No registration shall be required at any election held pursuant to this act, but each voter shall be required to execute an oath of election attesting his qualification.~~

Wherever the term "publication" is used in this act chapter and no manner specified therefor, it shall ~~be taken to mean once a week for three (3) consecutive weeks in at least one (1) newspaper of general circulation in the district. It shall not be necessary that publication be made on the same day of the week in each of the three (3) weeks, but not less than fourteen (14) days (excluding the day of first publication), shall intervene between the first publication and the last publication, and publication shall be complete on the date of the last publication~~ twice, the first time not less than twelve (12) days prior to the election and the second time not less than five (5) days prior to the election, as provided in section 34-1406, Idaho Code.

SECTION 64. That Section 42-3202B, Idaho Code, be, and the same is hereby amended to read as follows:

42-3202B. WATER AND/OR SEWER DISTRICTS MEETING THE CRITERIA OF RECREATIONAL WATER AND/OR SEWER DISTRICTS -- CREATION. Each petition filed with the clerk of the district court pursuant to the provisions of this chapter shall be verified and the petitioner shall certify or

prove to the satisfaction of the court that the district sought to be created is a recreational water and/or sewer district under the terms of section 42-3202A, Idaho Code. The court decree pursuant to the provision of section 42-3207, Idaho Code, determining the nature of such district pursuant to the petitioner's prayer shall be conclusive for this and all other purposes. If the water and/or sewer district sought to be created is a recreational water and/or sewer district as defined in section 42-3202A, Idaho Code, such recreational water or sewer district shall be created in the manner provided in chapter 32, title 42, Idaho Code, except that the term, "qualified elector" shall mean any natural person who is qualified to vote in an Idaho general election, and who is an actual resident of the district, or who is an actual resident of Idaho, owning land within the boundaries of the district or area to be included within the district, or is a lease holder of a state recreational lease, or is a permit holder of a federal recreational use permit and pays personal property tax on improvements on the lease or permit area, irrespective of his or her place of residence in Idaho. ~~No registration shall be required of qualified electors at any election held pursuant to this chapter, but each voter shall be required to execute an oath of election attesting to his or her qualifications.~~ The holder or holders of a bona fide contract to purchase any land within the proposed district whose names appear upon the next preceding county assessment roll for the payment of taxes on the land shall be deemed an owner of land for the purposes of this section.

SECTION 65. That Section 42-3207, Idaho Code, be, and the same is hereby amended to read as follows:

42-3207. HEARINGS ON PETITIONS -- ELECTION FOR ORGANIZATION AND DIRECTORS. On the day fixed for such hearing or at any adjournment thereof the court shall ascertain from the tax rolls of the county or counties in which the district is located or into which it extends, the total number of taxpayers within the proposed district, who pay a general tax on real property owned by him or her within the district.

If the court finds that no petition has been signed and presented in conformity with this ~~act~~ chapter, or that the material facts are not as set forth in the petition filed, it shall dismiss said proceedings and adjudge the costs against the signers of the petition in such proportion as it shall deem just and equitable. No appeal or writ of error shall lie from an order dismissing said proceedings; but nothing herein shall be construed to prevent the filing of a subsequent petition or petitions for similar improvements or for a similar district, and the right so to renew such proceedings is hereby expressly granted and authorized.

Any time after the filing of the petition for the organization of a district and before the day fixed for the hearing thereon, the owner or owners of any real property within the proposed district may file a petition with the court stating reasons why said property should not be included therein, why his land or any part thereof will not be benefited by the proposed district, or should not be embraced in said district and made liable to taxation therefor, and praying that said property be excluded therefrom. Such petition shall be duly verified

and shall describe the property sought to be excluded. The court shall conduct a hearing on said petition and shall hear all objections to the inclusion in the district of any lands described in said petition. In case any owner of real estate included in said proposed district shall satisfy the court that his real estate, or any part thereof, has been wrongfully included therein or will not be benefited thereby then the court shall exclude such real estate as will not be benefited.

Upon said hearing, if it shall appear that a petition for the organization of a district has been signed and presented as hereinabove provided, in conformity with this ~~act~~ chapter, and the allegations of the petition are true, the court shall, by order duly entered of record, direct that the question of the organization of the district shall be submitted to the qualified electors of the district at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose, and such order shall appoint three (3) qualified electors of the district as judges of said election. The clerk of the court having jurisdiction shall give published notice of the time and place of an election to be held in the district; ~~not less than twenty (20) days after the first publication of said notice in accordance with the provisions of section 34-1406, Idaho Code.~~

Such election shall be held and conducted ~~as nearly as may be~~ in the same manner as general elections in this state, including chapter 14, title 34, Idaho Code, except that the court shall establish as many election precincts within such proposed district as are deemed necessary, and shall define the boundaries thereof, which precincts and boundaries may thereafter be changed by the board of directors of such district if so organized. Such court, and thereafter the board of directors of such district, if so organized, shall ~~determine the hours that the polls shall be open, which shall not be less than seven (7), and shall~~ appoint three (3) judges of election, one (1) of whom shall act as clerk for such election precinct. ~~Each elector shall take an oath that he has the qualifications of an elector before casting his vote.~~

At any time after the filing of the petition herein referred to and before the day fixed for hearing, nominees for the board of directors of the district may be nominated by the filing of a petition designating the name or names of the nominee or nominees, signed by at least ~~twenty (20)~~ five (5) qualified electors of the district. If upon the hearing as herein provided the court shall order an election for the creation of the district, the court shall also ascertain the names of persons nominated by the board of directors, and shall order that the names of persons whom the court finds to have been properly nominated shall be listed upon a ballot submitted to the electors at such election. In the event the court makes its order providing for such election, it shall prescribe the form of the question and ballot relating to the creation of the district, and also the form of the ballot relating to the election of the directors; provided that all matters may be contained upon one ballot to be submitted to the voters.

At such election the voters shall vote for or against the organization of the district, and for five (5) qualified electors, who shall constitute the board of directors of the district, if organized, one (1) director to act until the first biennial election, two (2) until

the second, and two (2) until the third biennial election.

The judges of election shall certify the returns of the election to the district court having jurisdiction. If a majority of the votes cast at said election are in favor of the organization, the district court shall declare the district organized and give it a corporate name by which, in all proceedings, it shall thereafter be known, and designated the first board of directors elected, and thereupon the district shall be a governmental subdivision of the state of Idaho and a body corporate with all the powers of a public or quasi-municipal corporation.

If an order be entered establishing the district, such order shall be deemed final and no appeal or writ of error shall lie therefrom, and the entry of such order shall finally and conclusively establish the regular organization of the said district against all persons except the state of Idaho, in an action in the nature of a writ of quo warranto, commenced by the attorney general within thirty (30) days after said decree declaring such district organized as herein provided, and not otherwise. The organization of said district shall not be directly or collaterally questioned in any suit, action or proceeding except as herein expressly authorized.

SECTION 66. That Section 42-3211, Idaho Code, be, and the same is hereby amended to read as follows:

42-3211. ELECTIONS -- TERMS OF OFFICE. (1) Except as provided in subsection (2), below of this section, on the second first Tuesday of January in February, in the second calendar year after the organization of any district, and on the second first Tuesday of--January in February every second year thereafter an election shall be held, which shall be known as the biennial election of the district.

(2) In districts created under section 42-3202B, Idaho Code, biennial elections shall be held on the second first Tuesday in July August.

(3) At the first biennial election in any district hereafter organized, and each sixth year thereafter, there shall be elected by the qualified electors of the district, one (1) member of the board to serve for a term of six (6) years; at the second biennial election and each sixth year thereafter, there shall be elected two (2) members of the board to serve for terms of six (6) years, and at the third biennial election, and each sixth year thereafter, there shall be elected two (2) members of the board to serve for terms of six (6) years.

Not later than thirty-(30)-days-before-any-such 5:00 p.m. on the sixth Friday preceding the election, nominations may be filed with the secretary of the board and if a nominee does not withdraw his name before the first publication of the notice of election, his name shall be placed on the ballot. The board shall provide for holding such election and shall appoint judges to conduct it. The secretary of the district shall give notice of election by publication, and shall arrange such other details in connection therewith as the board may direct. The returns of the election shall be certified to and shall be canvassed and declared by the board. The candidate or candidates, according to the number of directors to be elected, receiving the most votes, shall be elected. Any new member of the board shall qualify in

the same manner as members of the first board qualify.

In any election for director, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that the number of qualified candidates who have been nominated is equal to the number of directors to be elected, it shall not be necessary for the candidates to stand for election, and the board of directors shall declare such candidates elected as directors, and the secretary of the district shall immediately make and deliver to such persons certificates of election signed by him and bearing the seal of the district.

SECTION 67. That Section 42-3218, Idaho Code, be, and the same is hereby amended to read as follows:

42-3218. INCLUSION OF PROPERTY PETITIONED -- HEARING -- ORDER -- ANNEXATION OF PROPERTY PETITIONED -- HEARING -- ORDER -- ANNEXATION OF PROPERTY BY ELECTION -- ELECTION PROCEDURE. The boundaries of any district organized under the provisions of this act chapter may be changed in the manner herein prescribed, but the change of boundaries of the district shall not impair or affect its organization or its rights in or to property, or any of its rights or privileges whatsoever; nor shall it affect or impair or discharge any contract, obligation, lien or charge for or upon which it might be liable or chargeable had any such change of boundaries not been made.

(a) The owners of real property may file with the board a petition, in writing, praying that such real property be included in the district. The petition shall describe the property owned by the petitioners, and such petition shall be deemed to give assent of the petitioners to the inclusion in said district of the property described in the petition, and shall be accompanied by a reasonable filing fee in an amount to be determined by the board. Such petition must be acknowledged in the same manner that conveyances of land are required to be acknowledged. The secretary of the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands mentioned and the prayer of such petitioners; giving notice to all persons interested to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition should not be granted. The failure of any person to show cause in writing shall be deemed as an assent on his part to the inclusion of such lands in the district as prayed in the petition. If the petition is granted, the board shall make an order to that effect and file the same with the clerk of the district court together with a copy of the petition and proof of publication certified by the secretary of the board. The clerk of the district court shall present the same to the court and upon order of the court the property shall be included in the district.

(b) The territory adjoining or in close proximity to and in the same county with any district created under the provisions of this act

chapter may be annexed to the district by either of the following procedures: (1) A petition for annexation of real property described in such petition, which has been signed by the owners of not less than sixty per cent (60%) of the area in land within the territory to be annexed, and which contains the separate property descriptions of such petitioners, and which is acknowledged in the same manner that conveyances of land are required to be acknowledged, accompanied by a reasonable filing fee in an amount to be determined by the board, may be filed with the board. Upon filing with the board of such a petition, the secretary of the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands mentioned and the prayer of such petitioners; giving notice to all persons interested, including the staff and employees of said district and any one designated by said district, to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition shall not be granted. The failure of any person to show cause in writing shall be deemed as an assent to the annexation of such lands into the district as prayed in the petition. The board shall have full discretion to determine if the petition shall be granted. If the petition is granted, the board shall make an order to that effect and file the same with the clerk of the district court together with a copy of the petition and proof of publication certified by the secretary of the board. The clerk of the district court shall present the same to the court and upon order of the court the property shall be included in the district. (2) Upon filing with the board of a petition signed by registered voters owning real property residing in the territory to be annexed, who constitute at least twenty per cent (20%) of the taxpayers in such territory, praying for an election to determine if annexation shall be made of property designated in such petition, together with payment of a reasonable filing fee in an amount to be determined by the board, the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands to be annexed and the prayer of such petition; giving notice to all persons interested, including the staff and employees of said district and anyone designated by said district to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition shall not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition shall not be granted. The board shall have full discretion to determine if the petition shall be granted, and if such petition is granted, the board shall direct that an election be held, subject to the provisions of section 34-106, Idaho Code. The election shall be conducted as-nearly-as-may-be in the same manner as general elections

in this state, except that the board shall establish as many voting places within such territory proposed to be annexed as are by the board deemed necessary and shall define the boundaries of such voting places. The board ~~shall determine the hours that the polls shall be open, provided that the polls shall be open not less than seven (7) hours and~~ shall appoint three (3) judges of election for each voting place, one (1) of whom shall be designated by the board to be the clerk of such election precinct. Each elector shall ~~take an oath that he has the qualifications of an elector before casting his vote, which shall be that he has~~ be registered as required by the general election laws and shall have resided within the area to be annexed for thirty (30) days and ~~has the qualifications of a voter in a general election in this state.~~

The secretary of the board of directors shall publish notice of the time and place of such election, ~~not less than twenty (20) days nor more than sixty (60) days after the board of directors has given its concurrence to the holding of such election in accordance with the provisions of section 34-1406, Idaho Code.~~ The notice shall particularly describe the property to be annexed, the name of the district to which the territory is proposed to be annexed, and the terms and conditions prescribed by the board under which the property may be annexed. ~~The notice shall be published weekly for at least two (2) weeks prior to the election in a weekly newspaper published in the county, and if there be no such newspaper, then in some newspaper of general circulation therein, at least once a week for two (2) successive weeks.~~ The notice shall designate the places in the territory where the election will be held, and shall require the voters to cast ballots which shall contain the words:

For annexation to District.

Against annexation to District.

The judges of the election shall make their return thereof to the board of directors of the district, which shall canvass the returns and render a statement of the results of the election on the records of the board. If the majority of the votes cast favor annexation, the board shall enter an order annexing the property described in the notice of election and upon the filing of a copy thereof with the clerk of the district court, and upon order of the court, the territory shall thereupon become annexed to the district and shall thenceforth be a part of the district.

(c) In all proceedings for inclusion or annexation hereunder, the board shall have the power to prescribe terms and conditions under which said property may be included in the district, including the condition that such property may only be annexed or included within the district if the property is also established as a water or sewer subdistrict of the district, pursuant to sections 42-3218A through 42-3218D, Idaho Code, and may be required to pay the district its pro rata share of construction costs theretofore incurred by the district pursuant to any bond issue theretofore made or otherwise; provided, however, that such terms and conditions shall be announced by the board at or before the hearing to be held pursuant to subparagraphs (a) and (b) above. Within ten (10) days of the announcement of the terms and conditions under which the property may be included the majority of the petitioners filing petitions under the provisions of

subparagraphs (a) or (b) may withdraw their petitions, and no further proceedings shall thereafter be had by the board upon such petitions.

(d) All public streets, roads, highways or alleys upon or within which is situated any part of the operative system or equipment of the district and all public streets, roads, highways and alleys which abut against or touch property annexed or to be annexed to the district, to the extent they abut against or touch such property and are not included in a different district, shall be deemed to be included in the district as a part of the annexation and shall be included in the legal description and map which the district must file in the offices of the county assessor, county recorder and the state tax commission as required by section 63-2215, Idaho Code; provided, however, that upon application by the district to the state tax commission, if the commission finds after consultation with the county assessor and the county recorder that exemption from the requirements of this subparagraph (d) will not unduly burden state and local tax administration, the commission by order may exempt the district from the requirements of this subparagraph (d), but the district shall be required to comply with section 63-2215, Idaho Code.

SECTION 68. That Section 42-3222, Idaho Code, be, and the same is hereby amended to read as follows:

42-3222. INDEBTEDNESS OF DISTRICT -- SUBMISSION OF PROPOSITION TO ELECTORATE. Whenever any board shall, by resolution, determine that the interest of said district and the public interest or necessity demand the acquisition, construction, installation or completion of any works or other improvements or facilities, or the making of any contract with the United States or other persons or corporations, public or private, municipalities, or governmental subdivisions, to carry out the objects or purposes of said district, requiring the creation of an indebtedness that will exceed the income and revenue provided for the year, said board shall order the submission of the proposition of issuing such obligations or bonds, or creating other indebtedness to the qualified electors of the district at an election held, subject to the provisions of section 34-106, Idaho Code, for that purpose. The declaration of public interest or necessity herein required and the provision for the holding of such election may be included within one and the same resolution, which resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works or improvements, as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness. Such resolution shall also fix the date upon which such election shall be held and the manner of holding the same and the method of voting for or against the incurring of the proposed indebtedness. Such resolution shall also fix the compensation to be paid the officers of the election and shall designate the polling place or places and shall appoint, for each polling place from the electors of the district, the officers of such election consisting of three (3) judges, one (1) of whom shall act as clerk.

SECTION 69. That Section 42-3223, Idaho Code, be, and the same is hereby amended to read as follows:

42-3223. NOTICE OF ELECTION. The board shall prescribe the form of the notice of election, and direct the publication of the same; ~~the first publication of said notice to be not less than twenty (20) days prior to the election~~ in accordance with the provisions of sections 34-1405 and 34-1406, Idaho Code.

SECTION 70. That Section 42-3224, Idaho Code, be, and the same is hereby amended to read as follows:

42-3224. CONDUCT OF ELECTION -- CANVASS OF RETURNS. The election board or boards shall conduct the election in the manner prescribed by law for the holding of general elections, including chapter 14, title 34, Idaho Code, and shall make their returns to the secretary of the district, provided that precincts shall be as provided in section 42-3207, Idaho Code. At any regular or special meeting of the board held within ~~five (5)~~ ten (10) days following the date of such election, the returns thereof shall be canvassed and the results thereof declared.

SECTION 71. That Section 42-3234, Idaho Code, be, and the same is hereby amended to read as follows:

42-3234. MAJORITY VOTE REQUIRED. If all boards of directors of districts proposing to merge call for the election, each district shall independently hold an election, subject to the provisions of section 34-106, Idaho Code, and if more than a majority of those voting in each election favor the merger, the merger shall occur.

SECTION 72. That Section 42-3705, Idaho Code, be, and the same is hereby amended to read as follows:

42-3705. CREATION OF WATERSHED IMPROVEMENT DISTRICTS. Any fifteen (15) owners of land lying within the limits of the territory proposed to be organized into a watershed improvement district may file a petition with the state soil conservation commission asking that a watershed improvement district be organized to function in the territory described in the petition. In the event that there are less than fifteen (15) persons owning land lying within the limits of the territory proposed to be organized into a district, then and in that case such petition will be deemed sufficient if it contains the signatures of two-thirds (2/3) of the owners of land and representing two-thirds (2/3) of the acreage of land ~~lying~~ lying within the limits of the said territory. Such petition shall set forth:

1. A description of the territory proposed to be organized as a watershed improvement district, which description shall be deemed sufficient if generally accurate.
2. That there is need, in the interest of the public health, safety, and general welfare for a watershed improvement district to function in the territory described in the petition.
3. The proposed name of said district.

4. A request that the state soil conservation commission duly define the boundaries for such district; that an election referendum be held within the territory so defined on the question of the creation of a watershed improvement district in such territory.

~~Within sixty (60) days a~~After such petition has been filed with the state soil conservation commission it shall be the duty of the commission to define by metes and bounds or by legal subdivisions the boundaries of such proposed district, and to hold an election, subject to the provisions of section 34-106, Idaho Code, referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of such referendum election to be given. The question shall be submitted by ballots upon which the words "For creation of a watershed improvement district of the lands below described and lying in the county(ies) of . . . , . . . and" and "Against creation of a watershed improvement district of the lands below described and lying in the county(ies) of . . . , . . . and" shall appear with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the state soil conservation commission.

All qualified electors who own land within the proposed district shall be eligible to vote in ~~said referendum~~ the election.

The state soil conservation commission shall pay all expenses of, and supervise the conduct of, such referendum election. ~~It~~ The commission shall issue appropriate regulations governing the conduct of such referendum and providing for the registration prior to the date of the referendum of all eligible voters, or prescribe some other appropriate procedure for the determination of those eligible as voters in such referendum the election as provided in chapter 14, title 34, Idaho Code. No informality in the conduct of such referendum election or in any matter relating thereto shall invalidate said referendum election or the result thereof if notice thereof shall have been given substantially as herein provided, and said referendum election shall have been fairly conducted.

If the referendum election shall result in a majority of votes being cast in favor of the creation of such proposed district the state soil conservation commission shall proceed with the organization of the district in the manner hereinafter provided, to wit:

1. The state soil conservation commission shall appoint one (1) director to act with the two (2) directors elected as hereinafter provided, which said directors shall be the governing body of the district.

2. The state soil conservation commission shall present to the secretary of state a certificate stating:

(a) That a petition for the creation of said district was filed with the state soil conservation commission.

(b) The name and residence of the directors appointed by said commission.

(c) The name which is proposed for said district.

(d) That an election referendum on such petition was held, and that the majority of votes cast in said referendum election favored the formation of the district.

The secretary of state shall receive, file and record said certificate of the state soil conservation commission, and when said certificate shall be filed and recorded the district shall constitute a governmental subdivision of this state and a public body corporate and politic. The secretary of state shall make and issue to the said directors a certificate of the due organization of the said district.

SECTION 73. That Section 42-3706, Idaho Code, be, and the same is hereby amended to read as follows:

42-3706. ELECTION OF DISTRICT DIRECTORS. ~~Within thirty (30) days~~ ~~After the date of issuance of the secretary of state of a certificate of organization of a watershed improvement district nominating petitions may be filed with the state soil conservation commission to nominate candidates for directors of such district. No nominating petition shall be accepted by the commission unless it shall be subscribed by ten (10) or more owners of land within the boundaries of such district, or qualified electors residing within the boundaries of such district.~~ The state soil conservation commission shall give notice of an election to be held, subject to the provisions of section 34-106, Idaho Code, for the election of two (2) directors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated in the manner provided in section 34-1404, Idaho Code, shall appear arranged in the alphabetical order of the surnames upon ballots with a square before each name, and direction to insert an X mark in the square before any two (2) names to designate the voter's preference. All qualified electors who own land or reside within the proposed district shall be eligible to vote in said referendum election. The two (2) candidates who shall receive the largest number respectively of the votes cast in such election shall be elected for such district. The state soil conservation commission shall pay all the expenses of such election, supervise the conduct thereof, ~~prescribe regulations governing the conduct of such elections, determine the eligibility of voters therein,~~ and publish the results thereof in accordance with the provisions of chapter 14, title 34, Idaho Code. All elections in existing districts following the first election shall be conducted by the district directors of the district involved who shall give due notice of such elections and who shall bear the cost thereof.

In any election for director, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that the number of qualified candidates who have been nominated for director positions is equal to the number of directors to be elected, it shall not be necessary for the candidates to stand for election, and the board of directors shall declare such candidates elected as directors, and the secretary of the district shall immediately make and deliver to such persons certificates of election.

SECTION 74. That Section 42-3708, Idaho Code, be, and the same is hereby amended to read as follows:

42-3708. POWERS OF DIRECTORS. The directors of a watershed improvement district shall have power:

1. To levy and cause to be collected assessments on real property within the district in an amount not to exceed ~~three--(3)--mills--for each--dollar--of--assessed--valuation~~ six hundredths of one per cent (.06%) of market value for assessment purposes, for the purpose of general administration and operation and maintenance of the district and in addition thereto to separately levy and cause to be collected assessments on real property within the district in an amount not to exceed ~~ten--(10)--mills--for--each--dollar--of--assessed--valuation~~ twenty hundredths of one per cent (.20%) of market value for assessment purposes for construction of structural works of improvement. Before a levy can be made for any purpose, an election, subject to the provisions of section 34-106, Idaho Code, referendum as herein provided must be held, and the provisions as outlined under sections 42-3712, 42-3713 and 42-3714, Idaho Code, must be complied with, and assessments can only be levied against lands to be directly benefited. Such tax levies shall be exempt from the limitation imposed by section 63-923(1), Idaho Code.

2. To conduct surveys, investigations and research relating to floodwater, sediment damage and the conservation, utilization, and disposal of water in the district, and the structural works of improvement needed.

3. To obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act chapter; to sell, lease, or otherwise dispose of any of its property or interest therein in furtherance of the purposes and provisions of this act chapter.

4. To develop comprehensive plans for the prevention of floodwater and sediment damage and the conservation, development, utilization, and disposal of water within the district, which plans shall specify the acts, procedures, performances and avoidances which are necessary for effectuation of such plans.

5. To construct, operate and maintain structural works of improvement for the prevention of floodwater and sediment damages, and the conservation, development, utilization, and disposal of water as provided for in the act of the congress of the United States known as the Watershed Protection and Flood Prevention Act (U.S.C., tit. 16, sections 1001-1008) and acts amendatory thereto.

6. To have the right of eminent domain with the power to cause to be condemned and appropriated for the use of the district in the construction, operation, maintenance and upkeep of its structures, waterways, dikes, dams, basins, or any other use necessary in the carrying out of the provisions of this act chapter upon the payment of just compensation therefor.

7. To borrow money and to issue negotiable coupon bonds, which bonds shall bear interest, and which bonds shall be due and payable not later than thirty (30) years from the date of issuance, or at such earlier date as may be determined by the directors. The form and terms of said bonds, including their payment and redemption prior to maturity, shall be determined by the directors. Such bonds as may be issued shall be payable solely out of and from the assessments levied upon and a lien upon the lands within the district as provided in this

act chapter. Such bonds may be issued by the directors only upon the holding of an referendum election within the district as provided by law and upon such referendum election resulting in a two-thirds (2/3) of the property owners, and representing at least fifty-one per cent (51%) of the land to be benefited, casting their ballots in favor thereof.

8. To enter into contracts or agreements with the United States or any of its officers, agents, or subdivisions, or the state of Idaho or any of its officers, agents or political subdivisions, and to cooperate with such governments, persons or agencies in effectuating, promoting and accomplishing the purposes of this act chapter.

9. To bear its allocated share of the cost of any project resulting from any contract or agreement entered into as provided in subparagraph 8. hereof of this section.

10. To take over, administer and maintain pursuant to any agreement or contract entered into in accordance with the provisions of subparagraph 8. hereof of this section any watershed improvement project within its boundaries undertaken in cooperation with the United States or any of its agencies, or with the state of Idaho or any of its agencies, or any combinations thereof.

11. To accept donations, gifts and contributions in money, services, or materials, or otherwise, from the United States or any of its agencies, or the state of Idaho or any of its agencies or any combinations thereof, and to expend such moneys, services, or materials in carrying on its operations.

12. To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and to promulgate, amend and repeal rules and regulations not consistent with the provisions of this act chapter.

13. To exercise all other powers necessary, convenient or incidental to carrying out the purposes and provisions of this act chapter.

SECTION 75. That Section 42-3717, Idaho Code, be, and the same is hereby amended to read as follows:

42-3717. DISCONTINUANCE OF DISTRICTS. At any time after three (3) years after the organization of a district under the provisions of this act chapter any twenty-five (25) qualified electors or owners of land lying within the boundaries of such district or, if less than twenty-five (25) owners of land or qualified electors reside within the boundaries of such district it would be deemed sufficient if two-thirds (2/3) of the resident group, may file a petition with the state soil conservation commission praying that the operations of the district be terminated and the existence of the district discontinued. ~~Within sixty (60) days a~~After such petition has been received by the state soil conservation commission it shall give ~~due~~ notice of the holding of an election, subject to the provisions of section 34-106, Idaho Code, referendum which the said commission shall supervise and govern the conduct of in accordance with the provisions of chapter 14, title 34, Idaho Code. The question to be submitted by ballots upon

which the words "For terminating the existence of the (name of the watershed improvement district to be here inserted)" and "Against terminating the existence of the (name of the watershed improvement district to be inserted here)" shall appear with a square before each proposition, and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All qualified electors who own land or reside within the proposed district shall be eligible to vote in said referendum election. No informality in the conduct of such referendum election or in any matters relating thereto shall invalidate said referendum election or the result thereof if due notice thereof shall have been given substantially as herein provided, and said referendum election shall have been fairly conducted.

The state soil conservation commission shall certify the result of such referendum election to the directors of the district. If the state soil conservation commission shall certify that a majority of the votes cast in said referendum election favor the discontinuance of the existence of the district, the directors of the district shall forthwith proceed to terminate the affairs of the district. Any moneys remaining in the treasury of said district following the winding up of the affairs of the district shall be paid by the directors into the state treasury. The directors shall file an application duly verified with the secretary of state for the discontinuance of such district which shall recite that the affairs of the district have been wound up, and shall set forth a full accounting of the winding up of the affairs of said district. The secretary of state shall issue to the directors a certificate of dissolution, and shall record said certificate in his office.

The state soil conservation commission shall not entertain petitions for the discontinuance of any district nor conduct referenda elections upon such petitions more often than once in three (3) years.

SECTION 76. That Section 42-4204, Idaho Code, be, and the same is hereby amended to read as follows:

42-4204. BOARD OF DIRECTORS -- COMPOSITION -- APPOINTMENT OF FIRST BOARD -- ELECTION OF SUBSEQUENT BOARDS. (1) The board of directors of the aquifer recharge district shall consist of five (5) members. Each member shall be a water user, or representative of a water user within the district. The members of the board shall be as follows:

- (a) one (1) member shall be a member of a lateral ditch water user's association, canal company, irrigation district or similar organization;
- (b) one (1) member shall be an owner or operator of a commercial fish hatchery licensed in accordance with the provisions of section 22-4602, Idaho Code;
- (c) one (1) member shall be a farmer or rancher who is an appropriator of groundwater and whose diversion thereof is accomplished primarily through the operation of a well or wells;
- (d) one (1) member shall be a member of the city council of a municipality within the district;
- (e) one (1) member shall be generally representative of the

interests of water users within the district.

(2) The first board of directors shall be appointed by the director of the department of water resources. Water users within the district, or groups thereof, may submit to the director, or the director may solicit therefrom, the names of qualified individuals to be considered for appointment to the board.

(3) The term of office of the directors shall be determined by lot so that three (3) members shall serve for a term of two (2) years and two (2) members shall serve for a term of one (1) year. Thereafter, members shall serve two (2) year terms and shall be elected as hereinafter provided.

(4) On the ~~last-Monday-in-March~~ first Tuesday in February following the expiration of the term of those members serving for one (1) year, and on the ~~last-Monday-in-March~~ first Tuesday in February of each year thereafter, an election shall be held in accordance with the provisions of chapter 14, title 34, Idaho Code, at which directors to succeed those whose terms have expired will be elected. Each director so elected shall possess the qualifications required of all members of the board and in addition shall possess the qualifications of the director whom he is to succeed in office.

In any election for director, 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 directors position, it shall not be necessary for the candidate to stand for election, and the board of trustees of the district shall declare such candidate elected as director, and the secretary of the district shall immediately make and deliver to such person a certificate of election.

SECTION 77. That Section 42-4207, Idaho Code, be, and the same is hereby amended to read as follows:

42-4207. REGISTRATION NOT REQUIRED. No Pursuant to the provisions of section 34-1402, Idaho Code, registration shall be required of qualified electors, as defined in section 42-4206, Idaho Code, in any election held in the aquifer recharge district, but in lieu thereof the judges of election shall require every such elector to subscribe to an elector's oath as prerequisite to casting his vote, which oath shall contain the following words: "I am a resident of ----- county, and In addition to the requirements for registration, the election official shall also verify that the elector is a water user, as defined in section 42-4202(1), Idaho Code, or a representative of such a water user, within the district."

SECTION 78. That Section 42-4208, Idaho Code, be, and the same is hereby amended to read as follows:

42-4208. NOTICE OF ELECTION. The secretary of the district shall give notice of all elections in the district ~~by posting the same in three (3) public places in each county in which a part of the district is situated and in the office of the board of directors at least four (4) weeks before the day of such election; or by publication of the notice once a week for four (4) successive weeks in a newspaper or newspapers published in each of said counties or in a newspaper of~~

~~general--circulation--therein~~ in accordance with the provisions of section 34-1406, Idaho Code. Notices shall state the time of said election and the location of polling places within the district and the directors to be elected or other question to be voted upon, as the case may be.

SECTION 79. That Section 42-4209, Idaho Code, be, and the same is hereby amended to read as follows:

42-4209. CONDUCT OF ELECTIONS. The election shall be conducted as ~~nearly--as--practicable~~ in accordance with the general laws of the state; ~~provided--that--no--particular--form--of--ballot--shall--be--required--and--the--provisions--of--the--election--laws--as--to--the--form--and--distribution--of--ballots--shall--not--apply~~ including the provisions of chapter 14, title 34, Idaho Code.

The board of directors shall designate polling places in such number as it may deem necessary. At least ten (10) days before the holding of any election, the board shall appoint three (3) electors to serve as judges of election at each polling place. The judges shall perform the same duties ~~as--near--as--may--be~~; as judges of election under the general laws of the state. Immediately after the election, the judges of election shall forward the official results to the secretary of the district.

SECTION 80. That Section 42-4409, Idaho Code, be, and the same is hereby amended to read as follows:

42-4409. HEARINGS ON PETITIONS -- OBJECTION TO INCLUSION. On the day fixed for such hearing or at any adjournment thereof the court shall ascertain from the tax rolls of the county or counties in which the district is located or into which it extends, the total number of taxpayers within the proposed district who pay a general tax on real property owned by them within the district.

If the court finds that no petition has been signed and presented in conformity with this chapter, or that the material facts are not as set forth in the petition filed, it shall dismiss said proceedings and adjudge the costs against the signers of the petition in such proportion as it shall deem just and equitable. No appeal or writ of error shall lie from an order dismissing said proceedings; but nothing herein shall be construed to prevent the filing of a subsequent petition or petitions for similar improvements or for a similar district, and the right so to renew such proceedings is hereby expressly granted and authorized.

Any time after the filing of the petition for the organization of a district and before the day fixed for the hearing thereon, the owner or owners of any real property within the proposed district may file an objection with the court stating reasons why said property should not be included therein, why his land or any party thereof will not be benefited by the proposed district, and praying that said property be excluded therefrom. Such objection shall be duly verified and shall describe the property sought to be excluded. The court shall, at the hearing, examine and take testimony and evidence on all objections to inclusion in the district. In case any owner of real estate included

in said proposed district shall satisfy the court that his real estate, or any part thereof, has been wrongfully included therein or will not be benefited thereby then the court shall exclude such real estate as will not be benefited.

Upon said hearing, if it shall appear that a petition for the organization of a district has been signed and presented as hereinabove provided, in conformity with this chapter, and the allegations of the petition are true, the court shall, by order duly entered of record, direct that the question of the organization of the district be submitted to the qualified electors of the district at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose, and such order shall appoint three (3) qualified electors of the district as judges of said election. The clerk of the court having jurisdiction shall publish notice of the time and place of an election to be held in the district. ~~Such election shall not be less than twenty (20) days after the first publication of said notice.~~

Such election shall be held and conducted ~~as nearly as may be~~ in the same manner as general elections in this state, except that the court shall establish as many election precincts within such proposed district as are deemed necessary, shall define the boundaries thereof, which precincts and boundaries may thereafter be changed by the board of commissioners of such district if so organized, ~~and shall determine the hours that the polls shall be open, which shall not be less than seven (7).~~ Each elector shall take an oath that he has the qualifications of an elector before casting his vote.

SECTION 81. That Section 42-4410, Idaho Code, be, and the same is hereby amended to read as follows:

42-4410. NOMINEES FOR BOARD OF COMMISSIONERS. ~~At any time after the filing of the petition herein referred to and before the day fixed for hearing, nominees for the board of commissioners of the district may be nominated by the filing of a petition designating the name or names of the nominee or nominees, signed by at least twenty (20) qualified electors of the district.~~ If upon the hearing as herein provided in section 42-4409, Idaho Code, the court shall order an election for the creation of the district, ~~the court shall also ascertain the names of persons nominated by the board of commissioners, and nominees for the board of commissioners of the district shall be nominated by the filing of petitions in accordance with the provisions of section 34-1404, Idaho Code.~~ The court shall order that the names of persons whom the court finds to have been properly nominated shall be listed upon a ballot submitted to the electors at such election.

SECTION 82. That Section 42-4416, Idaho Code, be, and the same is hereby amended to read as follows:

42-4416. COMMISSIONERS -- POWERS AND DUTIES. The board of commissioners of levee districts shall have the following powers and duties:

(1) To annually fix and determine the amount of money required to be raised by taxation to supply funds for costs of maintenance, operation, and/or construction of the levees and equipment of the district, and to levy and cause to be collected assessments on real property

within the district in an amount not to exceed eight hundredths percent (.08%) of each dollar of market value for assessment purposes; provided, however, that a higher levy may be approved and ratified by the qualified voters at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose, and said levy shall be certified by the board to the board of county commissioners of the county, or counties, in which said district is located, with directions that at the time and in the manner required by law for levying taxes for county purposes, such board, or boards, of county commissioners shall levy such tax upon the real property within the boundaries of the district. Such certification of levies shall be prepared and forwarded by the board of the levee district to the board, or boards, of county commissioners on or before September 1, of each year.

Such levies shall be levied and collected in the manner provided by law, and the moneys collected shall be turned over to the treasurer or treasurers, of the county, or counties, in which said district is located.

Said moneys shall be public funds and subject to the provisions of the public depository laws of the state.

(2) To employ such personnel as may be necessary to carry out the purposes and objects of this chapter, with the full power to bind said district for the compensation of such personnel.

(3) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments necessary or convenient to the exercise of its power and to promulgate, amend and repeal rules and regulations not consistent with the provisions of this chapter.

(4) To manage and conduct the business and affairs of the district, both within and without the district.

(5) To maintain, operate and/or construct levees for containment of irrigation water and for the prevention of floodwater whether within or without the boundaries of the district, and to enter into contract for the purposes set forth above; provided, however, that the board shall not enter into contracts that necessitate an expenditure in excess of five thousand dollars (\$5,000), without first advertising for sealed competitive bids as herein provided. However, where it is determined by order of the board that there is an existing emergency, the requirement for sealed competitive bids shall not apply.

(6) To prescribe the duties of officers, agents and employees as may be required.

(7) To establish the fiscal year of the district and to keep records of all business transactions of the district.

(8) To prepare a statement of the financial condition of the district at the end of each fiscal year according to generally accepted accounting principles, and publish in at least one (1) issue of some newspaper published, or in general circulation in, the county, or counties, in which such district is located and to file a certified copy of such financial report with the director of the department of water resources.

(9) To have an audit of the financial affairs of the district as required in section 67-450B, Idaho Code.

(10) To obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; to lease any of its property or interest therein in furtherance of the purposes and provisions of this chapter, provided that no contract or agreement for the acquisition, purchase or repair of personal property involving expenditure in excess of one thousand dollars (\$1,000), shall be entered into without first advertising for sealed competitive bids as herein provided.

(11) To have the power of eminent domain for the use of the district in the maintenance, operation, and construction of its levees or any other use necessary in the carrying out of the provisions of this chapter.

(12) To convey rights of way and easements for highways, public roads, public utilities, and for other purposes, over district property, as shall be determined by the board to be in the best interests of the district.

(13) To convey, by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district, in any real or personal property. Prior to such sale or conveyance, the board shall have the property appraised by three (3) disinterested residents of the district, which appraisal shall be entered in the minutes of the board. The property may be sold at public auction or at a private sale by sealed competitive bids, as the board shall determine, to the highest cash bidder, provided that in no case shall any property of a district be sold for less than its appraised value. All sales by sealed competitive bids shall be advertised as herein provided.

(14) To enter into contracts or agreements with the United States or any of its officers, agents or subdivisions, or with the state or any of its officers, persons or agencies in effectuating, promoting and accomplishing the purposes of this chapter, provided that the district has sufficient moneys on hand, or in their budget for the year in which said contract is entered into, to defray the expenditure of funds called for in such contract without the creation of any indebtedness.

Whenever any such contract shall, by its terms, require the expenditure of funds by the district in excess of the moneys on hand or the funds to be realized from their budget for the year in which said contract is entered into, then such contract may not be entered into by the district until ratified by two-thirds (2/3) of the qualified voters voting at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose, according to the provisions of this chapter.

(15) To bear its allocated share of the cost of any project resulting from any contract or agreement entered into as provided herein.

(16) To take over, administer and maintain pursuant to any agreement or contract entered into in accordance with the provisions of this chapter, any levee project within or without the boundaries of the district undertaken in cooperation with the United States or any of its agencies, or with the state of Idaho or any of its agencies, or any combinations thereof.

(17) To accept donations, gifts and contributions in money, services, or materials or otherwise, from the United States or any of its agencies, or the state of Idaho or any of its agencies or any combinations thereof, and to expend such moneys, services, or materials in carrying on its operations.

(18) To exercise all other powers necessary, convenient or incidental to carrying out the purposes and provisions of this chapter.

SECTION 83. That Section 42-5104, Idaho Code, be, and the same is hereby amended to read as follows:

42-5104. BOARD OF DIRECTORS -- COMPOSITION -- APPOINTMENT OF FIRST BOARD -- ELECTION OF SUBSEQUENT BOARDS. (1) The board of directors of the ground water management district shall consist of three (3) members. Each member shall be a water user, or representative of a water user within the district.

(2) The first board of directors shall be appointed by the director of the department of water resources. Water users within the district, or groups thereof, may submit to the director, or the director may solicit therefrom, the names of qualified individuals to be considered for appointment to the board.

(3) The term of office of the directors shall be determined by lot so that one (1) member shall serve for a term of three (3) years, one (1) member shall serve for a term of two (2) years, and one (1) member shall serve for a term of one (1) year. Thereafter, members shall serve a three (3) year term and shall be elected as hereinafter provided. If a vacancy occurs, the director shall appoint a successor to serve the remainder of the term.

(4) On the ~~last Monday in March~~ first Tuesday in February following the expiration of the term of the member serving for one (1) year, and on the ~~last Monday in March~~ first Tuesday in February of each year thereafter, an election shall be held at which a director to succeed the one whose term has expired will be elected. Each director so elected shall be a water user or a representative of a water user within the district.

In any election for director, 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 directors position, it shall not be necessary for the candidate to stand for election, and the board of directors of the district shall declare such candidate elected as director and the secretary of the district shall immediately make and deliver to such person a certificate of election.

SECTION 84. That Section 42-5107, Idaho Code, be, and the same is hereby amended to read as follows:

42-5107. REGISTRATION NOT REQUIRED. No Pursuant to the provisions of section 34-1402, Idaho Code, registration shall be required of qualified electors, as defined in section 42-4206, Idaho Code, in any election held in the ground water management district, but in lieu thereof the judges of election shall require every such elector to subscribe to an elector's oath as prerequisite to casting his vote, which oath shall contain the following words: "I am a resident of

~~.....county, and~~ In addition to the requirements specified in section 34-1402, Idaho Code, the election official shall also verify that the elector is a water user, as defined in subsection (1) of section 42-5102, Idaho Code, or a representative of such water user, within the district.

SECTION 85. That Section 42-5108, Idaho Code, be, and the same is hereby amended to read as follows:

42-5108. NOTICE OF ELECTION. The secretary of the district shall give notice of all elections in the district by ~~posting--the--same--in three--(3)--public--places--in--each--county--in--which--a--part--of--the--district is--situated--and--in--the--office--of--the--board--of--directors--at--least--four (4)--weeks--before--the--day--of--such--election; or by~~ publication of the notice ~~once--a--week--for--four--(4)--successive--weeks--in--a--newspaper--or newspapers--published--in--each--of--said--counties--or--in--a--newspaper--of general--circulation--therein~~ in accordance with the provisions of section 34-1406, Idaho Code. Notices shall state the time of the election and the location of polling places within the district and the directors to be elected or other question to be voted upon, as the case may be.

SECTION 86. That Section 42-5109, Idaho Code, be, and the same is hereby amended to read as follows:

42-5109. CONDUCT OF ELECTIONS. The election shall be conducted ~~as nearly--as--practicable~~ in accordance with the general laws of the state; ~~provided--that--no--particular--form--of--ballot--shall--be--required and--the--provisions--of--the--election--laws--as--to--the--form--and--distribution--of--ballots--shall--not--apply~~ including the provisions of chapter 14, title 34, Idaho Code.

The board of directors shall designate polling places in such number as it may deem necessary. At least ten (10) days before the holding of any election, the board shall appoint three (3) electors to serve as judges of election at each polling place. The judges shall perform the same duties ~~as--near--as--may--be;~~ as judges of election under the general laws of the state. Immediately after the election, the judges of election shall forward the official results to the secretary of the district.

SECTION 87. That Section 42-5115, Idaho Code, be, and the same is hereby amended to read as follows:

42-5115. ELECTION FOR INDEBTEDNESS -- REFERENDUM PETITION. Whenever the board shall by resolution adopted by a two-thirds (2/3) majority of the said board, determine that the interest of said district and the public interest or necessity demand the reconstruction, rehabilitation, replacement and improvement of any well or other related structures and works together with all necessary appurtenances related thereto, in order to preserve, restore, protect and maintain rights of storage, diversion and delivery of water necessary and appurtenant to the purposes for which such district and other like similarly situated districts were organized and shall set forth the

amount of obligation or contract indebtedness proposed to be issued by the district under the provisions of this chapter, said board shall be required to order the submission of the proposition of issuing such contract indebtedness for the purposes set forth in said resolution to the vote of the qualified electors of the district as defined in section 42-5107, Idaho Code, at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose only if within fifteen (15) days after the passage of such resolution a referendum petition signed by legal voters equal in number to not less than ten per cent (10%) of the electors of the district, based upon the aggregate vote cast at the general election of officers of the district next preceding the filing of such referendum petition, shall be filed with the secretary of the district requesting that an election upon the issuance of such contract indebtedness be held and conducted under the provisions of this section. ~~Any election required to be held pursuant to a referendum petition filed in accordance with this section for the purpose of submitting any proposition or propositions of incurring such obligation or indebtedness may be held separately, or may be consolidated or held concurrently with any other election authorized by law.~~ The resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the reconstruction, rehabilitation, replacement or improvement as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the sources of the revenues and assessments pledged to the payment of the indebtedness. The ~~separate~~ election upon the assessments, shall be held at the same time as and shall be combined with any such election required to be held upon the indebtedness question pursuant to a referendum petition.

Any such election required to be held hereunder shall be called by resolution, which resolution shall also fix the date upon which such election shall be held, subject to the provisions of section 34-106, Idaho Code, the manner of holding the same and the method of voting for or against the incurring of the indebtedness. Such resolution shall also fix the compensation to be paid the officers of the election and shall designate the precincts and polling places and shall appoint for each polling place, from each precinct from the electors thereof, the officers of such election, which officers shall consist of three (3) judges, one (1) of whom shall act as clerk, who shall constitute a board of election for each polling place. The description of precincts may be made by reference to any order or orders of the board of county commissioners of the county or counties in which the district or any part thereof is situated, or by reference to any previous order, or resolution of the board or by detailed description of such precincts. Precincts established by the boards of the various counties may be consolidated for special elections held hereunder. ~~In the event any such election shall be called to be held concurrently with any other election or shall be consolidated therewith, the resolution calling the election hereunder need not designate precincts or polling places or the names of officers of election, but shall contain reference to the act or order calling such other election and fixing the precincts and polling places and appointing election officers therefrom.~~ The resolution calling the election shall prescribe an

~~official notice of election, which notice shall be published once a week for two (2) consecutive weeks, the last publication of which shall be at least ten (10) days prior to the date set for said election, in a newspaper of general circulation printed and published within the district, and no other or further notice of such election or publication of the names of election officers or of the precincts or polling places need be given or made in accordance with the provisions of section 34-1406, Idaho Code.~~

The respective election boards shall conduct the election in their respective precincts in the manner prescribed by law for the holding of district elections to the extent the same shall apply and shall make their returns to the secretary of the district. At any regular or special meeting of the board held ~~not earlier than five (5)~~ within ten (10) days following the date of such election, the returns thereof shall be canvassed and the results thereof declared.

In the event that no referendum petition is filed, or if so filed, if it shall appear from said returns that a two-thirds (2/3) majority of the qualified electors of the district who shall have voted on any proposition submitted hereunder at such election voted in favor of such proposition, the district shall thereupon be authorized to incur such indebtedness or obligations, or enter into such contracts, all for the purpose or purposes and object or objects provided for in the proposition submitted hereunder or in the resolution therefor, and in the amount so provided. Submission of the proposition of incurring such obligation or other indebtedness at such an election shall not prevent or prohibit submission of the same or other propositions at subsequent election or elections called for such purpose.

SECTION 88. That Section 59-911, Idaho Code, be, and the same is hereby amended to read as follows:

59-911. REPRESENTATIVE IN CONGRESS -- VACANCIES, HOW FILLED. Whenever any vacancy shall occur in the office of representative in congress from the state, it shall be the duty of the governor to appoint a day to hold an special election, subject to the provisions of section 34-106, Idaho Code, to fill such vacancy, and cause notice of such election to be given as required in ~~sections 34-302 and 34-303~~ 34-1406, Idaho Code.

SECTION 89. That Section 63-4103, Idaho Code, be, and the same is hereby amended to read as follows:

63-4103. PETITIONS FOR DISSOLUTION OF SPECIAL DISTRICTS. Proceedings for the dissolution of a special district may be initiated by a petition containing the signatures of qualified electors of the district or owners of property within the district equal in number to twenty-five percent (25%) of the largest number of persons who voted for any director in the last election of directors or if no election has been held within two (2) years then a petition may be initiated by twenty-five (25) or more qualified electors or property owners of the district.

The petition, when completed and verified, shall be filed with the clerk of the court of the county or counties if more than one (1)

county is involved. The county commissioners shall publish notice and hold a hearing on the matter. If necessary, they shall hold an election, subject to the provisions of section 34-106, Idaho Code, on the matter. The hearing and election shall be held in accordance with the terms and provisions of sections 40-1801 through 40-1809, and chapter 14, title 34, Idaho Code.

SECTION 90. That Section 67-4902, Idaho Code, be, and the same is hereby amended to read as follows:

67-4902. DEFINITIONS. An auditorium or community center district is one to build, operate, maintain and manage for public, commercial and/or industrial purposes by any available means public auditoriums, exhibition halls, convention centers, sports arenas and facilities of a similar nature, and for that purpose any such district shall have the power to construct, maintain, manage and operate such facilities.

A district may be entirely within or entirely without, or partly within and partly without one or more municipalities or counties, and the district may consist of noncontiguous tracts or parcels of property.

The word "board" as used in this act chapter shall mean the board of directors of a district.

A "qualified elector" of a district, within the meaning of and entitled to vote under this act chapter, unless otherwise specifically provided herein, is a person who resides in the district and is otherwise qualified under section ~~34-401~~ 34-104, Idaho Code; ~~except no registration shall be required at any election held pursuant to this act; but each voter shall be required to execute an oath of election attesting his qualifications.~~

Wherever the term "publication" is used in this act ~~and no manner specified therefor,~~ chapter it shall be taken to mean once a week for three (3) consecutive weeks in at least one (1) newspaper of general circulation in the district. It shall not be necessary that publication be made on the same day of the week in each of the three (3) weeks, but not less than fourteen (14) days (excluding the day of first publication), shall intervene between the first publication and the last publication, and publication shall be complete on the date of the last publication twice, the first time not less than twelve (12) days prior to an election, and the second time not less than five (5) days prior to an election, as provided in section 34-1406, Idaho Code.

SECTION 91. That Section 67-4907, Idaho Code, be, and the same is hereby amended to read as follows:

67-4907. HEARINGS ON PETITIONS -- ELECTION FOR ORGANIZATION AND OFFICERS. On the day fixed for such hearing or at an adjournment thereof the court shall ascertain from the tax rolls of the county or counties in which the district is located or into which it extends, the total number of taxpayers within the proposed district, who pay a general tax on real property owned by him or her within the district.

If the court finds that no petition has been signed and presented in conformity with this act chapter, or that the material facts are not as set forth in the petition filed, it shall dismiss said proceed-

ings and adjudge the costs against the signers of the petition in such proportion as it shall deem just and equitable. No appeal or writ of error shall lie from an order dismissing said proceedings; but nothing herein shall be construed to prevent the filing of a subsequent petition or petitions for similar improvements or for a similar district, and the right so to renew such proceedings is hereby expressly granted and authorized.

Any time after the filing of the petition for the organization of a district and before the day fixed for the hearing thereon, the owner or owners of any real property within the proposed district may file a petition with the court stating reasons why said property should not be included therein, why his land or any part thereof will not be benefited directly or indirectly by the proposed district, or should not be embraced in said district and made liable to taxation therefor, and praying that said property be excluded therefrom. Such petition shall be duly verified and shall describe the property sought to be excluded. The court shall conduct a hearing on said petition and shall hear all objections to the inclusion in the district of any lands described in said petition. In case any owner of real estate included in said proposed district shall satisfy the court that his real estate, or any part thereof, has been wrongfully included therein or will not be benefited thereby then the court shall exclude such real estate as will not be benefited.

Upon said hearing, if it shall appear that a petition for the organization of a district has been signed and presented as hereinabove provided, in conformity with this act chapter, and that the allegations of the petition are true, the court shall, by order duly entered of record, direct that the question of the organization of the district shall be submitted to the qualified electors of the district at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose, and such order shall appoint three (3) qualified electors of the district as judges of said election. The clerk of the court having jurisdiction shall give published notice of the time and place of an election to be held in the district; ~~not less than twenty (20) days after the first publication of said notice.~~

Such election shall be held and conducted ~~as nearly as may be~~ in the same manner as general elections in this state. ~~Each elector shall take an oath that he has the qualifications of an elector before casting his vote.~~

At any time after the filing of the petition herein referred to and before the day fixed for hearing, nominees for the board of directors of the district may be nominated by the filing of a petition designating the name or names of the nominee or nominees, signed by at least ~~twenty (20)~~ five (5) qualified electors of the district. If upon the hearing as herein provided the court shall order an election for the creation of the district, the court shall also ascertain the names of persons nominated by the board of directors, and shall order that the names of persons whom the court finds to have been properly nominated shall be listed upon a ballot submitted to the electors at such election. In the event the court makes its order providing for such election, it shall prescribe the form of the question and ballot relating to the election of the directors, provided that all matters

may be contained upon one (1) ballot to be submitted to the voters.

At such election the voters shall vote for or against the organization of the district, and for five (5) qualified electors, who shall constitute the board of directors of the district, if organized, one (1) director to act until the first biennial election, two (2) until the second, and two (2) until the third biennial election.

The judges of election shall certify the returns of the election to the district court having jurisdiction. If a majority of the votes cast at said election are in favor of the organization, the district court shall declare the district organized and give it a corporate name by which, in all proceedings, it shall thereafter be known, and designated the first board of directors elected, and thereupon the district shall be a governmental subdivision of the state of Idaho and a body corporate with all the powers of a public or quasi-municipal corporation except that districts formed prior to January 1, 1987, or districts with one hundred thousand (100,000) or more population shall have no power to levy and collect ad valorem taxes.

If an order be entered establishing the district, such order shall be deemed final and no appeal or writ of error shall lie therefrom, and the entry of such order shall finally and conclusively establish the regular organization of the said district against all persons except the state of Idaho, in an action in the nature of a writ of quo warranto, commenced by the attorney general within thirty (30) days after said decree declaring such district organized as herein provided, and not otherwise. The organization of said district shall not be directly or collaterally questioned in any suit, action or proceeding except as herein expressly authorized.

SECTION 92. That Section 67-4911, Idaho Code, be, and the same is hereby amended to read as follows:

67-4911. ELECTIONS -- TERMS OF OFFICE. On the second first Tuesday of January February, in the second calendar year after the organization of any district, and on the second first Tuesday of January February every second year thereafter an election shall be held, which shall be known as the biennial election of the district.

At the first biennial election in any district hereafter organized, and each sixth year thereafter, there shall be elected by the qualified electors of the district, one (1) member of the board to serve for a term of six (6) years; at the second biennial election and each sixth year thereafter, there shall be elected two (2) members of the board to serve for terms of six (6) years, and at the third biennial election, and each sixth year thereafter, there shall be elected two (2) members of the board to serve for terms of six (6) years. Provided, a member of the board once in office shall serve until his successor is elected, qualified and takes office.

Not later than ~~thirty--(30)--days~~ 5:00 p.m. on the sixth Friday before any such election, nominations may be filed with the secretary of the board and if a nominee does not withdraw his name before the first publication of the notice of election, his name shall be placed on the ballot. The board shall provide for holding such election and shall appoint judges to conduct it. The secretary of the district shall give notice of election by publication, and shall arrange such

other details in connection therewith as the board may direct. The returns of the election shall be certified to and shall be canvassed and declared by the board. The candidate or candidates, according to the number of directors to be elected, receiving the most votes, shall be elected. Any new member of the board shall qualify in the same manner as members of the first board qualify.

In any election for director, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that the number of qualified candidates who have been nominated is equal to the number of directors to be elected, it shall not be necessary for the candidates to stand for election, and the board shall declare such candidates elected as directors, and the secretary of the board shall immediately make and deliver to such persons certificates of election signed by him and bearing the seal of the district.

SECTION 93. That Section 67-4922, Idaho Code, be, and the same is hereby amended to read as follows:

67-4922. SUBMISSION OF PROPOSITION TO ELECTORATE. Whenever any board authorized to levy and collect ad valorem taxes shall, by resolution, determine that the interest of said district and the public interest or necessity demand the acquisition, construction, installation or completion of any works or other improvements or facilities, or the making of any contract with the United States or other persons or corporations, public or private, municipalities, or governmental subdivisions, to carry out the objects or purposes of said district, requiring the creation of an indebtedness of seventy-five thousand dollars (\$75,000) or more, and in any event when the indebtedness will exceed the income and revenue provided for the year, said board shall order the submission of the proposition of issuing such obligations or bonds, or creating other indebtedness to the qualified electors of the district at an election held for that purpose. The declaration of public interest or necessity herein required and the provision for the holding of such election may be included within one and the same resolution, which resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works or improvements, as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness. Such resolution shall also fix the date upon which such election shall be held, subject to the provisions of section 34-106, Idaho Code, and the manner of holding the same and the method of voting for or against the incurring of the proposed indebtedness. Such resolution shall also fix the compensation to be paid the officers of the election and shall designate the polling place or places, and shall appoint, for each polling place from the electors of the district, the officers of such election, consisting of three (3) judges, one (1) of whom shall act as clerk.

SECTION 94. That Section 67-4923, Idaho Code, be, and the same is hereby amended to read as follows:

67-4923. NOTICE OF ELECTION. The board of a district authorized

to levy and collect ad valorem taxes shall prescribe the form of the notice of election, and direct the publication of the same, the first publication of said notice to be not less than ~~twenty-(20)~~ twelve (12) days prior to the election and the second notice shall be not less than five (5) days prior to the election.

SECTION 95. That Section 67-4924, Idaho Code, be, and the same is hereby amended to read as follows:

67-4924. CONDUCT OF ELECTION -- CANVASS OF RETURNS. The election board or boards of a district authorized to levy and collect ad valorem taxes shall conduct the election in the manner prescribed by law for the holding of general elections, including the provisions of chapter 14, title 34, Idaho Code, and shall make their returns to the secretary of the district. At any regular or special meeting of the board held within ~~five-(5)~~ ten (10) days following the date of such election, the returns thereof shall be canvassed and the results thereof declared.

SECTION 96. That Section 67-4928, Idaho Code, be, and the same is hereby amended to read as follows:

67-4928. SPECIAL ELECTIONS -- VALIDATION OF ACTS. Whenever any auditorium district organized under the provisions of chapter 49, title 67, Idaho Code, shall have failed to hold any election provided for in section 67-4911, Idaho Code, for the election of a member or members of the board of directors, the board of directors of said district may order an special election to be held, subject to the provisions of section 34-106, Idaho Code, in said district for such purpose at such time as may be fixed by resolution of the board. ~~If such special election shall not have been called to be held prior to the first regular election for county offices held subsequent to the effective date of this act, then an election shall be called and held for such purpose on the second Tuesday of January, 1975.~~

Whenever any auditorium district has been heretofore created pursuant to the provisions of chapter 49, title 67, Idaho Code, all proceedings had in connection with the creation of such district and the organization of the governing body and all acts and proceedings heretofore taken by such district or its governing body are hereby validated, ratified and declared to be binding and effective in accordance with their terms, notwithstanding any failure to have held and conducted any election of members of the board of directors of said district.

SECTION 97. That Section 67-6526, Idaho Code, be, and the same is hereby amended to read as follows:

67-6526. AREAS OF CITY IMPACT -- NEGOTIATION PROCEDURE. (a) The governing board of each county and each city therein shall, prior to October 1, 1994, adopt by ordinance following the notice and hearing procedures provided in section 67-6509, Idaho Code, a map identifying an area of city impact within the unincorporated area of the county. By mutual agreement, this date may be extended to November 1, 1994. A

separate ordinance providing for application of plans and ordinances for the area of city impact shall be adopted no later than January 1, 1995. This separate ordinance shall provide for one of the following:

- (1) Application of the city plan and ordinances adopted under this chapter to the area of city impact; or
- (2) Application of the county plan and ordinances adopted under this chapter to the area of city impact; or
- (3) Application of any mutually agreed upon plan and ordinances adopted under this chapter to the area of city impact.

Areas of city impact, together with plan and ordinance requirements, may cross county boundaries by agreement of the city and county concerned if the city is within three (3) miles of the adjoining county.

(b) If the requirements of section 67-6526(a), Idaho Code, are not met, the county commissioners for the county concerned, together with three (3) elected city officials designated by the mayor of the city and confirmed by the council, shall, within thirty (30) days, select three (3) city or county residents. These nine (9) persons shall, by majority vote, recommend to the city and county governing boards an area of city impact together with plan and ordinance requirements. The recommendations shall be acted upon by the governing boards within sixty (60) days of receipt. If the city or county fails to enact ordinances providing for an area of city impact, plan, and ordinance requirements, the city or county may seek a declaratory judgment from the district court identifying the area of city impact, and plan and ordinance requirements. In defining an area of city impact, the following factors shall be considered: (1) trade area; (2) geographic factors; and (3) areas that can reasonably be expected to be annexed to the city in the future.

(c) If areas of city impact overlap, the cities involved shall negotiate boundary adjustments to be recommended to the respective city councils. If the cities cannot reach agreement, the board of county commissioners shall, upon a request from either city, within thirty (30) days, recommend adjustments to the areas of city impact which shall be adopted by ordinance by the cities following the notice and hearing procedures provided in section 67-6509, Idaho Code. If any city objects to the recommendation of the board of county commissioners, the county shall ~~within sixty (60) days from the date of the recommendation~~ conduct an special election, subject to the provisions of section 34-106, Idaho Code, and establish polling places for the purpose of submitting to the qualified electors residing in the overlapping impact area, the question of which area of city impact the electors wish to reside. The results of the election shall be conclusive and binding, and no further proceedings shall be entertained by the board of county commissioners, and the decision shall not be appealable by either city involved. The clerk of the board of county commissioners shall by abstract of the results of the election, certify that fact, record the same and transmit copies of the original abstract of the result of the ~~special~~ election to the clerk of the involved cities.

(d) Areas of city impact, plan, and ordinance requirements shall remain fixed until both governing boards agree to renegotiate. In the event the city and county cannot agree, the judicial review process of

subsection (b) shall apply. Renegotiations shall begin within thirty (30) days after written request by the city or county and shall follow the procedures for original negotiation provided in this section.

(e) Prior to negotiation or renegotiation of areas of city impact, plan, and ordinance requirements, the governing boards shall submit the questions to the planning, zoning, or planning and zoning commission for recommendation. Each commission shall have a reasonable time fixed by the governing board to make its recommendations to the governing board.

(f) This section shall not preclude growth and development in areas of any county within the state of Idaho which are not within the areas of city impact provided for herein.

(g) If the area of impact has been delimited pursuant to the provisions of subsection (a) (1) of this section, persons living within the delimited area of impact shall be entitled to representation on the planning, zoning, or the planning and zoning commission of the city of impact. Such representation shall as nearly as possible reflect the proportion of population living within the city as opposed to the population living within the areas of impact for that city. To achieve such proportional representation, membership of the planning, zoning or planning and zoning commission, may exceed twelve (12) persons, notwithstanding the provisions of subsection (a) of section 67-6504, Idaho Code. In instances where a city has combined either or both of its planning and zoning functions with the county, representation on the resulting joint planning, zoning or planning and the zoning commission shall as nearly as possible reflect the proportion of population living within the impacted city, the area of city impact outside the city, and the remaining unincorporated area of the county. Membership on such a joint planning, zoning or planning and zoning commission may exceed twelve (12) persons, notwithstanding the provisions of subsection (a) of section 67-6504, Idaho Code.

SECTION 98. That Section 70-1102, Idaho Code, be, and the same is hereby amended to read as follows:

70-1102. FORMATION OF DISTRICT -- GENERAL. At any ~~general--elec-
tion--or-at-any-special~~ election which may be called for that purpose, subject to the provisions of section 34-106, Idaho Code, the board of county commissioners of any county in this state which qualified under section 70-1101, Idaho Code, may, or in petition of ten per cent (10%) of the qualified electors of such county, based on the total vote cast in the county in the last general election, shall by resolution, submit to the voters of such county the proposition of creating a port district with boundaries co-extensive with the boundaries of such county. Such county commissioners may also submit to such vote the proposition of creating a port district with boundaries less than county-wide upon their own resolution, or shall submit the same upon petition as provided in section 70-1103, Idaho Code. No port district shall, at the time of its formation, include lands in more than one (1) county.

SECTION 99. That Section 70-1105, Idaho Code, be, and the same is hereby amended to read as follows:

70-1105. PETITION -- TRANSMISSION TO COUNTY COMMISSIONERS. Whenever such petition shall be certified to as sufficient, the county clerk shall forthwith transmit the same, together with his certificate of sufficiency attached thereto, to the board of county commissioners, who shall submit such proposition at the next general election; or, if such petition so specifies, the board of county commissioners shall, by resolution, call a special election to be held not less than thirty (30) days nor more than sixty (60) days from pursuant to the provisions of section 34-106, Idaho Code, following the date of such certificate.

SECTION 100. That Section 70-1106, Idaho Code, be, and the same is hereby amended to read as follows:

70-1106. ELECTION -- NOTICE. The board of county commissioners shall direct its clerk to give notice of such election by publishing notice thereof in at least three (3) issues in some weekly newspaper published in the county, twice, the first of which shall be not less than twelve (12) days prior to the election and the last of which publication shall be not less than ten (10) five (5) days preceding such election; and if no weekly newspaper be published in such county, then such notice may be published in some daily newspaper of general circulation therein and such notice shall be published in at least ten (10) consecutive issues thereof, the last publication thereof to be not less than ten (10) days preceding the day of the election as provided in section 34-1406, Idaho Code. The notice of election shall state the boundaries of the proposed port district and the object of such election.

SECTION 101. That Section 70-1111, Idaho Code, be, and the same is hereby amended to read as follows:

70-1111. ANNEXATION -- ELECTION. The commissioners of all counties involved, including the existing port district and the area to be annexed, shall submit the proposition to the voters of such area within their respective counties, at the next general election or at a special election if so specified in such petition held pursuant to section 34-106, Idaho Code. Except as in this section otherwise provided, the procedure for submitting the proposition shall be the same as herein provided for the original formation of a port district. In submitting the question to the voters for their approval or rejection, the proposition shall be expressed on the ballots substantially in the following terms:

"Enlargement of Port of, Yes." (Giving the name of the port district);

"Enlargement of Port of, No." (Giving the name of said port district).

The said elections in the counties involved shall be held simultaneously.

SECTION 102. That Section 70-1204, Idaho Code, be, and the same is hereby amended to read as follows:

70-1204. COMMISSIONERS -- COMMENCEMENT OF TERM. The terms of all commissioners elected under any section of this act chapter shall date from the ~~second--Monday~~ first day in January following the general election at which they were elected, if elected at a general election, ~~or following the next subsequent general election;~~ if elected at other than a general election, ~~but also to include the period intervening between any formation and/or annexation election and the second Monday in January following the next subsequent general election~~ on the date specified in the certificate of election.

SECTION 103. That Section 70-1208, Idaho Code, be, and the same is hereby amended to read as follows:

70-1208. COMMISSIONERS -- ELECTIONS AFTER FORMATION. A general election for election of a port commissioner or commissioners and for the submission to vote of any propositions or proposals shall be held biennially in conjunction with the general county elections in the county of original formation, and at the appropriate times subject to the provisions of section 34-106, Idaho Code, in all annexed counties, ~~and special elections may be held as in this act provided.~~

SECTION 104. That Section 70-1209, Idaho Code, be, and the same is hereby amended to read as follows:

70-1209. FORMATION OR ANNEXATION BETWEEN GENERAL ELECTIONS -- ELECTION OF SUBSEQUENT COMMISSIONERS. If any formation or annexation election be held, subject to the provisions of section 34-106, Idaho Code, at any time other than at the time of a general election, then there shall be no election held on the next subsequent general election following the creation of, or annexation to, such port district, as to the commissioners elected at such formation and/or annexation election.

SECTION 105. That Section 70-1210, Idaho Code, be, and the same is hereby amended to read as follows:

70-1210. ELECTION PROCEDURE -- SUPPLIES. Such general election shall ~~as nearly as may be,~~ be conducted in the same manner as, and under the laws relating to, the conduct of general county elections, ~~except as in this act otherwise provided, and such special elections shall be conducted in the manner provided in this act~~ including the provisions of chapter 14, title 34, Idaho Code. The port commission may, with the consent of the county commissioners, elect to use, with the county, joint election supplies such as tally books, joint ballots, election stamps and the like or so much thereof as the commission may determine.

SECTION 106. That Section 70-1212, Idaho Code, be, and the same is hereby amended to read as follows:

70-1212. ELECTIONS -- NOMINATING PETITIONS. Nominations for port commissioners at the formation election, at any annexation elections, and for all general elections shall be by petition of not less than

~~twenty-five (25) nor more than fifty (50) qualified electors of the commissioner district of which the candidate is a resident, and shall be filed in the office of the county clerk of the county in which such commissioner district is situate, at least twenty (20) days prior to a formation or annexation election, and at least forty-five (45) days and not more than seventy-five (75) days prior to all subsequent county nominating elections in accordance with the provisions of section 34-1404, Idaho Code.~~

In any election for 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 commissioner position, it shall not be necessary for the candidate to stand for election, and the port commission shall declare such candidate elected as a commissioner, and the secretary of the commission shall immediately make and deliver to such person a certificate of election.

SECTION 107. That Section 70-1215, Idaho Code, be, and the same is hereby amended to read as follows:

70-1215. SPECIAL ADDITIONAL ELECTIONS. Special Additional elections within any port district may be held at such times and for the submission of such propositions or proposals as the port commission may by resolution prescribe, subject to the limitations ~~and pursuant to the requirements of this act~~ provided in section 34-106, Idaho Code. Such elections shall be conducted in accordance with the general election laws of the state, including chapter 14, title 34, Idaho Code.

SECTION 108. That Section 70-1217, Idaho Code, be, and the same is hereby amended to read as follows:

70-1217. SPECIAL ADDITIONAL ELECTIONS -- POLLING PLACES. For such ~~special~~ additional elections, there shall be not less than one (1) polling place within each port commissioner district. It shall be the duty of the port commissioners at least twenty (20) days before all special elections, to designate by resolution the polling places for such special election, and to appoint three (3) election officials for each polling place. ~~The polls for such special election shall be open between such hours of the election day as the commissioners shall designate, but in every case the polls shall be open between 1:00 P.M. and 8:00 P.M.~~

SECTION 109. That Section 70-1218, Idaho Code, be, and the same is hereby amended to read as follows:

70-1218. SPECIAL ADDITIONAL ELECTIONS -- REGISTRATION BOOKS. ~~Officials of any county having charge of the registration books of any precinct in a port district shall deliver the same for use of the election officials in all special port elections. In the event of such registration books being required by law to be used by any school district or other public or municipal corporation at the same time the use thereof will be necessary by the port district, such books shall be delivered to the port commissioners and school district or other~~

~~public or municipal corporation jointly in such cases~~ As provided in section 34-1402, Idaho Code, the county clerk of any county in which a port district is located shall maintain the register of electors and make such register available to the election officials of the port district.

SECTION 110. That Section 70-1706, Idaho Code, be, and the same is hereby amended to read as follows:

70-1706. HEARING -- PETITION -- ~~SPECIAL~~ ADDITIONAL ELECTION. A quorum of the port commission shall attend such hearing and shall explain the port budget and hear any objections thereto.

In the event the port district levy, excluding any sums levied in connection with any bonded indebtedness of the district, is in excess of three (3) mills, or six hundredths of one per cent (.06%) of market value for assessment purposes, for such fiscal year, and in the further event at such hearing that ten per cent (10%) of the number of electors voting in the area embraced by the port district in the most recent general election shall sign a petition calling for an election on the question of the tax levy which the port commission shall be authorized to make, then, in those events, the commission shall call and hold an special election, subject to the provisions of section 34-106, Idaho Code, upon the question of the making of such levy, ~~as in this act provided for the holding of special elections;~~ provided that, in no case shall the authority of the port commission to determine and certify such general levy be limited below three (3) mills, or six hundredths of one per cent (.06%) of market value for assessment purposes, in any fiscal year, and such ~~special~~ election shall be solely upon the question of any such levy in excess of three (3) mills, or six hundredths of one per cent (.06%) of market value for assessment purposes. At ~~said special~~ the election the majority of qualified electors voting in the whole port district shall determine whether or not the levy of the port commission in excess of said three (3) mills, or six hundredths of one per cent (.06%) of market value for assessment purposes, shall be certified to said county commissioners. Such levy shall in no event exceed the maximum levy provided in this act chapter.

SECTION 111. That Section 70-1716, Idaho Code, be, and the same is hereby amended to read as follows:

70-1716. GENERAL OBLIGATION BONDS -- ELECTIONS. Each port district may, with the assent of two-thirds (2/3) of the qualified voters of the district voting thereon at a ~~general or special~~ port election called for that purpose, and held subject to the provisions of section 34-106, Idaho Code, contract indebtedness or borrow money for district purposes and may issue general obligation bonds therefor, provided that total indebtedness of the district at any such time, excluding that indebtedness evidenced by revenue bonds, shall not exceed one percent (1%) of the market value for assessment purposes of the taxable property in the district to be ascertained by the last assessment for state and county purposes previous to incurring the indebtedness.

The district may issue general district bonds evidencing any such

indebtedness, payable at any time not exceeding thirty (30) years from the date of the bonds.

SECTION 112. That Sections 31-1410A, 39-1330A, 39-1330B, 42-3211b and 70-1216, Idaho Code, be, and the same are hereby repealed.

Approved March 14, 1995.

CHAPTER 119
(S.B. No. 1103)

AN ACT

RELATING TO LIBRARY DISTRICTS; AMENDING SECTION 33-2701, IDAHO CODE, TO DESCRIBE LIBRARIES AS PUBLIC NOT FREE LIBRARIES; AMENDING SECTION 33-2703, IDAHO CODE, TO EXCLUDE MUNICIPALITIES AND EXISTING LIBRARY DISTRICTS CURRENTLY PROVIDING LIBRARY SERVICES FROM REQUIREMENTS IMPOSED ON PROPOSED LIBRARY DISTRICTS; AMENDING SECTION 33-2704, IDAHO CODE, TO CHANGE THE WORD "FREE" TO THE WORD "PUBLIC" AND TO MAKE GRAMMATICAL CHANGES; AMENDING SECTION 33-2705, IDAHO CODE, TO DELETE THE WORD "FREE" AND TO STATE A TIME REQUIREMENT FOR ORDERS DECLARING THE ESTABLISHMENT OF LIBRARY DISTRICTS; AMENDING SECTION 33-2707, IDAHO CODE, TO PROVIDE FOR THE INCLUSION BY ELECTION OF CONTIGUOUS AREAS INTO EXISTING LIBRARY DISTRICTS; AMENDING SECTION 33-2710, IDAHO CODE, TO DELETE REFERENCES TO A REPEALED CODE SECTION; AMENDING SECTION 33-2711, IDAHO CODE, TO INSERT A REFERENCE TO THE HOME COUNTY OF A CONSOLIDATED LIBRARY DISTRICT; REPEALING SECTION 33-2712, IDAHO CODE; AMENDING SECTION 33-2716, IDAHO CODE, TO CORRECT A REFERENCE TO THE IDAHO CODE; AMENDING SECTION 33-2717, IDAHO CODE, TO REVISE ELECTION REQUIREMENTS FOR THE BOARD OF TRUSTEES OF LIBRARY DISTRICTS; AND AMENDING SECTION 33-2724, IDAHO CODE, TO DELETE A REFERENCE TO THE CLERK OF THE BOARD OF TRUSTEES AND TO MAKE GRAMMATICAL CHANGES.

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

SECTION 1. That Section 33-2701, Idaho Code, be, and the same is hereby amended to read as follows:

33-2701. PURPOSE AND POLICY. It is hereby declared to be the policy of the state of Idaho, as a part of the provisions for public education, to promote the establishment and development of free public library service for all the people of Idaho. It is the purpose of this act to make more adequate provision for an informed electorate by integrating, extending, and adding to existing library services and resources in such manner that ~~free-local~~ public library service may be available to children in their formative years and to adults for their continuing education.

SECTION 2. That Section 33-2703, Idaho Code, be, and the same is hereby amended to read as follows:

33-2703. LIBRARY DISTRICTS -- TERRITORY -- LIMITATIONS. A library district may be organized by vote of the qualified electors of the proposed district in an election called and held as provided by this chapter, with the following limitations:

(1) The district may include incorporated or unincorporated territory or both in one (1) or more counties and may include any of the area thereof except as may be excluded by this section, and as finally fixed and determined by the board of county commissioners.

(2) The territory of the district shall be continuous, and no territory of an incorporated municipality shall be divided.

(3) In the initial organization of the a library district, ~~any governmental unit maintaining a tax-supported public library~~ the following may be excluded:

(a) A municipality which is already providing library service as established according to section 33-2603, Idaho Code; or

(b) A library district which is already providing library service as established in accordance with the provisions of this chapter.

(4) If, subsequent to the organization of a library district, any area thereof is annexed to a municipality which maintains a tax-supported library, such area shall cease to be a part of the library district and the board of trustees of said municipality shall so notify the board of county commissioners.

(5) Any proposed library district shall have a population of more than one thousand five hundred (1,500) and an annual budget of not less than twenty-five thousand dollars (\$25,000) from ad valorem revenues. Any proposed library district not meeting the above criteria may apply to the state library board for an exemption.

SECTION 3. That Section 33-2704, Idaho Code, be, and the same is hereby amended to read as follows:

33-2704. PETITION -- VERIFICATION -- NOTICE AND HEARING. (1) A petition or petitions, signed by fifty (50) or more qualified electors residing in the proposed library district, giving the name of the proposed district, ~~which shall include the words "free library,"~~ and describing the boundaries thereof and praying for the organization of the territory therein described as a free public library, shall be filed with the clerk or clerks of the boards of county commissioners of the county counties in which the proposed district is situated.

The petition or petitions shall be verified by at least one (1) qualified elector, which verification shall state that the affiant knows that all of the parties whose names are signed to the petition are qualified electors of the proposed district, and that their signatures to the petition were made in his presence. The verification may be made before any notary public.

(2) When such petition or petitions are presented to the board of county commissioners and filed in the office of the clerk of such board, the board shall set the time for a hearing, which time shall be not less than three (3) nor more than six (6) weeks from the date of the presentation and filing of the petition. Notice of the time of hearing shall be published by said board at least once a week for two (2) weeks prior to the time set for the hearing, in a newspaper of general circulation within the county in which the proposed district

is situated.

(3) The notice shall state that a library district is proposed to be organized, giving the proposed boundaries and name thereof, and that any resident elector within the proposed boundaries of the proposed district may appear and be heard in regard to:

- (a) The form of the petition;
- (b) The genuineness of the signatures;
- (c) The legality of the proceedings; and
- (d) Any other matters in regard to the creation of the library district.

(4) Concurrently with the notice of hearing, the board of county commissioners shall notify, in writing, the governing body of any tax supported library within the boundaries of the proposed library district. If any such governing body decides that it is not in the best interest of library services to be included within the proposed library district, they shall present a resolution stating such to the county commissioners, not less than one (1) week prior to the date of hearing.

(5) No later than five (5) days after the hearing, the board of county commissioners shall make an order thereon with or without modification, based upon the public hearing and their determination of whether such proposed library district would be in keeping with the declared public policy of the state of Idaho in regard to library districts as more particularly set forth in section 33-2701, Idaho Code, and, shall accordingly fix the boundaries and certify the name of such proposed district in the order granting such petition. The boundaries so fixed shall be the boundaries of said district after its organization is completed as provided in this chapter.

SECTION 4. That Section 33-2705, Idaho Code, be, and the same is hereby amended to read as follows:

33-2705. CONDUCT OF ELECTION. Upon the county commissioners having made the order referred to in subsection (5) of section 33-2704, Idaho Code, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held for the purpose of determining whether or not the proposed library district shall be organized under the provisions of this chapter. The date of this election shall be the next uniform election date as provided for in section 34-106, Idaho Code. Whenever more than one (1) petition is presented to the county commissioners calling for an election to create library districts, the first presented shall take precedence. Notice of the election shall be given, the election shall be conducted, and the returns thereof canvassed as provided for in chapter 14, title 34, Idaho Code, and under the general election laws of the state of Idaho. The ballot shall contain the word "(Name) Free Library District--Yes" and "(Name) Free Library District--No," each followed by a box wherein the voter may express his choice by marking a cross "X." The board or boards of election shall make returns and certify the results to the boards of county commissioners within three (3) days after the election, and said board shall, within seven (7) days after the election, canvass the returns. If a majority of all votes cast be in the affirmative, the board shall, within seven (7) days after the returns have

been canvassed, enter an order declaring the library district established and designating its boundaries and name.

SECTION 5. That Section 33-2707, Idaho Code, be, and the same is hereby amended to read as follows:

33-2707. ADDITION OF TERRITORY NOT HAVING A TAX SUPPORTED LIBRARY TO A LIBRARY DISTRICT -- PETITIONS AND SIGNATURES -- ELECTION. (1) Any area ~~contiguous to a library district~~ which does not have a tax supported library and which is contiguous to an existing library district may become a part of the district by petition and election.

(2) A petition may arise as set forth in section 33-2704, Idaho Code, in the area seeking to become a part of the library district. A true copy of the petition shall be transmitted to the board of trustees of the district, and to the board of county commissioners in each county affected. The board of trustees of the library district may approve or disapprove such petition, and shall give notice of its decision to the board of county commissioners in each county affected.

(3) When said notice carries the approval of the board of trustees of the district, the board of county commissioners in the county in which the petition arose shall enter its order calling for an election on the question. The election shall be held in the area in which the petition arose. Notice of the election shall be given, the election shall be conducted on the next uniform election date as provided in section 34-106, Idaho Code, and the returns thereof canvassed as provided in section 33-2705, Idaho Code. The ballot shall bear the question: "Shall become a part of the library district Yes" and "Shall become a part of the library district No," each followed by a box in which the voter may express his choice by marking a cross. The proposal shall be deemed approved only if the majority of the votes cast in the area seeking to become a part thereof is in the affirmative.

(4) If the proposal has been approved by the majority herein required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, and a copy shall be transmitted to the board of trustees of the library district, to the board of county commissioners of the county in which the petition arose, and to the state library board.

(5) Such other notices as may be required by law shall be filed by the board of trustees of the library district with the state tax commission within ten (10) days of the effective date of the change, including a legal description and map of altered boundaries.

(6) Addition of new territory to an existing library district shall not be considered an initial establishment. The existing board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs appointment shall be made as provided in section 33-2715, Idaho Code.

SECTION 6. That Section 33-2710, Idaho Code, be, and the same is hereby amended to read as follows:

33-2710. EQUALIZATION OF LEVY BETWEEN CONSOLIDATING LIBRARIES -- DISTRICT AND DISTRICT -- DISTRICT AND CITY. (1) When two (2) districts

libraries have agreed to consolidate, the tax levies of the two (2) libraries will be equalized in the following manner.

The certified budget figures from ad valorem taxes of the districts will be added together. The resulting figure will provide the base budget amount for the new consolidated district. ~~The consolidated district--may add five percent (5%) to this figure as provided in section 63-2220, Idaho Code.~~

(2) When a tax supported city library has voted to consolidate with a district library, the tax levies of the two (2) libraries need to be equalized to the difference in statutory maximums in the Idaho Code. Equalization will be obtained in the following manner.

The certified budget figure from ad valorem taxes of the district and the certified budget figure from ad valorem taxes from the city library fund will be examined for the three (3) year period prior to the year consolidation takes effect. A choice will be made of the figures from the one (1) year with the highest combined library fund budget. The resulting figure will provide the base budget amount for the new consolidated district. ~~The district may add five percent (5%) to this figure as provided for in section 63-2220, Idaho Code.~~

If the city has established a dedicated library fund in the year in which consolidation was approved, those dollars will be removed from the city budget in the fiscal year in which the newly consolidated district begins to levy to provide library services.

(3) In any consolidation, the existing bonded debt of any district or districts shall not become the obligation of the proposed consolidated library district. The debt shall remain an obligation of the property which incurred the indebtedness.

SECTION 7. That Section 33-2711, Idaho Code, be, and the same is hereby amended to read as follows:

33-2711. ADJUSTMENT OF BOUNDARY LINES OR CONSOLIDATION OF LIBRARY DISTRICTS. When there are two (2) or more library districts, which have at least one (1) common boundary, the boards of trustees of said library districts, meeting together, may determine that it is in the best interest of library service that the boundary lines be adjusted or that the districts be consolidated, as herein provided.

The boards of trustees shall jointly prepare a petition describing the boundaries of the existing library districts, the names of the existing library districts, and praying for the reorganization of the territory therein described as one (1) or more library districts to be known as the "... Library District or Districts" and with boundaries as set forth in the petition.

The petition shall be signed by the chairpersons of the library boards upon majority approval of the respective boards involved in the boundary adjustment or consolidation.

The petition shall be forwarded to the clerk of the board of county commissioners in all counties affected, who shall verify the signatures, and shall file the petition. Thereupon, the board of county commissioners in all counties affected shall proceed with the hearing and resolution as outlined in section 33-2704, Idaho Code.

In the order granting the petition and adjusting the boundaries or establishing consolidation, the board of county commissioners in all

counties affected shall certify the new boundaries and the name of the district or districts.

A copy of the said order shall be transmitted to the board of trustees of the library districts involved, and to the Idaho state library board.

Such other notices as may be required by law shall be filed by the board of trustees of the district, including a legal description and map of altered boundaries to be filed with the state tax commission within ten (10) days of the effective date of the change.

Following a boundary adjustment, the board of county commissioners of the home county shall within five (5) days ~~shall~~ take action to reaffirm members of the board of trustees, or to appoint members of the board or boards, who may be chosen from the members of the boards initiating the boundary adjustment. These trustees shall serve until the next annual election of trustees or until their successors are elected and qualified as in section 33-2715, Idaho Code. The board or boards of trustees shall be sworn by a member of the board of county commissioners.

Following a consolidation the board of county commissioners of the home county shall within five (5) days ~~shall~~ appoint the members of the first board of trustees, who shall serve until the next annual election of trustees or until their successors are elected and qualified. Said board shall be sworn by a member of the board of county commissioners.

If the property and assets of a library district become a matter of dispute, the state library board shall make the final decision as to their disposition, in accordance with procedures outlined in section 33-2713, Idaho Code.

SECTION 8. That Section 33-2712, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Section 33-2716, Idaho Code, be, and the same is hereby amended to read as follows:

33-2716. BOARD OF TRUSTEES -- NOMINATION AND ELECTION -- RECALL.
(1) The procedure for nomination and election of trustees of a library district shall be as provided for in chapter 14, title 34, Idaho Code, and in the general election laws of Idaho. The declaration and filing of vacancies of the library board of trustees shall be conducted under the provisions of chapter 45, title 33, Idaho Code.

(2) Notwithstanding the limitations of chapter 17, title 34, Idaho Code, each library district trustee shall be subject to recall following procedures as closely as possible to the procedures described for the recall of county commissioners pursuant to chapter 17, title 34, Idaho Code.

Individuals signing a petition to recall a library trustee or voting in an election to recall a library trustee shall meet the requirements of section 33-2702, Idaho Code.

If, pursuant to section 33-2717, Idaho Code, no election was held for the trustee being recalled:

(a) The number of district electors required to sign the petition seeking a recall election must be not less than fifty (50), or

twenty per cent (20%) of the number of votes cast in the last trustee election held in the library district, whichever is the greater.

(b) To recall any trustee, a majority of the votes cast at the recall election must be in favor of such recall, and additionally, the number of votes cast in the recall election must equal or exceed the number of votes cast in the last trustee election held in the library district.

SECTION 10. That Section 33-2717, Idaho Code, be, and the same is hereby amended to read as follows:

33-2717. BOARD OF TRUSTEES -- ONE NOMINATION -- NO ELECTION. In any election for the office of trustees it is not necessary to conduct an election if:

(1) After the expiration of the date for filing written nominations for--the-office-of-trustee; it appears that only one (1) qualified candidate has been nominated for each position to be filled; and, if there has been no declaration of intent has-been to be a write-in candidate filed as provided in section 33-2717A, Idaho Code; it shall not-be-necessary-to-hold-an-election; and; or

(2) If no candidate has filed a written nomination and only one (1) candidate for each position to be filled has filed a declaration of intent to be a write-in candidate as provided in section 33-2717A, Idaho Code. If either of these conditions are present, the board of trustees shall no later than seven (7) days before the scheduled date of the election declare such candidate elected as trustee, and the secretary shall immediately make and deliver to such person a certificate of election. The procedure set forth in this section shall not apply to any other library district election.

SECTION 11. That Section 33-2724, Idaho Code, be, and the same is hereby amended to read as follows:

33-2724. TAXES FOR THE SUPPORT OF LIBRARY DISTRICT. Any tax levied for library district purposes shall be a lien upon the property against which the tax is levied. The board of trustees shall determine and levy a tax upon each dollar of assessed valuation of property within the district for the ensuing fiscal year as shall be required to satisfy all maturing bond, bond interest, and judgment obligations. For the maintenance and operation of the library district, the board of trustees may also levy upon the taxable property within the district a tax not to exceed six hundredths per cent (.06%) of market value for assessment purposes. Said levies shall be certified to the ~~clerk~~ of the board of county commissioners of each county in which the district may lie, not later than the second Monday in September of each year.

~~Provided;--that--i~~In the first year after establishment, the board of a district may, for the purpose of organization and to finance general preliminary expenses of the district and before making a tax levy, incur an indebtedness not exceeding in the aggregate a sum equal to six hundredths per cent (.06%) on each one dollar (\$1.00) of market value for assessment purposes of all taxable property within the dis-

trict. To repay any such organization indebtedness incurred, the board shall have authority to levy and collect an additional tax not to exceed two hundredths per cent (.02%) per annum on each one dollar (\$1.00) of market value for assessment purposes of all taxable property within the district. Such additional levy shall not be used for any purpose other than repayment of the organizational indebtedness and interest thereon. Such additional levy may be imposed for three (3) years.

Library districts may accumulate fund balances at the end of a fiscal year and carry over such fund balances into the ensuing fiscal year, sufficient to achieve or maintain library district operations on a cash basis. A fund balance is the excess of the assets of a fund over its liabilities and reserves.

Approved March 14, 1995.

CHAPTER 120
(S.B. No. 1109)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1308, IDAHO CODE, TO ALLOW THE RETIREMENT BOARD TO BE THE PLAN ADMINISTRATOR FOR A SUPPLEMENTAL BENEFIT PLAN, TO PROVIDE THAT THE FUNDS FOR THE SUPPLEMENTAL PLAN ARE PERPETUALLY APPROPRIATED TO THE BOARD, TO PROVIDE FOR PAYMENT OF EXPENSES AND TO PROVIDE FOR INDEMNIFICATION OF THE BOARD AND STAFF; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 13, Title 59, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 59-1308, Idaho Code, and to read as follows:

59-1308. SUPPLEMENTAL BENEFIT PLAN ESTABLISHED AND FUND CREATED -- CONTRIBUTIONS AND EXPENSES OF THE SUPPLEMENTAL BENEFIT PLAN -- INDEMNIFICATION. (1) As of January 1, 1995, the state shall sponsor and the board shall administer a supplemental benefit plan under the qualified requirements of section 401(a) of the Internal Revenue Service Code and with the qualified cash or deferred arrangements under section 401(k) of the Internal Revenue Service Code. Employee and employer contributions shall be permitted according to the provisions of this plan as established by the board. For purposes of this section "employee" shall mean participant as defined in the supplemental benefit plan documents or rules.

(2) The board is authorized to establish a separate trust fund to hold the assets of the supplemental benefit plan created under this section.

(3) The supplemental benefit plan shall be available to employees

and shall be in addition to any other retirement or tax deferred compensation system established by the employer.

(4) An employee may participate in the supplemental benefit plan by authorizing his/her employer to contribute an amount by payroll deduction to the supplemental benefit plan in lieu of receiving such amount as salary. The amount of such contribution shall be subject to any limitations established by the board, state or federal law.

(5) For the purpose of this section the employer is authorized to make such deductions from salary for any employee who has authorized such deductions in writing. The employer shall forward all contributions under this section to the trustee of the supplemental benefit plan by the fifth working day after each payroll.

(6) The board may enter into agreements with employers to implement a supplemental benefit plan and the board may designate administrative agents to execute all necessary agreements pertaining to the supplemental benefit plan.

(7) All contributions received from participants in the supplemental benefit plan shall be deposited with a trustee designated by the board. All such funds are hereby perpetually appropriated to the board, shall not be included in the department's budget, and may be invested or used to pay for investment and administrative expenses of the supplemental benefit plan.

(8) The board may establish rules to implement and administer this section. Cost of administration shall be appropriated by the legislature and may be paid from the interest earnings of the funds accrued as a result of the deposits or as an assessment against each account, to be decided by the board.

(9) Contributions under the supplemental benefit plan in addition to investment earnings, shall be exempt from federal and state income taxes until the ultimate distribution of such contributions.

(10) All contributions made under this section shall continue to be included as regular compensation for the purpose of computing the employer and employee retirement contributions and pension benefits earned by an employee under this chapter, but such sum shall not be included in the computation of any income taxes withheld on behalf of any employee.

(11) Members of the retirement board or retirement system staff, jointly or individually, shall be indemnified from all claims, demands, judgments, costs, charges and expenses, including court costs and attorney's fees, and against all liability losses and damages of any nature whatsoever that the retirement board or retirement system staff shall or may at any time sustain by reason of any decision made in the scope or performance of their duties pursuant to the provisions of this section, except as may result from their willful and intentional malfeasance. The venue of all actions in which the retirement board or retirement staff is a party shall be Ada county, Idaho.

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, 1995.

CHAPTER 121
(S.B. No. 1117, As Amended)

AN ACT

RELATING TO ADMINISTRATION OF HIGHWAYS; AMENDING SECTION 40-202, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 40-203, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS, TO INCLUDE REFERENCE TO PUBLIC RIGHT-OF-WAY, TO PROVIDE NOTICE AND TO CLARIFY PROCEDURE FOR ABANDONMENT OR VACATION; AND AMENDING SECTION 40-203A, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 40-202, Idaho Code, be, and the same is hereby amended to read as follows:

40-202. DESIGNATION OF HIGHWAYS AND PUBLIC RIGHTS-OF-WAY. (1) The initial selection of the county highway system and highway district system may be accomplished in the following manner:

(a) The board of county or highway district commissioners shall cause a map to be prepared showing each highway and public right-of-way in their jurisdiction, and the commissioners shall cause notice to be given of intention to adopt the map as the official map of that system, and shall specify the time and place at which all interested persons may be heard.

(b) After the hearing, the commissioners shall adopt the map, with any changes or revisions considered by them to be advisable in the public interest, as the official map of the respective highway system.

(2) If a county or highway district acquires an interest in real property for highway or public right-of-way purposes, the respective commissioners shall:

(a) Cause any order or resolution enacted, and deed or other document establishing an interest in the property for their highway system purposes to be recorded in the county records; or

(b) Cause the official map of the county or highway district system to be amended as affected by the acceptance of the highway or public right-of-way.

Provided, however, a county with highway jurisdiction or highway district may hold title to an interest in real property for public right-of-way purposes without incurring an obligation to construct or maintain a highway within the right-of-way until the county or highway district determines that the necessities of public travel justify opening a highway within the right-of-way. The lack of an opening shall not constitute an abandonment, and mere use by the public shall not constitute an opening of the public right-of-way.

(3) Highways laid out, recorded and opened as described in subsection (2) of this section, by order of a board of commissioners, and all highways used for a period of five (5) years, provided they shall have been worked and kept up at the expense of the public, or located and recorded by order of a board of commissioners, are highways. If a highway created in accordance with the provisions of this subsection

is not designated on the official map of the respective highway system or is not opened as described in subsection (2) of this section, there shall be no duty to maintain that highway, nor shall there be any liability for any injury or damage for failure to maintain it or any highway signs, until the highway is designated as a part of the county or highway district system by inclusion on the official map as a highway and opened to public travel as a highway.

(4) When a public right-of-way is created in accordance with the provisions of subsection (2) of this section, or section 40-203 or 40-203A, Idaho Code, there shall be no duty to maintain that public right-of-way, nor shall there be any liability for any injury or damage for failure to maintain it or any highway signs.

(5) Nothing in this section shall limit the power of any board of commissioners to subsequently include or exclude any highway or public right-of-way from the county or highway district system.

SECTION 2. That Section 40-203, Idaho Code, be, and the same is hereby amended to read as follows:

40-203. ABANDONMENT AND VACATION OF COUNTY AND HIGHWAY DISTRICT SYSTEM HIGHWAYS OR PUBLIC RIGHTS-OF-WAY. (1) A board of county or highway district commissioners, whichever shall have jurisdiction of the highway system, shall use the following procedure to abandon and vacate any highway or public right-of-way in the county or highway district system including those which furnish public access to state and federal public lands and waters:

(a) The commissioners may by resolution declare its intention to abandon and vacate any highway or public right-of-way considered no longer to be in the public interest.

(b) Any resident, or property holder, within a county or highway district system including the state of Idaho, any of its subdivisions, or any agency of the federal government may petition the respective commissioners for abandonment and vacation of any highway or public right-of-way within their highway system. The petitioner shall pay a reasonable fee as determined by the commissioners to cover the cost of the proceedings.

(c) The commissioners shall establish a hearing date or dates on the proposed abandonment and vacation.

(d) The commissioners shall prepare a public notice stating their intention to hold a public hearing to consider the proposed abandonment and vacation of a highway or public right-of-way which shall be made available to the public not later than thirty (30) days prior to any hearing and mailed to any person requesting a copy not more than three (3) working days after any such request.

(e) At least thirty (30) days prior to any hearing scheduled by the commissioner to consider abandonment and vacation of any highway or public right-of-way, the commissioners shall mail notice by United States mail to owners and operators of an underground facility, as defined in section 55-2202, Idaho Code, that lies within the highway or public right-of-way.

(ef) At least thirty (30) days prior to any hearing scheduled by the commissioners to consider abandonment and vacation of any highway or public right-of-way, the commissioners shall mail

notice to owners of land abutting the portion of the highway or public right-of-way proposed to be abandoned and vacated at their addresses as shown on the county assessor's tax rolls and shall publish notice of the hearing at least two (2) times if in a weekly newspaper or three (3) times if in a daily newspaper, the last notice to be published at least five (5) days and not more than twenty-one (21) days before the hearing.

(fg) At the hearing, the commissioners shall accept all information relating to the proceedings. Any person, including the state of Idaho or any of its subdivisions, or any agency of the federal government, may appear and give testimony for or against abandonment.

(gh) After completion of the proceedings and consideration of all related information, the commissioners shall decide whether the abandonment and vacation of the highway or public right-of-way is in the public interest. The decision whether or not to abandon and vacate the highway or public right-of-way shall be written and shall be supported by findings of fact and conclusions of law.

(hi) If the commissioners determine that a highway or public right-of-way parcel to be abandoned and vacated in accordance with the provisions of this section has a fair market value of twenty-five hundred dollars (\$2,500) or more, a charge may be imposed upon the acquiring entity, not in excess of the fair market value of the parcel, as a condition of the abandonment and vacation; provided, however, no such charge shall be imposed on the landowner who originally dedicated such parcel to the public for use as a highway or public right-of-way.

(ij) The commissioners shall cause any order or resolution to be recorded in the county records and the official map of the highway system to be amended as affected by the abandonment and vacation.

(jk) From any such decision, a resident or property holder within the county or highway district system, including the state of Idaho or any of its subdivisions or any agency of the federal government, may appeal to the district court of the county in which the highway or public right-of-way is located pursuant to section 40-208, Idaho Code.

(2) No highway or public right-of-way or parts thereof shall be abandoned and vacated so as to leave any real property adjoining the highway or public right-of-way without access to an established highway or public right-of-way.

(3) In the event of abandonment and vacation, rights-of-way or easements may be reserved for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances, or other underground facilities as defined in section 55-2202, Idaho Code, for ditches or canals and appurtenances, and for electric, telephone and similar lines and appurtenances.

(4) A highway abandoned and vacated under the provisions of this section may be reclassified as a public right-of-way.

(5) Until abandonment is authorized by the commissioners, public use of the highway or public right-of-way may not be restricted or impeded by encroachment or installation of any obstruction restricting public use, or by the installation of signs or notices that might tend to restrict or prohibit public use. Any person violating the provi-

sions of this subsection shall be guilty of a misdemeanor.

~~(6) This section does not apply to~~ When a county or highway district desires the abandonment or vacation of any highway, public street or public right-of-way which was accepted as part of a platted subdivision said abandonment or vacation shall be accomplished pursuant to the provisions of chapter 13, title 50, Idaho Code.

SECTION 3. That Section 40-203A, Idaho Code, be, and the same is hereby amended to read as follows:

40-203A. VALIDATION OF COUNTY OR HIGHWAY DISTRICT SYSTEM HIGHWAY OR PUBLIC RIGHT-OF-WAY. (1) Any resident or property holder within a county or highway district system, including the state of Idaho or any of its subdivisions, or any agency of the federal government, may petition the board of county or highway district commissioners, whichever shall have jurisdiction of the highway system, to initiate public proceedings to validate a highway or public right-of-way, including those which furnish public access to state and federal public lands and waters, provided that the petitioner shall pay a reasonable fee as determined by the commissioners to cover the cost of the proceedings, or the commissioners may initiate validation proceedings on their own resolution, if any of the following conditions exist:

(a) If, through omission or defect, doubt exists as to the legal establishment or evidence of establishment of a highway or public right-of-way;

(b) If the location of the highway or public right-of-way cannot be accurately determined due to numerous alterations of the highway or public right-of-way, a defective survey of the highway, public right-of-way or adjacent property, or loss or destruction of the original survey of the highways or public rights-of-way; or

(c) If the highway or public right-of-way as traveled and used does not conform to the location of a highway or public right-of-way described on the official map or in the public records.

(2) If proceedings for validation of a highway or public right-of-way are initiated, the commissioners shall follow the procedure set forth in section 40-203, Idaho Code, and shall:

(a) Cause the highway or public right-of-way to be surveyed;

(b) Cause a report to be prepared, including the survey and any other information required by the board;

(c) Establish a hearing date on the proceedings for validation;

(d) Cause notice of the proceedings to be provided in the same manner as for abandonment and vacation proceedings; and

(e) At the hearing, the commissioners shall consider all information relating to the proceedings and shall accept testimony from persons having an interest in the proposed validation.

(3) Upon completion of the proceedings, the commissioners shall determine whether validation of the highway or public right-of-way is in the public interest and shall enter an order validating the highway or public right-of-way as public or declaring it not to be public.

(4) From any such decision, any resident or property holder within a county or highway district system, including the state of Idaho or any of its subdivisions, or any agency of the federal govern-

ment, may appeal to the district court of the county in which the highway or public right-of-way is located pursuant to section 40-208, Idaho Code.

(5) When a board of commissioners validates a highway or public right-of-way, it shall cause the survey to be recorded in the county records and shall amend the official map of the county or highway district system.

(6) The commissioners shall proceed to determine and provide just compensation for the removal of any structure that, prior to creation of the highway or public right-of-way, encroached upon a highway or public right-of-way that is the subject of a validation proceeding, or if such is not practical, the commissioners may acquire property to alter the highway or public right-of-way being validated.

(7) This section does not apply to the validation of any highway, public street or public right-of-way which is to be accepted as part of a platted subdivision pursuant to chapter 13, title 50, Idaho Code.

Approved March 14, 1995.

CHAPTER 122
(S.B. No. 1119)

AN ACT

RELATING TO VARIABLE LOAD SUSPENSION AXLES; AMENDING SECTION 49-117, IDAHO CODE, TO DEFINE "PRESSURE REGULATOR VALVE"; AMENDING SECTION 49-123, IDAHO CODE, TO REDEFINE "VARIABLE LOAD SUSPENSION AXLE"; AMENDING SECTION 49-1001, IDAHO CODE, TO PROVIDE ADDITIONAL CRITERIA FOR VARIABLE LOAD SUSPENSION AXLE OPERATIONS; AND AMENDING SECTION 49-1013, IDAHO CODE, TO PROVIDE PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF CHAPTER 10, TITLE 49, IDAHO CODE.

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

SECTION 1. 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 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) "Pressure regulator valve" means a device or system which governs the load distribution and controls the weight borne by a variable load suspension axle in accordance with a predetermined valve setting.

(14) "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 mul-

tiple 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.

(145) "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.

(156) "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.

(167) "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.

(178) "Proper authority" means a public highway agency.

(189) "Public highway agency" means the state transportation department, any city, county, highway district or any other state agency which has jurisdiction over public highway systems and public rights-of-way.

(4920) "Public right-of-way" means a right-of-way open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain said right-of-way for vehicular traffic.

(201) "Public road jurisdiction" means a public highway agency.

(242) "Purchase." (See "Sell," "sold," and "buy," section 49-120, Idaho Code)

SECTION 2. That Section 49-123, Idaho Code, be, and the same is hereby amended to read as follows:

49-123. DEFINITIONS -- V.

(1) "Variable load suspension axle" means an axle or axles designed to support a part of the vehicle and load and which can be regulated to vary the amount of load supported by such an axle or axles and which can be deployed or lifted by the operator of the vehicle. See also section 49-117, Idaho Code.

(a) "Fully raised" means that the variable load suspension axle is in an elevated position preventing the tires on such axle from having any contact with the roadway.

(b) "Fully deployed" means that the variable load suspension axle is supporting a portion of the weight of the loaded vehicle as controlled by the preset pressure regulator valve.

(2) "Vehicle" means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one or more lanes of traffic, other emergency vehicles designated by the director of the department of law enforcement or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.

(c) Commercial vehicle or commercial motor vehicle. For the purposes of chapter 3 of this title, (driver licenses), a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

1. Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or
2. Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or
3. Is designed to transport sixteen (16) or more people, including the driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4 of this title (motor vehicle registration), a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provi-

sions of this title relating to equipment requirements, rules of the road, or registration.

(d) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of the vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code.

(e) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(f) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.

(g) Motor vehicle. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheelchairs.

(h) Noncommercial vehicle. For the purposes of chapter 4 of this title, (motor vehicle registration), a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(i) Reconstructed or repaired vehicle. Every vehicle that has been rebuilt or repaired using like make and model parts and visually appears as a vehicle that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle which is damaged to the extent that a "reconstructed vehicle" or "repaired vehicle" brand is required, and other vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally rec-

ognized manufacturer of vehicles. A glider kit vehicle is not a reconstructed vehicle.

(j) Salvage vehicle. Any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any motor vehicle, such motor vehicle shall be considered to be a salvage vehicle.

(k) Specially constructed vehicle. Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction and cannot be visually identified as a vehicle produced by a particular manufacturer. This includes:

1. A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or
2. A vehicle that has been constructed entirely from home-made parts and materials not obtained from other vehicles; or
3. A vehicle that has been constructed by using major component parts from one or more manufactured vehicles and cannot be identified as a specific make or model; or
4. A vehicle constructed by the use of a custom kit that cannot be visually identified as a specific make or model.

(1) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair due to scrapping, dismantling or destruction. A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(3) "Vehicle identification number." (See "Identifying number", section 49-110, Idaho Code)

(4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles. (See also "full-time salesman", section 49-107, Idaho Code, and "part-time salesman", section 49-117, Idaho Code)

(5) "Veteran." (See section 65-509, Idaho Code)

(6) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

SECTION 3. That Section 49-1001, Idaho Code, be, and the same is hereby amended to read as follows:

49-1001. ALLOWABLE GROSS LOADS. The gross load imposed on the highway by any vehicle or combination of vehicles shall not exceed the limits in this section. The maximum single axle gross weight shall be twenty thousand (20,000) pounds, the maximum single wheel gross weight shall be ten thousand (10,000) pounds and the maximum gross vehicle or combination weight shall be one hundred five thousand five hundred (105,500) pounds, provided that maximum gross vehicle or combination weight on United States federal interstate and defense highways of this state shall not exceed eighty thousand (80,000) pounds, except as permitted under the provisions of section 49-1004, Idaho Code.

(1) The total gross weight imposed on the highway by any group of consecutive axles shall be determined by the following formula:

$$W=500((LN/N-1)+12N+36)$$

Where W is the maximum weight in pounds (to the nearest 500 pounds) carried on any group of two (2) or more consecutive axles. L is the distance in feet between the extremes of any group of two (2) or more consecutive axles, and N is the number of axles under consideration.

The formula is modified as illustrated in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles		Maximum load in pounds carried on any group of 2 or more consecutive axles								
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles		
4	34,000									
5	34,000									
6	34,000									
7	34,000									
8	34,000									
8+	34,000	42,000								
9	39,000	42,500								
10	40,000	43,500								
11		44,000								
12		45,000	50,000							
13		45,500	50,500							
14		46,500	51,500							
15		47,000	52,000							
16		48,000	52,500	58,000						
17		48,500	53,500	58,500						
18		49,500	54,000	59,000						
19		50,000	54,500	60,000						
20		51,000	55,500	60,500	66,000					
21		51,500	56,000	61,000	66,500					
22		52,500	56,500	61,500	67,000					
23		53,000	57,500	62,500	68,000					
24		54,000	58,000	63,000	68,500	74,000				
25		54,500	58,500	63,500	69,000	74,500				
26		55,500	59,500	64,000	69,500	75,000				
27		56,000	60,000	65,000	70,000	75,500				
28		57,000	60,500	65,500	71,000	76,500	82,000			
29		57,500	61,500	66,000	71,500	77,000	82,500			
30		58,500	62,000	66,500	72,000	77,500	83,000			
31		59,000	62,500	67,500	72,500	78,000	83,500			

WHEN NO ALLOWABLE WEIGHT IS LISTED FOR ANY AXLE SPACING, APPLY THE ALLOWABLE WEIGHT AS LISTED IN THE FIRST COLUMN TO THE LEFT

32	60,000	63,500	68,000	73,000	78,500	84,500	90,000
33		64,000	68,500	74,000	79,000	85,000	90,500
34		64,500	69,000	74,500	80,000	85,500	91,000
35		65,500	70,000	75,000	80,500	86,000	91,500
36		66,000	70,500	75,500	81,000	86,500	92,000
37		66,500	71,000	76,000	81,500	87,000	93,000
38		67,500	71,500	77,000	82,000	87,500	93,500
39		68,000	72,500	77,500	82,500	88,500	94,000
40		68,500	73,000	78,000	83,500	89,000	94,500
41		69,500	73,500	78,500	84,000	89,500	95,000
42		70,000	74,000	79,000	84,500	90,000	95,500
43		70,500	75,000	80,000	85,000	90,500	96,000
44		71,500	75,500	80,500	85,500	91,000	96,500
45		72,000	76,000	81,000	86,000	91,500	97,500
46		72,500	76,500	81,500	87,000	92,500	98,000
47		73,500	77,500	82,000	87,500	93,000	98,500
48		74,000	78,000	83,000	88,000	93,500	99,000
49		74,500	78,500	83,500	88,500	94,000	99,500
50		75,500	79,000	84,000	89,000	94,500	100,000
51		76,000	80,000	84,500	89,500	95,000	100,500
52		76,500	80,500	85,000	90,500	95,500	101,000
53		77,500	81,000	86,000	91,000	96,500	102,000
54		78,000	81,500	86,500	91,500	97,000	102,500
55		78,500	82,500	87,000	92,000	97,500	103,000
56		79,500	83,000	87,500	92,500	98,000	103,500
57		80,000	83,500	88,000	93,000	98,500	104,000
58			84,000	89,000	94,000	99,000	104,500
59			85,000	89,500	94,500	99,500	105,000
60			85,500	90,000	95,000	100,500	105,500
61			86,000	90,500	95,500	101,000	
62			87,000	91,000	96,000	101,500	
63			87,500	92,000	96,500	102,000	
64			88,000	92,500	97,500	102,500	
65			88,500	93,000	98,000	103,000	
66			89,500	93,500	98,500	103,500	
67			90,000	94,000	99,000	104,500	
68			90,500	95,000	99,500	105,000	
69			91,000	95,500	100,000	105,500	
70			92,000	96,000	101,000		
71			92,500	96,500	101,500		
72			93,000	97,000	102,000		
73			93,500	98,000	102,500		
74			94,500	98,500	103,000		
75			95,000	99,000	103,500		
76			95,500	99,500	104,500		
77			96,000	100,000	105,000		
78			97,000	101,000	105,500		
79			97,500	101,500			
80			98,000	102,000			
81			98,500	102,500			
82			99,000	103,000			
83			100,000	104,000			
84				104,500			
85				105,000			
86 or more				105,500			

(a) A public highway agency may limit the application of the weights authorized in this section as to certain highways within its jurisdiction which it determines have limited structural capacity of pavements, bridges, or other appurtenances. In designating such highways, it may specify a minimum wheelbase for combinations to be operated thereon. It may also designate specific highways or portions on which operation of a combination of vehicles with seven (7), eight (8) or nine (9) axle vehicles will be subject to specified lesser allowable gross weights.

(b) Notwithstanding the figures shown in the table in this subsection (1), two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand (34,000) pounds each, providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six (36) feet or more.

(2) The weight limitations set forth in the table in subsection (1) of this section shall not apply to any vehicle, or combination of vehicles when a greater allowed weight in pounds would be permitted such vehicles under the table provided in this subsection, except that with regard to transportation on the United States federal interstate and defense highways of this state, the following table of allowable weights shall apply only to vehicles engaged in the transportation of logs, pulp wood, stull, rough lumber, poles or piling; or to any such vehicle engaged in the transportation of ores, concentrates, sand and gravel and aggregates thereof, in bulk; or to any such vehicle engaged in the transportation of agricultural commodities, including livestock:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four axles	Vehicles with Five or more axles
3 through 12	37,800	37,800
13	56,470	56,470
14	57,940	57,940
15	59,400	59,400
16	60,610	60,610
17	61,820	61,820
18	63,140	63,140
19	64,350	64,350
20	65,450	65,450
21	66,000	66,330
22	66,000	67,250
23	66,000	67,880
24	66,000	68,510
25	66,000	69,150
26	66,000	69,770
27	66,000	70,400
28	66,000	70,950
29	66,000	71,500
30	66,000	72,050
31		72,600
32		73,150
33		73,700
34		74,250

35	74,800
36	75,350
37	75,900
38	76,450
39	77,000
40	77,550
41	78,100
42	78,650
43 and over	79,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles exceeds seventy-nine thousand (79,000) pounds. When the provisions of this subsection are applicable to a vehicle or combination of vehicles, it shall be a violation of the provisions of this subsection if that vehicle or combination of vehicles exceeds the weights specified in this table.

(3) In determining the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles under subsection (1) or (2) or (9) of this section, the total gross weight of the vehicle or combination of vehicles or the gross weight of any two (2) or more consecutive axles shall be the sum of the axle weights.

For the purposes of this chapter the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles may be determined by accumulatively adding the separate weights of individual axles and tandem axles or groups of axles to determine gross weight. The results of any weighing at a temporary or permanent port of entry and the records relating to the calibration and accuracy of any scale at a temporary or permanent port of entry shall be admissible in any proceeding in this state. In order to prove a violation of the provisions of this section the state must show that:

- (a) The sum of the axle weights exceeds what is allowable under the provisions of subsection (1) or (2) or (9) of this section;
- (b) The scale involved in the weighing was at the time of weighing calibrated in conformity with and met the accuracy requirements of the standards for the enforcement of traffic and highway laws as set forth in the latest edition of handbook 44 of the national institute of standards and technology;
- (c) Weights of individual axles or axles within a commonly suspended group of axles supported by a mechanical system designed to distribute equal wheel loads to individual axles in the group were utilized only to determine gross weights of that group of axles, and that any further evaluation of gross weights of combinations of axles considered only the accumulated gross weight of each such commonly suspended group of axles.

(4) In applying the weight limitations imposed in this section, a vehicle or combination of vehicles must comply exclusively with the weight limitations in either subsection (1) or (2) or (9) of this section.

(5) In applying the weight limitations imposed in this section, the distance between axles shall be measured to the nearest even foot. When a fraction is exactly one-half (1/2) foot the next larger whole number shall be used.

(6) The limitations imposed in this section are in addition and

supplemental to all other laws imposing limitations upon the size and weight of vehicles. Further, single axles within groups of axles are subject to the provisions and limitations of this chapter. Single axles within groups of axles may be weighed and evaluated separately, or single axles may be prequalified in accordance with rules or ordinances established by the board or other public road jurisdiction, if any of the following conditions exist regarding the single axle within a group of axles:

- (a) A suspension system common to all axles in the group of axles does not exist.
- (b) One (1) or more axles in the group of axles is equipped with separate variable load suspension controls to regulate the weight carried by individual axles.
- (c) One (1) or more axles in a group of axles is equipped with more or fewer tires than other axles in the group of axles.
- (d) All tires in the group of axles are not the same size as determined by the manufacturer's sidewall rating.
- (7) Notwithstanding the other provisions of this chapter, no vehicle, motor vehicle, trailer and/or semitrailer, or combination thereof, may be operated on the public highways of the state under loads which would result in the withholding of funds by operation of controlling federal law as provided in the Federal Aid Highway Act of 1956, as amended.

(8) Except as provided herein, no vehicle or combination of vehicles may proceed past the place of weighing at temporary or permanent ports of entry or checking stations when: the weight of a single axle exceeds the maximum limitations set forth herein by two thousand (2,000) pounds or more; the weight of a combination of axles, or gross vehicle weight exceeds the maximum allowable weight as set forth herein by seven percent (7%) or more. Vehicles or combinations of vehicles which exceed the weight limitations set forth herein shall be required to be brought into compliance with applicable weight limitations contained within this subsection at the place of weighing prior to continuing, except those vehicles or combinations of vehicles which are transporting loads which, in the determination of the board or other proper authorities in charge of or having jurisdiction over a highway, are deemed unsafe or impractical to bring into compliance at the place of weighing, and except those vehicles which do not exceed fifteen percent (15%) over maximum axle and axle group weights set forth in this section. Vehicles or combinations of vehicles transporting loads in this latter category shall obtain a travel authorization to the nearest place of safe unloading, load adjustment or other means of legalization.

(a) Neither the state of Idaho or its employees, nor any authority and its employees in charge of or having jurisdiction over a highway, shall be held liable for personal injury or property damage resulting from the requirements of section 49-1001(8), Idaho Code.

(b) The fee for a travel authorization as set forth above shall be fifty dollars (\$50.00) and shall be on a form prescribed by the board or other proper authorities, and shall not be construed as contributing to a reduction in the penalties prescribed in section 49-1013, Idaho Code.

(c) The board or other proper authorities in charge of or having jurisdiction over a highway shall adopt and enforce administrative rules as may be necessary to carry out the provisions of this section.

(9) For vehicles on all highways except the United States federal interstate and defense highways of this state, the following table shall apply:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four axles	Vehicles with Five or more axles
3 through 12	37,800	37,800
13	56,470	56,470
14	57,940	57,940
15	59,400	59,400
16	60,610	60,610
17	61,820	61,820
18	63,140	63,140
19	64,350	64,350
20	65,450	65,450
21	66,000	66,330
22	66,000	67,250
23	66,000	67,880
24	66,000	68,510
25	66,000	69,150
26	66,000	69,770
27	66,000	70,400
28	66,000	70,950
29	66,000	71,500
30	66,000	72,050
31		72,600
32		73,150
33		73,700
34		74,250
35		74,800
36		75,350
37		75,900
38		76,450
39		77,000
40		77,550
41		78,100
42		78,650
43 and over		80,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles exceeds eighty thousand (80,000) pounds. When the provisions of this subsection are applicable to a vehicle or combination of vehicles, it shall be a violation of the provisions of this subsection if that vehicle or combination of vehicles exceeds the weights specified in this table.

(10) When owned by or under contract to or under authority of a city, county, or state agency, refuse/sanitation trucks transporting refuse may be operated on public highways in accordance with the weights allowed in subsection (9) of this section, except that such

trucks equipped with single rear axles are allowed twenty-four thousand (24,000) pounds on that single rear axle when specifically authorized by the public highway agency governing the highways over which the refuse/sanitation truck is operating and provided the following conditions are met:

(a) The weight allowances provided for in this subsection shall not apply to the United States federal interstate and defense highways of the state; and

(b) The owner or operator has paid an annual operating fee for a permit, not to exceed fifty dollars (\$50.00) per refuse/sanitation truck to each public agency governing the public highways over which the refuse/sanitation truck operates. The permit shall be carried in the refuse/sanitation truck. The permit fee may be waived by a public agency for refuse/sanitation trucks operated over public highways under that agency's jurisdiction.

(11) Variable load suspension axles shall meet the following criteria in order to be included in the computation of gross vehicle or axle weight limits for vehicles under the provisions of this section:

(a) The deployment control switch for such axles may be located inside of the driver's compartment but the pressure regulator valve for the operation of pressure on the pavement shall be located outside of and inaccessible to the driver's compartment.

(b) The gross axle weight rating of each such axle must not be less than the actual loading of the axle and shall not be less than nine thousand (9,000) pounds.

(c) All variable load suspension axles mounted on a vehicle after January 1, 1990, shall be designed to be self-steering in a manner that will guide or direct the variable load suspension mounted wheels through a turning movement without undue tire scrubbing or pavement scuffing.

(d) Variable load suspension axles must be fully deployed or fully raised. The pressure regulator valve which governs the load distribution to the variable load suspension axle(s) shall be set and sealed by the owner of the vehicle(s) in accordance with rules or ordinances established by the board or other public road jurisdiction. For applicable definitions, see sections 49-117 and 49-123, Idaho Code.

(12) Any person who operates a motor vehicle with a variable load suspension axle in violation of the provisions of this section shall be subject to the penalties provided in section 49-1013, Idaho Code.

SECTION 4. That Section 49-1013, Idaho Code, be, and the same is hereby amended to read as follows:

49-1013. PENALTIES FOR VIOLATIONS. (1) It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this chapter, except that violations of law as specified in paragraphs (a), (b) and (c) of subsection (3) of this section shall constitute an infraction.

(2) Persons convicted of violations of the provisions of sections 49-1003 and 49-1005 through 49-1012, Idaho Code, shall be subject to punishment by a fine of not to exceed three hundred dollars (\$300) or by imprisonment in the county jail for not more than thirty (30) days

or by a combination of such fine and imprisonment.

(3) Persons convicted of violations of the provisions of sections 49-1001, 49-1002, and 49-1004, Idaho Code, shall be subject to a penalty as prescribed herein:

(a) One (1) pound through one thousand (1,000) pounds overweight shall be five dollars (\$5.00) and shall constitute an infraction.

(b) One thousand one (1,001) pounds through two thousand (2,000) pounds overweight shall be fifteen dollars (\$15.00) and shall constitute an infraction.

(c) Two thousand one (2,001) pounds through four thousand (4,000) pounds overweight shall be twenty-five dollars (\$25.00) and shall constitute an infraction.

(d) Four thousand one (4,001) pounds through fifteen thousand (15,000) pounds overweight shall be twenty-five dollars (\$25.00) plus \$.1341 per pound for each additional pound over four thousand (4,000) pounds overweight.

(e) Fifteen thousand one (15,001) pounds through twenty thousand (20,000) pounds overweight shall be one thousand five hundred dollars (\$1,500) plus twenty cents (\$.20) per pound for each additional pound over fifteen thousand (15,000) pounds overweight.

(f) Twenty thousand one (20,001) pounds and greater shall be two thousand five hundred dollars (\$2,500) plus thirty cents (\$.30) per pound for each additional pound over twenty thousand (20,000) pounds overweight.

(g) In addition to the penalties specified in this subsection, one hundred fifty dollars (\$150) for failure to deploy a variable load suspension axle which results in adjacent axles exceeding allowable weight by two thousand one (2,001) pounds or more.

(4) All moneys collected as a result of the penalties prescribed in subsection (3) of this section, shall be deposited into the highway distribution account.

Approved March 14, 1995.

CHAPTER 123
(S.B. No. 1120)

AN ACT
RELATING TO BRAND INSPECTIONS; AMENDING SECTION 25-1181, IDAHO CODE,
TO REMOVE AMBIGUOUS REFERENCES TO CLARIFY APPLICATION OF PENALTIES
AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 25-1181, Idaho Code, be, and the same is hereby amended to read as follows:

25-1181. PENALTIES. (1) Any person who shall present false or fraudulent ~~evidence of information to obtain a brand inspection certificate or written permit, with intent to do so,~~ shall be guilty of a felony.

(2) Any person who wilfully forges any brand inspection certificate or written permit, or alters the same in any manner, with the intent to defraud another, or with the intent to deceive any state brand inspector or any other law enforcement officer in the state of Idaho, shall be guilty of forgery.

(3) Any person who shall knowingly transport livestock without proper certificate or permit, or knowingly offers for shipment any livestock not his own or without the authority of the owner of said livestock shall be deemed guilty of a misdemeanor.

(4) Any person who shall, without proper brand inspection certificate or written permit, transport livestock in violation of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed three hundred dollars (\$300) or by imprisonment in the county jail not to exceed six (6) months or be punished by both fine and imprisonment.

(5) Any person who shall refuse to permit inspection of any livestock as required by this chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed three hundred dollars (\$300) or by imprisonment in the county jail not to exceed six (6) months or be punished by both fine and imprisonment; and provided further, such person may be liable for civil damages to any owner of such livestock injured thereby, plus treble damages and for costs of suit and attorney's fees.

(6) It shall be unlawful for any common carrier to transport livestock within or without the state of Idaho without having had the required brand inspections required by this chapter, and any common carrier who knowingly violates the requirements of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined a sum not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000); and provided further, that said common carriers may be liable for civil damages to any owner of such livestock who is injured thereby plus treble damages and for costs of suit and attorney's fees.

(7) Any person who shall violate any of the rules and regulations adopted by the state brand board for the implementation of this chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed three hundred dollars (\$300) or by imprisonment in the county jail not to exceed six (6) months or be punished by both fine and imprisonment.

Approved March 14, 1995.

CHAPTER 124
(S.B. No. 1122)

AN ACT

RELATING TO THE STATE BRAND BOARD; AMENDING SECTION 25-3302, IDAHO CODE, TO DELETE REFERENCE TO COMPENSATION 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 25-3302, Idaho Code, be, and the same is hereby amended to read as follows:

25-3302. STATE BRAND BOARD -- ADDITIONAL DUTIES. The state brand board, in addition to other duties provided by law, shall administer the provisions of this chapter relating to livestock dealer licensing. The board shall meet annually, and more frequently if deemed necessary, for the purposes of administration of this chapter. ~~Members of the board shall receive twenty-five dollars--(\$25.00)--per--day--and actual--expenses--incurred--while--in--the--discharge--of--the--duties--imposed by--this--chapter.~~

The board shall exercise the following powers and duties:

(1) Promulgate such rules and regulations as deemed necessary to implement and supplement the provisions of this chapter and provide for its orderly administration, pursuant to the provisions of chapter 52, title 67, Idaho Code;

(2) Prescribe necessary information to be provided by applicants for licenses to determine if the requirements of this chapter have been met;

(3) Issue licenses to qualified applicants and collect appropriate fees;

(4) Revoke or suspend the license of, or refuse to issue a license to any person, licensee or applicant who violates any provision of this chapter; and

(5) Require the necessary record keeping by licensees and submission of written reports as warranted in order to carry out the provision and intent of this chapter.

SECTION 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, 1995.

CHAPTER 125
(S.B. No. 1125)

AN ACT

RELATING TO ELECTIONS OF IRRIGATION DISTRICTS; AMENDING SECTION 43-201, IDAHO CODE, TO BRING IRRIGATION DISTRICTS' ELECTION DATES INTO CONFORMITY WITH THE STATE'S CONSOLIDATED ELECTION LAW.

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

SECTION 1. That Section 43-201, Idaho Code, be, and the same is hereby amended to read as follows:

43-201. ELECTION, TERM OF OFFICE, NOMINATIONS AND QUALIFICATIONS. ~~On--the--second--Tuesday--of--December;--f~~Following the organization of any district, an election shall be held in accordance with section 34-106, Idaho Code, at which shall be elected one (1) director for each divi-

sion of said district by the electors of the district at large. The term of office of the directors shall, immediately after the first election following such organization, be selected by lot so that as nearly as may be, one-third (1/3) of the number shall hold office for the term of one (1) year; one-third (1/3) for the term of two (2) years, and the balance for the term of three (3) years. And an election shall be held in the district ~~on the second Tuesday in December~~ in accordance with section 34-106, Idaho Code, for each year thereafter, at which directors shall be elected to succeed those whose terms expire, to hold office for a term of three (3) years, or until their successors are elected and qualified. Every director must be a qualified elector and a resident of the division of the director whom he is to succeed in office. Written nominations for the office of director if any are made, must be signed by at least six (6) electors in districts having less than one hundred (100) resident electors and by at least twelve (12) electors in districts having more than one hundred (100) resident electors, and filed with the secretary of the district not less than twenty (20) days nor more than forty (40) days before the date of election; and the names of the persons so nominated shall be placed upon official ballot to be furnished by the district.

Approved March 14, 1995.

CHAPTER 126
(S.B. No. 1130)

AN ACT

RELATING TO GENERAL BUSINESS CORPORATIONS, LIMITED PARTNERSHIPS AND LIMITED LIABILITY COMPANIES; AMENDING SECTION 30-1-54, IDAHO CODE, TO PROVIDE THAT THE ARTICLES OF INCORPORATION SHALL SET FORTH THE PERIOD OF DURATION OF THE CORPORATION IF OTHER THAN PERPETUAL; AMENDING SECTION 30-1-61, IDAHO CODE, TO PROVIDE FOR EXECUTION OF ARTICLES OF AMENDMENT; AMENDING SECTION 30-1-64, IDAHO CODE, TO PROVIDE FOR EXECUTION OF RESTATED ARTICLES OF AMENDMENT; AMENDING SECTION 30-1-65, IDAHO CODE, TO PROVIDE FOR AMENDMENT OF ARTICLES OF INCORPORATION APPROVED BY DECREE OR COURT ORDER; AMENDING SECTION 30-1-67, IDAHO CODE, TO PROVIDE FOR EXECUTION OF A STATEMENT OF CANCELLATION OF REDEEMABLE SHARES OF A CORPORATION; AMENDING SECTION 30-1-69, IDAHO CODE, TO PROVIDE FOR EXECUTION OF A STATEMENT OF REDUCTION OF CAPITAL OF A CORPORATION; AMENDING SECTION 30-1-74, IDAHO CODE, TO PROVIDE FOR EXECUTION OF ARTICLES OF MERGER, CONSOLIDATION OR EXCHANGE OF A CORPORATION; AMENDING SECTION 30-1-75, IDAHO CODE, TO PROVIDE FOR EXECUTION OF ARTICLES OF MERGER; AMENDING SECTION 30-1-82, IDAHO CODE, TO PROVIDE FOR EXECUTION OF VOLUNTARY ARTICLES OF DISSOLUTION; AMENDING SECTION 30-1-92, IDAHO CODE, TO PROVIDE FOR EXECUTION OF ARTICLES OF DISSOLUTION; AMENDING SECTION 30-1-110, IDAHO CODE, TO PROVIDE FOR EXECUTION OF APPLICATIONS FOR CERTIFICATE OF AUTHORITY BY A FOREIGN CORPORATION; AMENDING SECTION 30-1-119, IDAHO CODE, TO PROVIDE FOR EXECUTION OF APPLICATIONS FOR WITHDRAWAL OF A FOREIGN CORPORATION; AMENDING SECTION 30-1-125, IDAHO CODE, TO PROVIDE FOR

EXECUTION OF THE ANNUAL REPORT OF A DOMESTIC OR FOREIGN CORPORATION; AMENDING SECTION 30-1-126, IDAHO CODE, TO RESPECIFY THE DATES BY WHICH THE SECRETARY OF STATE MUST RECEIVE ANNUAL REPORTS OF DOMESTIC AND FOREIGN CORPORATIONS; AMENDING CHAPTER 1, TITLE 30, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 30-1-153, IDAHO CODE, TO PROVIDE LIABILITY AND RECOVERY OF DAMAGES RESULTING FROM LOSS SUFFERED BY RELIABILITY ON A FALSE STATEMENT; AMENDING SECTION 30-1311, IDAHO CODE, TO PROVIDE FOR NAMING OF CORPORATIONS; AMENDING SECTION 53-202, IDAHO CODE, TO PROVIDE FOR NAMING OF LIMITED PARTNERSHIPS; AMENDING CHAPTER 2, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-204A, IDAHO CODE, TO PROVIDE FOR RESIGNATION OF THE REGISTERED AGENT OF A LIMITED PARTNERSHIP; AMENDING SECTION 53-210, IDAHO CODE, TO PROVIDE FOR CANCELLATION OF CERTIFICATES OF A LIMITED PARTNERSHIP FOR FAILURE TO REAPPOINT A REGISTERED AGENT; AMENDING SECTION 53-220, IDAHO CODE, TO SPECIFY STATUS OF A LIMITED PARTNER WHO IS UNAWARE OF A CANCELLATION OF THE CERTIFICATE OF LIMITED PARTNERSHIP; AMENDING SECTION 53-244, IDAHO CODE, TO PROVIDE AN ADDITIONAL CONDITION FOR NON-JUDICIAL DISSOLUTION OF A LIMITED PARTNERSHIP; AMENDING SECTION 53-249, IDAHO CODE, TO PROVIDE FOR APPLICATION FOR REGISTRATION AS A FOREIGN LIMITED PARTNERSHIP; AMENDING SECTION 53-251, IDAHO CODE, TO PROVIDE FOR EXECUTION OF A STATEMENT OF CHANGE OF REGISTERED AGENT OF A FOREIGN LIMITED PARTNERSHIP; AMENDING SECTION 53-253, IDAHO CODE, TO PROVIDE FOR NAMING OF FOREIGN LIMITED PARTNERSHIPS; AMENDING SECTION 53-255, IDAHO CODE, TO PROVIDE FOR APPLICATIONS AND EXECUTION OF APPLICATIONS FOR WITHDRAWAL AS A FOREIGN LIMITED PARTNERSHIP; AMENDING SECTION 53-602, IDAHO CODE, TO PROVIDE FOR NAMING OF LIMITED LIABILITY COMPANIES; AND AMENDING SECTION 53-613, IDAHO CODE, TO RESPECIFY THE DATES BY WHICH THE SECRETARY OF STATE MUST RECEIVE ANNUAL REPORTS OF DOMESTIC AND FOREIGN LIMITED LIABILITY COMPANIES.

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

SECTION 1. That Section 30-1-54, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-54. ARTICLES OF INCORPORATION. (1) The articles of incorporation shall set forth:

- (a) The name of the corporation.
- (b) The period of duration, which may be if other than perpetual.
- (c) The purpose or purposes for which the corporation is organized which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this act.
- (d) The aggregate number of shares which the corporation shall have authority to issue; if such shares are to consist of one (1) class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value.
- (e) If the shares are to be divided into classes, the designation

of each class and a statement of the preferences, limitations and relative rights in respect of the shares of each class.

(f) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series.

(g) If any preemptive right is to be denied to shareholders, the provisions for such denial.

(h) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision restricting the transfer of shares and any provision which under this act is required or permitted to be set forth in the bylaws or in the articles of incorporation.

(i) The address of its initial registered office, and the name of its initial registered agent at such address.

(j) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify.

(k) The name and address of each incorporator.

(2) The articles of incorporation may set forth a provision eliminating or limiting the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, provided that such provision shall not eliminate or limit the liability of a director:

(a) For any breach of the director's duty of loyalty to the corporation or its stockholders.

(b) For acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law.

(c) Provided for under section 30-1-48, Idaho Code.

(d) For any transaction from which the director derived an improper personal benefit.

No such provision shall eliminate or limit the liability of a director for any act or omission occurring prior to the date when such provision becomes effective. All references in this subsection to a director shall also be deemed to refer to a member of the governing body of a corporation which is not authorized to issue capital stock.

(3) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this act.

SECTION 2. That Section 30-1-61, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-61. ARTICLES OF AMENDMENT. The articles of amendment shall be executed in duplicate by the corporation by its president, or a vice president, and by its secretary or an assistant secretary, or by all of the shareholders, or, if no shares have been issued, by all the incorporators or directors, ~~and verified by at least one (1) of the~~

~~parties signing such articles,~~ and shall set forth:

- (a) The name of the corporation.
- (b) The amendments so adopted.
- (c) The date of the adoption of the amendment by the shareholders, or by the incorporators or the board of directors where no shares have been issued.
- (d) The number of shares outstanding, and the number of shares entitled to vote thereon, and if the shares of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon of each such class.
- (e) The number of shares voted for and against such amendment, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against such amendment, respectively, or if no shares have been issued, a statement to that effect.
- (f) If such amendment provides for an exchange, reclassification or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same shall be effected.
- (g) If such amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of stated capital as changed by such amendment.

SECTION 3. That Section 30-1-64, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-64. RESTATED ARTICLES OF INCORPORATION. A domestic corporation may, at any time, restate its articles of incorporation as theretofore amended by a resolution adopted by the board of directors.

Upon the adoption of such resolution, restated articles of incorporation shall be executed in duplicate by the corporation by its president, or a vice president, ~~and by its secretary or assistant secretary and verified by one (1) of the officers signing such articles~~ and shall set forth all of the operative provisions of the articles of incorporation as theretofore amended together with a statement that the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

Duplicate originals of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that such restated articles of incorporation conform to law, he shall, when all fees have been paid as in this act prescribed:

- (a) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.
- (b) File one (1) of such duplicate originals in his office.
- (c) Issue a restated certificate of incorporation, to which he shall affix the other duplicate original.

The restated certificate of incorporation, together with the duplicate original of the restated articles of incorporation affixed thereto by the secretary of state, shall be returned to the corpora-

tion or its representative.

Upon the issuance of the restated certificate of incorporation by the secretary of state, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto.

SECTION 4. That Section 30-1-65, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-65. AMENDMENT OF ARTICLES OF INCORPORATION IN REORGANIZATION PROCEEDINGS. (a) Whenever a plan of reorganization of a corporation has been confirmed by decree or order of a court of competent jurisdiction in proceedings for the reorganization of such corporation, pursuant to the provisions of any applicable statute of the United States relating to reorganizations of corporations, the articles of incorporation of the corporation may be amended, in the manner provided in this section, in as many respects as may be necessary to carry out the plan and put it into effect, so long as the articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment.

(b) In particular and without limitation upon such general power of amendment, the articles of incorporation may be amended for such purpose so as to:

- (1) Change the corporate name, period of duration or corporate purposes of the corporation;
- (2) Repeal, alter or amend the bylaws of the corporation;
- (3) Change the aggregate number of shares or shares of any class which the corporation has authority to issue;
- (4) Change the preferences, limitations and relative rights in respect of all or any part of the shares of the corporation, and classify, reclassify or cancel all or any part thereof, whether issued or unissued;
- (5) Authorize the issuance of bonds, debentures or other obligations of the corporation, whether or not convertible into shares of any class or bearing warrants or other evidences of optional rights to purchase or subscribe for shares of any class, and fix the terms and conditions thereof; and
- (6) Constitute or reconstitute the board of directors of the corporation, and appoint directors and officers in place of or in addition to all or any of the directors or officers then in office.

(c) Amendments to the articles of incorporation pursuant to this section shall be made in the following manner:

- (1) Articles of amendment approved by decree or order of such court shall be executed ~~and verified~~ in duplicate by such person or persons as the court shall designate or appoint for the purpose, and shall set forth the name of the corporation, the amendments of the articles of incorporation approved by the court, the date of the decree or order approving the articles of amendment, the title of the proceedings in which the decree or order was entered, and a statement that such decree or order was entered by a court having jurisdiction of the proceedings for the reorganiza-

tion of the corporation pursuant to the provisions of an applicable statute of the United States.

(2) Duplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he shall, when all fees have been paid as in this act prescribed:

1. Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.
2. File one (1) of such duplicate originals in his office.
3. Issue a certificate of amendment to which he shall affix the other duplicate original.

(3) The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

(d) The amendment shall become effective upon the issuance of the certificate of amendment by the secretary of state, or on such later date, not more than thirty (30) days subsequent to the filing thereof with the secretary of state, as shall be provided for in the articles of amendment without any action thereon by the directors or shareholders of the corporation and with the same effect as if the amendments had been adopted by unanimous action of the directors and shareholders of the corporation.

SECTION 5. That Section 30-1-67, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-67. CANCELLATION OF REDEEMABLE SHARES BY REDEMPTION OR PURCHASE. When redeemable shares of a corporation are redeemed or purchased by the corporation, the redemption or purchase shall effect a cancellation of such shares. Thereupon such shares shall be restored to the status of authorized but unissued shares, unless the articles of incorporation provide that such shares when redeemed or purchased shall not be reissued, in which case a statement of cancellation shall be filed as provided in this section, and the filing of the statement of cancellation shall constitute an amendment to the articles of incorporation and shall reduce the number of shares of the class so cancelled which the corporation is authorized to issue by the number of shares so cancelled.

The statement of cancellation shall be executed in duplicate by the corporation by its president, or a vice president, ~~and by its secretary or an assistant secretary, and verified by one (1) of the officers signing such statement;~~ and shall set forth:

- (a) The name of the corporation.
- (b) The number of redeemable shares cancelled through redemption or purchase, itemized by classes.
- (c) The aggregate number of issued shares, itemized by classes, after giving effect to such cancellation.
- (d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect to such cancellation.
- (e) The number of shares which the corporation will have authority to issue itemized by classes, after giving effect to such cancellation.

Duplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this act prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.
- (2) File one (1) of such duplicate originals in his office.
- (3) Return the other duplicate original to the corporation or its representative.

Upon such cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so cancelled.

Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this act.

SECTION 6. That Section 30-1-69, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-69. REDUCTION OF STATED CAPITAL IN CERTAIN CASES. A reduction of the stated capital of a corporation, where such reduction is not accompanied by any action requiring an amendment of the articles of incorporation and not accompanied by a cancellation of shares, may be made in the following manner:

(a) The board of directors shall adopt a resolution setting forth the amount of the proposed reduction and the manner in which the reduction shall be effected, and directing that the question of such reduction be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(b) Written notice, stating that the purpose or one (1) of the purposes of such meeting is to consider the question of reducing the stated capital of the corporation in the amount and manner proposed by the board of directors, shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this act for the giving of notice of meetings of shareholders.

(c) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the question of approving the proposed reduction of stated capital, which shall require for its adoption the affirmative vote of the holders of a majority of the shares entitled to vote thereon.

When a reduction of the stated capital of a corporation has been approved as provided in this section, a statement shall be executed in duplicate by the corporation by its president, or a vice president, and by its secretary or an assistant secretary, and verified by one ~~(1) of the officers signing such statement;~~ and shall set forth:

- (1) The name of the corporation.
- (2) A copy of the resolution of the shareholders approving such reduction, and the date of its adoption.
- (3) The number of shares outstanding, and the number of shares entitled to vote thereon.
- (4) The number of shares voted for and against such reduction, respectively.

(5) A statement of the manner in which such reduction is effected, and a statement, expressed in dollars, of the amount of stated capital of the corporation after giving effect to such reduction.

Duplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this act prescribed:

1. Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.
2. File one (1) of such duplicate originals in his office.
3. Return the other duplicate original to the corporation or its representative.

Upon the filing of such statement, the stated capital of the corporation shall be reduced as therein set forth. No such reduction of stated capital shall be made under the provisions of this section which would reduce the amount of the aggregate stated capital of the corporation to an amount equal to or less than the aggregate preferential amounts payable upon all issued shares having a preferential right in the assets of the corporation in the event of involuntary liquidation, plus the aggregate par value of all issued shares having a par value but no preferential right in the assets of the corporation in the event of involuntary liquidation.

SECTION 7. That Section 30-1-74, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-74. ARTICLES OF MERGER -- CONSOLIDATION OR EXCHANGE. (a) Upon receiving the approval required by sections 30-1-71, 30-1-72, 30-1-72A and 30-1-73, Idaho Code, articles of merger, consolidation or exchange shall be executed in duplicate by each corporation by its president, or a vice president, and by its secretary or an assistant secretary, ~~and verified by one (1) of the officers of each corporation signing such articles;~~ and shall set forth:

(1) The plan of merger, consolidation, or exchange;

(2) As to each corporation, either:

(i) The number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class; or

(ii) A statement that the vote of shareholders is not required by virtue of subsection (d) of section 30-1-73, Idaho Code;

(3) As to each corporation the approval of whose shareholders is required, the number of shares voted for and against such plan, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against such plan, respectively.

(b) Duplicate originals of the articles of merger, consolidation or exchange shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof;

- (2) File one (1) of such duplicate originals in his office; and
- (3) Issue a certificate of merger, consolidation or exchange to which he shall affix the other duplicate original.

(c) The certificate of merger, consolidation or exchange together with the duplicate original of the articles affixed thereto by the secretary of state, shall be returned to the surviving, new or acquiring corporation, as the case may be, or its representative.

SECTION 8. That Section 30-1-75, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-75. MERGER OF SUBSIDIARY CORPORATION. Any corporation owning at least ninety percent (90%) of the outstanding shares of each class of another corporation may merge such other corporation into itself without approval by a vote of the shareholders of either corporation. Its board of directors shall, by resolution, approve a plan of merger setting forth:

(a) The name of the subsidiary corporation and the name of the corporation owning at least ninety percent (90%) of its shares, which is hereinafter designated as the surviving corporation.

(b) The manner and basis of converting the shares of the subsidiary corporation into shares, obligations or other securities of the surviving corporation or of any other corporation or, in whole or in part, into cash or other property.

A copy of such plan of merger shall be mailed to each shareholder of record of the subsidiary corporation.

Articles of merger shall be executed in duplicate by the surviving corporation by its president, or a vice president, ~~and by its secretary or an assistant secretary, and verified by one (1) of its officers signing such articles,~~ and shall set forth:

(a) The plan of merger;

(b) The number of outstanding shares of each class of the subsidiary corporation and the number of such shares of each class owned by the surviving corporation; and

(c) The date of the mailing to shareholders of the subsidiary corporation of a copy of the plan of merger.

On and after the 30th day after the mailing of a copy of the plan of merger to shareholders of the subsidiary corporation or upon the waiver thereof by the holders of all outstanding shares duplicate originals of the articles of merger shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall, when all fees have been paid as in this act prescribed:

(a) Endorse on each of such duplicate originals the word "Filed" and the month, day and year of the filing thereof;

(b) File one (1) of such duplicate originals in his office, and

(c) Issue a certificate of merger to which he shall affix the other duplicate original.

The certificate of merger, together with the duplicate original of the articles of merger affixed thereto by the secretary of state, shall be returned to the surviving corporation or its representative.

SECTION 9. That Section 30-1-82, Idaho Code, be, and the same is

hereby amended to read as follows:

30-1-82. VOLUNTARY DISSOLUTION BY INCORPORATORS OR INITIAL DIRECTORS. A corporation which has not commenced business and which has not issued any shares, may be voluntarily dissolved by its incorporators or its initial board of directors at any time in the following manner.

(a) Articles of dissolution shall be executed in duplicate by a majority of the incorporators or initial directors ~~and verified by one of them~~, and shall set forth:

- (1) The name of the corporation.
- (2) The date of issuance of its certificate of incorporation.
- (3) That none of its shares has been issued.
- (4) That the corporation has not commenced business.
- (5) That the amount, if any, actually paid in on subscriptions for its shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto.
- (6) That no debts of the corporation remain unpaid.
- (7) That a majority of the incorporators or initial directors elects that the corporation be dissolved.

(b) Duplicate originals of the articles of dissolution shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of dissolution conform to law, he shall, when all corporation fees have been paid:

- (1) Endorse each of such duplicate originals with his approval.
- (2) File and record one (1) of such duplicate originals in his office.
- (3) Issue a certificate of dissolution to which he shall affix the other duplicate original.

The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Secretary of State, shall be retained by the incorporators or initial directors or their representative. Upon the issuance of such certificate of dissolution by the Secretary of State, the existence of the corporation shall cease.

SECTION 10. That Section 30-1-92, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-92. ARTICLES OF DISSOLUTION. After the procedures prescribed by sections 30-1-83, 30-1-84, and 30-1-87, Idaho Code, have been completed, articles of dissolution shall be executed in duplicate original by the corporation by its president, or vice president, ~~and by its secretary or assistant secretary, and verified by one (1) of the officers signing the articles.~~ The articles shall include:

- (a) The name of the corporation and post-office address.
- (b) The names and addresses of the last officers and directors of the corporation and their respective offices.
- (c) A statement that the notice required by section 30-1-87, Idaho Code, was given.
- (d) A statement that all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.
- (e) A statement that all the remaining property and assets of the

corporation have been distributed in accordance with the distribution provision in the articles of incorporation, or if there be no such provision, among the shareholders in proportion to their respective rights and interests.

(f) A statement that there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending suit.

(g) A statement that the dissolution has received the unanimous written consent of the shareholders or that the dissolution is pursuant to a resolution to dissolve adopted in the manner required by section 30-1-84, Idaho Code.

SECTION 11. That Section 30-1-110, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-110. APPLICATION FOR CERTIFICATE OF AUTHORITY. A foreign corporation, in order to procure a certificate of authority to transact business in this state, shall make application therefor to the secretary of state, which application shall set forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) The date of incorporation and the period of duration of the corporation.

(c) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(d) The address of the registered office of the corporation in this state, and the name of its registered agent in this state at such address.

(e) The purpose or purposes of the corporation which it proposes to pursue in the transaction of business in this state.

(f) The names and respective addresses of the directors and officers of the corporation.

(g) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to transact business in this state ~~and to determine and assess the fees and franchise taxes payable as in this act prescribed.~~

Such application shall be made on forms prescribed and furnished by the secretary of state and shall be executed in duplicate by the corporation by its president, or a vice president, and by its secretary or an assistant secretary, ~~and verified by one (1) of the officers signing such application.~~

SECTION 12. That Section 30-1-119, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-119. WITHDRAWAL OF FOREIGN CORPORATION. A foreign corporation authorized to transact business in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) That the corporation is not transacting business in this state.

(c) That the corporation surrenders its authority to transact business in this state.

(d) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to transact business in this state may thereafter be made on such corporation by service thereon in the manner provided in section 30-1-115, Idaho Code.

(e) A post-office address to which a copy of any process against the corporation may be served on it pursuant to the provisions of section 30-1-115, Idaho Code.

(f) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine and assess any unpaid fees payable by such foreign corporation as in this act prescribed.

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the corporation by its president, or a vice president, and by its secretary or an assistant secretary, ~~and verified by one of the officers signing the application;~~ or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee ~~and verified by him.~~

SECTION 13. That Section 30-1-125, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-125. ANNUAL REPORT OF DOMESTIC AND FOREIGN CORPORATIONS. Each domestic corporation, and each foreign corporation authorized to transact business in this state, except for insurance companies subject to regulation by the department of insurance under title 41, Idaho Code, shall file, within the time prescribed by this act, an annual report setting forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) The address of the registered office of the corporation in this state, and the name of its registered agent in this state at such address, and in case of a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated.

(c) A brief statement of the character of the business in which the corporation is actually engaged in this state.

(d) The names and respective addresses of the directors and officers of the corporation.

Such annual report shall be made on forms prescribed and furnished by the secretary of state, and the information therein contained shall be given as of the date of the execution of the report. It shall be executed by the corporation by an officer or other person authorized by the board of directors or, if the corporation is in the hands of a

receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee.

SECTION 14. That Section 30-1-126, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-126. FILING OF ANNUAL REPORT OF DOMESTIC AND FOREIGN CORPORATIONS. Such annual report of a domestic or foreign corporation shall be delivered to the secretary of state between the 1st day of July and the ~~1st~~ 30th day of November of each year, except that the first annual report of a domestic or foreign corporation shall be filed between the 1st day of July and the ~~1st~~ 30th day of November of the state fiscal year (July 1 - June 30) next succeeding the state fiscal year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the secretary of state. ~~Proof-to-the-satisfaction-of-the-secretary-of-state-that-prior-to--the-1st--day--of--November--such-report-was-deposited-in-the-United-States-mail-in-a-sealed-envelope-properly-addressed;--with--postage--prepaid; shall-be-deemed-a-compliance-with-this-requirement.~~ The report must be received in the office of the secretary of state not later than the close of business on the 30th day of November, or if that date falls on a weekend, on the last business day prior thereto. If the secretary of state finds that such report conforms to the requirements of this act, he shall file the same. If he finds that it does not so conform, he shall promptly return the same to the corporation for any necessary corrections, in which event the forfeiture prescribed for failure to file such report within the time hereinabove provided shall not apply, if such report is corrected to conform to the requirements of this act and returned to the secretary of state within thirty (30) days from the date on which it was mailed to the corporation by the secretary of state.

SECTION 15. That Chapter 1, Title 30, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 30-1-153, Idaho Code, and to read as follows:

30-1-153. LIABILITY FOR FALSE STATEMENT. If any document filed with the secretary of state pursuant to this chapter contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from any person who executes the document, or causes another to execute it on his behalf, and knew the statement to be false at the time the document was executed.

SECTION 16. That Section 30-1311, Idaho Code, be, and the same is hereby amended to read as follows:

30-1311. CORPORATE NAME. The corporate name shall end with the word "chartered," or "professional association" or "professional corporation," or the abbreviation "P.A.," "P.C." or "CHTD," but the name need not contain the word "company," "corporation" or "incorporated" or any abbreviation of any such word.

SECTION 17. That Section 53-202, Idaho Code, be, and the same is hereby amended to read as follows:

53-202. NAME. The name of each limited partnership as set forth in its certificate of limited partnership:

(1) Shall contain ~~without-abbreviation~~ the words "limited partnership" or the abbreviation "L.P." or "LP";

(2) May not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(3) May not be the same as, or deceptively similar to, the name of any corporation, limited liability company or limited partnership organized under the laws of this state or licensed or registered as a foreign corporation, limited liability company or limited partnership in this state; and

(4) May not contain the following words or abbreviations: "corporation," "incorporated," "corp.," "inc.," "limited liability company," "limited company," "L.L.C.," "LLC," and "L.C." and "LC".

SECTION 18. That Chapter 2, Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-204A, Idaho Code, and to read as follows:

53-204A. RESIGNATION OF REGISTERED AGENT. A registered agent of a limited partnership may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the limited partnership in care of a general partner listed in the certificate of limited partnership. The appointment of such agent shall terminate upon the expiration of thirty (30) days after receipt of such notice by the secretary of state.

SECTION 19. That Section 53-210, Idaho Code, be, and the same is hereby amended to read as follows:

53-210. CANCELLATION OF CERTIFICATE. (a) A certificate of limited partnership shall be cancelled upon the dissolution and the commencement of winding up of the partnership or at any other time there are no limited partners. A certificate of cancellation shall be filed in the office of the secretary of state and set forth:

- (1) The name of the limited partnership;
- (2) The date of filing of its certificate of limited partnership;
- (3) The reason for filing the certificate of cancellation;
- (4) The effective date (which shall be a date certain) of cancellation if it is not to be effective upon the filing of the certificate; and
- (5) Any other information the general partners filing the certificate determine.

(b) In the event the limited partnership is dissolved for failure to reappoint a registered agent within sixty (60) days after notice of

resignation of its registered agent, the secretary of state shall cancel its certificate and send notice of the cancellation by mail to a general partner listed in the certificate of limited partnership.

SECTION 20. That Section 53-220, Idaho Code, be, and the same is hereby amended to read as follows:

53-220. PERSON ERRONEOUSLY BELIEVING HIMSELF LIMITED PARTNER. (a) Except as provided in subsection (b) of this section, a person who makes a contribution to a business enterprise and erroneously, but in good faith, believes that he has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, on ascertaining the mistake, he:

(1) Causes an appropriate certificate of limited partnership or a certificate of amendment to be executed and filed; or

(2) Withdraws from future equity participation in the enterprise.

(b) A person who makes a contribution of the kind described in subsection (a) hereof is liable as a general partner to any third party who transacts business with the enterprise (i) before the person withdraws and, if the enterprise is a limited partnership, an appropriate certificate is filed to show withdrawal, or (ii) before an appropriate certificate is filed to show that he is not a general partner, but in either case only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

(c) A limited partner who is unaware of a cancellation of the certificate of limited partnership pursuant to section 53-210(b), Idaho Code, does not thereby become liable as a general partner.

SECTION 21. That Section 53-244, Idaho Code, be, and the same is hereby amended to read as follows:

53-244. NONJUDICIAL DISSOLUTION. A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

(1) At the time specified in the certificate of limited partnership;

(2) Upon the happening of events specified in writing in the partnership agreement;

(3) Written consent of all partners;

(4) An event of withdrawal of a general partner unless at the time there is at least one (1) other general partner and the written provisions of the partnership agreement permit the business of the limited partnership to be carried on by the remaining general partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal, if, within ninety (90) days after the withdrawal, all partners agree in writing to continue the business of the limited partnership and to the appointment of one or more additional general partners if necessary or desired; or

(5) Entry of a decree of judicial dissolution under section

53-245, Idaho Code; or

(6) Failure, after resignation of its registered agent, to file an amendment of its certificate of limited partnership naming a new registered agent, within sixty (60) days after receipt of notice from the secretary of state as prescribed in section 53-204A, Idaho Code.

SECTION 22. That Section 53-249, Idaho Code, be, and the same is hereby amended to read as follows:

53-249. ADMISSION OF FOREIGN LIMITED PARTNERSHIPS. Before transacting business in this state, a foreign limited partnership shall make application to the secretary of state. In order to be admitted, a foreign limited partnership shall submit to the secretary of state, in duplicate, an application for registration as a foreign limited partnership, signed ~~and verified~~ by a general partner and setting forth:

- (1) The name of the foreign limited partnership and, if different, the name under which it proposes to be authorized to transact business in this state;
- (2) The state and date of its formation;
- (3) The name and address of any registered agent for service of process on the foreign limited partnership whom the foreign limited partnership elects to appoint; the agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this state;
- (4) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;
- (5) The name and address of each general partner; and
- (6) The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is cancelled or withdrawn.

The application will be accompanied by a certificate certifying to the lawful existence of the limited partnership, issued by the proper officer of the jurisdiction in which the certificate of limited partnership is filed or recorded.

SECTION 23. That Section 53-251, Idaho Code, be, and the same is hereby amended to read as follows:

53-251. CHANGE OF REGISTERED AGENT OF FOREIGN LIMITED PARTNERSHIP OR ITS ADDRESS. A foreign limited partnership authorized to transact business in this state may change its registered agent or its address upon filing in the office of the secretary of state a statement setting forth:

- (a) The name of the limited partnership;
- (b) The name and address of its then registered agent;
- (c) If its registered agent be changed, the name of its successor

registered agent;

(d) If the registered agent's address is to be changed, the address to which it is to be changed.

Such statement shall be executed by the limited partnership by a general partner, ~~and verified by him~~, and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this act, he shall file such statement in his office.

Any registered agent of a foreign limited partnership may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the limited partnership at its principal office in the state or country under the laws of which it is organized. The appointment of such agent shall terminate upon the expiration of thirty (30) days after receipt of such notice by the secretary of state.

SECTION 24. That Section 53-253, Idaho Code, be, and the same is hereby amended to read as follows:

53-253. NAMES FOR FOREIGN LIMITED PARTNERSHIPS. A foreign limited partnership may be admitted by the secretary of state under any name (whether or not it is the name under which it was organized in its state of organization) that includes ~~without--abbreviation~~ the words "limited partnership" or the abbreviation "L.P." or "LP," and that could be adopted by a domestic limited partnership.

SECTION 25. That Section 53-255, Idaho Code, be, and the same is hereby amended to read as follows:

53-255. WITHDRAWAL FROM STATE OF FOREIGN LIMITED PARTNERSHIPS. A foreign limited partnership may withdraw from this state by filing with the secretary of state an application for withdrawal signed ~~and verified~~ by a general partner. The application shall set forth:

- (a) The name of the limited partnership and the state or country under the laws of which it is organized;
- (b) That the limited partnership is not transacting business in this state;
- (c) That the limited partnership surrenders its authority to transact business in this state;
- (d) That the limited partnership revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the limited partnership was registered in this state may thereafter be made on such limited partnership by service thereon in the manner provided in section 53-252, Idaho Code;
- (e) A post-office address to which a copy of any process against the limited partnership may be served on it pursuant to the provisions of section 53-252, Idaho Code.

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the limited partnership by a general partner, ~~and verified by him~~.

SECTION 26. That Section 53-602, Idaho Code, be, and the same is hereby amended to read as follows:

53-602. NAME. (1) The name of each limited liability company as set forth in its articles of organization must contain the words "Limited Liability Company" or "Limited Company" or the abbreviation "L.L.C.," or "L.C.," "LLC" or "LC". The word "Limited" may be abbreviated as "Ltd." and the word "Company" may be abbreviated as "Co." If the limited liability company, however, is a professional services limited liability company as defined in section 53-615, Idaho Code, the name of the limited liability company as set forth in the articles of organization must end with the words "Professional Company" or the abbreviation "P.L.L.C." or "PLLC".

(2) A limited liability company name may not be the same as or deceptively similar to:

(a) The name of any limited liability company, limited partnership or corporation existing under the laws of this state or authorized to transact business in this state; or

(b) Any name reserved or registered under section 53-603, Idaho Code, the general corporation laws or the Idaho limited partnership act.

(3) The provisions of subsection (2) of this section shall not apply if the applicant files with the secretary of state either of the following:

(a) The written consent of the holder of a reserved or registered name to use a deceptively similar name if one (1) or more words are added, altered or deleted to make the name distinguishable from the reserved or registered name; or

(b) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of the name in this state.

SECTION 27. That Section 53-613, Idaho Code, be, and the same is hereby amended to read as follows:

53-613. ANNUAL REPORT OF DOMESTIC AND FOREIGN LIMITED LIABILITY COMPANIES. (1) Each domestic limited liability company, and each foreign limited liability company authorized to do business in this state, shall file an annual report setting forth:

(a) The name of the limited liability company and the state or country under the laws of which it is organized;

(b) The address of the registered office of the limited liability company in this state, and the name of its registered agent in this state at such address, and the address of its principal office;

(c) If the management of the limited liability company is vested in its members, the name and address of one (1) or more of the current members of the limited liability company;

(d) If the management of the limited liability company is vested in a manager or managers, the name and address of one (1) or more of the current managers of the limited liability company.

(2) Such annual report shall be made on forms prescribed and furnished by the secretary of state, and the information therein con-

tained shall be given as of the date of the execution of the report. It shall be executed by the limited liability company by a member if management is vested in the members, or by a manager if management is vested in the managers. If the limited liability company is in the hands of a receiver or trustee, it shall be executed on behalf of the limited liability company by such receiver or trustee.

(3) Such annual report of a domestic or foreign limited liability company shall be delivered to the secretary of state between the 1st day of July and the ~~1st~~ 30th day of November of each year, except that the first annual report of a domestic or foreign limited liability company shall be filed between the 1st day of July and the ~~1st~~ 30th day of November of the state fiscal year (July 1-June 30) next succeeding the state fiscal year in which its articles of organization were filed with the secretary of state, or when the certificate of registration was issued by the secretary of state, as the case may be. The report must be received in the office of the secretary of state not later than the close of business on the 30th day of November, or if that date falls on a weekend, on the last business day prior thereto. If the secretary of state finds that such report conforms to the requirements of this chapter, he shall file the same. If he finds that it does not so conform, he shall promptly return the same to the limited liability company for any necessary corrections.

Approved March 14, 1995.

CHAPTER 127
(S.B. No. 1135)

AN ACT

RELATING TO HAZARDOUS, PCB AND OTHER WASTE DISPOSAL FEES; AMENDING SECTION 39-4427, IDAHO CODE, TO PROVIDE FEES FOR THE DISPOSAL OF HAZARDOUS WASTES RENDERED NONHAZARDOUS THROUGH TREATMENT OR DELISTING, TO PROVIDE FEES FOR CERTAIN TYPES OF MANIFESTED WASTES AND OTHER WASTES, TO PROVIDE AUTHORITY TO THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE TO ENTER INTO AGREEMENTS WITH THE OWNERS OR OPERATORS OF COMMERCIAL WASTE DISPOSAL FACILITIES OR SITES PROVIDING FOR THE CHARACTERIZATION, COLLECTION, IDENTIFICATION, TRANSPORTATION, TREATMENT AND STORAGE OF WASTES FROM ANY AGENCY OF THE STATE OF IDAHO.

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

SECTION 1. That Section 39-4427, Idaho Code, be, and the same is hereby amended to read as follows:

39-4427. HAZARDOUS WASTE DISPOSAL FEE. (1) On and after July 1, 1994, there is imposed on the owner or operator of every commercial hazardous waste disposal facility or site permitted under section 39-4409, Idaho Code, the following waste disposal fees:

(a) Hazardous wastes as defined by RCRA or section 39-4407, Idaho Code: thirty dollars (\$30.00) per gate ton or fraction thereof

disposed of at the facility or site, provided however, that hazardous waste that has been delisted or has been treated so that it is no longer hazardous waste: five dollars (\$5.00) per gate ton or fraction thereof disposed of at the facility or site;

(b) PCB and all other manifested waste other than wastes as defined in paragraph (a) of this subsection: twenty-five dollars (\$25.00) per gate ton or fraction thereof disposed of at the facility or site;

(c) All other waste not defined in paragraphs (a) and (b) of this subsection: five dollars (\$5.00) per gate ton or fraction thereof.

(2) The fees set forth in subsection (1) of this section shall not apply to any of the following types of wastes:

(a) Wastes generated or disposed of by a public agency or other person operating a household hazardous waste collection program;

(b) Wastes generated or disposed of by any agency of the state of Idaho.

Any waste for which the fees are waived under the provisions of this section must be noted as fee-waived waste on the return required in section 39-4428, Idaho Code, and is subject to all audit provisions of section 39-4429, Idaho Code.

(3) For wastes disposed of by any agency of the state of Idaho at any commercial hazardous waste disposal facility or site permitted under section 39-4409, Idaho Code, the director, pursuant to a written agreement with the owner or operator of any such facility or site, may credit to the hazardous waste training, emergency and monitoring account an amount equal to the actual cost charged by such owner or operator per gate ton or fraction thereof for the characterization, collection, identification, transportation, treatment, storage and disposal of wastes at such facility or site.

Approved March 14, 1995.

CHAPTER 128
(S.B. No. 1145)

AN ACT

RELATING TO THE CUSTODY OF CHILDREN; AMENDING SECTION 32-717, IDAHO CODE, TO AUTHORIZE A COURT IN A DIVORCE PROCEEDING TO RECOGNIZE A GRANDPARENT WITH WHOM THE CHILD IS ACTUALLY RESIDING AS HAVING THE SAME STANDING AS A PARENT FOR EVALUATING WHAT CUSTODY ARRANGEMENTS ARE IN THE BEST INTERESTS OF THE CHILD.

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

SECTION 1. That Section 32-717, Idaho Code, be, and the same is hereby amended to read as follows:

32-717. CUSTODY OF CHILDREN -- BEST INTEREST. A. In an action for divorce the court may, before and after judgment, give such direction for the custody, care and education of the children of the marriage as may seem necessary or proper in the best interests of the children.

The court shall consider all relevant factors which may include:

1. The wishes of the child's parent or parents as to his or her custody;
2. The wishes of the child as to his or her custodian;
3. The interaction and interrelationship of the child with his or her parent or parents, and his or her siblings;
4. The child's adjustment to his or her home, school, and community;
5. The mental and physical health and integrity of all individuals involved;
6. The need to promote continuity and stability in the life of the child; and
7. Domestic violence as defined in section 39-6303, Idaho Code, whether or not in the presence of the child.

B. In any case where the child is actually residing with a grandparent in a stable relationship, the court may recognize the grandparent as having the same standing as a parent for evaluating what custody arrangements are in the best interests of the child.

Approved March 14, 1995.

CHAPTER 129
(S.B. No. 1181)

AN ACT

RELATING TO COMPUTERIZED MAPPING SYSTEM FEES; AMENDING CHAPTER 3, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-345, IDAHO CODE, TO PROVIDE THAT CITIES CAN CHARGE AND COLLECT A FEE FOR THE ACTUAL COST OF MAINTAINING A COMPUTERIZED MAPPING SYSTEM.

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

SECTION 1. That Chapter 3, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-345, Idaho Code, and to read as follows:

50-345. COMPUTERIZED MAPPING SYSTEM FEES. (1) As used in this section, "computerized mapping system" or "system" means the digital storage, processing and retrieval of cadastral information derived from local government records and related information such as land use, topography, water, streets and geographic features.

(2) In a city which develops a computerized mapping system, the city council may impose and collect fees from the users of this system for the development, maintenance and dissemination of digital forms of the system. These fees shall not exceed the actual costs of development, annual maintenance and dissemination of the computerized mapping system. These fees shall not apply to official paper maps produced from the computerized mapping system.

Approved March 14, 1995.

CHAPTER 130
(S.B. No. 1232)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 1996; LIMITING THE NUMBER OF FULL-TIME POSITIONS; TRANSFERRING MONEYS TO THE GENERAL FUND; APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 1995; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
General Fund	\$ 270,100			\$ 270,100
State Regulatory Fund	603,000	\$ 170,200	\$18,700	791,900
TOTAL	<u>\$ 873,100</u>	<u>\$ 170,200</u>	<u>\$18,700</u>	<u>\$1,062,000</u>
B. UTILITIES REGULATION:				
FROM:				
State Regulatory Fund	\$1,385,200	\$ 791,300	\$21,400	\$2,197,900
C. REGULATED CARRIERS:				
FROM:				
State Regulatory Fund	\$ 398,600	\$ 216,500	\$42,400	\$ 657,500
GRAND TOTAL	\$2,656,900	\$1,178,000	\$82,500	\$3,917,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Public Utilities Commission is authorized no more than fifty-six (56) full-time equivalent positions at any point during the period July 1, 1995 through June 30, 1996, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

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, 1995, through June 30, 1996.

SECTION 4. In addition to the appropriation made in Section 2, Chapter 153, Laws of 1994, there is hereby appropriated to the Public

Utilities Commission the following amounts to be expended for the designated programs according to the designated standard classifications 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
ADMINISTRATION:				
FROM:				
General Fund	\$8,600			\$ 8,600
REGULATED CARRIERS:				
FROM:				
State Regulatory				
Fund		\$19,700	\$466,500	\$486,200
TOTAL	\$8,600	\$19,700	\$466,500	\$494,800

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 4 of this act shall be in full force and effect on and after its passage and approval.

Approved March 14, 1995.

CHAPTER 131
(H.B. No. 42, As Amended)

AN ACT

RELATING TO REGULATION OF MOTOR CARRIERS; AMENDING SECTION 61-802B, IDAHO CODE, TO CLARIFY FILING REQUIREMENTS TO COINCIDE WITH FEDERAL LAW; AND AMENDING SECTION 61-812, IDAHO CODE, TO STRIKE REFERENCE TO EXCEPTIONS TO FEES.

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

SECTION 1. That Section 61-802B, Idaho Code, be, and the same is hereby amended to read as follows:

61-802B. FILING OF AUTHORITY. ~~On and after January 1, 1964, it~~ shall be unlawful for any interstate carrier of persons or property to operate upon the public highways of this state without first having registered with the Idaho public utilities commission his operating authority granted by the interstate commerce commission or ~~an affidavit of exemption therefrom~~ having certified that it is exempt from interstate commerce commission regulation. Such registration shall be granted annually upon application, without hearing, upon payment of the filing fee prescribed in section 61-812, Idaho Code, ~~as amended.~~

Such registration shall be revoked by the Idaho public utilities commission upon revocation of the operating authority by the interstate commerce commission.

SECTION 2. That Section 61-812, Idaho Code, be, and the same is

hereby amended to read as follows:

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

a. Intrastate carriers.

Application for a permit shall be accompanied by an application fee of	\$150.00
Application for transfer of a permit	150.00
Application for the issuance of a duplicate permit	10.00
Application for permit reinstatement	100.00
Application for permit suspension	25.00
Application for temporary permit	50.00
Annual regulatory fee per power unit of each common or contract motor carrier	21.00
Annual regulatory fee per power unit of each private motor carrier	7.00

The commission shall charge and collect reasonable fees for copies of papers and records as established by rule or general order of the commission.

~~b. Interstate carriers. (1) Except as provided in paragraph (2) of this subsection, the following fees shall be charged and collected:~~

For proof of insurance for each vehicle operated by the motor carrier not to exceed	10.00
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Lesser amounts for each vehicle may be set by rule or general order of the commission.

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

Approved March 15, 1995.

CHAPTER 132
(H.B. No. 188)

AN ACT

RELATING TO TAXATION OF MOTOR FUELS; AMENDING SECTION 63-2401, IDAHO CODE, TO ADD, DELETE OR MODIFY DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-2407, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE RELATING TO THE COMPUTATION OF TAX ON AIRCRAFT ENGINE FUEL; AMENDING SECTION 63-2408, IDAHO CODE, TO IMPOSE A FUEL USE TAX ON AIRCRAFT ENGINE FUEL; REPEALING SECTION 63-2409, IDAHO CODE; AMENDING SECTION 63-2410, IDAHO CODE, TO DISALLOW REFUNDS OF TAX PAID ON FUEL USED IN GOVERNMENTAL BOATS AND TO CLARIFY REFUNDS ON CERTAIN FUEL USED IN AIRCRAFT; REPEALING SECTION 63-2419, IDAHO CODE; AMENDING SECTION 63-2421, IDAHO CODE, TO CORRECT A CROSS REFERENCE; AMENDING SECTION 63-2424, IDAHO CODE, TO CLARIFY THE SALES AND USE OF GASEOUS FUEL DECALS; AMENDING CHAPTER 24, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION

63-2427A, IDAHO CODE, TO PROVIDE FOR LICENSING OF MOTOR FUEL DISTRIBUTORS; AMENDING SECTION 63-2428, IDAHO CODE, TO CORRECT A CROSS REFERENCE; AMENDING SECTION 63-2440, IDAHO CODE, TO DELETE PROVISIONS RELATING TO QUALIFIED ONE-WAY RENTAL TRUCKS AND TO EXEMPT FROM SPECIAL FUEL USE TAX PERMITTING AND REPORTING REQUIREMENTS FOR CERTAIN BUSES AND RECREATIONAL VEHICLES; AND AMENDING SECTION 41-4903, IDAHO CODE, TO CORRECT A CROSS REFERENCE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-2401, Idaho Code, be, and the same is hereby amended to read as follows:

63-2401. DEFINITIONS. In this chapter:

(1) "Aircraft engine fuel" means:

(a) Aviation gasoline, defined as any mixture of volatile hydrocarbons used in aircraft reciprocating engines; and

(b) Jet fuel, defined as any mixture of volatile hydrocarbons used in aircraft turbojet and turboprop engines.

(2) "Bond" means:

(a) A surety bond, in an amount required by this chapter, duly executed by a surety company licensed and authorized to do business in this state conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties and other obligations arising out of the provisions of this chapter; or

(b) A deposit with the commission by any person required to be licensed pursuant to this chapter under terms and conditions as the commission may prescribe, of a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Idaho, or any county of the state; or

(c) An irrevocable letter of credit issued to the commission by a bank doing business in this state payable to the state upon failure of the person on whose behalf it is issued to remit any payment due under the provisions of this chapter.

(3) "Bulk storage tank" means a tank with a capacity of fifty-five (55) gallons capacity or more which meets both of the following criteria:

(a) It is physically attached to the real property of a purchaser of special fuels which are delivered into the tank.

(b) It is primarily used to store special fuels which are used by the purchaser of the special fuels for purposes other than propelling a motor vehicle on a highway.

(4) "Commercial motor boat" means any boat, equipped with a motor, which is wholly or partly used in a profit-making enterprise or in an enterprise conducted with the intent of making a profit.

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

(6) "Distributor" means any person who receives gasoline, special fuels, and/or aircraft fuel in this state, and includes a special fuels dealer. Any person who sells or receives gaseous fuels will not be considered a distributor unless the gaseous fuel is delivered into

the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him.

(7) "Dyed fuel" means diesel fuel that is dyed pursuant to requirements of the Internal Revenue Service, or the environmental protection agency.

(8) "Exported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin in this state.

(79) "Gasohol" means gasoline containing a mixture of at least no more than ten percent (10%) blend anhydrous ethanol.

(810) "Gasoline" means any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. "Gasoline" also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels.

(911) "Highways" means every place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel which is maintained by the state of Idaho or an agency or taxing subdivision or unit thereof or the federal government or an agency or instrumentality thereof. Provided, however, if the cost of maintaining a roadway is primarily borne by a special fuels user who is registered under section 63-2438, Idaho Code, pursuant to a written contract during any period of time that a special fuels tax liability accrues to the user, such a roadway shall not be considered a "highway" for any purpose related to calculating that user's special fuel's tax liability or refund.

(12) "Imported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin outside this state.

(13) "Jurisdiction" means a state of the United States, the District of Columbia, or a province or territory of Canada.

(104) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2409 63-2427A, Idaho Code.

(115) "Licensed special fuels dealer" means any special fuels dealer licensed under the provisions of section 63-2419 63-2427A, Idaho Code.

(126) "Motor fuel" means gasoline, special fuels, aircraft engine fuels or any other fuels suitable for the operation or propulsion of motor vehicles, or motor boats or aircraft.

(137) "Motor vehicle" means every self-propelled vehicle designed for operation, or required to be licensed for operation, upon a highway.

(148) "Person" means any individual, firm, fiduciary, copartnership, association, corporation, governmental instrumentality including the state and all of its agencies and political subdivisions, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means the partners or members, and as applied to corporations, the officers.

~~(15) "Qualified one-way rental truck" means a motor vehicle regis-~~

tered in Idaho at a gross weight of twenty-six thousand (26,000) pounds or under having two (2) axles and a straight body which is exclusively used by the owner in the business of renting such vehicle without driver to the general public. It does not include a "truck tractor" as defined in section 49-121, Idaho Code. To be a qualified one-way rental truck the vehicle must display clearly identifiable commercial or other markings which identify the vehicle as part of a specific one-way rental fleet.

(169) "Recreational vehicle" means a snowmobile as defined in section 67-7101, Idaho Code; a motor driven cycle or motorcycle as defined in section 49-114, Idaho Code; and any vehicular type unit either as an integral part of, or required for the movement of, units defined in section 39-4105(15), Idaho Code.

(1720) "Retail dealer" means any person engaged in the retail sale of motor fuels to the public or for use in the state.

(210) "Special fuels" means:

(a) All fuel suitable as fuel for diesel engines;

(b) A compressed or liquified gas obtained as a byproduct in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and

(c) Natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles.

(1922) "Special fuels dealer" means "distributor" under subsection (6) of this section or any person in the business of handling special fuels and:

(a) Who delivers any part thereof into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him; or

(b) Who sells special fuels to another person who is not a licensed special-fuels-dealer pursuant to section 63-2427A, Idaho Code.

(203) "Special fuels user" means any person who uses or consumes special fuels for the operation or propulsion of motor vehicles owned or controlled by him upon the highways of this state.

(214) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed distributor or a special fuels dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while the vehicle is within this state; or

(b) The consumption of fuels in the operation or propulsion of a motor vehicle on the highways of this state.

(225) "Wholesaler" means any person who, as a regular part of their trade or business, makes sales of special fuels to special fuels dealers for resale.

SECTION 2. That Section 63-2407, Idaho Code, be, and the same is hereby amended to read as follows:

63-2407. DEDUCTIONS AUTHORIZED. Each licensed distributor shall deduct from his monthly report:

(1) Gasoline and/or aircraft engine fuel exported from this state other than in the supply tanks of motor vehicles, motor boats or air-

craft when supported by a shipping document issued by a common carrier, an invoice signed by the purchaser, or other proper documents approved by the commission.

(2) Gasoline and/or aircraft engine fuel returned to a licensed distributor's refinery or pipeline terminal storage when supported by proper documents approved by the commission.

(3) Gasoline and/or aircraft engine fuel lost or destroyed by fire, lightning, flood, tornado, windstorm, explosion, or other accidental casualty, after presenting to the commission satisfactory proof of loss.

(4) The number of gallons which would be equal to one per cent (1%) of the total number of gallons received during the reporting period, less the total number of gallons deducted under subsections (1) through (3) of this section, which credit is granted to the licensed distributor to reimburse him for the expense incurred on behalf of the state of Idaho in collecting and remitting gasoline and/or aircraft engine fuel tax moneys, maintaining necessary records for the state, preparing necessary reports and remittances in compliance with this chapter, and for loss from evaporation, handling, spillage and shrinkage, except losses caused by casualty as provided in subsection (3) of this section. The licensed distributor may, in addition to the above, deduct the number of gallons equal to one per cent (1%) of the total number of gallons received during the preceding calendar month, less the total number of gallons deducted under subsections (1) through (3) of this section, to cover shrinkage, evaporation, spillage and handling losses of a retail dealer. The latter deductions are to be allowed only upon filing with the commission satisfactory evidence as may be prescribed by it indicating the credit allowance has been made in favor of the retail dealer or paid to him. The evidence shall be submitted together with the report wherein this portion of the deduction is claimed. A licensed distributor who sells and delivers gasoline directly to the consumer and not for resale shall, with respect to those sales, be deemed a retail dealer for the purposes of this section.

~~(5) When aircraft engine fuel is sold for use in aircraft and the tax imposed by section 63-2408, Idaho Code, is paid to the commission, the total number of gallons sold shall be deducted from the total gallons of gasoline and/or aircraft engine fuel received.~~

~~(6) Gasoline and/or aircraft engine fuel sold to the Idaho national guard for use in aircraft and in vehicles used off public highways provided, however, such deduction is supported by an exemption certificate signed by an authorized officer of the Idaho national guard.~~

SECTION 3. That Section 63-2408, Idaho Code, be, and the same is hereby amended to read as follows:

63-2408. AIRCRAFT ENGINE FUEL TAX. (1) An excise tax is hereby imposed on all aircraft engine fuel ~~sold~~ received in this state. The tax is to be paid by the distributor, and measured by the total number of gallons ~~sold~~ received by him, at the rate of five and one-half cents (5 1/2¢) per gallon of aviation gasoline, and four and one-half cents (4 1/2¢) per gallon of jet fuel. The tax, together with any pen-

alty and/or interest due, shall be remitted with the monthly distributor's report required in section 63-2406, Idaho Code.

(2) For gasoline, other than aircraft engine fuel, used in aircraft engines, the refund of gasoline tax provided in section 63-2410, Idaho Code, shall be the amount of gasoline tax paid less the aviation gasoline fuel tax required in this section.

(3) A tax is hereby imposed on fuel which is placed into the fuel supply tank of aircraft in this state on which tax is not collected under subsection (1) of this section, the tax shall be payable at the rate established in subsection (1) of this section, to the commission by the user or consumer of the fuels and shall be a debt owing to the state until it is paid. The tax shall be imposed without regard to whether the fuel is used in the performance of a government contract.

SECTION 4. That Section 63-2409, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 63-2410, Idaho Code, be, and the same is hereby amended to read as follows:

63-2410. REFUND OF GASOLINE TAX PROCEDURE. (1) Any person who shall purchase fifty (50) gallons or more, and use the gasoline in motor vehicles operated on highways outside of the state of Idaho where a duplicate tax is assessed for the same gasoline, shall be entitled to refund when a claim is presented to the commission in the manner required in subsection (5)(c) of this section. Claimant shall present to the commission a statement accompanied by a verification of the use determined by an audit of his operations conducted as prescribed by the tax commission; or his claim may be verified by the filing of a receipt or proof showing the payment of tax on the gasoline used in any other state.

(2) Any person who shall purchase within any one (1) calendar year fifty (50) gallons or more of gasoline used for the purposes described in this subsection shall be entitled to be refunded the amount of gasoline tax previously paid on that gasoline. Exempt uses are:

- (a) Operating stationary gasoline engines;
 - (b) Propelling equipment or vehicles, other than motor vehicles, which are not operated on a highway; and
 - (c) Operating commercial motor boats.
- (3) No refund of gasoline tax shall be allowed for any gasoline

which is:

- (a) Used in motor vehicles required to be licensed or used in any motor vehicle exempt from registration by reason of the ownership or residence; or
- (b) Aircraft engine fuel placed in aircraft, provided however, if tax has been paid at the rate provided in section 63-2405, Idaho Code, on any motor fuel placed in the fuel supply tank of an aircraft the user of the fuel may apply for a refund of the difference between the tax paid on the fuel and the tax imposed in section 63-2408, Idaho Code; or
- (c) Gasoline used in recreational vehicles; or
- (d) Gasoline used in noncommercial motor boats or in boats oper-

ated by a governmental entity.

(4) Any licensed distributor paying the gasoline tax and/or aircraft engine fuel tax to the state of Idaho erroneously shall be allowed a credit or refund of the amount of tax paid by him if a written claim for refund is filed with the commission within three (3) years after the date those taxes were paid. Such credit or refund shall include interest at the rate established in section 63-3045, Idaho Code, computed from the date taxes to be refunded or credited were paid to the commission.

(5) (a) All claims for refund of gasoline taxes arising under subsection (1), or (2) or (3)(b) of this section shall be filed in conjunction with the claimant's income tax return due pursuant to chapter 30, title 63, Idaho Code. The gasoline tax refund claimed shall be tax paid on gasoline actually purchased during the taxable year to which the income tax return relates. The gasoline tax refund due shall be offset against any other taxes, penalties or interest due before any balance is refunded by the commission to the claimant. Subject to a limitation as to the amount of refund to be claimed as the commission may provide by regulation, refund claims may be submitted and paid on a quarterly basis and reconciled on the income tax return when it is filed.

(b) If a claimant is not required to file an income tax return, the refund claim shall be made on forms and in the manner as the commission may provide. The claim shall relate to taxes paid on gasoline actually purchased in the calendar year preceding the filing and the claim shall be filed on or before April 15 following the close of the calendar year.

(c) Claims for refunds under subsection (1) or (2) of this section shall be filed within the time and in the manner prescribed in section 63-3072, Idaho Code.

(d) The commission may require that all claims be accompanied by the original signed invoice or invoices issued to the claimant, showing the total amount of gasoline on which a refund is claimed and the reason, the amount of the tax and any additional information required by the commission. Each separate delivery shall constitute a purchase and a separate invoice shall be prepared, at least in duplicate, to cover the delivery. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or double-spaced carbon shall be used between the original and first duplicate.

(6) (a) Should the commission find that the claim contains errors, it may correct the claim and approve it as corrected, or the commission may require the claimant to file an amended claim. The commission may require any person who makes a claim for refund to furnish a statement under oath, giving his occupation, description of the machine or equipment in which the gasoline was used, the place where used and any other information as the commission may require. If the commission determines that any claim has been fraudulently presented, or is supported by an invoice or invoices fraudulently made or altered, or that any statement in the claim or affidavit is willfully false and made for the purpose of misleading, the commission may reject the claim in full. If the claim is rejected, the commission may suspend the claimant's right to

any refund for purchases made during a period not to exceed one (1) year beginning with the date the rejected claim was filed, and it shall take all other action deemed appropriate.

(b) The commission has authority, in order to establish the validity of any claim, to examine the books and records of the claimant for that purpose, and failure of the claimant to accede to the demand for the examination may constitute a waiver of all rights to the refund claimed.

(7) In the event of the loss or destruction of the original invoice or invoices, the person claiming a refund may submit a duplicate copy of the invoice certified by the vendor, but payment based on the duplicate invoice shall not be made until one (1) year after the date on which the gasoline was purchased.

SECTION 6. That Section 63-2419, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section 63-2421, Idaho Code, be, and the same is hereby amended to read as follows:

63-2421. RETURNS AND PAYMENT OF USE TAX BY CONSUMERS. (1) Any person who consumes special fuels in a motor vehicle licensed or required to be licensed by the laws of this state, except for motor vehicles displaying a valid special fuels permit under this chapter and is subject to the tax imposed by section 63-2417, Idaho Code, shall report the amount of tax liability and pay the taxes due in conjunction with his income or franchise tax return due under the provisions of chapter 30, title 63, Idaho Code, in the manner and form prescribed by the commission. Payment of special fuels taxes shall be made in conjunction with any other taxes due on that return and special fuels taxes due may be offset against refunds of any other taxes shown on the return to be due the taxpayer.

(2) In the case of a person other than one who consumes special fuels in a motor vehicle displaying a valid special fuels permit under this chapter and not required to file a return under chapter 30, title 63, Idaho Code, who is subject to the tax imposed by section ~~63-2417~~ 63-2416, Idaho Code, the tax shall be paid annually, on a calendar year basis, in the manner and form required by the commission. The return and payment for each calendar year shall be due on or before April 15 of the immediately succeeding calendar year.

SECTION 8. That Section 63-2424, Idaho Code, be, and the same is hereby amended to read as follows:

63-2424. GASEOUS FUELS. (1) In the case of special fuels which are in a gaseous form, the commission shall provide by regulation the method to be used for converting the measurement of the fuel to the equivalent of gallons for the purpose of applying tax rates. The method provided shall cause the tax rate provided in section 63-2405, Idaho Code, to apply to an amount of gaseous fuels having energy equal to one (1) gallon of gasoline.

(2) As an alternative to the provisions of subsection (1) of this section, an annual fee in lieu of the excise tax may be collected on a

vehicle powered by gaseous fuels. The rate of the fee shall be based on the following schedule for all types of gaseous fuels as adjusted by the formula for proration set out below. The permits shall be sold by gaseous fuels vendors dispensing propane gaseous fuels into motor vehicles.

VEHICLE TONNAGE (GVW)	FEE
0 - 8,000	\$ 50.00
8,001 - 16,000	\$ 75.00
16,001 - 26,000	\$150.00
26,001 and above	\$175.00

Permits for vehicles which are converted to gaseous fuels after the first of July in any year shall have the fee prorated for the appropriate number of months until renewal. The commission shall provide by regulation the method to be used for converting the measurement of fuel to the equivalent of gallons for the purpose of applying increases in tax rates after this law becomes effective. A decal issued by the department shall be displayed in any vehicle for which a permit is issued hereunder as evidence that the annual fee has been paid in lieu of the fuel tax. This decal shall be displayed in a conspicuous place ~~on the exterior of the vehicle on the rear bumper or near the fuel tank inlet.~~

SECTION 9. That Chapter 24, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-2427A, Idaho Code, and to read as follows:

63-2427A. DISTRIBUTOR'S LICENSE. (1) It is unlawful for a person to act as a distributor without a license unless the person only purchases fuel which is either or both:

(a) Motor fuel on which any tax due under this chapter has previously been imposed upon a licensed distributor; or

(b) Dyed fuel upon which the transfer fee imposed in section 41-4908, Idaho Code, has been imposed upon a licensed distributor.

(2) Application for a license shall be made upon forms furnished and in a manner prescribed by the commission and shall contain information as it deems necessary, and be accompanied by a bond in the amount required in section 63-2428, Idaho Code.

(3) Upon receipt of the application and bond in proper form the commission shall issue the applicant a license to act as a distributor unless the applicant:

(a) Is a person who formerly held a license under the provisions of this chapter, any predecessor statute, under the laws of any other jurisdiction, or under the laws of the United States which license, prior to the time of filing this application, had been revoked for cause within five (5) years from the date of such application; or

(b) Is a person who has outstanding fuel tax liabilities to this state, any other jurisdiction or the United States government; or

(c) Is a person who has been convicted, under the laws of the United States or any state or jurisdiction or subdivision thereof, of fraud, tax evasion, or a violation of the laws governing the reporting and payment of fees or taxes for petroleum products

within five (5) years from the date of making such application; or
(d) Is a person who 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 such application; or

(e) Who is not the real party in interest and the real party in interest is a person described in subsection (3)(a), (3)(b), (3)(c) or (3)(d) of this section.

(4) Upon approval of the application the distributor's license shall be valid until it is suspended or revoked for cause, for failure to maintain the bond required in section 63-2428, Idaho Code, for failure to file returns required in this chapter, for failure to pay all taxes and fees due with a return required in this chapter, or is otherwise canceled.

(5) No distributor's license shall be transferable.

(6) The commission shall furnish each licensed distributor with a list of all distributors licensed pursuant to this section. The list shall be supplemented by the commission from time to time to reflect additions and deletions.

SECTION 10. That Section 63-2428, Idaho Code, be, and the same is hereby amended to read as follows:

63-2428. BONDING. (1) At the time an application for a distributor's license under section ~~63-2409, Idaho Code, or a special fuels dealer's license under section 63-2419~~ 63-2427A, Idaho Code, is submitted to the commission, the applicant shall file a bond with the commission conditioned upon faithful performance of all of the requirements of this chapter. The total amount of the bond shall be fixed by the commission and shall be equivalent to at least twice the estimated average tax liability for the reporting period for which the applicant will be required to file either a distributor's report under section 63-2406, Idaho Code, or a special fuels dealer's return under section 63-2420, Idaho Code, or both. If a person is both a licensed distributor and a licensed special fuels dealer, the bonding requirements in regard to each may be consolidated into a single bond. The bond required by this section shall in no case be less than one thousand dollars (\$1,000) nor more than two hundred thousand dollars (\$200,000). Based on prior years' experience, the total amount required to be secured by the bond may be increased or reduced by the commission at any time. The bond will be waived if the commission is satisfied that the distributor has the financial responsibility to meet the required bond amount. Financial responsibility may be determined by the commission upon review of all relevant public documents including appropriate county records and records of tax payments to the state of Idaho. The distributor can be required to provide a commercial credit rating, balance sheet, or income statement to demonstrate present financial solvency, i.e. ownership of real and/or personal property, the unencumbered value of which exceeds the bond amount otherwise required. If such financial solvency is established, and if the distributor has been doing business in Idaho as a licensed distributor for five (5) or more consecutive years without a default in the payment of taxes imposed in this chapter, financial responsi-

bility shall be presumed. Any bond given in conjunction with this chapter shall be a continuing instrument, and shall cover the period during which the license in connection with which the bond is given is in effect, unless the surety on the bond is released or discharged by the commission. Any surety on any bond furnished by a licensee shall be discharged and released from any and all liability to the state accruing on the bond after the expiration of thirty (30) days from the date upon which the surety shall have lodged with the commission a written request to be released and discharged. The request shall not operate to relieve, release or discharge the surety from any liability accrued, or which will accrue, before the expiration of the thirty (30) day period. The commission shall promptly, upon receipt of the notice of the request, notify the licensee and require him to furnish a new bond. Unless the licensee files a new bond with the commission in the amount provided in this section before the expiration of the thirty (30) day period, the commission shall immediately cancel the licensee's license.

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

SECTION 11. That Section 63-2440, Idaho Code, be, and the same is hereby amended to read as follows:

63-2440. EXEMPTIONS FROM SPECIAL FUELS PERMITS AND RETURNS. (1) In lieu of obtaining a special fuels permit pursuant to this chapter, any person operating a motor vehicle over twenty-six thousand (26,000) pounds maximum gross weight, propelled by special fuels in this state, shall secure a temporary trip permit under section 49-432, Idaho Code, authorizing the operation of such vehicle in the state for a period not to exceed ninety-six (96) hours. The temporary trip permit shall be obtained through the Idaho transportation department. The fees shall be those provided by section 49-432, Idaho Code, and the revenues shall be distributed as provided by section 40-701, Idaho Code.

(2) A motor vehicle owned or operated by another state of the United States or an agency or political subdivision thereof shall be exempt from the requirements of sections 63-2438 and 63-2439, Idaho Code, if the state where the vehicle is owned grants a substantially similar exemption to vehicles owned by the state of Idaho, its agencies or political subdivisions.

(3) ~~The commission may, in its discretion, grant the owner of any fleet of qualified one-way rental trucks, as defined in section 63-2401, Idaho Code, an exclusion from the requirements of sections 63-2438 and 63-2439, Idaho Code. The person engaged in the business of renting qualified one-way rental trucks may apply to the commission for such an exclusion. The application shall be in such form and contain such information as the commission may require. The application may be refused, or once granted, may be cancelled by the commission if it finds the granting of this exclusion may lead to avoidance of any tax imposed by this chapter~~ Recreational vehicles, as defined in sec-

tion 63-2401, Idaho Code, and buses used exclusively for personal pleasure by an individual shall be exempt from the requirements of sections 63-2438 and 63-2439, Idaho Code. A recreational vehicle used in connection with any business or institutional endeavor shall not qualify for the exemption under this subsection.

SECTION 12. That Section 41-4903, Idaho Code, be, and the same is hereby amended to read as follows:

41-4903. DEFINITIONS. For the purposes of this chapter:

(1) "Above ground storage tank" means any one (1) or a combination of tanks, including pipes connected thereto, that is used to contain an accumulation of petroleum or petroleum products, and the volume of which, including the volume of pipes connected thereto, is less than ten percent (10%) beneath the surface of the ground. This term does not include a heating tank, farm tank or residential tank or any tank with a capacity of one hundred ten (110) gallons or less.

(2) "Accidental release" means any sudden or nonsudden release of petroleum from a storage tank that results in a need for corrective action or compensation for bodily injury or property damage neither expected nor intended by the tank owner or operator.

(3) "Administrator" means a person, other than the trustee, employed by the trustee to administer the Idaho petroleum clean water trust fund.

(4) "Application fee" means the amount paid or payable by an owner or operator applying for a contract of insurance with the trust fund to offset the costs of issuing contracts of insurance and other costs of administering this fund.

(5) "Bodily injury" means any bodily injury, sickness, disease or death sustained by any person and caused by an occurrence defined in subsection (18) of this section.

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

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

(8) "Corrective action" means those actions as are reasonably necessary to satisfy applicable federal and state standards in the event of a release into the environment from a petroleum storage tank. Corrective action includes initial corrective action response or actions consistent with a remedial action to clean up contaminated soil and ground water or address residual effects after initial corrective action is taken, as well as actions necessary to monitor, assess and evaluate a release. Corrective action also includes the cost of removing a tank which is releasing or has been releasing petroleum products and the release cannot be corrected without removing the tank; but corrective action does not include the cost of replacing this tank with another tank.

(9) "Department" means the department of insurance of the state of Idaho.

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

(11) "Farm tank" means any tank with a capacity of more than one hundred ten (110) gallons but less than one thousand one hundred

(1,100) gallons situated above ground or underground which is used for storing motor fuel for noncommercial purposes and which is located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

(12) "Free product" means petroleum or petroleum products in the nonaqueous phase, (e.g., liquid not dissolved in water).

(13) "Fund" or "trust fund" means the Idaho petroleum clean water trust fund.

(14) "Heating tank" means any tank with a capacity of more than one hundred ten (110) gallons situated above ground or underground which is used for storing heating oil for consumptive use on the premises where stored.

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

(16) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2409 63-2427A, Idaho Code. If a person subject to the fee imposed by section 41-4908(6), Idaho Code, is not required to obtain a distributor's license under the provisions of chapter 24, title 63, Idaho Code, such person shall apply to the commission for a limited license for the purpose of complying with the requirements of this chapter. Such a limited license shall not be valid for any other purpose. No bond shall be required for a limited license. A holder of a limited license is a "licensed distributor" for the purposes of filing reports, paying fees and other actions necessary to the proper administration and enforcement of this chapter.

(17) "Manager" means the duly appointed manager of the state insurance fund of the state of Idaho.

(18) "Noncommercial purposes" means not for resale, with respect to motor fuels.

(19) "Occurrence" means an accident, including continuous or repeated exposure to conditions, which resulted in a release into the environment of petroleum products from a petroleum storage tank.

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

(21) "Owner" means the owner of a petroleum storage tank, except that "owner" does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect the owner's security interest in the tank.

(22) "Person" means any corporation, association, partnership, one (1) or more individuals, or any governmental unit, or agency thereof, other than federal or state agencies.

(23) "Petroleum" and/or "petroleum products" mean crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure (i.e., at sixty (60) degrees fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute). The term includes motor gasoline, gasohol, other alcohol blended fuels,

diesel fuel, heating oil and aviation fuel.

(24) "Property damage" means injury or destruction to tangible property caused by an occurrence.

(25) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank into ground water, surface water, or surface or subsurface soils.

(26) "Residential tank" means any tank with a capacity of more than one hundred ten (110) gallons but less than one thousand one hundred (1,100) gallons situated above ground or underground which is used for storing motor fuel for noncommercial purposes and which is located on property used primarily for dwelling purposes.

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

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

(29) "Tank" means a stationary device designed to contain an accumulation of petroleum or petroleum products and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

(30) "Trustee" means the trustee of the Idaho petroleum clean water trust fund, who for the purposes of this chapter shall be the manager of the state insurance fund of the state of Idaho.

(31) "Underground storage tank" means any one (1) or combination of tanks, including underground pipes connected thereto, that is used to contain an accumulation of petroleum or petroleum products, and the volume of which, including the volume of underground pipes connected thereto, is ten percent (10%) or more beneath the surface of the ground. This term does not include any:

- (a) Farm or residential tank of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for non-commercial purposes;
- (b) Tank used solely for storing heating oil for consumptive use on the premises where stored;
- (c) Septic tank;
- (d) Pipeline facility including gathering lines regulated under:
 - (i) The natural gas pipeline safety act of 1968 (49 U.S.C. app. 1671, et seq.); or
 - (ii) The hazardous liquid pipeline safety act of 1979 (49 U.S.C. app. 2001, et seq.); or
 - (iii) State laws comparable to the provisions of the law referred to in paragraph (d)(i) or (d)(ii) of this subsection as an intrastate pipeline facility;
- (e) Surface impoundment, pit, pond or lagoon;
- (f) Storm water or wastewater collection system;
- (g) Flow-through process tank;
- (h) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;
- (i) Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage

tank is situated upon or above the surface of the floor;

(j) Tanks with a capacity of one hundred ten (110) gallons or less.

The term "underground storage tank" does not include any pipes connected to any tank which is described in paragraphs (a) through (i) of this definition.

(32) "Underground storage tank regulations" means regulations for petroleum storage tanks promulgated by the United States environmental protection agency (EPA) pursuant to subtitle I of the solid waste disposal act, as amended by the resource conservation and recovery act, regulations promulgated by the state of Idaho as part of a state program for underground storage tank regulation under subtitle I, or other regulations affecting underground storage tank operations and management, including the uniform fire code adopted by the state of Idaho.

Approved March 15, 1995.

CHAPTER 133
(H.B. No. 193)

AN ACT

RELATING TO BANKS AND BANKING; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 30, TITLE 26, IDAHO CODE, TO AUTHORIZE THE ESTABLISHMENT OF DEBIT CARD PROGRAMS BY COLLEGES AND UNIVERSITIES, TO DEFINE TERMS, TO REQUIRE BOND AND TO PROVIDE THAT A UNIVERSITY DEBIT CARD PROGRAM DOES NOT CONSTITUTE BANKING; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 30, Title 26, Idaho Code, and to read as follows:

CHAPTER 30
UNIVERSITY DEBIT CARD ACT

26-3001. TITLE AND SCOPE. (1) This chapter shall be known and cited as the "University Debit Card Act."

(2) This chapter is intended to grant authority to and set forth the terms and conditions under which colleges and universities located in Idaho may offer debit card programs to their student bodies, faculty and staff.

26-3002. DEFINITIONS. As used in this chapter and unless the context otherwise requires:

(1) "Debit card transaction" means the purchase of either goods or services, or both, whereby payment is made through the means of a point of sale or other payment system maintained by the college or university which results in a charge to a credit balance maintained by

a registered student or a member of its faculty or staff with the college or university business office.

(2) "University debit card" means a card issued by a college or university located in this state to a registered student or a member of its faculty or staff which permits such persons to draw against funds on deposit with the college or university business office for the purchase of goods or services.

(3) "University debit card program" means a financial arrangement whereby a college or university allows a registered student or a member of its faculty or staff to place funds on deposit with the college or university business office against which such persons may draw, through a debit card transaction, for the purchase of either goods or services or both.

26-3003. DEBIT CARD AUTHORITY AND BOND. (1) Any college or university located in Idaho may make available to its student body and to members of its faculty and staff a university debit card program. A debit card transaction may be used only to purchase goods or services from the college or university or through its approved vendor located on the principal campus of the college or university, which goods or services traditionally are provided by a college or university to its students, faculty or staff.

(2) A surety bond in a form approved by the governing authority of the college or university in the amount of ten thousand dollars (\$10,000) shall be maintained for each employee of the college or university with access to the funds maintained in the university debit card program.

26-3004. EXEMPTION FROM BANK ACT AND PROHIBITIONS. A college or university offering a debit card program under the provisions of this chapter shall not be considered to be a bank or to be doing banking business as those terms are defined in section 26-106, Idaho Code. Provided however, that a college or university located in this state is prohibited from operating a debit card program which would allow a student or a member of its faculty or staff either to receive cash through a debit card transaction or to receive cash through a customer bank communication terminal or other automated banking facility.

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

Approved March 15, 1995.

CHAPTER 134
(H.B. No. 194)

AN ACT

RELATING TO THE IDAHO ACCOUNTANCY ACT; AMENDING SECTION 54-204, IDAHO CODE, TO PROVIDE THAT THE BOARD MAY DISMISS A COMPLAINT, PROCEED WITH DISCIPLINARY PROCEEDINGS OR REQUEST FURTHER INVESTIGATION AFTER RECEIPT OF A REPORT FROM THE INVESTIGATING OFFICER; AMENDING

SECTION 54-206, IDAHO CODE, TO PROVIDE THAT "FIRM" INCLUDES A PROFESSIONAL CORPORATION OR OTHER PROFESSIONAL ORGANIZATION ENGAGED IN THE PRACTICE OF PUBLIC ACCOUNTING; AND AMENDING SECTION 54-212, IDAHO CODE, TO PROVIDE THAT APPLICATION FEES FOR LICENSURE INCLUDE ALL LICENSURE APPLICATIONS AND ARE NOT LIMITED TO APPLICATIONS FOR LICENSURE BY RECIPROCITY OR TRANSFER OF EXAMINATION GRADES.

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. Unless dismissed by the board as unfounded or trivial, ~~The board may find probable cause or lack of probable cause to initiate proceed with~~ 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) 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.

SECTION 2. That Section 54-206, Idaho Code, be, and the same is hereby amended to read as follows:

54-206. DEFINITIONS. As used in this section:

(1) "Academic year" means that period of study, at a college or university, approved by the board, necessary to accumulate the equivalent of thirty (30) semester credit hours.

(2) "AICPA" means the American institute of certified public accountants.

(3) "Applicant" means any person having the requisite qualifications who makes application to the board for examination, or a certificate and license under the provisions of this chapter.

(4) "Audit" means an examination of financial statements conducted in accordance with generally accepted auditing standards, to determine whether, in the auditor's opinion, the statements are fairly presented and conform with generally accepted accounting principles, or if applicable, with another comprehensive basis of accounting.

(5) "Board" means the Idaho state board of accountancy.

(6) "Certificate" means that document issued by the board upon original approval of a license. The original certificate does not constitute licensure and a person cannot hold himself or herself out to the public unless a current and valid annual license has been issued by the board.

(7) "Certified public accountant" means any person who holds a valid, unrevoked and unsuspended license under the provisions of chapter 2, title 54, Idaho Code, designating said person as a certified public accountant.

(8) "Client" means the person or entity which retains a practice unit engaged in the practice of public accounting for the performance of professional services with or without compensation.

(9) "Compilation" means presenting in the form of historical or prospective financial statements, in accordance with standards adopted by the AICPA, information that is the representation of management or owners without undertaking to express any assurance on the statements.

(10) "Financial statements" mean a presentation of historical or prospective financial data, which may include accompanying notes, intended to communicate an entity's economic resources or obligations at a point in time, or the changes therein for a period of time, in accordance with a comprehensive basis of accounting.

(11) "Firm" means a proprietorship, partnership, professional corporation, or any other form of professional organization permitted by Idaho law, engaged in the practice of public accounting of which all proprietors, partners, officers, shareholders or members are licensed under the provisions of this chapter.

(12) "Good moral character" means lack of a history of dishonest dealings or a felonious act.

(13) "Hold out" or "holding out" means providing or offering to provide work or services as a certified public accountant or licensed public accountant. Holding out includes, but is not limited to, display of a license, or oral or written representation that the person holds a current and valid license or is authorized to practice public accounting. Written representation can include the certified public accountant, licensed public accountant, or any other designation cited in section 54-220, Idaho Code, which may appear on a letterhead, business card, office sign or advertisement.

(14) "License" means that permit issued by the board upon original approval and on an annual basis permitting a qualified person to prac-

tice as a certified public accountant or licensed public accountant in the state of Idaho.

(15) "Licensed public accountant" means any person who holds a valid, unrevoked and unsuspended license under the provisions of chapter 2, title 54, Idaho Code, designating said person as a licensed public accountant.

(16) "Licensee" means the holder of a current valid license issued by this state authorizing that person to practice public accountancy.

(17) "Member" means a licensed person who has been admitted to membership in a firm.

(18) "Partnership" means an association of two (2) or more licensees to carry on as co-owners a business for profit for the practice of public accountancy.

(19) "Person" means any natural living person.

(20) "Practice of public accounting" means offering to perform or performing, for a client or potential client, one (1) or more types of services involving the use of accounting or auditing skills, or one (1) or more types of management, financial advisory or consulting services, or the preparation of tax returns, or the furnishing of advice on tax matters, while holding oneself out in such manner as to state or imply that one is a licensee.

(21) "Practice unit" means a firm with which a licensee engaged in the practice of public accounting is affiliated, including a proprietorship, partnership, professional corporation or any other form of organization permitted by Idaho law.

(22) "Professional corporation" means either:

(a) A professional public accounting corporation organized pursuant to chapter 13, title 30, Idaho Code, or any other form of organization permitted by Idaho law, the shareholders of which are all persons licensed as certified public accountants or licensed public accountants; or

(b) A foreign corporation certified by the secretary of state to do business in public accountancy in Idaho, provided that any officer, shareholder, agent or employee of the corporation remains personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him, or by any person under his direct supervision and control, while rendering professional accounting services on behalf of the corporation in the state of Idaho.

(23) "Professional services" mean any services performed or offered to be performed by a licensee for a client in the course of the practice of public accountancy.

(24) "Proprietorship" means a business for the practice of public accountancy which is owned by a licensee.

(25) "Quality review" means a board approved study, appraisal or review of one (1) or more aspects of the professional work of a practice unit by a person or persons who are licensed under this chapter or by another state and who are independent of the practice unit being reviewed.

(26) "Report," when used with reference to financial statements, means an opinion or other form of language that states or implies assurance as to the reliability of any financial statements and that also includes or is accompanied by any statement or implication that

the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that he or she is an accountant or auditor, or from the language of the report itself. The term "report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance or special knowledge or competence.

(27) "Review" means performing inquiry and analytical procedures in accordance with standards adopted by the AICPA that provide a reasonable basis for expressing limited assurance that there are no material modifications that should be made to financial statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting.

(28) "State" means any state, territory or insular possession of the United States, or the District of Columbia.

SECTION 3. 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.

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

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

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

Approved March 15, 1995.

CHAPTER 135
(H.B. No. 239)

AN ACT
RELATING TO THE DEPARTMENT OF INSURANCE; AMENDING SECTION 41-201,
IDAHO CODE, TO CLARIFY APPLICATION TO ORGANIZATION OF THE DEPART-
MENT; AMENDING SECTION 41-206, IDAHO CODE, TO AUTHORIZE THE DIREC-

TOR OF THE DEPARTMENT OF INSURANCE TO CREATE DIVISIONS WITHIN THE DEPARTMENT AND TO PROVIDE FOR EXEMPTION FROM THE APPLICATION OF THE STATE MERIT SYSTEM; AMENDING SECTION 41-226, IDAHO CODE, TO PROVIDE AUTHORITY OF THE DIRECTOR CONCERNING EXAMINERS AND TO PROVIDE FOR EXEMPTION FROM THE APPLICATION OF THE STATE MERIT SYSTEM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 41-201, Idaho Code, be, and the same is hereby amended to read as follows:

41-201. DEPARTMENT OF INSURANCE. There is hereby created the department of insurance of the state of Idaho. 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. The department of insurance shall be composed of such divisions and units as established authorized by the provisions of section 41-206, Idaho Code. ~~The director of the department of insurance shall appoint an administrator for each division.~~

SECTION 2. That Section 41-206, Idaho Code, be, and the same is hereby amended to read as follows:

41-206. DIVISIONS AND EMPLOYEES. (1) ~~There is hereby created within the department of insurance the division of regulation. The director of the department of insurance shall appoint an administrator of the division of regulation. The administrator of the division shall be exempt from the provisions of the state merit system.~~

~~(2) There is hereby created within the department of insurance the division of administration. The director of the department of insurance shall appoint an administrator of the division of administration. The administrator of the division shall be exempt from the provisions of the state merit system.~~ The department shall be organized into such divisions and such other units as may be administratively established in order to efficiently administer the department. Each division shall be headed by a division administrator who shall be appointed by and serve at the pleasure of the director, and shall be a nonclassified employee exempt from the provisions of chapter 53, title 67, Idaho Code.

(3) The director may pursuant to chapter 53, title 67, Idaho Code, appoint, employ, fix the compensation of, prescribe and require the duties of and discharge such employees as the duties of his office may require.

(4) The director may contract for and procure on a basis of fee and without giving such persons any status as an employee of this state, such independently contracting actuarial, technical, examining, and other similar professional services as the director may from time to time require for the discharge of his duties.

SECTION 3. That Section 41-226, Idaho Code, be, and the same is hereby amended to read as follows:

41-226. EXAMINERS -- QUALIFICATIONS. For the conduct of or assistance in examinations under this chapter the director shall appoint as examiners only individuals who by reason of education, experience, or special training are competent to perform the duties and fulfill the responsibilities of an insurance examiner. In the selection of examiners the director shall give due consideration to standards and qualifications therefor recommended by the National Association of Insurance Commissioners or any successor organization thereto. The director may appoint, employ, fix the compensation of, prescribe and require the duties of and discharge such examiners as the duties of his office may require. Examiners shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code.

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

Approved March 15, 1995.

CHAPTER 136
(H.B. No. 241)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-223, IDAHO CODE, TO CLARIFY THE AUTHORITY OF THE DIRECTOR OF THE DEPARTMENT OF INSURANCE TO USE CERTAIN INFORMATION, DOCUMENTS OR COPIES OBTAINED DURING THE COURSE OF AN EXAMINATION IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING; AMENDING SECTION 41-227, IDAHO CODE, TO PROVIDE THAT HEARINGS RELATED TO EXAMINATIONS SHALL BE CONDUCTED PURSUANT TO THE IDAHO ADMINISTRATIVE PROCEDURE ACT, TO PROVIDE THAT CONTRACT EXAMINERS AND EMPLOYEES OF THE DEPARTMENT OF INSURANCE SHALL NOT BE AUTHORIZED TO CONDUCT HEARINGS, TO PROVIDE THAT CERTAIN PAPERS SHALL BE MADE AVAILABLE TO THE PERSON OR COMPANY SUBJECT TO EXAMINATION BUT SHALL BE EXEMPT FROM DISCLOSURE PURSUANT TO THE PUBLIC RECORDS ACT.

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

SECTION 1. That Section 41-223, Idaho Code, be, and the same is hereby amended to read as follows:

41-223. CONDUCT OF EXAMINATION -- ACCESS TO RECORDS -- CORRECTION OF ACCOUNTS -- REMOVAL OF RECORDS. (1) Upon determining that an examination should be conducted, the director or the director's designee shall issue an examination warrant appointing one (1) or more examiners to perform the examination and instructing them as to the scope of the examination. In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the examiners' handbook adopted by the national association of insurance commissioners. The director may also employ such other guidelines or procedures as the director may deem appropriate.

(2) Upon such examination the director or examiner may examine under oath any officer, agent, or other individual deemed to have material information regarding the affairs of the person under examination.

(3) Every person being examined, its officers, attorneys, employees, agents, representatives or others having custody or control thereof, shall make freely available to the director or his examiners the accounts, records, documents, files, information, assets and matters in his possession or control relating to the subject of the examination, and shall facilitate the examination.

(4) If the director finds any accounts or records to be inadequate or incorrectly kept or posted, he may procure the services of competent persons to reconstruct, rewrite, post or balance them at the expense of the person being examined if such person has failed to maintain, complete or correct such records or accounts after the director has given him notice and a reasonable opportunity to do so.

(5) Neither the director nor any examiner shall remove any record, account, document, file or other property of the person being examined from the offices of such person except with the written consent of such person being given in advance of such removal, or pursuant to an order of court duly obtained. This provision shall not be deemed to affect the making and removal of copies or abstracts of any such record, account, document, or file.

(6) Nothing contained in this chapter shall be construed to limit the director's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state.

(7) Nothing contained in this chapter shall be construed to limit the director's authority to use any final examination report, or to use any examiner or company work papers or other documents, or any other information discovered or developed during the course of any examination in any judicial proceeding or administrative proceeding under this chapter.

SECTION 2. That Section 41-227, Idaho Code, be, and the same is hereby amended to read as follows:

41-227. EXAMINATION REPORT. (1) The director or his examiner shall make a full and true written report of every examination made by him under this chapter, and shall verify the report by his oath.

(2) The report shall comprise only facts appearing upon the books, papers, records or documents of the person being examined, or ascertained from testimony of individuals under oath concerning the affairs of such person, together with such conclusions and recommendations as may reasonably be warranted from such facts.

(3) Prior to a hearing and prior to any modifications the report shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(4) No later than sixty (60) days following completion of the examination, the examiner in charge shall file with the department a verified written report of examination under oath. Upon receipt of the verified report, the department shall transmit the report to the company examined, together with a notice which shall afford the company

examined a reasonable opportunity of not more than thirty (30) days to make a written submission or rebuttal with respect to any matters contained in the examination report.

(5) Within thirty (30) days of the end of the period allowed for the receipt of written submissions or rebuttals, the director shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers work papers, and enter an order:

(a) Adopting the examination report as filed or with modifications or corrections. If the examination report reveals that the company is operating in violation of any law, regulation or prior order of the director, the director may order the company to take any action the director considers necessary and appropriate to cure such violation;

(b) Rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information, and refile pursuant to subsection (2) of this section; or

(c) Calling for an investigatory hearing with no less than twenty (20) days' notice to the company for purposes of obtaining additional documentation, data, information and testimony.

(6) (a) All orders entered pursuant to subsection (5)(a) of this section shall be accompanied by findings and conclusions resulting from the director's consideration and review of the examination report, relevant examiner workpapers work papers and any written submissions or rebuttals. Any such order shall be considered a final order and may be appealed pursuant to sections 67-5270 through 67-5279, Idaho Code, and shall be served upon the company by certified mail, together with a copy of the adopted examination report. Within thirty (30) days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(b) Any hearing conducted under subsection (5)(c) of this section by the director or authorized representative, shall be conducted in accordance with the provisions of chapter 52, title 67, Idaho Code, as a nonadversarial confidential investigatory proceeding as necessary for the resolution of any inconsistencies, discrepancies or disputed issues apparent upon the face of the filed examination report or raised by, or as a result of, the director's review of relevant workpapers work papers or by the written submission or rebuttal of the company. Within twenty (20) days of the conclusion of any such hearing, the director shall enter an order pursuant to the provisions of subsection (5)(a) of this section.

(c) The director shall not appoint an contract examiner or an employee of the department as an authorized representative to conduct the hearing. ~~The hearing shall proceed expeditiously with discovery by the company limited to the examiner's workpapers which tend to substantiate any assertions set forth in any written submission or rebuttal. The director or his representative may issue subpoenas for the attendance of any witnesses or the production of any documents deemed relevant to the investigation whether under the control of the department, the company or other persons.~~

~~The documents produced shall be included in the record, and testimony taken by the director or his representative shall be under oath and preserved for the record.~~

Nothing contained in this section shall require the department to disclose any information or records which would indicate or show the ~~existence or~~ content of any investigation or activity of a criminal justice agency, except to the extent that the director relied upon information furnished to the director by such criminal justice agency in making his decision.

~~(d) The hearing shall proceed with the director or his representative posing questions to the persons subpoenaed. Thereafter the company and the department may present testimony relevant to the investigation. Cross examination shall be conducted only by the director or his representative. The company and the department shall be permitted to make closing statements and may be represented by counsel of their choice.~~

(7) The report when so verified and filed shall be admissible in evidence in any action or proceeding brought by the director against the person examined, or against its officers, employees or agents, and shall be presumptive evidence of the material facts stated therein. The director or his examiners may at any time testify and offer other proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been either made, furnished or filed in the department.

(8) After an order is entered under the provisions of subsection (5)(a) of this section, the director may publish the report or the results of the examination as contained therein.

(9) Nothing contained in this chapter shall prevent or be construed as prohibiting the director from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of this or any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time, so long as the agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this chapter.

(10) All working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the director or any other person in the course of an examination made under the provisions of this chapter shall be made available to the person or company which was the subject of the examination in proceedings pursuant to chapter 52, title 67, Idaho Code, but shall otherwise be held by the director as a record not required to be made public pursuant to section 9-340, Idaho Code.

Approved March 15, 1995.

CHAPTER 137
(H.B. No. 242)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-1812, IDAHO CODE, TO PERMIT THE USE OF AN INSURANCE POLICY, CONTRACT, RIDER, ENDORSEMENT, RENEWAL CERTIFICATE OR OTHER DOCUMENT UPON FILING SUCH DOCUMENT WITH THE DIRECTOR OF THE DEPARTMENT OF INSURANCE TOGETHER WITH A CERTIFICATION THAT SUCH DOCUMENT COMPLIES WITH IDAHO LAW AND TO AUTHORIZE THE DIRECTOR TO PROHIBIT USE OF SUCH DOCUMENTS UPON A FINDING THAT THE DOCUMENT DOES NOT COMPLY WITH IDAHO LAW.

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

SECTION 1. That Section 41-1812, Idaho Code, be, and the same is hereby amended to read as follows:

41-1812. FILING, USE AND DISAPPROVAL OF FORMS. (1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with ~~and approved by~~ the director. This provision shall not apply to surety bonds, or to specially rated inland marine risks, nor to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies effectuated and delivered outside this state but covering persons resident in this state, the group certificates to be delivered or issued for delivery in this state shall be filed, for the director's information only, with the director at his request. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be ~~made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the director. Approval of any such form by the director shall constitute a waiver of any unexpired portion of such waiting period. The director may extend by not more than an additional sixty (60) days the period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved.~~

~~The director may at any time, after notice and for cause shown, withdraw any such approval submitted with a certification, in such form as may be determined by the director, by an officer of the insurer that each policy, form, endorsement, or rider in use complies with Idaho law. The director shall have the power to examine such filings to determine whether the policies, forms, endorsements, and riders, as filed, comply with the certification of the insurer and with Idaho law relating to the content of such documents. Upon a determination that any document filed in accordance with this section does not comply with Idaho law, the director shall, in accordance with the Idaho administrative procedure act, prohibit the use of such policy, form, endorsement, rider or other document.~~

~~(3) Any order of the director disapproving any such form or withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof.~~

(4) The director may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

~~(5) Appeals from orders of the director disapproving any such form or withdrawing a previous approval may be taken as provided in sections 41-232 through 41-246, Idaho Code.~~

Approved March 15, 1995.

CHAPTER 138
(H.B. No. 243)

AN ACT

RELATING TO INSURANCE; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-288, IDAHO CODE, TO REQUIRE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE TO IMPOSE THE SAME SANCTIONS UPON INSURANCE COMPANIES ORGANIZED OR CHARTERED IN ANOTHER STATE, AND DOING BUSINESS IN THE STATE OF IDAHO, AS THOSE IMPOSED BY SUCH STATE ON INSURANCE COMPANIES ORGANIZED OR CHARTERED IN THIS STATE BECAUSE OF THE FAILURE OF THE IDAHO DEPARTMENT TO OBTAIN, MAINTAIN OR RECEIVE ACCREDITATION, CERTIFICATION OR OTHER FORM OF APPROVAL FROM THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

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 41-288, Idaho Code, and to read as follows:

41-288. RETALIATORY REQUIREMENT. Should an insurance department,

commissioner, director, or other similar insurance regulatory official of any other state or territory of the United States, impose any sanctions, fines, penalties, financial or deposit requirements, prohibitions, restrictions, regulatory requirements, or other obligations, of any kind, upon any insurance company organized or chartered in this state and licensed to transact business in such other state or territory, because of the failure of the Idaho department of insurance to obtain, maintain, or receive accreditation, certification, or any similar form of approval, compliance, or acceptance from, by, or as a member of the national association of insurance commissioners, or any committee, task force, working group, or advisory committee thereof, or because of the failure of the Idaho department of insurance to comply with any directive, financial or annual statement requirement, model act or regulation, market conduct or financial examination report or requirement, or any report of any kind of the national association of insurance commissioners, or any committee, task force, working group, or advisory committee thereof, the director shall, without exception or exclusion, impose upon any and all insurance companies organized or chartered in such other state or territory, and licensed to do business in this state, the same sanctions, fines, penalties, financial or deposit requirements, prohibitions, restrictions, regulatory requirements, or other obligations imposed by such state upon the insurance company domiciled in this state.

Approved March 15, 1995.

CHAPTER 139
(S.B. No. 1220)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 231, LAWS OF 1994; APPROPRIATING MONEYS FROM THE STATE HIGHWAY FUND FOR DISTRIBUTION TO CITIES, COUNTIES AND HIGHWAY DISTRICTS; 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 231, Laws of 1994, there is hereby appropriated to the Idaho Transportation Department, the following amount, to be expended for the Contract Construction Program for pavement rehabilitation according to the designated expense class from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:	
Capital Outlay	\$5,000,000
FROM:	
State Highway Fund	\$5,000,000

~~SECTION 2. There is hereby appropriated the sum of \$5,000,000 from the State Highway Fund, to 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.~~

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

Approved March 15, 1995.

*Section 2 was line item vetoed on March 15, 1995.

CHAPTER 140
(S.B. No. 1084)

AN ACT

RELATING TO CRIMINAL PROCEDURE IN CAPITAL CASES; AMENDING SECTION 19-2515, IDAHO CODE, TO REQUIRE THAT AFTER A PLEA OR VERDICT OF GUILTY THE COURT SHALL CONVENE A HEARING TO RECEIVE EVIDENCE AND ARGUMENT IN AGGRAVATION AND MITIGATION OF THE PUNISHMENT AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 19-2516, IDAHO CODE; AMENDING SECTION 19-2719, IDAHO CODE, TO REQUIRE A PARTICULARIZED SHOWING TO SUPPORT AN ALLEGATION THAT A SUCCESSIVE POST-CONVICTION PETITION MAY BE HEARD BECAUSE OF CLAIMS THAT WERE NOT KNOWN OR COULD NOT REASONABLY HAVE BEEN KNOWN AND TO PROVIDE WHEN A SUCCESSIVE POST-CONVICTION PLEADING ASSERTING THE EXCEPTION SHALL BE DEEMED FACIALLY INSUFFICIENT; AMENDING CHAPTER 27, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-2719A, IDAHO CODE, TO PROVIDE FOR AN INQUIRY INTO THE DEFENDANT'S NEED FOR NEW COUNSEL TO ASSERT A CLAIM OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL WHERE A DEATH SENTENCE IS IMPOSED; AND AMENDING CHAPTER 28, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-2818, IDAHO CODE, TO PROVIDE DUTIES OF THE SUPREME COURT IN THE EVENT A SENTENCE OF DEATH IS RETURNED BY A FEDERAL COURT FOR FURTHER PROCEEDINGS IN THE STATE COURTS.

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

SECTION 1. That Section 19-2515, Idaho Code, be, and the same is hereby amended to read as follows:

19-2515. INQUIRY INTO MITIGATING OR AGGRAVATING CIRCUMSTANCES -- SENTENCE IN CAPITAL CASES -- STATUTORY AGGRAVATING CIRCUMSTANCES -- JUDICIAL FINDINGS. (a) After a plea or verdict of guilty, ~~where a discretion is conferred upon the court as to the extent of the punishment; the court, upon the oral or written suggestion of either party that there are circumstances which may be properly taken into view either in aggravation or mitigation of the punishment; may, in its discretion, hear the same summarily, at a specified time, and upon such notice to the adverse party as it may direct~~ shall convene a hearing to receive evidence and argument in aggravation and mitigation

of the punishment.

(b) Where a person is sentenced to serve a term in the penitentiary, after conviction of a crime which falls within the provisions of section 20-223, Idaho Code, except in cases where the court retains jurisdiction, the comments and arguments of the counsel for the state and the defendant relative to the sentencing and the comments of the judge relative to the sentencing shall be recorded. If the comments are recorded electronically, they need not be transcribed. Otherwise, they shall be transcribed by the court reporter.

(c) Where a person is convicted of an offense which may be punishable by death, a sentence of death shall not be imposed unless the court finds at least one (1) statutory aggravating circumstance. Where the court finds a statutory aggravating circumstance the court shall sentence the defendant to death unless the court finds that mitigating circumstances which may be presented ~~outweigh--the-gravity-of-any-aggravating-circumstance-found-and-make-imposition-of~~ are sufficiently compelling that the death penalty would be unjust.

(d) One convicted of murder in the first degree shall be liable to imposition of the penalty of death if such person killed, intended a killing, or acted with reckless indifference to human life, irrespective of whether such person directly committed the acts that caused death.

(e) In all cases in which the death penalty may be imposed, the court shall, after conviction, order a presentence investigation to be conducted according to such procedures as are prescribed by law and shall thereafter convene a sentencing hearing for the purpose of hearing all relevant evidence and arguments of counsel in aggravation and mitigation of the offense. At such hearing, the state and the defendant shall be entitled to present all relevant evidence in aggravation and mitigation. Should any party present aggravating or mitigating evidence which has not previously been disclosed to the opposing party or parties, the court shall, upon request, adjourn the hearing until the party desiring to do so has had a reasonable opportunity to respond to such evidence. Evidence admitted at trial shall be considered and need not be repeated at the sentencing hearing. Evidence offered at trial but not admitted may be repeated or amplified if necessary to complete the record.

(ef) Upon the conclusion of the evidence and arguments in mitigation and aggravation the court shall make written findings setting forth any statutory aggravating circumstance found. Further, the court shall set forth in writing any mitigating factors considered and, if the court finds that mitigating circumstances ~~outweigh-the-gravity-of-any-aggravating-circumstance-found-so-as-to-make-unjust-the-imposition-of~~ are sufficiently compelling that the death penalty would be unjust, the court shall detail in writing its reasons for so finding.

(fg) Upon making the prescribed findings, the court shall impose sentence within the limits fixed by law.

(gh) The following are statutory aggravating circumstances, at least one (1) of which must be found to exist beyond a reasonable doubt before a sentence of death can be imposed:

(1) The defendant was previously convicted of another murder.

(2) At the time the murder was committed the defendant also committed another murder.

- (3) The defendant knowingly created a great risk of death to many persons.
- (4) The murder was committed for remuneration or the promise of remuneration or the defendant employed another to commit the murder for remuneration or the promise of remuneration.
- (5) The murder was especially heinous, atrocious or cruel, manifesting exceptional depravity.
- (6) By the murder, or circumstances surrounding its commission, the defendant exhibited utter disregard for human life.
- (7) The murder was ~~one defined as murder of the first degree by section 18-4003, Idaho Code, subsections (b), (c), (d), (e) or (f), and it was accompanied with the specific intent to cause the death of a human being~~ committed in the perpetration of, or attempt to perpetrate, arson, rape, robbery, burglary, kidnapping or mayhem and the defendant killed, intended a killing, or acted with reckless indifference to human life.
- (8) The defendant, by prior conduct or conduct in the commission of the murder at hand, has exhibited a propensity to commit murder which will probably constitute a continuing threat to society.
- (9) The murder was committed against a former or present peace officer, executive officer, officer of the court, judicial officer or prosecuting attorney because of the exercise of official duty.
- (10) The murder was committed against a witness or potential witness in a criminal or civil legal proceeding because of such proceeding.

SECTION 2. That Section 19-2516, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 19-2719, Idaho Code, be, and the same is hereby amended to read as follows:

19-2719. SPECIAL APPELLATE AND POST-CONVICTION PROCEDURE FOR CAPITAL CASES -- AUTOMATIC STAY. The following special procedures shall be interpreted to accomplish the purpose of eliminating unnecessary delay in carrying out a valid death sentence.

(1) When the punishment of death is imposed the time for filing an appeal shall begin to run when the death warrant is filed.

(2) The death warrant shall not be filed until forty-two (42) days after the judgment imposing the death sentence has been filed, or, in the event a post-conviction challenge to the conviction or sentence is filed, until the order deciding such post-conviction challenge is filed.

(3) Within forty-two (42) days of the filing of the judgment imposing the punishment of death, and before the death warrant is filed, the defendant must file any legal or factual challenge to the sentence or conviction that is known or reasonably should be known.

(4) Any remedy available by post-conviction procedure, habeas corpus or any other provision of state law must be pursued according to the procedures set forth in this section and within the time limitations of subsection (3) of this section.

(5) If the defendant fails to apply for relief as provided in

this section and within the time limits specified, he shall be deemed to have waived such claims for relief as were known, or reasonably should have been known. The courts of Idaho shall have no power to consider any such claims for relief as have been so waived or grant any such relief.

(a) An allegation that a successive post-conviction petition may be heard because of the applicability of the exception herein for issues that were not known or could not reasonably have been known shall not be considered unless the applicant shows the existence of such issues by (i) a precise statement of the issue or issues asserted together with (ii) material facts stated under oath or affirmation by credible persons with first hand knowledge that would support the issue or issues asserted. A pleading that fails to make a showing of excepted issues supported by material facts, or which is not credible, must be summarily dismissed.

(b) A successive post-conviction pleading asserting the exception shall be deemed facially insufficient to the extent it alleges matters that are cumulative or impeaching or would not, even if the allegations were true, cast doubt on the reliability of the conviction or sentence.

(c) A successive post-conviction pleading asserting the exception shall be deemed facially insufficient to the extent it seeks retroactive application of new rules of law.

(6) In the event the defendant desires to appeal from any post-conviction order entered pursuant to this section, his appeal must be part of any appeal taken from the conviction or sentence. All issues relating to conviction, sentence and post-conviction challenge shall be considered in the same appellate proceeding.

(7) If post-conviction challenge is made under this section, questions raised thereby shall be heard and decided by the district court within ninety (90) days of the filing of any motion or petition for relief timely filed as provided by this section. The court shall give first priority to capital cases. In the event the district court fails to act within the time specified, the supreme court of Idaho shall, on its own motion or the motion of any party, order the court to proceed forthwith, or if appropriate, reassign the case to another judge. When the supreme court intervenes as provided, it shall set a reasonable time limit for disposition of the issues before the district court.

(8) The time limit provided in subsection (7) of this section for disposition of post-conviction claims may be extended only upon a showing of extraordinary circumstances which would make it impossible to fairly consider defendant's claims in the time provided. Such showing must be made under oath and the district court's finding that extraordinary circumstances exist for extending the time shall be in writing and shall be immediately reported to the supreme court, which shall at once independently consider the sufficiency of the circumstances shown and determine whether an extension of time is warranted.

(9) When a judgment imposing the penalty of death is filed, the clerk and the reporter shall begin preparation of the transcripts of the trial, and other proceedings, and the clerk's transcript.

(10) When the procedures specified in this section and section 19-2827, Idaho Code, have been carried out and a remittitur issued,

and an execution date set as provided by law, the defendant shall be deemed to have exhausted all state remedies.

(11) Any successive petition for post-conviction relief not within the exception of subsection (5) of this section shall be dismissed summarily. Notwithstanding any other statute or rule, the order of dismissal shall not be subject to any motion to alter, amend or reconsider. Such order shall not be subject to any requirement for the giving of notice of the court's intent to dismiss. The order of dismissal shall not be appealable.

(12) A stay of execution while the special appellate procedures specified herein are followed and during the pendency of automatic review of death sentences shall be automatically entered by the clerk of the supreme court at the time the district court transmits to the supreme court the report required by section 19-2827, Idaho Code. If the sentence is upheld, the clerk shall dissolve such stay when the remittitur is filed. Thereafter the district court shall set a new execution date.

SECTION 4. That Chapter 27, 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 19-2719A, Idaho Code, and to read as follows:

19-2719A. INQUIRY INTO NEED FOR NEW COUNSEL. After the imposition of a sentence of death, the trial judge should advise the defendant that, upon a particularized showing that there is a reasonable basis to litigate a claim of ineffective assistance of trial counsel, new counsel may be appointed to represent the defendant to pursue such a claim in a post-conviction proceeding. If no such request is made, the trial judge shall certify of record that there are no facts that have come to the court's attention upon which such a claim could reasonably be based or, alternatively, the court may appoint new counsel. No deficiency in the application of the procedure described herein shall be grounds for relief from a judgment of conviction or from a sentence.

SECTION 5. That Chapter 28, 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 19-2818, Idaho Code, and to read as follows:

19-2818. DUTIES OF THE SUPREME COURT UPON REMAND FROM A FEDERAL COURT. In the event a sentence of death is returned by a federal court for further proceedings in the state courts, the Idaho supreme court shall consider whether any legal or factual error alleged by a federal court may be corrected without remanding the cause to the district court and shall: (a) make any specific fact findings required by a federal court when such findings are implicit in the judgment of the district court, though not expressly stated; (b) correct any formal error that may be corrected by reference to the record without remanding to the district court for resentencing; (c) make such findings as

may be necessary to uphold a death sentence and can be made on the record without remanding the cause to the district court for further proceedings.

Approved March 15, 1995.

CHAPTER 141
(S.B. No. 1217)

AN ACT

RELATING TO POWERS AND DUTIES OF THE OFFICE OF THE ATTORNEY GENERAL; AMENDING SECTION 67-1401, IDAHO CODE, TO FURTHER DEFINE THE DUTIES OF THE ATTORNEY GENERAL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 14, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1406, IDAHO CODE, TO RESTRICT THE EMPLOYMENT OF ATTORNEYS IN STATE GOVERNMENT OTHER THAN FROM THE ATTORNEY GENERAL AND TO PROVIDE EXCEPTIONS; AMENDING CHAPTER 14, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1407, IDAHO CODE, TO ESTABLISH THE STATE LEGAL SERVICES FUND; AMENDING CHAPTER 14, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1408, IDAHO CODE, TO PROVIDE A MECHANISM FOR BILLING STATE ENTITIES FOR PROVISION OF LEGAL SERVICES; AMENDING CHAPTER 14, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1409, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR AND PROCEDURES FOR CONTRACTS FOR LEGAL SERVICES; TO PROVIDE ADMINISTRATIVE PROVISIONS FOR FISCAL YEAR 1996 ONLY; AND PROVIDING AN EFFECTIVE DATE AND APPLICATION.

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

SECTION 1. That Section 67-1401, Idaho Code, be, and the same is hereby amended to read as follows:

67-1401. DUTIES OF ATTORNEY GENERAL. Except as otherwise provided in this chapter, 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 perform all legal services for the state and to represent the state and all departments, agencies, offices, officers, boards, commissions, institutions and other state entities, in all courts and before all administrative tribunals or bodies of any nature. Provided however, that such representation shall be for the legislative, and judicial branches, the governor, those state entities within the department of self-governing agencies, colleges and universities, only upon request. Whenever required to attend upon the United States courts, other than those sitting within this state, he any court or administrative tribunal the attorney general shall be allowed his necessary and actual expenses, all claims for which shall be

audited by the state board of examiners.

2. To advise all departments, agencies, offices, officers, boards, commissions, institutions and other state entities in all matters involving questions of law.

3. After judgment in any of the causes referred to in the preceding first subdivision, to direct the issuing of such process as may be necessary to carry the same into execution.

34. To account for and pay over to the proper officer all moneys received which ~~may--come-into-his-possession-belonging~~ belong to the state ~~or-to-any-county~~.

45. 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.

56. 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 entrusted to their charge.

67. To give his an opinion in writing, without fee, to the legislature or either house thereof, or any senator or representative, and to the governor, secretary of state, treasurer, state controller, and the trustees or commissioners of state institutions, when required, upon any question of law relating to their respective offices. ~~¶ The~~ attorney general shall ~~be-his-duty-to~~ keep a record of all written opinions rendered by his the 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.

78. 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.

89. To bid upon and purchase, when necessary, in the name of the state, and under the direction of the 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.

910. 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 state controller, to redeem such property from such prior judg-

ment, 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.

~~101. 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~~ be 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.

12. To exercise all the common law power and authority usually appertaining to the office and to discharge the other duties prescribed by law.

13. To report to the governor, at the time required by this code, the condition of the affairs of his department the attorney general's office and of the reports received by him from prosecuting attorneys.

14. To appoint deputy attorneys general and special deputy attorneys general and other necessary staff to assist in the performance of the duties of the office. Such deputies and staff shall be nonclassified employees within the meaning of section 67-5302, Idaho Code.

SECTION 2. That Chapter 14, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-1406, Idaho Code, and to read as follows:

67-1406. EMPLOYMENT OF ATTORNEYS RESTRICTED -- EXEMPTIONS. Notwithstanding any other provision of law to the contrary, no department, agency, office, officers, board, commission, institution or other state entity shall be represented by or obtain its legal advice from an attorney at law other than the attorney general except as follows:

(1) The legislative and judicial branches of government and the governor may employ attorneys other than those under the supervision of the attorney general, and such attorneys may appear in any court. However, such entities may, upon request, utilize the attorney general's legal services.

(2) State entities within the department of self-governing agencies, colleges and universities, may employ private counsel to advise them and represent them before courts of the state of Idaho. Such entities may also obtain legal services from the attorney general on such terms as the parties may agree.

(3) Whenever the attorney general determines that it is necessary or appropriate in the public interest, the attorney general may authorize contracts for legal services pursuant to the provisions of section 67-1409, Idaho Code.

(4) The provisions of section 67-1401, Idaho Code, shall govern the normal relationship between the attorney general and the state entities in the executive branch of state government. However, if after consultation with the attorney general, the governor determines in his sole judgment, which shall not be subject to judicial review, that counsel assigned to represent or give legal advice to any state

entity, other than the lieutenant governor, state controller, state treasurer, secretary of state, attorney general, and the superintendent of public instruction, cannot effectively advocate or pursue the policies of the governor, the governor shall request that other counsel be provided by the attorney general, and the attorney general shall provide from within the office of the attorney general or obtain from outside the office of the attorney general, depending upon the request of the governor, qualified counsel acceptable to the governor to represent such state entity.

(5) Any separate counsel employed pursuant to the foregoing exceptions shall be compensated with funds appropriated to such state entity, unless such separate counsel shall have been employed at the request or convenience of the attorney general or because of a conflict in representation by the attorney general.

SECTION 3. That Chapter 14, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-1407, Idaho Code, and to read as follows:

67-1407. STATE LEGAL SERVICES FUND -- ESTABLISHMENT. For the purpose of carrying out the provisions of this title, there is established a fund in the state treasury to be known as the state legal services fund. The state legal services fund shall consist of moneys received by the attorney general by way of appropriation, interaccount or other billing or other means, other than general funds specifically appropriated to the attorney general and funds appropriated for special litigation. The moneys in the state legal services fund and the general fund appropriation are to be used to carry out the duties of the office.

SECTION 4. That Chapter 14, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-1408, Idaho Code, and to read as follows:

67-1408. BILLING OF STATE ENTITIES FOR LEGAL SERVICES -- APPROPRIATION REQUESTS FOR GENERAL STATE LEGAL SERVICES. The attorney general, in rendering assistance to the departments, agencies, offices, officers, boards, commissions, institutions and other state entities, shall charge for all costs of such assistance including, but not limited to, salaries of attorneys, paralegals, administrative, clerical and other personnel, investigative services, independent contractors, operating expenses and capital outlay expenses of the office of the attorney general. Whenever the attorney general determines that it would be beneficial to physically locate attorneys within an agency, the attorney general and agency may enter into an agreement defining which operating, capital or other expenses will be paid by the attorney general and which expenses will be paid by the agency.

On or before August 15 of each year, the attorney general shall estimate the legal service expenses that will be incurred by the office of the attorney general during the succeeding fiscal year and shall notify all state entities that receive legal services of their

estimated share of such expenses for the succeeding fiscal year. The estimated amount shall be paid by each state entity in the succeeding fiscal year to the state legal services fund unless the legislature, by appropriation or otherwise, adjusts the charge. On or before August 15 of each year, the attorney general shall notify the legislative services office and the division of financial management of the office of the governor regarding the amount of the charge to each state entity and also the amount of the general fund budget request for statewide legal services provided to the state. The attorney general shall manage the attorney general's office to provide unified legal services based upon the legal needs of the state. For this purpose the attorney general may, during any fiscal year, assign personnel based upon the legal needs existing regardless of the source of funding therefor.

SECTION 5. That Chapter 14, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-1409, Idaho Code, and to read as follows:

67-1409. CONTRACTS FOR LEGAL SERVICES. (1) The attorney general shall determine which legal services can most efficiently and effectively be provided by the attorney general's staff and which legal services can most efficiently and effectively be provided by contract. The attorney general shall develop application forms and requests for proposals utilizing generally accepted cost containment considerations, for those attorneys desiring to perform contract legal services for the state. Based upon the responses received, the attorney general shall recommend to the state board of examiners which attorneys or firms should be authorized to represent the state. The state board of examiners shall consider the recommendations made by the attorney general and shall determine which attorneys or firms so recommended are authorized to contract to provide legal services for the state, and the type or types of legal services they are authorized to provide. In determining which attorneys shall be authorized for particular types of services, the board of examiners shall select attorneys who, in the board's judgment can best provide quality legal services for the state entities at an acceptable cost. The determinations of the board of examiners shall not be subject to judicial review. Whenever the attorney general determines that an immediate appointment of a special deputy attorney general would be in the best interests of the state of Idaho, the attorney general may enter into an agreement with an attorney or firm to provide legal services for the state.

(2) The performance of all contracts for legal services shall be monitored and supervised by the attorney general or his designee, and any payments pursuant to such contracts must be approved by the attorney general. This provision shall not apply to contracts for legal services entered into by the legislative and judicial branches of state government and the governor and state entities within the department of self-governing agencies, colleges, and universities.

SECTION 6. 1996 FISCAL YEAR PROVISIONS. (1) For fiscal year 1996, the attorney general shall charge each state office, officers,

department, agency, commission, board, institution or other state entity an amount equal to the amount such state entity paid in legal services during fiscal year 1995, other than contract legal services that were not provided by the attorney general. Provided, such amount shall be adjusted to reflect the change in employee compensation and benefits approved by the legislature, and the cost of computerized legal research. The attorney general shall be allowed to enter into agreements with state entities to provide legal services in addition to those provided during fiscal year 1995 and may bill state entities therefor.

(2) The provisions of this section shall not apply to the legislative and judicial branches of the state of Idaho and the governor, and state entities within the department of self-governing agencies, colleges and universities.

SECTION 7. EFFECTIVE DATE. This act shall be in full force and effect on and after July 1, 1995. Provided however, the provisions of Section 6 shall govern fiscal matters only during fiscal year 1996.

Approved March 15, 1995.

CHAPTER 142
(H.B. No. 175, As Amended)

AN ACT

RELATING TO RIGHTS OF CRIME VICTIMS; AMENDING SECTION 19-5306, IDAHO CODE, TO REVISE STATUTORY RIGHTS OF CRIME VICTIMS DURING INVESTIGATION AND PROSECUTION OF A CRIME, TO PROVIDE APPLICATION AND TO DEFINE TERMS.

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

SECTION 1. That Section 19-5306, Idaho Code, be, and the same is hereby amended to read as follows:

19-5306. RIGHTS OF VICTIM DURING INVESTIGATION AND PROSECUTION OF THE CRIME. (1) ~~Upon request, each victim of a felony criminal or juvenile offense shall be:~~

~~(a) Assured the expeditious return of any stolen or other personal property by law enforcement agencies when no longer needed as evidence~~ Treated with fairness, respect, dignity and privacy throughout the criminal justice process;

~~(b) Consulted by the presentence investigator during preparation of the presentence report and have included in that report a statement of the impact which the defendant's criminal conduct has had upon the victim~~ Permitted to be present at all criminal justice proceedings or juvenile proceedings;

~~(c) Afforded the opportunity to address under oath; the court at sentencing~~ Entitled to a timely disposition of the case;

~~(d) Informed of the disposition of the case against the defendant, including any appeal~~ Given prior notification of trial court,

appellate and parole proceedings and, upon request, to information about the sentence, incarceration or release of the defendant;

(e) Notified by the commission of pardons and parole of relevant parole or commutation hearings, and be afforded the opportunity to present information to the commission, either in person or in writing Heard, upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration or release of the defendant unless manifest injustice would result;

(f) Notified whenever the defendant or suspect is released or escapes from custody. When release is ordered prior to final conviction, notice to the victim shall be given by the law enforcement authority from whose custody the defendant was released. When release is granted subsequent to a final conviction, notice shall be given to the victim by the law enforcement authority from whose custody the defendant was released unless release is granted by the commission of pardons and parole in which case the commission shall notify the victim Afforded the opportunity to communicate with the prosecution in criminal or juvenile offenses, and be advised of any proposed plea agreement by the prosecuting attorney prior to entering into a plea agreement in criminal or juvenile offenses involving crimes of violence, sex crimes or crimes against children;

(g) Advised of a possible plea agreement by the prosecuting attorney prior to his entering into a plea agreement in all cases involving crimes of violence or crimes against children Allowed to refuse an interview, ex parte contact or other request by the defendant or any other person acting on behalf of the defendant, unless such request is authorized by law;

(h) Consulted by the presentence investigator during the preparation of the presentence report and have included in that report a statement of the impact which the defendant's criminal conduct had upon the victim and shall be allowed to read, prior to the sentencing hearing, the presentence report relating to the crime. The victim shall maintain the confidentiality of the presentence report, and shall not disclose its contents to any person except statements made by the victim to the prosecuting attorney or the court;

(i) Assured the expeditious return of any stolen or other personal property by law enforcement agencies when no longer needed as evidence;

(j) Notified whenever the defendant or suspect is released or escapes from custody. When release is ordered prior to final conviction, notice to the victim shall be given by the law enforcement authority from whose custody the defendant was released. When the release is granted subsequent to a final conviction, notice shall be given to the victim by the law enforcement authority from whose custody the defendant was released unless release is granted by the commission of pardons and parole, in which case the commission shall notify the victim.

(2) Upon the filing of a felony criminal complaint or juvenile petition, the prosecuting attorney shall inform the victim of the various opportunities provided by this section. The victim may request any notice or opportunity to be heard exercise any of the rights pro-

vided by this section by giving completing a written request on a form provided by the prosecuting attorney to the clerk of the district court. The clerk thereafter shall notify the appropriate authorities of the victim's requests. Notice thereafter shall be given to the victim at the address provided unless the victim subsequently provides a different address. The victim's address shall be kept confidential by the court except for carrying out the provisions of this chapter.

(3) The provisions of this section shall apply equally to the immediate families of homicide victims or immediate families of victims of such youthful age or incapacity as precludes them from exercising these rights personally. The court may designate a representative from the immediate family to exercise these rights on behalf of a deceased, incapacitated, or minor victim.

~~(4) Neither the failure of any state, county or municipal officer or employee to carry out the requirements of this section nor compliance with it shall subject the state or the officer or employee to liability in any civil action~~ Nothing in this section shall be construed to authorize a court to dismiss a case, to set aside or void a finding of guilt or an acceptance of a plea of guilty, or to obtain appellate, habeas corpus, or other relief from any criminal judgment, for a violation of the provisions of this section; nor be construed as creating a cause of action for money damages, costs or attorney's fees against the state, a county, a municipality, any agency, instrumentality or person; nor be construed as limiting any rights for victims previously conferred by statute; nor be construed to require the court appointment of legal counsel or the payment of transportation costs.

(5) As used in this section:

(a) "Victim" is an individual who suffers direct or threatened physical, financial or emotional harm as the result of the commission of a crime or juvenile offense;

(b) "Criminal offense" is any charged felony or a misdemeanor involving physical injury, or the threat of physical injury, or a sexual offense;

(c) "Juvenile offense" is charged conduct that is a violation of law that brings a juvenile within the purview of chapter 5, title 20, Idaho Code, and which conduct committed by a juvenile would be a felony if committed by an adult.

Approved March 15, 1995.

CHAPTER 143
(S.B. No. 1112)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO PROVIDE A DEFINITION OF SEASONAL OR CASUAL EMPLOYEE OF A CITY AND TO MAKE TECHNICAL CORRECTIONS.

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" means the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" means such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to regulations rules 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).

(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 likely 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 person rendering service to an employer in the capacity of an independent business, trade or profession; or

(b) A person whose employment with any employer does not total five (5) consecutive months; or

(c) A person provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such person; or

(d) An inmate of a state institution, 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

(f) A person making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that a person who receives separate remuneration for work currently performed for an employer and the United States government may elect to be a member of the retirement system in accordance with rules of the board, or;

(g) A person occupying a position that does not exceed eight (8) consecutive months in a calendar year with a city when the city has certified, in writing to the system, the position is (i) seasonal or casual; and (ii) affected by weather and the growing season, including parks and golf course positions.

(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) Any period ended by dishonorable discharge or during which termination of such service is available but not accepted;

(b) Any period which commences more than ninety (90) days after the person ceases to be an employee or ends more than ninety (90) days before the person again becomes an employee unless such ninety (90) day requirements are waived by the board due to circumstances beyond the employee's control; or

(c) 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.

Approved March 16, 1995.

CHAPTER 144
(S.B. No. 1180)

AN ACT

RELATING TO THE STATE TAX COMMISSION; AMENDING SECTION 63-511, IDAHO CODE, TO PERMIT MEMBERS AND EMPLOYEES OF THE TAX COMMISSION TO HOLD CERTAIN OFFICES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-511, Idaho Code, be, and the same is hereby amended to read as follows:

63-511. HOLDING OTHER OFFICES. The members and employees of the commission shall hold no other office under the laws of this state, the United States, or any other state, except as provided in this section, so long as they shall remain members or employees of the commis-

sion. Any member or employee of the commission may serve in the national guard or armed forces of the United States. Further, any member or employee of the commission may be appointed or elected to other office, when that office is without compensation beyond reimbursement for actual expenses, so long as service in the office does not conflict with the duties of the commission.

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

Approved March 16, 1995.

CHAPTER 145
(S.B. No. 1205)

AN ACT

RELATING TO RETAIL SALE OF LIQUOR BY THE DRINK; AMENDING SECTION 23-955, IDAHO CODE, TO PROVIDE FOR INITIAL AND CONTINUING QUALIFICATION OF THE NEW OWNER OF A FACILITY WHOSE LICENSE IS ISSUED UNDER THE PROVISIONS OF LAW ALLOWING FOR SPLIT OWNERSHIP OF A LICENSE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 23-955, Idaho Code, be, and the same is hereby amended to read as follows:

23-955. SPLIT OWNERSHIP FACILITY -- LICENSING. Nothing contained in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a premise that has been, because of a split in ownership of the original premises, separated from a ski resort facility already licensed under the provisions of section 23-903, Idaho Code. The provisions of section 23-9103, Idaho Code, shall be applicable to original licensing of a ski resort ~~shall also apply to any licenses issued under pursuant to this section.~~ The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Licenses issued under the provisions of this section are not transferable.

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

Approved March 16, 1995.

CHAPTER 146
(S.B. No. 1236)

AN ACT

APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 1996; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; 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 Superintendent of Public Instruction/State Department of Education the following amounts, to be expended according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	\$2,531,100	\$1,262,000	\$41,800	\$ 409,300	\$ 4,244,200
Federal Grant					
Fund	2,505,500	1,849,400		75,776,700	80,131,600
Public Instruction					
Fund	194,500	894,900		10,500	1,099,900
Driver Education					
Fund	113,400	137,800		1,943,000	2,194,200
Data Processing					
Services					
Fund	128,900	39,400			168,300
Student Tuition					
Recovery					
Fund		5,100		46,500	51,600
Agriculture in the					
Classroom					
Fund				12,200	12,200
TOTAL	<u>\$5,473,400</u>	<u>\$4,188,600</u>	<u>\$41,800</u>	<u>\$78,198,200</u>	<u>\$87,902,000</u>

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Department of Education is authorized no more than one hundred ten and five-tenths (110.5) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. It is legislative intent that an amount, not to exceed \$1,000 of the General Fund moneys appropriated in Section 1 of this act, may be used at the discretion of the Superintendent of Public Instruction to assist in defraying expenses relating to or resulting from the discharge of his official duties. Such moneys shall be

accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

Approved March 16, 1995.

CHAPTER 147
(S.B. No. 1243)

AN ACT

APPROPRIATING MONEYS FOR THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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 according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. DIVISION OF FINANCIAL MANAGEMENT:				
FROM:				
General Fund	\$1,108,300	\$ 269,800	\$13,600	\$1,391,700
Miscellaneous				
Revenue Fund	<u>56,100</u>	<u>10,500</u>	<u>700</u>	<u>67,300</u>
TOTAL	\$1,164,400	\$280,300	\$14,300	\$1,459,000
II. RURAL DEVELOPMENT COUNCIL:				
FROM:				
Federal Grant Fund	\$ 90,700	\$ 45,000		\$ 135,700
Miscellaneous				
Revenue Fund		<u>20,000</u>		<u>20,000</u>
TOTAL	\$ 90,700	\$ 65,000		\$ 155,700
III. SILVER VALLEY TRUST FUND:				
FROM:				
Silver Valley Trust Fund	\$ 57,100	\$1,469,400		\$1,526,500
GRAND TOTAL	\$1,312,200	\$1,814,700	\$14,300	\$3,141,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Financial Management is authorized no more than twenty-two (22) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 1 of this Act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 16, 1995.

CHAPTER 148
(S.B. No. 1244)

AN ACT

APPROPRIATING MONEYS TO THE LOTTERY COMMISSION FOR FISCAL YEAR 1996;
LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND
EXPRESSING LEGISLATIVE INTENT TO CLARIFY THE SCOPE OF THE APPRO-
PRIATION.

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 stan-
dard classifications from the listed fund for the period July 1, 1995,
through June 30, 1996:

FOR:	
Personnel Costs	\$1,856,700
Operating Expenditures	6,176,500
Capital Outlay	<u>237,200</u>
TOTAL	\$8,270,400
FROM:	
State Lottery Fund	\$8,270,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the
Lottery Commission is authorized no more than forty-seven (47) full-
time equivalent positions at any point during the period July 1, 1995,
through June 30, 1996, unless specifically authorized by the Governor.
The Joint Finance-Appropriations Committee will be notified promptly
of any increased positions so authorized.

SECTION 3. 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 pro-
visions of Section 67-7428, Idaho Code.

Approved March 16, 1995.

CHAPTER 149
(H.B. No. 354)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR
1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Com-
merce the following amounts from the listed funds to be expended
according to designated standard classifications for the period July

1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	\$1,564,100	\$1,096,900	\$19,100		\$2,680,100
Tourism Promotion Fund	400,900	1,849,900		\$ 1,829,900	4,080,700
Seminars and Publications Fund		356,100			356,100
Miscellaneous Revenue Fund		86,000			86,000
Federal Grant Fund	403,100	129,300		8,797,400	9,329,800
TOTAL	\$2,368,100	\$3,518,200	\$19,100	\$10,627,300	\$16,532,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Commerce is authorized no more than fifty-two (52) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 16, 1995.

CHAPTER 150
(H.B. No. 353)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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 standard classifications from the listed fund for the period July 1, 1995, through June 30, 1996:

FOR:		
Personnel Costs		\$2,220,500
Operating Expenditures		419,800
Capital Outlay		10,500
TOTAL		\$2,650,800
FROM:		
State Regulatory Fund		\$2,650,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Finance is authorized no more than forty-four (44) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 16, 1995.

CHAPTER 151
(H.B. No. 344)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 1996; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE CAPITOL MALL FIBER OPTIC NETWORK OF IDAHO; AND LIMITING THE NUMBER OF APPROVED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Administration not exceed the following amount for the period July 1, 1995, through June 30, 1996:

FOR:

Personnel Costs	\$ 6,535,900
Operating Expenditures	5,436,000
Capital Outlay	930,900
Trustee and Benefit Payments	<u>8,011,900</u>
TOTAL	\$20,914,700

FROM:

General Fund	\$ 3,813,200
Administration and Accounting Services Fund	8,744,500
Indirect Cost Recovery Fund	437,100
Employee Assistance Program Fund	42,200
Permanent Building Fund	6,669,600
Federal Surplus Property Revolving Fund	445,100
Employee Group Insurance Fund	345,400
Retained Risk Fund	<u>417,600</u>
TOTAL	\$20,914,700

SECTION 2. There is hereby appropriated to the Department of Administration the following amounts, to be expended for the designated programs according to the designated standard classification from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General					
Fund	\$ 131,700	\$ 70,000	\$ 2,500		\$ 204,200
Indirect Cost					
Recovery					
Fund	309,600	122,500	5,000		437,100
Employee Assistance Program					
Fund	16,600	25,600			42,200
Employee Group Insurance					
Fund	219,400	123,500	2,500		345,400
Retained Risk					
Fund	<u>292,400</u>	<u>122,700</u>	<u>2,500</u>		<u>417,600</u>
TOTAL	\$ 969,700	\$ 464,300	\$ 12,500		\$ 1,446,500
II. INFORMATION TECHNOLOGY:					
FROM:					
General					
Fund	\$ 652,300	\$ 255,500	\$ 98,100		\$ 1,005,900
Administration and Accounting Services					
Fund	<u>1,417,400</u>	<u>537,900</u>	<u>433,800</u>		<u>2,389,100</u>
TOTAL	\$2,069,700	\$ 793,400	\$531,900		\$ 3,395,000
III. PUBLIC WORKS:					
FROM:					
General					
Fund				\$2,052,900	\$ 2,052,900
Administration and Accounting Services					
Fund	\$1,145,000	\$2,766,000	\$ 31,500	785,000	4,727,500
Permanent Building					
Fund	<u>1,060,900</u>	<u>384,700</u>	<u>50,000</u>	<u>5,174,000</u>	<u>6,669,600</u>
TOTAL	\$2,205,900	\$3,150,700	\$ 81,500	\$8,011,900	\$13,450,000
IV. PURCHASING:					
FROM:					
General					
Fund	\$ 400,100	\$ 145,100	\$ 5,000		\$ 550,200
Administration and Accounting Services					
Fund	599,600	733,300	295,000		1,627,900
Federal Surplus Property Revolving					
Fund	<u>290,900</u>	<u>149,200</u>	<u>5,000</u>		<u>445,100</u>
TOTAL	\$1,290,600	\$1,027,600	\$305,000		\$ 2,623,200
GRAND TOTAL					
	\$6,535,900	\$5,436,000	\$930,900	\$8,011,900	\$20,914,700

SECTION 3. It is legislative intent that the funding for the Capitol Mall Fiber Optic Network of Idaho (CMFONI) is a one-time appropriation and that the Department of Administration establish a fair and equitable billing system to fund this program beginning in fiscal year 1997.

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Department of Administration is authorized no more than one hundred sixty-one and ten one-hundredths (161.10) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 2 of this Act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 16, 1995.

CHAPTER 152
(H.B. No. 343)

AN ACT

APPROPRIATING MONEYS FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR FISCAL YEAR 1996; CLARIFYING THE APPROPRIATION FOR THE PORTFOLIO INVESTMENT PROGRAM; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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 for the named programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
PERSI				
Administrative Fund	\$1,685,300	\$1,185,900	\$24,800	\$2,896,000
II. PORTFOLIO INVESTMENT:				
FROM:				
PERSI				
Special Fund	\$ 225,000	\$ 200,000	\$50,000	\$ 475,000
GRAND TOTAL	\$1,910,300	\$1,385,900	\$74,800	\$3,371,000

SECTION 2. Notwithstanding Section 59-1311(4)(d), Idaho Code, moneys appropriated in Section 1 of this act for the Portfolio Investment Program are for administrative costs of the Portfolio Program as

provided in Section 59-1311(3), Idaho Code. Amounts necessary to pay all other investment expenses related to the Portfolio Program are perpetually appropriated to the Public Employee Retirement System Board as provided in Section 59-1311(4)(a), (b) and (c), Idaho Code.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Public Employee Retirement System is authorized no more than forty-eight (48) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 16, 1995.

CHAPTER 153
(H.B. No. 320)

AN ACT

RELATING TO APPROPRIATIONS, FISCAL CONTROLS AND THE STATE BUDGET; REPEALING SECTIONS 67-3502, 67-3503, 67-3505, 67-3520 AND 67-3522, IDAHO CODE; AMENDING CHAPTER 35, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-3502, IDAHO CODE, TO PROVIDE FOR FORMAT AND PREPARATION OF ANNUAL BUDGET REQUESTS; AMENDING SECTION 67-3504, IDAHO CODE, TO REVISE DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF FINANCIAL MANAGEMENT; AMENDING CHAPTER 35, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-3505, IDAHO CODE, TO REQUIRE THAT CERTAIN BUDGET INFORMATION BE SUBMITTED TO THE GOVERNOR BY THE ADMINISTRATOR ON OR BEFORE NOVEMBER 20; AMENDING SECTION 67-3506, IDAHO CODE, TO PROVIDE THAT BUDGET DOCUMENTS SHALL CONSIST OF THREE PARTS; AMENDING SECTION 67-3507, IDAHO CODE, TO PROVIDE TECHNICAL CORRECTIONS; AMENDING SECTION 67-3508, IDAHO CODE, TO PROVIDE FOR EXPENDITURE OBJECT CODES; AMENDING SECTION 67-3510, IDAHO CODE, TO REQUIRE EXPENDITURE OBJECT CODES USED IN APPROPRIATIONS TO CONFORM; AMENDING SECTION 67-3511, IDAHO CODE, TO REVISE FOR WHAT PURPOSES MONEYS IN LEGISLATIVE APPROPRIATIONS MAY BE TRANSFERRED; AMENDING SECTION 67-3512, IDAHO CODE, TO PROVIDE FOR REDUCTION OF LEGISLATIVE APPROPRIATIONS; AMENDING SECTION 67-3512A, IDAHO CODE, TO PROVIDE FOR TEMPORARY REDUCTION OF SPENDING AUTHORITY; AMENDING SECTION 67-3514, IDAHO CODE, TO DELETE THE REQUIREMENT THAT ALL BILLS CARRYING APPROPRIATIONS SHALL BE ITEMIZED IN ACCORDANCE WITH THE STANDARD CLASSIFICATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-3516, IDAHO CODE, TO REVISE REQUIREMENTS FOR EXPENDITURE OF MONEYS THAT STATE OFFICERS, DEPARTMENTS, BUREAUS AND INSTITUTIONS ARE REQUIRED TO ADHERE TO; AMENDING SECTION 67-3517, IDAHO CODE, TO PROVIDE FOR REQUESTS FOR SPENDING AUTHORITY BY OFFICIALS, DEPARTMENTS, BUREAUS AND INSTITUTIONS; AMENDING SECTION 67-3518, IDAHO CODE, TO REVISE THE DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF FINANCIAL MANAGEMENT IN INVESTIGATING REQUESTS; AMENDING SECTION 67-3519, IDAHO CODE, TO REVISE PROCEDURES FOR FILLING EMPLOYEE

POSITIONS; AMENDING SECTION 67-3521, IDAHO CODE, TO PROHIBIT ENCUMBRANCES OF EXPENDITURES BEYOND AN ENTITIES SPENDING AUTHORITY; AMENDING SECTION 67-3531, IDAHO CODE, TO PROVIDE FOR AN ANNUAL STATEWIDE INDIRECT COST ALLOCATION PLAN; AND TO PROVIDE A SHORT TITLE FOR THIS ACT.

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

SECTION 1. That Sections 67-3502, 67-3503, 67-3505, 67-3520 and 67-3522, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 35, 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 67-3502, Idaho Code, and to read as follows:

67-3502. **FORMAT AND PREPARATION OF ANNUAL BUDGET REQUESTS.** In the preparation of a state budget, the administrator of the division of financial management shall, not later than the fifteenth day of July have available for all departments, offices and institutions of the state government forms necessary to prepare budget requests. Such forms shall be developed by the administrator of the division and the legislative services office to provide the following information:

(1) For the preceding fiscal year, each of the entities listed above shall report all funds available to them regardless of source, including legislative appropriations, and their expenditures by fund and object of all sums received from all sources, segregated as provided for on the forms.

(2) For the current fiscal year, each of the entities listed above shall report their estimates of all funds available to them regardless of source, including legislative appropriations, and their estimated expenditures by fund and object of all sums received from all sources, segregated as provided for on the forms, including a statement of the purposes for which anticipated funds are expected to be expended.

(3) An estimate of appropriations needed for the succeeding fiscal year, showing each primary program or major objective as a separate item of the request, itemized by object code, as required by the forms provided by the administrator of the division.

(4) A report concerning the condition and management of programs, program performance, and progress toward accomplishing program objectives.

The completed forms shall, not later than the first day of September, except with special permission and agreement of the administrator of the division of financial management and the director of the legislative services office, be filed in the office of the administrator of the division of financial management. The legislative and judicial departments shall, as early as practicable and in any event no later than the first day of November, prepare and file in the office of the governor upon the forms described in this section a report of all of the information required in this section.

SECTION 3. That Section 67-3504, Idaho Code, be, and the same is

hereby amended to read as follows:

67-3504. DUTIES OF ADMINISTRATOR OF THE DIVISION. (1) It shall be the duty of the administrator of the division of financial management to make such further inquiries and investigations as to any item included ~~either-in-the~~ in any report of expenditures and available funding sources or the estimate for the succeeding fiscal year which may be included in the report and estimates furnished by any department, office or institution, except those of the legislative and judicial departments. In making such investigation he shall be allowed his necessary expenses of travel and subsistence in visiting any institution or department in the state. He may employ additional ~~clerical help~~ resources whenever in his discretion it may be necessary to check the items of expenditure or the estimates submitted by any department, office or institution. The administrator of the division shall serve as a clearinghouse for information, data for multi-agency projects not including requests made by the legislative and judicial departments and shall have power to demand and it is hereby made the duty of every department, officer, board, commission, or institution receiving appropriations from the legislature to furnish upon demand any and all information so requested by the administrator of the division.

(2) The administrator of the division, in addition to the duties hereinbefore set forth, shall perform such other duties as the governor as chief budget officer of the state may direct. He shall, as often as required by the governor, prepare and furnish reports as to the condition of any appropriations made by the legislature and shall investigate and report to the governor, when required, concerning receipts available funding from all sources ~~other-than-appropriation~~ and expenditures made by any department, office or institution of the state. The administrator of the division, or his designated representative, shall also appear at all sessions of the standing committees of the house of representatives and of the senate in charge of appropriations and shall furnish to such committees any information required while said committees are considering the budget.

SECTION 4. That Chapter 35, 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 67-3505, Idaho Code, and to read as follows:

67-3505. BUDGET INFORMATION SUBMITTED TO GOVERNOR. The administrator of the division shall, on or before the 20th day of November next succeeding, prepare and submit to the governor, to the governor-elect if there is one, and to the legislature, information for the budget as designated in section 67-3502, Idaho Code, including the requests of the legislative and judicial departments as submitted by those departments.

SECTION 5. That Section 67-3506, Idaho Code, be, and the same is hereby amended to read as follows:

67-3506. GOVERNOR TO TRANSMIT BUDGET DOCUMENT. Not later than five (5) days following the convening of each regular legislative ses-

sion, the governor shall transmit to the legislature a budget document setting forth his financial plan for the next fiscal year, and having the character and scope hereinafter set forth. The budget document shall consist of ~~two~~ three (23) parts, the nature and contents of which are set forth in section 67-3507, Idaho Code. The requests of the legislative and judicial departments shall be transmitted as submitted by those departments.

SECTION 6. 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-there-with~~ 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 available 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 interagency 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 67-1903, Idaho Code.

SECTION 7. That Section 67-3508, Idaho Code, be, and the same is hereby amended to read as follows:

67-3508. STANDARD--CLASSIFICATION EXPENDITURE OBJECT CODES. (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 other benefits provided 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 or trustee and benefit payments.~~

(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~~ compensation for independent contractors. 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 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 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 8. That Section 67-3510, Idaho Code, be, and the same is hereby amended to read as follows:

67-3510. CLASSIFICATIONS EXPENDITURE OBJECT CODES MADE TO CONFORM. All classifications object codes used in appropriations ~~made by the twentieth session of the legislature~~ shall be made to conform to ~~the standard classification those~~ set forth in section 67-3508, Idaho Code. All expenditures made from said appropriations shall be classified in conformity with the standard classification object codes. The state controller shall use the standard classification object codes in the classification of all warrants expenditures drawn against any and all appropriations made by ~~the twentieth session of the Idaho legislature and all continuing appropriations heretofore made, and all appropriations hereafter made.~~

SECTION 9. That Section 67-3511, Idaho Code, be, and the same is hereby amended to read as follows:

67-3511. TRANSFER OF LEGISLATIVE APPROPRIATIONS. (1) No appropriations made by the ~~twentieth-session-of-the~~ Idaho legislature, ~~or hereafter-made;~~ may be transferred from one class object code to another except with the consent of the state board of examiners upon application duly made by the head of any department, office or institution of the state (including the ~~elective~~ elected officers in the executive department and the state board of education). ~~And-n~~No appropriation made for expenses other than personal-services personnel costs shall be expended for personal-services personnel costs of the particular department, office or institution for which it is appropriated.

(2) Legislative aAppropriations may be transferred from one program to another within an budgeted agency, ~~as-appropriated;~~ upon application duly made by the head of any department, office or institution of the state (~~including-the-elective-officers-in-the-executive department--and--the--state--board--of--education~~) and approval of the application by the administrator of the division of financial management and the board of examiners provided the requested transfer is not more than ten per cent (10%) cumulative change from the appropriated program amount for any program affected by the transfer. Requests for transfers above ten per cent (10%) cumulative change must, in addition to the above, be approved by ~~law~~ legislative appropriation. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the legislature.

(3) All moneys appropriated to any budgeted agency of the state of Idaho for the purpose of capital outlay shall be used for that purpose and not for any other purpose. ~~Receipts-from-the-sale-of--capital outlay--items--may--be--included--as--an--increase--to--an--agency's--appropriation--and--must--be--identified--at--a--class--code--level--. Expenditure-of-such receipts--must--be--for--like-kind-capital-outlay-items.~~

SECTION 10. That Section 67-3512, Idaho Code, be, and the same is hereby amended to read as follows:

67-3512. REDUCTION OF LEGISLATIVE APPROPRIATIONS. Any legislative appropriation made for any department, office or institution of the state may be reduced in amount by the state board of examiners upon investigation and report of the administrator of the division of financial management; provided, that before such reduction is ordered the head of such department, office or institution shall be allowed a hearing before said state board of examiners and may at such hearing present such evidence as he may see fit. No reduction of legislative appropriations made to executive department agencies shall be made without hearing unless and until the head of such department, office or institution shall file his consent in writing thereto. No reduction of legislative appropriations for the ~~elective~~ elected officers in the executive department shall be made to a level which prohibits the discharge of constitutional duties. No reduction of legislative appropriations for the legislative and judicial departments shall be made without the permission in writing of the head of such department.

SECTION 11. That Section 67-3512A, Idaho Code, be, and the same is hereby amended to read as follows:

67-3512A. TEMPORARY REDUCTION OF ~~ALLOTMENTS~~ SPENDING AUTHORITY. 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 spending authority on file in the office of the state controller for any department, office or institution of the state; provided, that no reduction of allotments spending authority for the elective elected 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 spending authority 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 spending authority to the state board of examiners, and the state board of examiners may, after hearing and consideration of evidence, restore said allotment spending authority 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 spending authority to a level lower than that required to insure that state expenditures do not exceed revenues. A temporary reduction of allotment spending authority pursuant to this section shall not result in a reduction of appropriation. The governor at any time by executive order may restore allotments spending authority which have has been temporarily reduced to their its original level.

SECTION 12. That Section 67-3514, Idaho Code, be, and the same is hereby amended to read as follows:

67-3514. APPROPRIATION BILLS TO BE PREPARED BY JOINT COMMITTEES ~~---FEMINIZATION~~. The joint committees of the legislature in charge of appropriation measures, after considering the budget, shall prepare and introduce appropriation bills covering the requirements of the various departments, offices and institutions of the state; provided, that in the case of any department, office or institution operating under a continuing appropriation the joint committees of the legislature in charge of the appropriation measures shall prepare and introduce appropriation bills covering the requirements for the administrative functions of such department, office ~~and-or~~ and/or institution; providing further, that for any department, office, or institution operating in part or in whole under a continuing appropriation or fund authorized by the legislature, the joint committees of the legislature having jurisdiction of appropriations shall, after examining the budget, prepare and introduce appropriation bills covering all the requirements of the respective departments, offices, and institutions of the state operating under each such continuing appropriation. ~~All bills carrying appropriations shall be itemized in accordance with the standard classification hereinbefore set forth~~

SECTION 13. 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 spending authority 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. Receipts from the sale of capital outlay items and insurance claim settlements may, with the approval of the division of financial management, be included as an increase to an agency's appropriation and must be identified at an object code level. Expenditure of such receipts must be for capital outlay items.

(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 controller will treat interagency billing credits receipts as receipts revenue and not classify such credits revenue 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 funds shall be deposited to the appropriate account fund of that agency.

(c) ~~Interagency billing credits receipts 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 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 sub-

section (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 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 funds shall be deposited to the appropriate account fund 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~~ under the circumstances cited in subsection (2) of this section.

SECTION 14. That Section 67-3517, Idaho Code, be, and the same is hereby amended to read as follows:

67-3517. REQUESTS FOR ALLOTMENT SPENDING AUTHORITY 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 controller, a request for allotment spending authority of funds to be made available during the fiscal year, from the legislative appropriation to said officer, department, bureau or institution. Requests for allotment spending authority 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 spending authority of funds with the state controller not later than fifteen (15) days prior to the expiration of the current allotment spending authority, in such detail as the submitting agency desires. It shall be the duty of the state controller to provide a monthly report in the same or greater detail as the request for allotment, plus spending authority, which includes 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 spending authority, and the percent of unexpended balance in the adjusted appropriation, if any.

SECTION 15. 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 make the necessary additions or reductions thereto; based upon necessary requirements;--and within the amount appropriated, and deliver the same, to the state controller not later than fifteen (15) days prior to the expiration of the current attotment spending authority.

SECTION 16. That Section 67-3519, Idaho Code, be, and the same is hereby amended to read as follows:

67-3519. EMPLOYEE POSITIONS -- PROCEDURE FOR FILLING. (1) In addition to any powers, duties, functions and responsibilities of the division of financial management expressed elsewhere in this code, the division shall establish a list of employee positions for which funds are available from the attotment spending authority of appropriated funds to each appointing authority. A position is defined as a specific job normally held by one (1) employee. This list shall contain the title of each position and the pay grade of the position. No appointing authority, except those in the legislative and judicial departments, shall fill a new position without first obtaining the approval of the division and then obtaining proper classification from the personnel commission for positions in the classified service. No appointing authority, except those in the legislative and judicial departments, may increase the pay grade of a position by reclassification or any other means without the approval of the personnel commission for pay grade level and without the approval of the division for sufficiency of funds--in--the--attotment spending authority of the appointing authority to meet the proposed change. Appointing authorities in preparation of budget requests shall include exact position control numbers in justification of salaries and other compensation and must assign position control numbers to proposed new positions prior to budget submission. A list of additions, deletions and changes during the first six (6) months of the current fiscal year and projections for the second six (6) months of the current fiscal year of the positions so controlled shall be furnished by the department to the legislature and to the governor on ~~December~~ January 1. Any authority ~~now-or-hereafter~~ vested in any appointing authority or agency, commission, department, board, office or institution is hereby limited by the provisions of this section.

(2) Positions which have been authorized by the division of financial management, but which have not been filled by the appointing authority within twelve (12) months of such authorization, shall be declared null and void, and shall not be ~~thereafter~~ filled except upon a new authorization by the division of financial management.

SECTION 17. That Section 67-3521, Idaho Code, be, and the same is hereby amended to read as follows:

67-3521. ENCUMBERING APPROPRIATIONS OR EXCESSIVE EXPENDITURES FORBIDDEN -- ENCUMBRANCES TO REVERT -- APPROVAL. (1) No officer, department, bureau or institution, shall encumber any appropriations

or be allowed to make any expenditures from appropriations in excess of the ~~allocations~~ spending authority provided by this act.

(2) Encumbrances shall be reported as reductions against appropriations in anticipation of a--class an object coded expenditure, shall be made only for a legally contracted obligation or for the accrued cost of a specific product or service due and payable prior to or as of the end of the current fiscal year or for the term of the contract obligation, and shall not be used as a means of reserving a portion of the appropriation of one (1) fiscal year to be used in combination with the appropriation of the following year. Requests for encumbrances shall be accompanied by proper identification of the accrued cost which must be adequately covered by appropriated funds from the current fiscal year ~~allocation~~.

(3) Encumbrances not liquidated by payment of the accrued cost during the succeeding fiscal year shall revert to the fund from which encumbered, unless approved for extension by the administrator of the division of financial management.

(4) Requests for encumbrances must have the approval of the administrator of the division of financial management.

(5) Notwithstanding any of the above, all purchase orders issued by the state purchasing agent, or purchase orders issued pursuant to a delegation of purchasing authority to specified state officers and employees, shall be encumbered, and such encumbrance shall not require the approval of the administrator of the division of financial management.

(6) When purchase requisitions are submitted by agencies prior to the state purchasing agent's fiscal year-end cutoff date, but not processed either due to workload or bid requirements, agencies may submit a request for encumbrance to the administrator of the division of financial management.

(7) The provisions of this section shall not apply to encumbrances involving vocational educational reimbursements to educational institutions or to encumbrances involving contracts for the construction of highways, bridges, buildings or other primary structures or capital improvements.

SECTION 18. That Section 67-3531, Idaho Code, be, and the same is hereby amended to read as follows:

~~67-3531. INDIRECT-COST-RECOVERY-ACCOUNT~~ ANNUAL STATEWIDE INDIRECT COST ALLOCATION PLAN. (1) ~~There is hereby created the indirect cost recovery account in the state operating fund.~~

~~(2)~~ The division of financial management shall develop an annual statewide indirect cost allocation plan in accordance with circular A-87 of the federal office of management and budget. The central service costs of the various central service agencies shall be allocated annually to the recipient state agencies, and such central service costs shall be included in an agency's indirect cost plans for the purpose of determining an indirect cost rate with the cognizant federal agency, and shall be included in an agency's federal grant application.

~~(3)~~ The division of financial management shall assess each recipient agency up to one hundred percent (100%) of the amounts allo-

cated in the statewide cost allocation plan. Amounts so assessed shall be ~~deposited--in--the--indirect--cost--recovery--account~~ separately accounted for and can be expended only after legislative appropriation.

~~(4)--Moneys-in-the-indirect-cost-recovery-account-shall-be--appropriated-to-meet-the-state's-expenses-incurred-in-management-of-federal grant-programs.~~

SECTION 19. Title of act. This act shall be known and may be cited and made applicable by its name of "The Standard Appropriations Act of 1995."

Approved March 16, 1995.

CHAPTER 154
(H.B. No. 288)

AN ACT

RELATING TO HOSPITAL DISTRICTS; AMENDING SECTION 39-1330, IDAHO CODE, TO PROVIDE AN OPTIONAL ELECTION DATE IF ADOPTED BY A HOSPITAL BOARD AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 39-1330, Idaho Code, be, and the same is hereby amended to read as follows:

39-1330. BIENNIAL ELECTION OF BOARD MEMBERS -- TERMS OF OFFICE. On the second first Tuesday of February in the second calendar year after the organization of any district, and on the second first Tuesday of February every second year thereafter, an election shall be held which shall be known as the biennial election of the district. Prior to January 1, 1997, a board may, by resolution adopted at a regular meeting of the board, designate the fourth Tuesday in May as the election date of the district.

At the first biennial election in any district hereafter organized and each sixth year thereafter there shall be elected by the qualified electors of the district three (3) members of the board to serve for a term of six (6) years; at the second biennial election and each sixth year thereafter there shall be elected two (2) members of the board to serve for a term of six (6) years; at the third biennial election and each sixth year thereafter there shall be elected two (2) members of the board to serve for terms of six (6) years.

Not less than thirty (30) days nor more than sixty (60) days before any such election, nominations may be filed with the secretary of the board, and if a nominee does not withdraw his name before the first publication of the notice of election, his name shall be placed on the ballot. The board shall provide for holding such elections and shall appoint judges to conduct it; the secretary of the district shall give notice of election by publication and shall arrange such other details in connection therewith as the board may direct. The

returns of the election shall be certified to and shall be canvassed and declared by the board. The candidate or candidates according to the number of directors to be elected, receiving the most votes shall be elected. Any new member of the board shall qualify in the same manner as members of the first board qualify.

Approved March 16, 1995.

CHAPTER 155
(H.B. No. 279)

AN ACT

RELATING TO AD VALOREM TAX POLICIES; AMENDING SECTION 63-2220A, IDAHO CODE, AS ADDED BY SECTION 4, HOUSE BILL NO. 156, FIRST REGULAR SESSION, FIFTY-THIRD IDAHO LEGISLATURE, TO PROVIDE THAT IN THE CASE OF A NONSCHOOL DISTRICT FOR WHICH LESS THAN THE MAXIMUM ALLOWABLE INCREASE IN THE DOLLAR AMOUNT OF AD VALOREM TAXES IS CERTIFIED FOR ANNUAL BUDGET PURPOSES IN ANY ONE YEAR, THE DISTRICT MAY, IN ANY FOLLOWING YEAR, RECOVER THE FOREGONE INCREASE UPON CERTAIN CONDITIONS OCCURRING; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION WITH EXCEPTIONS FOR CERTAIN CITIES.

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

SECTION 1. That Section 63-2220A, Idaho Code, as enacted by Section 4, House Bill No. 156, First Regular Session, Fifty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

63-2220A. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsection (2) of this section for tax year 1995, and each year thereafter, no taxing district shall certify a budget request to finance the ad valorem portion of its annual budget that exceeds the greater of:

- (a) The dollar amount of ad valorem taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue that would have been generated by applying the levy of the previous year, not including any levy for voter approved bonds, override levies, supplemental levies, plant facilities reserve fund levies or school emergency fund levies, to any increase in market value subject to taxation resulting from new construction as evidenced by the value of either: (i) property subject to the occupancy tax pursuant to chapter 39, title 63, Idaho Code, for the preceding tax year; or (ii) new construction based upon a quantitative formula approved by the state tax commission which uses the value of building permits for the preceding year; and by the value of annexation during the previous calendar year, as certified by the county assessor;
- (b) The dollar amount of ad valorem taxes certified for its annual budget during the last year in which a levy was made; or
- (c) The dollar amount of the actual budget request, if the taxing

district is newly created; or

(d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code; or

(e) In the case of a nonschool district for which no less than the maximum allowable increase in the dollar amount of ad valorem taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed.

(2) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(3) The amount of ad valorem tax revenues to finance an annual budget does not include revenues from non-ad valorem tax sources, and does not include revenue from levies that are voter approved for bonds, override levies or supplemental levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to chapter 39, title 63, Idaho Code, for the preceding tax year and does not include plant facility reserve fund levies or school emergency fund levies.

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, 1995, except for cities which levy property tax for the current budget year, for which this act shall be in full force and effect on and after January 1, 1996.

Approved March 16, 1995.

CHAPTER 156
(H.B. No. 276)

AN ACT

RELATING TO THE LEASE OF COUNTY PROPERTY; AMENDING SECTION 31-836, IDAHO CODE, TO PROVIDE THAT COUNTY PROPERTY MAY BE LEASED TO ANY NONPROFIT CORPORATION OR ASSOCIATION FOR THE PURPOSE OF ERECTING AND MAINTAINING ANY PLAY FIELD, RECREATION PARK OR STADIUM SERVING AS A MEMORIAL TO LIVING OR DECEASED SOLDIERS, SAILORS OR MARINES OF AN ARMED CONFLICT ENTERED INTO BY THE UNITED STATES AND TO PROVIDE THAT THE PROVISIONS OF THE SUBSECTION SHALL NOT PROHIBIT NAMING OR TITLE SPONSORSHIP OF ANY PLAY FIELD, RECREATION PARK OR STADIUM SO LONG AS IT CONTINUES TO SERVE AS SUCH MEMORIAL.

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 living or 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. Nothing in this subsection shall prohibit the naming or title sponsorship of any play field, recreation park or stadium erected and maintained as a memorial as provided in this subsection as long as the play field, recreation park or stadium continues to serve as such memorial.

Approved March 16, 1995.

CHAPTER 157
(H.B. No. 237)

AN ACT

RELATING TO CERTAIN LIENS ON PERSONAL PROPERTY; AMENDING SECTION 45-806, IDAHO CODE, TO PROVIDE THAT NOTICE OF INTENDED MAKING, ALTERING OR REPAIRING OF PERSONAL PROPERTY BE GIVEN TO ANY HOLDER OF A SECURITY INTEREST WHICH IS OF RECORD IN THE OFFICE OF THE SECRETARY OF STATE.

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

SECTION 1. That Section 45-806, Idaho Code, be, and the same is hereby amended to read as follows:

45-806. LIEN FOR MAKING, ALTERING, OR REPAIRING PERSONAL PROPERTY. Any person, firm or corporation, who makes, alters or repairs any article of personal property, at the request of the owner or person in legal possession thereof, has a lien, which said lien shall be superior and prior to any security interest in the same for his reasonable charges for work done and materials furnished, and may retain possession of the same until the charges are paid. If not paid within two (2) months after the work is done, the person, firm or corporation may proceed to sell the property at public auction, by giving ten (10) days' public notice of the sale by advertising in some newspaper published in the county in which the work was done; or, if there be no newspaper published in the county, then by posting up notices of the sale in three (3) public places in the town where the work was done, for ten (10) days previous to the sale. The proceeds of the sale must be applied to the discharge of the lien and the cost of keeping and selling the property; the remainder, if any, must be paid over to the owner thereof. Provided that the said person, firm or corporation who is about to make, alter or repair the said property, in order to derive the benefits of this section, must, before commencing said making, altering or repairing, give notice of the intention to so make, alter or repair said property, by registered mail, to any holder of a security interest which is of record in the county where said property is located, or in the office of the secretary of state, and, if a motor vehicle, to any holder of a security interest which may appear on the certificate of title of said vehicle, at least three (3) days before commencing said making, altering or repairing and if notice in writing within said three (3) days be not given by such holder of a security interest notifying said firm or corporation not to perform said services then the said making, altering or repairing may proceed and the prior lien provided for herein attaches to said property.

Approved March 16, 1995.

CHAPTER 158
(H.B. No. 217)

AN ACT

RELATING TO BAIL; AMENDING SECTION 19-2923, IDAHO CODE, TO PROVIDE THAT ANY FUNDS DEPOSITED IN LIEU OF BAIL REMAINING AFTER APPLICATION OF THE DEPOSIT TO ANY FINES SHALL BE RETURNED TO THE PARTY POSTING THE DEPOSIT; AND AMENDING SECTION 19-2926, IDAHO CODE, TO PROVIDE THAT ON THE SURRENDER OF THE DEFENDANT MONEY DEPOSITED IN LIEU OF BAIL SHALL BE RETURNED TO THE PARTY POSTING THE DEPOSIT.

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

SECTION 1. That Section 19-2923, Idaho Code, be, and the same is hereby amended to read as follows:

19-2923. DEPOSIT APPLIED TO PAYMENT OF FINE. When the money has been deposited, if it remains on deposit at the time of the judgment for the payment of a fine, the clerk must, under the direction of the court, apply the money in satisfaction thereof, and after satisfying the fine and costs, must refund the surplus, if any, to the defendant party posting the deposit.

SECTION 2. That Section 19-2926, Idaho Code, be, and the same is hereby amended to read as follows:

19-2926. RETURN OF DEPOSIT ON SURRENDER. If money has been deposited instead of bail, and the defendant at any time before the forfeiture thereof surrenders himself to the officer to whom the commitment was directed in the manner provided in the last two (2) sections, the court must order a return of the deposit to the defendant party posting the deposit, upon producing the certificate of the officer showing the surrender, and upon a notice of five (5) days to the prosecuting attorney, with a copy of the certificate.

Approved March 16, 1995.

CHAPTER 159
(H.B. No. 179, As Amended)

AN ACT

RELATING TO CHANGE OF NAME OF TAXING DISTRICTS; AMENDING CHAPTER 22, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2211, IDAHO CODE, TO PROVIDE FOR A CHANGE OF NAME OF A TAXING DISTRICT AND TO PROVIDE EXCEPTIONS.

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

SECTION 1. That Chapter 22, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 63-2211, Idaho Code, and to read as follows:

63-2211. CHANGE OF NAME OF TAXING DISTRICT -- HEARING -- ELECTION -- EXCEPTIONS. (1) Whenever the governing body of a taxing district, by a majority vote of its members, adopts a proposal to change the name of the district, it shall be the duty of such body to conduct at least one (1) public hearing on the proposal and to give notice of the hearing. At least fifteen (15) days prior to the hearing, notice of the time and place and a copy of the proposal of the name change shall be published in the official newspaper or paper of general circulation within the jurisdiction. The governing body may also make available a notice to other papers, radio and television stations serving the jurisdiction for use as a public service announcement.

(2) At the hearing, if it shall satisfactorily appear to the governing body that no good cause exists to deny the proposal for change of name, the governing body may adopt a resolution effecting the name change in the same form as was presented in the proposal on which the hearing was conducted. Such resolution shall also specify the date of organization of the district and its present name.

If a petition signed by ten percent (10%) of the qualified electors of the taxing district is presented in opposition to the proposed name change, the governing body of the taxing district shall submit the question to the electors of the district in accordance with the provisions of chapter 14, title 34, Idaho Code. If a majority of votes cast on the question of changing the name of the district are in favor of the name change, the governing body of the taxing district shall adopt a resolution effecting that change, specifying the date of organization of the district and its present name.

(3) No resolution for change of the name of a taxing district shall be effective until a certified copy of the resolution has been filed with the state tax commission and with the county recorder of the county in which the jurisdiction is situate or the greater part thereof is situate.

(4) Any change of name under the provisions of this section shall not affect any of the rights, property or obligations of said taxing district.

(5) The provisions of this section shall not apply to any city, county or school district, nor to any taxing district for which provision for change of name is otherwise provided by law.

Approved March 16, 1995.

CHAPTER 160
(H.B. No. 142)

AN ACT

RELATING TO SUBSTANCE ABUSE PROGRAMS IN THE PUBLIC SCHOOL SYSTEM; AMENDING SECTION 63-2506, IDAHO CODE, TO SPECIFY USE OF FUNDS GENERATED FROM IMPOSITION OF THE WHOLESALE TAX ON CIGARETTES; AMENDING SECTION 63-2552A, IDAHO CODE, TO SPECIFY USE OF FUNDS GENER-

ATED FROM IMPOSITION OF THE TAX ON TOBACCO PRODUCTS; APPROPRIATING MONEYS FOR PUBLIC SCHOOLS IN ADDITION TO THE APPROPRIATION MADE IN SECTION 3, CHAPTER 456, LAWS OF 1994; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE USE OF THE FUNDS AND THE BASIS FOR DISTRIBUTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-2506, Idaho Code, be, and the same is hereby amended to read as follows:

63-2506. IMPOSITION OF TAX. A tax upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of cigarettes is hereby imposed at the rate of one and four-tenths cent (1.4¢) for each cigarette or twenty-eight cents (28¢) per pack of twenty (20) cigarettes, which tax shall be paid by the wholesaler, and collected by the state tax commission. Ten cents (10¢) of the tax collected per pack of twenty (20) cigarettes shall be distributed to the public school income fund to be utilized for to facilitate and provide substance abuse programs in the public school system. The remaining moneys collected under the provisions of this section shall be distributed as specified in section 63-2520, Idaho Code.

SECTION 2. That Section 63-2552A, Idaho Code, be, and the same is hereby amended to read as follows:

63-2552A. ADDITIONAL TAX IMPOSED -- RATE. (1) In addition to the tax imposed in section 63-2552, Idaho Code, from and after July 1, 1994, there is levied and there shall be collected an additional tax upon the sale, use, consumption, handling, or distribution of all tobacco products in this state at the rate of five per cent (5%) of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor:

- (a) Brings, or causes to be brought, into this state from without the state tobacco products for sale;
- (b) Makes, manufactures, or fabricates tobacco products in this state for sale in this state; or
- (c) Ships or transports tobacco products to retailers in this state to be sold by those retailers.

(2) Each distributor, within twenty (20) days after July 1, 1994, shall file a report with the commission, in such form as the commission may prescribe, showing the tobacco products on hand on July 1, 1994, and the amount of tax due thereon. The tax imposed in this subsection shall be due and payable within twenty (20) days after July 1, 1994, and thereafter shall bear interest at the rate of one per cent (1%) per month.

(3) The tax collected pursuant to this section shall be distributed directly to the public school income fund to be utilized for to facilitate and provide substance abuse programs in the public school system.

SECTION 3. In addition to the appropriation made for public schools in Section 3, Chapter 456, Laws of 1994, there is hereby

appropriated from the Public School Income Fund for the period July 1, 1994, through June 30, 1995, \$600,000 of the moneys which have accrued pursuant to section 63-2506, Idaho Code.

SECTION 4. It is legislative intent that because substance abuse programs in the public schools are threatened by reduction of federal funds that the funds appropriated in Section 3 of this act shall be used to continue programs established under the federal drug-free schools and communities program. It is further legislative intent that the funds shall be distributed to the districts as follows: fifty percent (\$300,000) on the basis of student enrollment, and fifty percent (\$300,000) on the same basis as the chapter I federal funding formula which indicates low income districts.

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 16, 1995.

CHAPTER 161
(H.B. No. 140)

AN ACT

RELATING TO ADOPTION; AMENDING SECTION 16-1506, IDAHO CODE, TO PROVIDE THAT A SOCIAL INVESTIGATION MAY BE PERFORMED BY ANY QUALIFIED INDIVIDUAL.

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

SECTION 1. That Section 16-1506, Idaho Code, be, and the same is hereby amended to read as follows:

16-1506. PROCEEDINGS ON ADOPTION. (1) Proceedings to adopt a child shall be commenced by the filing of a petition together with a copy thereof. Said petition shall be initiated by the person or persons proposing to adopt the child and shall be filed with the district court of the county in which said person or persons reside. The petitioners shall have resided and maintained a dwelling within the state of Idaho for at least six (6) consecutive months prior to the filing of a petition. The petition shall set forth the name and address of the petitioner or petitioners, the name of the child proposed to be adopted and the name by which it shall be known if and when adopted, the degree of relationship of the child, if any, to the petitioner or petitioners and the names of any person or agency whose consent to said adoption is necessary. At the time fixed for hearing such petition the person adopting a child, and the child adopted, and the spouse of petitioner if a natural parent of the child, must appear before the court of the county wherein the petition was filed. Petitioner shall at such time execute an agreement to the effect that the child shall be adopted and treated in all respects as his own lawful

child should be treated.

(2) Any person or persons whose consent is required shall execute such consent in writing, in a form consistent with the provisions of subsection f. of section 16-2005, Idaho Code, which consent being filed in the court where the application is made, shall be deemed a sufficient appearance on the part of such person or persons. If any adoptive parent, or a person not a minor being adopted by a resident adult under the provisions of section 16-1501, Idaho Code, is a member of the armed services and is unable to attend the hearing, his appearance and testimony shall be received by means of deposition, which shall be filed in the court at the time of the hearing.

(3) Prior to the placement for adoption of any child in the home of prospective adoptive parents, it shall be required that a thorough social investigation of the prospective adoptive family and all of its members, consistent with the rules regarding such investigations promulgated by the department of health and welfare, shall be completed and that a positive recommendation for adoptive placement shall have been made. The social investigation may be performed by any individual who meets the requirements of the law. A copy of the study must be submitted to the department and the department may impose a reasonable fee, not to exceed fifty dollars (\$50.00), for oversight of such privately conducted studies. In those instances where the prospective adoptive parent is married to the birth parent or is the grandparent of the child to be adopted, such social investigation shall be completed with regard to the prospective adoptive parent only upon order of the court. In exigent circumstances where the prospective adoptive parents are determined by the court to have been unable to complete a social investigation of the family with a positive recommendation prior to the time the child is placed in the home, the child shall remain in the home unless the court determines the best interests of the child are served by other placement. If exigent circumstances exist, a social investigation shall be initiated within five (5) days of placement. Once initiated, all studies shall be completed within sixty (60) days. Upon the filing of a petition to adopt a minor child by a person unrelated to the child or unmarried to a natural parent of the child and at the discretion of the court upon the filing of any other petition for adoption, a copy of such petition, together with a statement containing the full names and permanent addresses of the child and the petitioners, shall be served by the court receiving the petition within five (5) days on the director of the department of health and welfare by registered mail or personal service. If no private investigation is conducted, it shall then be the duty of the said director, through the personnel of the department or through such qualified child-placing children's adoption agency incorporated under chapter 3, title 30, Idaho Code, as the director may designate, to verify the allegations of the petition, and as soon as possible not exceeding thirty (30) days after service of the petition on the director to make a thorough investigation of the matter to include in all cases information as to the alleged date and place of birth and as to parentage of the child to be adopted as well as the source of all such information and report his findings in writing to the court. The investigative report shall include reasonably known or available medical and genetic information regarding both natural parents and sources

of such information as well as reasonably known or available providers of medical care and services to the natural parents. A copy of all medical and genetic information compiled in the investigation shall be made available to the adopting family by the department or other investigating children's adoption agency prior to entry of the final order of adoption. The petition, statement and all other papers, records or files relating to the adoption, including the preplacement investigation and recommendation, shall be returned to the court with the investigative report. The department of health and welfare or other children's adoption agency may require the petitioner to pay all or any part of the costs of the investigation. If the report disapproves of the adoption of the child, motion may be made to the court to dismiss the petition.

(4) Proceedings for termination of parent-child relationship in accordance with chapter 20, title 16, Idaho Code, and proceedings for adoption may be consolidated and determined at one (1) hearing provided that all of the requirements of this chapter as well as chapter 20, title 16, Idaho Code, be fully complied with. In all disputed matters under this chapter or chapter 20, title 16, Idaho Code, the paramount criterion for consideration and determination by the court shall be the best interests of the child.

Approved March 16, 1995.

CHAPTER 162
(H.B. No. 259)

AN ACT

RELATING TO SALVAGE CERTIFIED VEHICLES; AMENDING SECTION 49-524, IDAHO CODE, TO PROVIDE ADDITIONAL CONDITIONS FOR WHICH ISSUANCE OF A SALVAGE CERTIFICATE IS REQUIRED.

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

SECTION 1. That Section 49-524, Idaho Code, be, and the same is hereby amended to read as follows:

49-524. SALVAGE CERTIFICATE OF OWNERSHIP TO REPLACE CERTIFICATE OF TITLE OR ORIGIN ON CERTAIN VEHICLES. (1) Every person acquiring a vehicle which is five (5) years old or less or which has a known market value in excess of six thousand dollars (\$6,000) which has been determined to be a salvage vehicle, shall obtain a salvage certificate of ownership on that vehicle.

(2) The salvage certificate shall replace the certificate of origin, certificate of title or other comparable ownership document and shall indicate ownership only; it shall not be valid for registration purposes.

(3) A salvage certificate of ownership shall be issued by the department, the insurer, or a salvage pool, and shall be on a form prescribed by the department. The form shall provide for assignments of the salvage certificate.

(4) The fee for a salvage certificate shall be the same as for issuance of any regular Idaho certificate of title. The fee shall be deposited in the state highway account.

(5) Every insurer making payment for a vehicle which is five (5) years old or less or which has a known market value in excess of six thousand dollars (\$6,000) which has been determined to be a salvage vehicle, shall within thirty (30) days from receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(6) If a salvage pool receives a certificate of title for a vehicle which is five (5) years old or less or which has a known market value in excess of six thousand dollars (\$6,000) which has been determined to be a salvage vehicle, he shall within thirty (30) days and upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(7) If an insurer has allowed the owner to retain ownership of the salvage vehicle, the owner must surrender the certificate of title for such vehicle to the department or the insurance company not later than fifteen (15) days from the date that the claim was satisfied. The insurer must notify the department of a total loss payoff. The insurer or department shall issue a salvage certificate to the owner prior to any sale or disposition of the salvage vehicle.

(8) If an insurer acquires the certificate of title of a vehicle in a settlement of a theft claim, the insurer shall immediately, upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate in the name of the insurer and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing.

(9) If an insurer has acquired a vehicle in a settlement of a theft claim, has made application to and has been issued a new salvage certificate in the name of the insurer and the vehicle is subsequently recovered and is not a salvage vehicle, the insurer may complete an affidavit indemnifying the department stating the facts of acquisition and disposition of the vehicle in a form prescribed by the department and deliver the salvage certificate of ownership, affidavit and any other documents required by the department to the transferee at the time of delivery of the vehicle.

(10) Any person acquiring ownership of a salvage vehicle purchased in a state or jurisdiction which does not require surrender of the certificate of title or comparable ownership document shall, within thirty (30) days following delivery of the certificate of title or ownership document, surrender such title or document to the department and apply for a salvage certificate.

(11) An owner of a salvage vehicle who sells or transfers said vehicle shall provide a properly executed assignment of the salvage

certificate of ownership to the transferee.

(12) A purchaser of a salvage vehicle shall not possess or retain a salvage vehicle without a salvage certificate unless the salvage vehicle is six (6) years old or older with a fair market value of six thousand dollars (\$6,000) or less. The salvage vehicle purchaser shall display the salvage certificate upon the request of any peace officer or agent of the department.

Approved March 16, 1995.

CHAPTER 163
(S.B. No. 1085)

AN ACT

RELATING TO THE UCC ADMINISTRATIVE ACCOUNT; AMENDING SECTION 67-916, IDAHO CODE, TO PROVIDE FOR THE COMMERCIAL AFFAIRS PROGRAM AND THE CONSOLIDATION OF CERTAIN ACCOUNTS OF THE SECRETARY OF STATE RELATING TO THE UNIFORM COMMERCIAL CODE, CROP LIENS AND UNIFORM FEDERAL LIEN REGISTRATIONS, CORPORATIONS, TRADEMARKS, NOTARIES PUBLIC AND PARTNERSHIPS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. 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)~~ commercial affairs (CA) program by law or administrative rule. The ~~UCC CA~~ program consists of the functions of the secretary of state which are governed by chapter 9, title 28; ~~and chapters 2 and 3, title 45; chapters 1, 3 and 13, title 30; chapter 5, title 48; chapter 1, title 51; and chapters 2, 3, 6 and 7, title 53,~~ 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 CA~~ administrative account:

(a) There is hereby created an account in the state treasury, to be designated the "~~UCC CA~~ administrative account" to provide for the expenses of the ~~UCC CA~~ program as provided for by law.

(b) The ~~UCC CA~~ administrative account shall be effective ~~December 31 July 1, 19926, 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 CA~~ program services; and

(iii) all moneys which remain in the UCC administrative

account at the close of business on June 30, 1996.

(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 CA 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 CA program services to the state treasurer as provided under section 59-1014, Idaho Code. The secretary of state shall file with the state 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 CA administrative account.

(f) At the beginning of each fiscal year, those moneys in the UCC CA 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 2. This act shall be in full force and effect on and after July 1, 1996.

Approved March 16, 1995.

CHAPTER 164
(S.B. No. 1113)

AN ACT

RELATING TO COMPETITIVE BIDDING REQUIREMENTS FOR CITIES; AMENDING SECTION 50-341, IDAHO CODE, TO REQUIRE PRICE OR COST QUOTATIONS FROM THREE RESPONSIBLE VENDORS HAVING A SIGNIFICANT IDAHO PRESENCE FOR EXPENDITURES OF UP TO TWENTY-FIVE THOUSAND DOLLARS, TO ELIMINATE THE REQUIREMENT FOR THREE QUOTATIONS IF IMPRACTICAL OR IMPOSSIBLE, TO PROVIDE THAT WITH RESPECT TO EXPENDITURES IN EXCESS OF TWENTY-FIVE THOUSAND DOLLARS, IF THE BIDS AND QUALITY OF PROPERTY OFFERED ARE THE SAME, PREFERENCE SHALL BE GIVEN TO DOMESTIC OR LOCALLY PRODUCED PROPERTY OR FROM BIDDERS HAVING A SIGNIFICANT IDAHO ECONOMIC PRESENCE AND TO AUTHORIZE THE CITY TO REQUIRE BID SECURITY ONLY IF IT DEEMS IT TO BE IN THE CITY'S BEST INTERESTS TO DO SO.

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

SECTION 1. That Section 50-341, Idaho Code, be, and the same is hereby amended to read as follows:

50-341. COMPETITIVE BIDDING -- APPLICATION OF LAW. A. The following provisions relative to competitive bidding apply to all cities of the state of Idaho, but shall be subject to the provisions of any spe-

cific statute pertaining to the letting of any contract, purchase or acquisition of any commodity or thing by soliciting and receiving competitive bids therefor, and shall not be construed as modifying or amending the provisions of any statute, nor preventing the city from doing any work by its own employees.

B. The word "expenditure" shall mean the granting of a contract, exclusive franchise or authority to another by the city, and every manner and means whereby the city disburses funds or obligates itself to disburse funds; provided, however, that "expenditure" does not include disbursement of funds to any city employee, official, agent, or for the performance of personal services to the city, or for the acquisition of personal property through a contract that has been competitively bid by the state of Idaho, one of its subdivisions or an agency of the federal government.

C. When the expenditure contemplated exceeds five thousand dollars (\$5,000), or ten thousand dollars (\$10,000) if for equipment, but not twenty-five thousand dollars (\$25,000), the city shall obtain price or cost quotations from at least three (3) responsible vendors in the business of supplying such goods or services. To enhance small business bidding opportunities, the city shall seek a minimum of three (3) price quotations from registered vendors having a significant Idaho economic presence as defined in section 67-2349, Idaho Code. If the city finds that it is impractical or impossible to obtain three (3) quotations for the proposed transaction, the city may acquire the property in any manner the city deems best. The city shall then procure the goods or services from the responsible vendor quoting the lowest price. When the expenditure contemplated exceeds twenty-five thousand dollars (\$25,000) the expenditure shall be contracted for and let to the lowest responsible bidder. 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 section 67-2349, Idaho Code.

D. The notice inviting bids shall set a date and place for the opening of bids. The first publication of the notice shall be at least two (2) weeks before the date of opening the bids. Notice shall be published at least twice, not less than one (1) week apart, in the official newspaper of the city. The notice shall succinctly set forth the project to be done. Any of the following documents shall be made available, upon reasonable deposit, to any interested bidder: bid form, bidder's instructions, contract documents, general and special instructions, drawings and specifications.

E. All bids shall be presented or otherwise delivered under sealed cover to the city clerk, or other bonded agent of the city designated by the city council to receive specific bids, with a concise statement marked on the outside generally identifying the expenditure to which the bid pertains. All bids shall contain If the city deems it is in the city's best interest it may require the vendor to provide bid security in one (1) of the following forms of bidder's security:

- a. Cash;
- b. Cashier's check made payable to the city;
- c. A certified check made payable to the city;
- d. A bidder's bond executed by a qualified surety company, made

payable to the city.

F. The security, if required by the city, shall be an amount equal to at least five per cent (5%) of the amount bid. If required, a bid shall not be considered unless one (1) of the forms of bidder's security is inclosed with it, and unless the bid is submitted in a form which substantially complies with the form provided by the city.

G. Any bid received by the city may not be withdrawn after the time set in the notice for opening of bids. All bids received must be opened at the time and place set in the notice inviting bids, and no person shall be denied the right to be present at the opening of bids.

H. If the successful bidder fails to execute the contract, the amount of his bidder's security shall be forfeited to the city and the proceeds shall be deposited in the fund out of which the expenses of preparation and printing of the plans and specifications, estimates of costs and publication of notice are paid.

I. The city may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the city council awards the contract to the next lowest responsible bidder, the amount of the lowest responsible bidder's security shall be applied by the city to the difference between the lowest responsible bid and the next lowest responsible bid, and the surplus, if any, shall be returned to the lowest bidder if cash or check is used, or to the surety on the bidder's bond if a bond is used.

J. In its discretion, the city council may reject any bids presented and readvertise. If two (2) or more bids are the same and the lowest responsible bids, the city council may accept the one it chooses. If no bids are received, the council may make the expenditure without further compliance with this section.

K. After rejecting bids, the city council may, after finding it to be a fact, pass a resolution declaring that the thing sought to be accomplished by the expenditure can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market. Upon adoption of the resolution, it may have the thing sought to be accomplished done in the manner stated without further compliance with this section.

L. If there is a great public calamity, as an extraordinary fire, flood, storm, epidemic or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, or it is necessary to do emergency work to safeguard life, health or property, the mayor or city manager may declare that an emergency exists and that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property. Upon making the declaration, any sum required in the emergency may be expended without compliance with this section.

M. In its discretion, the city council may purchase equipment at a public auction, if the council has made a finding that such equipment may be purchased at a lower price.

Approved March 16, 1995.

CHAPTER 165
(S.B. No. 1087)

AN ACT

RELATING TO TIMBER SALES; AMENDING SECTION 58-406, IDAHO CODE, TO REQUIRE THAT THE LAND BOARD SET THE DOLLAR LIMITATIONS FOR DETERMINING SALVAGE TIMBER SALES AND DIRECT TIMBER SALES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 58-406, Idaho Code, be, and the same is hereby amended to read as follows:

58-406. SALE OF PARCELS -- ADVERTISEMENT OF SALE. (1) Whenever the state board of land commissioners directs a sale of timber, it shall direct such sale in such parcels as it deems for the best interests of the state.

(2) All sales of timber on state lands, where sold separate from the lands, shall be advertised in one (1) or more newspapers, to be designated by the board, one (1) of which shall be in the county where such timber is located, if there be such paper, if not, then in some newspaper published in an adjoining county, and if such timber is located in more than one (1) county, then in some newspaper in each of the said counties, if there be such paper, if not, then in some newspaper published in an adjoining county, once a week for four (4) consecutive weeks, except that in cases of catastrophic damage caused by insect, weather, or fire, the state board of land commissioners may direct an advertisement of less than four (4) consecutive weeks.

(3) The advertisement shall set forth the time and place of the sale, a description of the land by legal subdivisions on which such timber is situated, the length of time allowed for harvesting the timber, and the minimum price below which no bid shall be accepted. ~~Provided, however, that~~

(4) ~~S~~small sales of timber, not exceeding one million (1,000,000) board feet in volume, according to the cruiser's estimate, and ~~seventy-five--thousand--dollars--(\$75,000)--in--appraised~~ not exceeding a maximum value established by the state board of land commissioners, may be made as provided herein, except that only one (1) publication of advertisement shall be necessary and the date of sale shall be set not less than four (4) days after date of publication, ~~and provided further that~~

(5) ~~V~~very small sales of timber, not exceeding one hundred thousand (100,000) board feet and ~~ten--thousand--dollars--(\$10,000)~~ not exceeding a maximum value established by the state board of land commissioners, may be made without advertisement and upon approval of the director of the department of lands.

Approved March 16, 1995.

CHAPTER 166
(S.B. No. 1168)

AN ACT

RELATING TO INFORMAL PROBATE; AMENDING SECTION 15-3-301, IDAHO CODE, TO DELETE THE REQUIREMENT THAT A STATEMENT OF TOTAL ASSETS OF THE ESTATE BE SENT TO THE STATE TAX COMMISSION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 15-3-301, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-301. INFORMAL PROBATE OR APPOINTMENT PROCEEDINGS -- APPLICATION -- CONTENTS. Applications for informal probate, informal statement of intestacy where the estate is community and there is a surviving spouse, or informal appointment shall be directed to the registrar, and verified by the applicant to be accurate and complete to the best of his knowledge and belief as to the following information:

(a) Every application for informal probate of a will, informal statement of intestacy where the estate is community and there is a surviving spouse, or for informal appointment of a personal representative, other than a special, ancillary or successor representative, shall contain the following:

- (1) A statement of the interest of the applicant;
- (2) The name, and date of death of the decedent, his age, and the county and state of his domicile at the time of death, and the names and addresses of the spouse, children, heirs and devisees and the ages of any who are minors so far as known or ascertainable with reasonable diligence by the applicant;
- (3) If the decedent was not domiciled in the state at the time of his death, a statement showing venue;
- (4) A statement identifying and indicating the address of any personal representative of the decedent appointed in this state or elsewhere whose appointment has not been terminated;
- (5) A statement indicating whether the applicant has received a demand for notice, or is aware of any demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere;
- (6) ~~A statement that an estimate of total assets of the estate has been sent to the state tax commission;~~
- (7) If the application is for an informal statement of intestacy of a community estate where there is a surviving spouse, an affidavit of the surviving spouse or someone acting on behalf of the surviving spouse that there is no will, that the decedent's estate consists solely of community property of the decedent and surviving spouse, that he or she is the surviving spouse, and a request for a statement that there is no will, that all assets are community and that the surviving spouse is the sole heir;
- (8) That the time limit for informal probate or appointment as provided in this article has not expired either because three (3)

years or less have passed since the decedent's death, or, if more than three (3) years from death have passed, that circumstances as described by section 15-3-108 of this code authorizing tardy probate appointment have occurred.

(b) An application for informal probate of a will shall state the following in addition to the statements required by subsection (a) of this section:

(1) That the original of the decedent's last will is in the possession of the court, or accompanies the application, or that a certified copy of a will probated in another jurisdiction accompanies the application;

(2) That the applicant, to the best of his knowledge, believes the will to have been validly executed;

(3) That after the exercise of reasonable diligence, the applicant is unaware of any instrument revoking the will, and that the applicant believes that the instrument which is the subject of the application is the decedent's last will.

(c) An application for informal appointment of a personal representative to administer an estate under a will shall describe the will by date of execution and state the time and place of probate or the pending application or petition for probate. The application for appointment shall adopt the statements in the application or petition for probate and state the name, address and priority for appointment of the person whose appointment is sought.

(d) An application for informal appointment of an administrator in intestacy shall state in addition to the statements required by subsection (a) of this section:

(1) That after the exercise of reasonable diligence, the applicant is unaware of any unrevoked testamentary instrument relating to property having a situs in this state under section 15-1-301 of this code, or, a statement why any such instrument of which he may be aware is not being probated;

(2) The priority of the person whose appointment is sought and the names of any other persons having a prior or equal right to the appointment under section 15-3-203 of this code.

(e) An application for appointment of a personal representative to succeed a personal representative appointed under a different testacy status shall refer to the order in the most recent testacy proceeding, state the name and address of the person whose appointment is sought and of the person whose appointment will be terminated if the application is granted, and describe the priority of the applicant.

(f) An application for appointment of a personal representative to succeed a personal representative who has tendered a resignation as provided in subsection (c) of section 15-3-610 of this code, or whose appointment has been terminated by death or removal, shall adopt the statements in the application or petition which led to the appointment of the person being succeeded except as specifically changed or corrected, state the name and address of the person who seeks appointment as successor, and describe the priority of the applicant.

(g) By verifying an application for informal probate, or informal appointment, the applicant submits personally to the jurisdiction of the court in any proceeding for relief from fraud relating to the application, or for perjury, that may be instituted against him.

(h) Any statement entered upon an application for informal statement of intestacy where the estate is community and there is a surviving spouse shall contain a statement of heirship setting out the heirs of the decedent and shall have the same effect as entry of a statement of informal probate of a will and be subject to the limitation periods set out in section 15-3-108, Idaho Code, notwithstanding the exception provided in that section for determining heirs of an intestate.

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 16, 1995.

CHAPTER 167
(S.B. No. 1167)

AN ACT

RELATING TO COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT IN ESTATES; AMENDING SECTION 15-3-1201, IDAHO CODE, TO INCREASE THE THRESHOLD VALUE OF THE ENTIRE ESTATE LESS LIENS AND ENCUMBRANCES WHEN AN AFFIDAVIT MAY BE USED BY THE SUCCESSOR TO THE DECEDENT TO COLLECT PERSONAL PROPERTY.

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

SECTION 1. That Section 15-3-1201, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-1201. COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT. (a) Thirty (30) days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor stating that:

- (1) the value of the entire estate, wherever located, less liens and encumbrances, does not exceed ~~ten~~ twenty-five thousand dollars (\$25,000);
 - (2) thirty (30) days have elapsed since the death of the decedent;
 - (3) no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction; and
 - (4) the claiming successor is entitled to payment or delivery of the property.
- (b) A transfer agent of any security shall change the registered

ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (a) of this section.

Approved March 16, 1995.

CHAPTER 168
(S.B. No. 1166)

AN ACT

RELATING TO PROBATE OF WILLS AND ADMINISTRATION; AMENDING SECTION 15-3-111, IDAHO CODE, TO CLARIFY THE APPLICATION OF A PROVISION OF ANOTHER STATUTE TO THE DEATH OF THE SPOUSE WHOSE DEATH OCCURS LAST.

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

SECTION 1. That Section 15-3-111, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-111. JOINT PROBATE ON DEATH OF SURVIVOR OF MARRIAGE DIS-SOLVED BY DEATH. In cases in which a marital community has been dissolved by the death of either spouse at any time, the survivor was then entitled to all of the property of the decedent by will, law, or both, and the survivor died before any proceeding had been commenced for the probate of the estate of the spouse whose death occurred first, the estates of both decedents may be joined for probate in a single proceeding in any court having jurisdiction of the estate of the spouse whose death occurred last. The three (3) year provision of section 15-3-108, Idaho Code, applies only to the death of the spouse whose death occurred last. The initial application or petition filed in any such joint proceeding shall contain a statement of the facts upon which such joint proceeding is based, in addition to all other statements required by this code to be made therein.

Approved March 16, 1995.

CHAPTER 169
(S.B. No. 1164)

AN ACT

RELATING TO REPORTS TO LAW ENFORCEMENT AGENCIES OF CERTAIN TYPES OF INJURIES; AMENDING SECTION 39-1390, IDAHO CODE, TO PROVIDE THAT REPORTS MUST BE MADE OF INJURIES INFLICTED BY FIREARMS OR WHEN A PERSON MAY BE A VICTIM OF A CRIMINAL OFFENSE.

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

SECTION 1. That Section 39-1390, Idaho Code, be, and the same is

hereby amended to read as follows:

39-1390. REPORTS TO LAW ENFORCEMENT AGENCIES OF CERTAIN TYPES OF INJURIES. (1) As soon as treatment permits, any person operating a hospital or other medical treatment facility, or any physician, resident on a hospital staff, intern, physician assistant, nurse or emergency medical technician shall notify the local law enforcement agency of that jurisdiction upon the treatment of or request for treatment of a person when the reporting person has reason to believe that the person treated or requesting treatment has received:

(a) Any injury ~~intentionally~~ inflicted by means of a ~~knife, fire-arm, or other deadly weapon;~~ or

(b) Any injury indicating that the person may be a victim of a criminal offense ~~for which a felony penalty is provided by law.~~

(2) The report provided to the law enforcement agency pursuant to subsection (1) of this section shall include the name and address of the injured person, the character and extent of the person's injuries, and the medical basis for making the report.

(3) Any person operating a medical facility, or any physician, resident on a hospital staff, intern, physician assistant, nurse or emergency medical technician shall be held harmless from any civil liability for his reasonable compliance with the provisions of this section.

Approved March 16, 1995.

CHAPTER 170
(S.B. No. 1152)

AN ACT

RELATING TO SELF-GOVERNING AGENCIES; AMENDING SECTION 67-2603, IDAHO CODE, TO PROVIDE THAT THE BUREAU CHIEF OF THE BUREAU OF OCCUPATIONAL LICENSES SHALL BE APPOINTED BY THE GOVERNOR TO SERVE AT THE PLEASURE OF THE GOVERNOR.

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

SECTION 1. That Section 67-2603, Idaho Code, be, and the same is hereby amended to read as follows:

67-2603. BUREAU CHIEF -- EXPENSES. (1) The chief administrative officer of the bureau of occupational licenses shall be the bureau chief who shall be appointed by the governor ~~for a term of six (6) years and shall serve at the pleasure of the governor.~~ The expenses of the bureau chief, and such secretarial, technical or other personnel as he may deem necessary for the conduct of the affairs of the bureau, shall be paid from the occupational licenses fund.

~~(2) If a vacancy occurs in the position of bureau chief, the governor shall fill it by appointment. The person appointed shall hold~~

~~the position for the unexpired term of his predecessor. Any person holding the position of bureau chief may be reappointed by the governor for additional terms of office.~~

Approved March 16, 1995.

CHAPTER 171
(S.B. No. 1134)

AN ACT

RELATING TO COUNTY PURCHASING; AMENDING SECTION 31-4002, IDAHO CODE, TO FURTHER DEFINE EXPENDITURE; AMENDING CHAPTER 40, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-4014, IDAHO CODE, TO AUTHORIZE JOINT PURCHASE AGREEMENTS; AND AMENDING CHAPTER 40, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-4015, IDAHO CODE, TO AUTHORIZE A JOINT PURCHASING PROGRAM AND GOVERN PARTICIPATION BY COUNTIES.

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

SECTION 1. That Section 31-4002, Idaho Code, be, and the same is hereby amended to read as follows:

31-4002. EXPENDITURE DEFINED. As used in this act, "expenditure" means the granting of a contract, franchise or authority to another by the county, and every manner and means whereby the county disburses county funds or obligates itself to disburse county funds; provided, however, that "expenditure" does not include disbursement of county funds to any county employee, official, agent, or to any person performing personal services for the county, or for the acquisition of personal property through a contract that has been competitively bid by the state of Idaho, one of its subdivisions, or an agency of the federal government or a joint purchasing program as provided in this chapter.

SECTION 2. That Chapter 40, 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 31-4014, Idaho Code, and to read as follows:

31-4014. JOINT PURCHASING AGREEMENTS. The boards of county commissioners in their respective counties may enter into joint purchasing agreements with other counties or political subdivisions or joint purchasing agreements through a joint purchase program established by the Idaho association of counties. Contracts let pursuant to such joint purchase agreement shall be bid in accordance with the provisions of this chapter. This authority does not preclude or limit counties from entering into purchase agreements otherwise provided by statute.

SECTION 3. That Chapter 40, 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 31-4015, Idaho Code, and to read as follows:

31-4015. JOINT PURCHASING PROGRAM. Idaho counties may participate in a program established by the Idaho association of counties to assist counties in bidding and negotiating joint purchase contracts and discount purchase agreements. Participation in the program does not obligate a county to purchase goods or services through the program or through an agreement negotiated by the program administrator or its board. Counties shall only be obligated to pay for goods or services where the county commissioners have approved the purchase. Participating counties must comply with chapter 16, title 31, Idaho Code.

The Idaho association of counties shall cause an independent, certified audit of the program to be performed annually. The audit shall be made available to the legislature upon request and a copy shall be made available for public inspection.

Approved March 16, 1995.

CHAPTER 172
(S.B. No. 1132)

AN ACT

RELATING TO SANITATION RULES FOR BEER RETAILERS; AMENDING SECTION 23-1034, IDAHO CODE, TO DELETE AN OBSOLETE REFERENCE TO WHOLESALER ASSISTANCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 23-1034, Idaho Code, be, and the same is hereby amended to read as follows:

23-1034. SANITATION RULES FOR RETAILERS ~~---WHOLESALER-ASSISTANCE~~. Licensed retailers authorized to sell beer for consumption upon such licensee's premises, shall keep their premises and all coils, cups, mugs, steins, glasses, and other utensils used in connection with the sale and dispensing of beer in a sanitary condition at all times, and shall comply with all rules and regulations issued by the department of public health and welfare in the state of Idaho and applicable to the operation of the business of such licensed retailer. ~~Notwithstanding the provisions of section 23-1033, Idaho Code, a wholesaler may perform services as may be required to maintain sanitation and quality control and which are incident to the repair and cleaning of a licensed retailer's draught beer equipment and furnish the necessary equipment and repair parts and cleaning supplies required in the performance of such services; provided, that any equipment or parts so furnished shall be sold by the wholesaler and paid for by the retailer, at a price not less than the wholesaler's cost.~~

Approved March 16, 1995.

CHAPTER 173
(S.B. No. 1088)

AN ACT

RELATING TO REFORESTATION OF CUT-OVER AND BURNED-OVER FOREST LANDS;
REPEALING CHAPTER 2, TITLE 38, IDAHO CODE.

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

SECTION 1. That Chapter 2, Title 38, Idaho Code, be, and the same is hereby repealed.

Approved March 16, 1995.

CHAPTER 174
(S.B. No. 1086)

AN ACT

RELATING TO APPLICATIONS TO LEASE STATE-OWNED ENDOWMENT LANDS; AMENDING SECTION 58-307, IDAHO CODE, TO CHANGE THE DEADLINE FOR FILING APPLICATIONS TO RENEW EXPIRING LEASES AND TO FILE CONFLICT APPLICATIONS TO LEASE LANDS CONTAINED IN EXPIRING LEASES, TO CHANGE, FROM NOVEMBER 1 TO SEPTEMBER 1, THE DATE AFTER WHICH THE STATE BOARD OF LAND COMMISSIONERS MUST CONSIDER AND DISPOSE OF CONFLICT APPLICATIONS TO LEASE PARCELS OF LAND CONTAINED IN EXPIRING LEASES AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 58-307, Idaho Code, be, and the same is hereby amended to read as follows:

58-307. TERM OF LEASE -- APPLICATION FOR RENEWAL -- ALLOWANCE FOR IMPROVEMENTS. (1) No lease of state lands, other than those valuable for stone, coal, oil, gas or other minerals, shall be for a longer term than ten (10) years; provided, however, that state lands other than educational endowment lands may be leased for a period of up to twenty-five (25) years to federal agencies, state agencies, counties or cities when leased for public purposes.

(2) Notwithstanding any other provisions of law, only the state lands described below may be leased for a period of up to forty-nine (49) years for commercial purposes, under such terms and conditions as may be set by the board, provided that the board consults with the county commissioners of the county in which the lands are located before leasing the lands described below, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. The department shall hold a hearing, on each of the parcels described below, in the community in which the parcel is located.

(a) One (1) parcel - E1/2, Section 5, T2N, R2E, Boise Meridian,

containing three hundred twenty (320) acres, more or less, and located south of the Boise Airport on Pleasant Valley Road.

(b) One (1) parcel - SWSWNW, Section 27, T3N, R2E, Boise Meridian, containing eight (8) acres, more or less, located northeast-erly of the Boise Airport and north of the Boise Interagency Fire Center.

(c) Four (4) parcels - E1/2SW, W1/2SE, NESE, Section 31; SW1/4, Section 32, T3N, R2E, Boise Meridian, all containing three hundred sixty (360) acres, more or less, located south of the Boise Air-port and west of Pleasant Valley Road.

(d) Three (3) parcels - SWSW, Section 28; Pt. SESE, Section 29 (east of the Railroad R/W, now a bikepath); W1/2NW, Section 33, all in T3N, R18E, Boise Meridian, all containing one hundred twenty-five (125) acres, more or less, located two (2) miles nor-therly of Hailey, Idaho, excepting therefrom, a parcel of land, containing twenty (20) acres, more or less, at a location to be determined with access to the sheep driveway located on the county road.

(3) Notwithstanding any other provisions of law, only the state lands described below may be leased for commercial purposes, for a term not to exceed ten (10) years, and the board may grant, upon pay-ment of good and valuable consideration, a preferential right to renew said lease not more than four (4) times, provided that the board shall consult with the county commissioners of the county in which the lands are located before leasing the lands described below, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. The department shall hold a hearing, on each of the parcels described below, in the community in which the parcel is located.

(a) One (1) parcel - All, Section 16, T3N, R18E, Boise Meridian, containing six hundred forty (640) acres, more or less, and located in Ohio Gulch some five (5) miles northerly of Hailey, Idaho.

(b) One (1) parcel - E1/2NE, Section 16, T18N, R3E, Boise Merid-ian, containing eighty (80) acres, more or less, and located northwesterly of the intersection of Deinhard Lane and Sampson Trail in McCall, Idaho.

(4) The term "commercial purposes" means industrial enterprises, retail sales outlets, business and professional office buildings, hos-pitality enterprises, commercial recreational activities, multifamily residential developments and other similar businesses. For purposes of this section, agricultural leases, grazing leases, oil and gas leases, mineral leases, geothermal leases and single family, recreational cot-tage site and homesite leases are not considered leases for commer-cial purposes.

(5) The board may require that all fixed improvements constructed upon land leased for commercial purposes be removed or become the property of the state upon termination of the lease, and that any heirs, encumbrances or claims of third parties with respect to any improvements shall be expressly subordinate and subject to the rights of the state under this section.

(6) Except for geothermal, oil and gas, and mineral leases, the lease year shall run from January 1 through December 31, and all

leases shall expire on December 31 of the year of expiration.

(7) The annual rental shall be due and payable in advance of year one of the lease and by January 1 of each succeeding year, except for grazing leases which shall be due and payable by the date set by the state board of land commissioners in the lease, but in no case shall the rental for grazing leases be due and payable earlier than January 1 or later than May 1 of each succeeding year.

(8) All applications to lease or to renew an existing lease which expires December thirty-first of any year, shall be filed in the office of the director of the department of lands by the thirtieth day of ~~September~~ June preceding the date of such expiration. Such applications will be considered by the state land board ~~after November--first following~~ and be disposed of in the manner provided by law; except that the board may reject conflicting applications for a lease for commercial purposes if the lessee exercises the preference right to renew clause.

(9) Where conflicts appear upon leases which do not contain a preferential right to renew clause, such applications ~~filed-between said-dates~~ shall be considered as having been filed simultaneously. However, nothing herein shall be construed to prevent the state board of land commissioners from accepting and considering applications for new leases at any time. ~~†-provided;~~

(10) ~~In~~ case improvements have been made on land while under lease which is expiring, and the former lessee is not the successful bidder, but the land is leased to another, the amount of such improvements shall be paid to the former lessee. The following shall be considered improvements: plowing done within one (1) year, provided no crop has been raised on the plowed land after such plowing, fencing, buildings, cisterns, wells, growing crops and any other asset which shall be considered an improvement by the director.

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 16, 1995.

CHAPTER 175

(S.B. No. 1062, As Amended)

AN ACT

RELATING TO MIGRATORY WATERFOWL STAMPS; AMENDING SECTION 3, CHAPTER 173, LAWS OF 1987, TO EXTEND THE SUNSET CLAUSE FOR FIVE YEARS.

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

SECTION 1. That Section 3, Chapter 173, Laws of 1987, be, and the same is hereby amended to read as follows:

SECTION 3. This act shall be in full force and effect on and after July 1, 1987, provided that Section 1 of this act shall be null, void, and of no force and effect on and after July 1, 1995 2000.

Approved March 16, 1995.

CHAPTER 176
(S.B. No. 1174)

AN ACT

RELATING TO THE DEPARTMENT OF FISH AND GAME; AMENDING SECTION 36-409, IDAHO CODE, TO REPLACE THE WORD PERMIT WITH THE WORD STAMP AND TO ADD THE WORD BIRD TO PROVIDE FOR THE ISSUANCE OF UPLAND GAME BIRD STAMPS AND TO PROVIDE THAT FUNDS RECEIVED FROM THE SALE OF THE STAMPS SHALL BE USED FOR UPLAND GAME BIRD HABITAT IN ACCORDANCE WITH ORDER NUMBER 95-07 OF THE IDAHO FISH AND GAME COMMISSION.

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

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

36-409. GAME TAGS -- ARCHERY PERMITS -- FEES -- PENALTY. (a) Resident Game Tags. A resident who has obtained a permit to hunt, as provided in section 36-401, Idaho Code, or has purchased or obtained a license to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees provided herein shall be eligible to receive a resident game tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, or turkey in accordance with the laws of this state and 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 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 Bird Stamp. The commission may, under rules as it may prescribe, issue an upland game permit bird stamp that must be purchased by all persons over sixteen (16) years of age prior to hunting upland game birds, provided that a permit stamp shall not be required to hunt forest grouse (blue, ruffed or spruce), sharp-tailed grouse, sage grouse, mourning-dove, or turkey-cottontail-rabbit-pygmy-rabbit-or-snowshoe-hare. The fee for such a permit stamp shall be five dollars (\$5.00) and the proceeds from the sale of such permits stamps 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 bird habitat in accordance with Idaho fish and game commission order number 95-07. This subsection shall be null and void and of no force and effect on and after July 1, 1995 2000.

(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 16, 1995.

CHAPTER 177
(S.B. No. 1061)

AN ACT

RELATING TO LOG SCALING; AMENDING SECTION 38-808, IDAHO CODE, TO PROVIDE THAT ABANDONED OR CANCELED LOG BRANDS SHALL NOT BE REISSUED FOR A PERIOD OF ONE YEAR UNLESS THE STATE BOARD OF SCALING PRACTICES SO AUTHORIZES FOR CAUSE.

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

SECTION 1. That Section 38-808, Idaho Code, be, and the same is hereby amended to read as follows:

38-808. RECORDING LOG BRANDS -- PENALTY. (1) Definitions:

(a) "Person" includes the plural and all corporations, foreign and domestic, copartnerships, firms and associations of persons.

(b) "Forest products." For the purposes of this section only, "forest products" means all products derived from trees including, but not limited to, sawlogs, veneer logs, poles, cedar products, pulp logs, fence posts and every form into which a fallen tree may be cut before it is manufactured into lumber or run through a processing mill or cut into cord wood, stove wood or hewn ties.

(c) "Log brand" means a unique symbol or mark placed on or in forest products for the purpose of identifying ownership.

(2) Any owner of forest products in the state of Idaho may use thereon any log brand, which may be applied as a stamped symbol, log brand or affixed tag, not currently registered by any other person in the state; but before any such log brand shall be used, it shall be the duty of such owner intending to use the same to cause a diagram, and a full and complete written description of his log brand, signed by him, to be submitted on "Registration of Log Brands" forms to the office of the state board of scaling practices, who shall record the same upon receipt of a payment of twenty-five dollars (\$25.00), provided the log brand is different from any other log brand currently registered in that office. It shall be the duty of the person in charge of the state board of scaling practices office to keep a record of all registered log brands, which record shall at all reasonable times be open to public inspection.

(3) All applications for log brands and/or renewals shall be submitted to and approved by the state board of scaling practices prior to use. Such application shall be made on duplicate log brand registration forms and shall include a diagram or an impression of the log brand stamped on the form, a written description of the log brand and be signed by the person or the agent of the person. The state board of

scaling practices may refuse to approve any log brand which is identical to or closely resembles a currently registered log brand. If approval is denied, the applicant will select another log brand. No person shall brand any prize log.

(4) The expiration date for all log brands registered prior to January 1, 1981, shall be February 28, 1994; the expiration date for all log brands registered from January 1, 1981, through December 31, 1985, shall be February 28, 1995; the expiration date for all log brands registered from January 1, 1986 through December 31, 1989, shall be February 28, 1996; the expiration date for all log brands registered from January 1, 1990, through December 31, 1992, shall be February 28, 1997. Beginning January 1, 1993, renewals or newly approved registrations shall expire on February 28, five (5) years after the year of registration or renewal. Notification of expiration will be sent during the month of September of the year preceding the expiration date. A renewal fee of twenty-five dollars (\$25.00) shall be charged each time a log brand is renewed by the same person.

(5) To assign ownership of a currently registered log brand, the current registered owner of the log brand shall file with the state board of scaling practices a signed and duly notarized instrument on forms provided by the board. Such forms shall specify the effective date of transfer, the assignee and the log brand to be assigned. A fee of twenty-five dollars (\$25.00) shall be charged for each transfer. The transferred log brand will be issued a new registration number and shall expire February 28, five (5) years after the year of the transfer.

Any failure to renew a log brand as required by law shall be deemed an abandonment of same. Abandoned or canceled log brands shall not be reissued for a period of one (1) year unless the state board of scaling practices so authorizes for cause. Any other person may be at liberty to adopt or use the abandoned log brand; but the other person shall not claim or use it until after it has been registered in the other person's own name as provided by this statute.

(6) Failure to comply with the provisions of section 38-808, Idaho Code, shall be deemed a violation of the log brand law. Upon request of the state board of scaling practices or its chairperson, it shall be the duty of the attorney general to institute and prosecute civil enforcement actions. In addition, when deemed by the board to be necessary, the board may retain private counsel to institute and prosecute civil enforcement actions. Any person who has been determined to have violated the provision(s) of this act shall be liable for any expense, including reasonable attorney's fees, incurred by the state in enforcing the act. Any violation of section 38-808, Idaho Code, shall be deemed a misdemeanor and any person, upon conviction, shall be sentenced to pay a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

Approved March 16, 1995.

CHAPTER 178
(S.B. No. 1023)

AN ACT

RELATING TO RIGHT TO WORK; AMENDING SECTION 44-2011, IDAHO CODE, TO REDESIGNATE THE SECTION; AND AMENDING CHAPTER 20, TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 44-2011, IDAHO CODE, TO PROVIDE THAT THE PROVISIONS OF THE RIGHT TO WORK LAW ARE APPLICABLE TO PRIVATE AND PUBLIC EMPLOYMENT, INCLUDING THE STATE AND ITS POLITICAL SUBDIVISIONS.

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

SECTION 1. That Section 44-2011, Idaho Code, be, and the same is hereby amended to read as follows:

44-2011~~2~~. SEVERABILITY. The provisions of this chapter are hereby declared to be severable, and if any provision is declared void, invalid, or unenforceable in whole or in part, such declaration shall not affect the remaining provisions of this chapter.

SECTION 2. That Chapter 20, Title 44, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 44-2011, Idaho Code, and to read as follows:

44-2011. APPLICABILITY. The provisions of this chapter are applicable to all employment, private and public, including all employees of the state and its political subdivisions.

Approved March 16, 1995.

CHAPTER 179
(S.B. No. 1170)

AN ACT

RELATING TO RESTRICTIONS ON TRANSFERS IN TRUST; AMENDING PART 5, CHAPTER 5, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-5-508, IDAHO CODE, TO PROVIDE THAT A TRUST INSTRUMENT MAY CONTAIN CERTAIN RESTRICTIONS REGARDING VOLUNTARY OR INVOLUNTARY TRANSFER.

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

SECTION 1. That Part 5, Chapter 5, Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 15-5-508, Idaho Code, and to read as follows:

15-5-508. RESTRICTIONS ON TRANSFERS IN TRUST. A trust instrument

may provide that a beneficiary's interest in the income and/or principal of the trust is not subject to voluntary or involuntary transfer. Such provision shall be valid and enforceable, and the beneficiary's interest shall not be subject to voluntary or involuntary transfer of any nature, and shall not be subject to enforcement of a money judgment, subject to any exceptions otherwise allowed by law. If a trust gives the trustee discretion over the payment of either income or principal of a trust, or both, nothing in this section shall be deemed to affect or limit that discretion in any manner. This section shall not be deemed to apply to any trust distributions after actual receipt by the beneficiary. Validity of a restraint on transfer in a trust document shall not require specific reference to this section or any specific language. This section shall apply both to trust instruments in existence on July 1, 1995, as well as trust instruments established thereafter.

Approved March 16, 1995.

CHAPTER 180
(S.B. No. 1169)

AN ACT

RELATING TO POWERS OF TRUSTEES; AMENDING PART 4, CHAPTER 7, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-7-402, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS OF TRUSTEES.

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

SECTION 1. That Part 4, Chapter 7, Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 15-7-402, Idaho Code, and to read as follows:

15-7-402. ADDITIONAL POWERS. In addition to the powers provided for in section 15-7-401, Idaho Code, a trustee shall have the following powers:

(1) To sever any trust estate on a fractional share basis into two (2) or more separate trusts for any reason.

(2) To divide a trust into two (2) or more single trusts or consolidate two (2) or more trusts into a single trust, upon those terms and conditions as it considers appropriate, provided that the trustee make a written determination that: (a) division or consolidation is not inconsistent with the intent of the trustor with regard to any trust to be consolidated or divided; (b) division or consolidation would facilitate administration of the trusts; and (c) division or consolidation would be in the best interests of all beneficiaries and not materially impair their respective interests. The trustee shall give written notice of the proposed division or consolidation by personal service or by certified mail to all interested persons of every trust affected by the division or consolidation and to any trustee of such trust(s) who does not join in the notice. The notice shall: (i)

state the name and mailing address of the trustee; (ii) include a copy of the governing instrument of each trust to be divided or consolidated; (iii) include a statement of assets and liabilities of each trust to be divided or consolidated, dated within ninety (90) days of the notice; (iv) fully describe the terms and manner of division or consolidation; and (v) state the reasons supporting the proposed division or consolidation. The notice shall advise the recipient of the right to petition for a judicial determination of the proposed division or consolidation as provided in subsection (3) of this section. The notice shall include a form on which consent or objection to the proposed division or consolidation may be indicated. If the trustee receives written consent to the proposed division or consolidation from all persons entitled to notice, the trustee may divide or consolidate the trusts as provided in the notice. Any person dealing with the trustee of the resulting divided or consolidated trust is entitled to rely on the authority of that trustee to act and is not obliged to inquire into the validity or propriety of the division or consolidation under this section.

(3) Any interested person may petition the court of the county in which the principal place of administration of a trust is located for an order dividing one (1) or more trusts or consolidating two (2) or more trusts. If nonjudicial consolidation has been commenced pursuant to subsection (2) of this section, a petition may be filed under this section unless the trustee has received all necessary consents. The principal place of administration of the trust is the trustee's usual place of business where the records pertaining to the trust are kept, or the trustee's residence if the trustee has no such place of business. At the conclusion of the hearing, if the court finds that the requirements of subsections (2)(a), (b) and (c) of this section have been satisfied, it may direct division of one (1) or more trusts or consolidation of two (2) or more trusts on such terms and conditions as appropriate. The court, in its discretion, may provide for payment from one (1) or more of the trusts of reasonable fees and expenses for any party to the proceeding.

(4) This section applies to all trusts whenever created.

Approved March 16, 1995.

CHAPTER 181

(H.B. No. 212, As Amended)

AN ACT

RELATING TO THE LOCAL PLANNING ACT; AMENDING THE CHAPTER HEADING, CHAPTER 65, TITLE 67, IDAHO CODE; AMENDING SECTION 67-6501, IDAHO CODE, TO RENAME THE ACT; AMENDING SECTION 67-6504, IDAHO CODE, TO PROVIDE THAT AT LEAST ONE-HALF OF THE MEMBERS OF ANY COMMISSION MUST RESIDE OUTSIDE THE BOUNDARIES OF ANY CITY'S AREA OF IMPACT AND TO PROVIDE THAT NO PERSON SHALL SERVE MORE THAN TWO CONSECUTIVE FULL TERMS; AND AMENDING SECTION 67-6508, IDAHO CODE, TO CLARIFY THAT A COMPREHENSIVE PLAN SHALL APPLY TO LAND USE REGULATIONS AND ACTIONS, TO PROVIDE FOR AN ANALYSIS ON THE EFFECT ON

PRIVATE PROPERTY RIGHTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That the heading for Chapter 65, Title 67, Idaho Code, be, and the same is hereby amended to read as follows:

LOCAL LAND USE PLANNING

SECTION 2. That Section 67-6501, Idaho Code, be, and the same is hereby amended to read as follows:

67-6501. SHORT TITLE. This act shall be known as the "Local Land Use Planning Act of 1975."

SECTION 3. That Section 67-6504, Idaho Code, be, and the same is hereby amended to read as follows:

67-6504. PLANNING AND ZONING COMMISSION -- CREATION -- MEMBERSHIP -- ORGANIZATION -- RULES -- RECORDS -- EXPENDITURES -- STAFF. A city council or board of county commissioners, hereafter referred to as a governing board, may exercise all of the powers required and authorized by this chapter in accordance with this chapter. If a governing board does not elect to exercise the powers conferred by this chapter, it shall establish by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided in section 67-6509, Idaho Code, a planning commission and a zoning commission or a planning and zoning commission acting in both capacities, which may act with the full authority of the governing board, excluding the authority to adopt ordinances. The powers of the board of county commissioners conferred by this chapter shall apply to the unincorporated area of the county. Legally authorized planning, zoning, or planning and zoning commissions existing prior to enactment of this chapter shall be considered to be duly constituted under this chapter unless changed in accordance with the notice and hearing procedures provided in section 67-6509, Idaho Code.

(a) Membership -- Each commission shall consist of not less than three (3) nor more than twelve (12) voting members, all appointed by a mayor or chairman of the county board of commissioners and confirmed by majority vote of the governing board. An appointed member of a commission must have resided in the county for at least two (2) years prior to his appointment, and must remain a resident of the county during his service on the commission. Not more than one-third (1/3) of the members of any commission appointed by the chairman of the board of county commissioners may reside within an incorporated city of fifteen hundred (1,500) or more population in the county. At least one-half (1/2) of the members of any commission appointed by the chairman of the board of county commissioners must reside outside the boundaries of any city's area of impact. The ordinance establishing a commission to exercise the powers under this chapter shall set forth the number of members to be appointed. The term of office for members shall be not less than three (3) years, nor more than six (6) years, and the length of term shall be prescribed by ordinance. No person

shall serve more than two (2) full consecutive terms. Vacancies occurring otherwise than through the expiration of terms shall be filled in the same manner as the original appointment. Members may be removed for cause by a majority vote of the governing board. Members shall be selected without respect to political affiliation and may receive such mileage and per diem compensation as provided by the governing board. If a governing board exercises these powers, its members shall be entitled to no additional mileage or per diem compensation.

(b) Organization -- Each commission shall elect a chairman and create and fill any other office that it may deem necessary. A commission may establish subcommittees, advisory committees or neighborhood groups to advise and assist in carrying out the responsibilities under this chapter. A commission may appoint nonvoting ex officio advisors as may be deemed necessary.

(c) Rules, Records, and Meetings -- Written organization papers or by-laws consistent with this chapter and other laws of the state for the transaction of business of the commission shall be adopted. A record of meetings, hearings, resolutions, studies, findings, permits, and actions taken shall be maintained. All meetings and records shall be open to the public. At least one (1) regular meeting shall be held each month for not less than nine (9) months in a year. A majority of voting members of the commission shall constitute a quorum.

(d) Expenditures and Staff -- With approval of a governing board, the commission may receive and expend funds, goods, and services from the federal government or agencies and instrumentalities of state or local governments or from civic and private sources and may contract with these entities and provide information and reports as necessary to secure aid. Expenditures by a commission shall be within the amounts appropriated by a governing board. Within such limits, any commission is authorized to hire employees and technical advisors, including but not limited to planners, engineers, architects, and legal assistants.

SECTION 4. 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 as they may apply to land use regulations and actions unless the plan specifies reasons why a particular component is unneeded.

(a) Property Rights -- An analysis of provisions which may be necessary to insure that land use policies, restrictions, conditions and fees do not violate private property rights, adversely impact property values or create unnecessary technical limitations on the use of property and analysis as prescribed under the declarations of purpose in chapter 80, title 67, Idaho Code.

(b) Population -- A population analysis of past, present, and future trends in population including such characteristics as total population, age, sex, and income.

(bc) School Facilities and Transportation -- An analysis of public school capacity and transportation considerations associated with future development.

(ed) Economic Development -- An analysis of the economic base of the area including employment, industries, economies, jobs, and income levels.

(de) 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.

(ef) 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.

(fg) 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.

(gh) 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.

(hi) 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.

(ij) Recreation -- An analysis showing a system of recreation areas, including parks, parkways, trailways, river bank greenbelts, beaches, playgrounds, and other recreation areas and programs.

(jk) 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.~~

(kl) Housing -- An analysis of housing conditions and needs; plans for improvement of housing standards; and plans for the provi-

sion of safe, sanitary, and adequate housing, including the provision for low-cost conventional housing, the siting of 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 and to address the needs of the community.

(lm) 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.

(mn) 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 16, 1995.

CHAPTER 182
(H.B. No. 290)

AN ACT

RELATING TO REGULATORY TAKINGS; AMENDING SECTION 67-8001, IDAHO CODE, TO REVISE THE DECLARATION OF PURPOSE TO PROVIDE APPLICATION TO LOCAL GOVERNMENTS; AMENDING SECTION 67-8002, IDAHO CODE, TO DEFINE THE TERM "LOCAL GOVERNMENT"; AND AMENDING SECTION 67-8003, IDAHO CODE, TO PROVIDE APPLICATION TO LOCAL GOVERNMENTS.

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

SECTION 1. That Section 67-8001, Idaho Code, be, and the same is hereby amended to read as follows:

67-8001. DECLARATION OF PURPOSE. The purpose of this chapter is to establish an orderly, consistent review process that better enables state agencies and local governments 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.

SECTION 2. That Section 67-8002, Idaho Code, be, and the same is hereby amended to read as follows:

67-8002. DEFINITIONS. As used in this chapter:

(1) "Local government" means any city, county, taxing district or other political subdivision of state government with a governing body.

(2) "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.

(23) "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.

(34) "Taking" means an uncompensated deprivation of private property in violation of the state or federal constitution.

SECTION 3. That Section 67-8003, Idaho Code, be, and the same is hereby amended to read as follows:

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 or local government 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 at least on an annual basis to maintain consistency with changes in law. All state agencies and local governments 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 or local government 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.

Approved March 16, 1995.

CHAPTER 183
(S.B. No. 1093)

AN ACT

RELATING TO THE SMALL CLAIMS DEPARTMENT OF THE MAGISTRATE'S DIVISION OF THE DISTRICT COURT; AMENDING SECTION 1-2301, IDAHO CODE, TO EXTEND THE JURISDICTION OF THE SMALL CLAIMS DEPARTMENT OF THE MAGISTRATE'S DIVISION OF THE DISTRICT COURT TO CASES FOR THE RECOVERY OF PERSONAL PROPERTY WHEN THE VALUE OF THE PROPERTY DOES NOT EXCEED THREE THOUSAND DOLLARS.

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

SECTION 1. That Section 1-2301, Idaho Code, be, and the same is hereby amended to read as follows:

1-2301. SMALL CLAIMS DEPARTMENT -- CREATION AND JURISDICTION. In every magistrate's division of the district court of this state, the district court may create and organize a "Small Claims Department of the Magistrate's Division," which shall have jurisdiction only in cases for the recovery of money where the amount of each claim does not exceed three thousand dollars (\$3,000), and in cases for the recovery of personal property where the value of such property does

not exceed three thousand dollars (\$3,000). Any action brought in a small claims department of the magistrate's division shall be brought in the magistrate's division encompassing either the county where the defendant resides or the county where the cause of action arose. Either party to an action may request a change of venue as provided by chapter 4, title 5, Idaho Code.

Approved March 17, 1995.

CHAPTER 184
(S.B. No. 1239)

AN ACT

RELATING TO IDAHO INSURANCE GUARANTY ASSOCIATIONS; AMENDING CHAPTER 26, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2619, IDAHO CODE, TO PROVIDE CLARIFICATION OF DEFINITIONS.

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

SECTION 1. That Chapter 26, 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 67-2619, Idaho Code, and to read as follows:

67-2619. CLARIFICATION OF DEFINITIONS. Solely for the purposes of chapter 14, title 67, Idaho Code, the associations created in chapters 36 and 43, title 41, Idaho Code, shall be considered self-governing entities as defined in chapter 26, title 67, Idaho Code, which creates the department of self-governing agencies.

Approved March 17, 1995.

CHAPTER 185
(S.B. No. 1089)

AN ACT

RELATING TO STATE-OWNED ENDOWMENT LANDS WHICH MAY BE LEASED FOR COMMERCIAL PURPOSES ON A LONG-TERM BASIS; AMENDING SECTION 58-307, IDAHO CODE, TO DESCRIBE SELECTED PARCELS THAT MAY BE LEASED FOR UP TO FORTY-NINE YEARS FOR COMMERCIAL PURPOSES, TO DESCRIBE SELECTED PARCELS WHICH, WHEN LEASED FOR COMMERCIAL PURPOSES FOR A TERM OF TEN YEARS OR LESS, MAY CONTAIN A PREFERENTIAL RIGHT TO RENEW CLAUSE, AND TO AUTHORIZE THE BOARD TO SOLICIT SEALED BID PROPOSALS IN LIEU OF THE CONFLICT AUCTION PROCEDURE WHEN APPROPRIATE.

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

SECTION 1. That Section 58-307, Idaho Code, be, and the same is hereby amended to read as follows:

58-307. TERM OF LEASE -- APPLICATION FOR RENEWAL -- ALLOWANCE FOR IMPROVEMENTS. (1) No lease of state public school endowment lands, other than those valuable for stone, coal, oil, gas or other minerals, shall be for a longer term than ten (10) years; provided, however, that state lands other than educational public school endowment lands may be leased for a period of up to twenty-five (25) years to federal agencies, state agencies, counties or cities when leased for public purposes.

(2) Notwithstanding any other provisions of law, only the state endowment lands, other than public school endowment lands, described below may be leased for a period of up to forty-nine (49) years for commercial purposes, under such terms and conditions as may be set by the board, provided that the board consults with the county commissioners of the county in which the lands are located before leasing the lands described below, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. The department shall hold a hearing, on each of the parcels described below, in the community in which the parcel is located.

(a) One (1) parcel - E1/2, Section 5, T2N, R2E, Boise Meridian, containing three hundred twenty (320) acres more or less, and located south of the Boise Airport on Pleasant Valley Road.

(b) One (1) parcel - SWSWNW, Section 27, T3N, R2E, Boise Meridian, containing eight (8) acres, more or less, located northeasterly of the Boise Airport and north of the Boise Interagency Fire Center.

(c) Four (4) parcels - E1/2SW, W1/2SE, NESE, Section 31; SW1/4, Section 32, T3N, R2E, Boise Meridian, all containing three hundred sixty (360) acres, more or less, located south of the Boise Airport and west of Pleasant Valley Road.

(d) Three (3) parcels - SWSW, Section 28; Pt. SESE, Section 29 (east of the Railroad R/W, now a bikepath); W1/2NW, Section 33, all in T3N, R18E, Boise Meridian, all containing one hundred twenty-five (125) acres, more or less, located two (2) miles northerly of Hailey, Idaho, excepting therefrom, a parcel of land, containing twenty (20) acres, more or less, at a location to be determined with access to the sheep driveway located on the county road.

(e) One (1) parcel - SWNE, Section 32, T3N, R2E, Boise Meridian, containing forty (40) acres, more or less, located southerly and westerly of the Boise Airport off Gowen Road; Public Building Endowment.

(f) Two (2) parcels - Part NESWNE, Section 35, T3N, R2E, Boise Meridian, containing three and fifteen hundredths (3.15) acres, more or less; Part NENESE, Section 35, T3N, R2E, Boise Meridian, containing one and eight-tenths (1.8) acres, more or less; both located northerly and easterly of I-84 between the Broadway Interchange and the Gowen Road/State Highway 21 Interchange; Normal School Endowment.

(g) One (1) parcel - Part Lot 1, Section 1, T2N, R2E, Boise Meridian, containing five (5) acres, more or less, located near the Gowen Road/State Highway 21 Exit from I-84; Penitentiary Endowment.

(h) One (1) parcel - N1/2NW1/4SW1/4, SW1/4NW1/4SW1/4, Section 4, T2N, R2E, Boise Meridian, excepting that portion deeded to Ada County for a public road, containing twenty-eight and seventy-nine hundredths (28.79) acres, more or less, located south of Boise Airport and east of Pleasant Valley Road; Normal School Endowment.

(3) Notwithstanding any other provisions of law, only the state public school endowment lands described below may be leased for commercial purposes, for a term not to exceed ten (10) years, and the board may grant, upon payment of good and valuable consideration, a preferential right to renew said lease not more than four (4) times, provided that the board shall consult with the county commissioners of the county in which the lands are located before leasing the lands described below, and the use for which the land is leased shall be consistent with the local planning and zoning ordinances insofar as is reasonable and practicable. The department shall hold a hearing, on each of the parcels described below, in the community in which the parcel is located.

(a) One (1) parcel - All, Section 16, T3N, R18E, Boise Meridian, containing six hundred forty (640) acres, more or less, and located in Ohio Gulch some five (5) miles northerly of Hailey, Idaho.

(b) One (1) parcel - E1/2NE, Section 16, T18N, R3E, Boise Meridian, containing eighty (80) acres, more or less, and located northwesterly of the intersection of Deinhard Lane and Sampson Trail in McCall, Idaho.

(c) One (1) parcel - S1/2NW, NESW, Part NWSW, Part SWSW, Part SESW, Section 36, T3N, R2E, Boise Meridian, containing one hundred seventy-eight and seventy-one hundredths (178.71) acres, more or less, located northerly and easterly of I-84 between the Broadway Interchange and the Gowen Road/State Highway 21 Interchange; Public School Endowment.

(d) One (1) parcel - NE1/4SW1/4, SE1/4NW1/4SW1/4, Section 4, T2N, R2E, Boise Meridian, containing fifty (50) acres, more or less, located south of Boise Airport and east of Pleasant Valley Road; Public School Endowment.

(4) The term "commercial purposes" means industrial enterprises, retail sales outlets, business and professional office buildings, hospitality enterprises, commercial recreational activities, multifamily residential developments and other similar businesses. For purposes of this section, agricultural leases, grazing leases, oil and gas leases, mineral leases, geothermal leases and single family, recreational cottage site and homesite leases are not considered leases for commercial purposes.

(5) The board may require that all fixed improvements constructed upon land leased for commercial purposes be removed or become the property of the state upon termination of the lease, and that any heirs, encumbrances or claims of third parties with respect to any improvements shall be expressly subordinate and subject to the rights of the state under this section.

(6) Except for geothermal, oil and gas, and mineral leases, the lease year shall run from January 1 through December 31, and all leases shall expire on December 31 of the year of expiration.

(7) The annual rental shall be due and payable in advance of year

one of the lease and by January 1 of each succeeding year, except for grazing leases which shall be due and payable by the date set by the state board of land commissioners in the lease, but in no case shall the rental for grazing leases be due and payable earlier than January 1 or later than May 1 of each succeeding year.

(8) All applications to lease or to renew an existing lease which expires December thirty-first of any year, shall be filed in the office of the director of the department of lands by the thirtieth day of September preceding the date of such expiration. Such applications will be considered by the state land board after November first following and be disposed of in the manner provided by law; except that the board may reject conflicting applications for a lease for commercial purposes if the lessee exercises the preference right to renew clause.

(9) Where conflicts appear upon leases which do not contain a preferential right to renew clause, such applications filed between said dates shall be considered as having been filed simultaneously. However, nothing herein shall be construed to prevent the state board of land commissioners from accepting and considering applications for new leases at any time. ~~↑-provided;~~

(10) ~~In~~ case improvements have been made on land while under lease which is expiring, and the former lessee is not the successful bidder, but the land is leased to another, the amount of such improvements shall be paid to the former lessee. The following shall be considered improvements: plowing done within one (1) year, provided no crop has been raised on the plowed land after such plowing, fencing, buildings, cisterns, wells, growing crops and any other asset which shall be considered an improvement by the director.

(11) Commercial leases of the state lands described in this section shall not be subject to the conflict auction provisions of section 58-310, Idaho Code. The board may, at its discretion, call for proposals and sealed bids by public advertisement, and may evaluate said proposals and award the lease to the bidder whose proposal achieves the highest return over the term of the lease and who is capable of meeting such terms and conditions as may be set by the board. In the alternative, the board may call for lease applications by public advertisement and if more than one (1) person files an application to hold an auction in the same manner as provided in section 58-310, Idaho Code. In either case, the board must obtain a reasonable rental, based upon fair market value of the state land, throughout the duration of the lease. The board may reject any or all proposals and any or all bids, and may reoffer the lease at a later date if the board determines that the proposals or bids do not achieve the highest and best use of the land at market rental.

Approved March 17, 1995.

CHAPTER 186
(S.B. No. 1139)

AN ACT

RELATING TO MOTOR VEHICLE REGISTRATION; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-417A, IDAHO CODE, TO PROVIDE FOR IDAHO TIMBER SPECIAL LICENSE PLATES.

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

SECTION 1. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-417A, Idaho Code, and to read as follows:

49-417A. IDAHO TIMBER SPECIAL PLATES. (1) On and after July 1, 1995, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, may apply for Idaho timber special license plates.

(2) In addition to the regular operating fee, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of the plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Twenty-five dollars (\$25.00) of the initial fee and fifteen dollars (\$15.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Ten dollars (\$10.00) of each initial fee and ten dollars (\$10.00) of each renewal fee shall be deposited by the state treasurer in the department of lands fund for use in reforestation activities.

Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. He may only display the plates after receipt of new registration from the department.

(3) The Idaho timber license plate shall be of a color and design acceptable to the members of the Idaho forest products commission and approved by the department, utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the director of the department of lands from funds appropriated to that department.

(4) Sample Idaho timber plates may be purchased for a fee of thirty dollars (\$30.00), twelve dollars (\$12.00) of which shall be deposited in the state highway account and eighteen dollars (\$18.00) of which shall be deposited in the department of lands fund for use in reforestation activities.

Approved March 17, 1995.

CHAPTER 187
(S.B. No. 1141)

AN ACT

RELATING TO THE STATE HISTORICAL SOCIETY; AMENDING SECTION 67-4125, IDAHO CODE, TO INCREASE COMPENSATION OF THE MEMBERS OF THE BOARD OF TRUSTEES OF THE STATE HISTORICAL SOCIETY.

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

SECTION 1. That Section 67-4125, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

Approved March 17, 1995.

CHAPTER 188
(S.B. No. 1212, As Amended)

AN ACT

RELATING TO THE EMPLOYMENT OF PAID FIREMEN; AMENDING SECTION 44-109, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION, TO PROVIDE A CODE REFERENCE, TO PROVIDE THAT AN APPLICANT FOR THE POSITION OF A PAID FIREMAN WHO FAILS TO MEET THE STANDARDS FOR EMPLOYMENT AS A PAID FIREMAN ADOPTED BY THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES SHALL NOT BE ELIGIBLE FOR EMPLOYMENT AND TO PROVIDE THAT THE DEPARTMENT SHALL NOTIFY THE EMPLOYER OF THE APPLICANT'S INELIGIBILITY.

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

SECTION 1. That Section 44-109, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) No paid fireman as defined in sections 44-1801(a) and

59-13591(f), Idaho Code, may be employed until he:

- (a) Has met and has been certified as having met minimum medical and health standards;
- (b) Has successfully passed a physical agility test conducted by an examining physician;
- (c) Is at least nineteen (19) years of age at the time of appointment; and
- (d) Has met prescribed physical performance standards as promulgated by the director of the department of labor and industrial services.

(3) A true copy of the medical history and physical agility test of the applicant, completed and signed by the examining physician shall accompany employer certification to the director of the department of labor and industrial services. Such records shall be furnished prior to the date of active employment of the applicant. If an applicant has failed to meet the department's standards for employment as a paid fireman, the applicant shall not be eligible for employment and the department shall provide notice of the applicant's ineligibility to the employer.

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

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

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

Approved March 17, 1995.

CHAPTER 189
(S.B. No. 1227)

AN ACT

RELATING TO AN IDAHO COMMISSION ON AGING; REPEALING SECTIONS 67-5001, 67-5002, 67-5003 AND 67-5004, IDAHO CODE; AMENDING CHAPTER 50, TITLE 67, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 67-5001,

67-5002, 67-5003 AND 67-5004, IDAHO CODE, TO CREATE THE COMMISSION AND TO PROVIDE FOR COMPOSITION AND APPOINTMENT OF MEMBERS, TO PROVIDE FOR ORGANIZATION, MEETINGS, A QUORUM AND COMPENSATION OF THE COMMISSION, TO PROVIDE POWERS AND DUTIES OF THE COMMISSION AND TO PROVIDE FOR APPOINTMENT OF A DIRECTOR; AMENDING SECTION 67-5007, IDAHO CODE, TO PROVIDE FOR GRANTS TO LOCAL AREA AGENCIES BY THE COMMISSION; AMENDING SECTION 67-5008, IDAHO CODE, TO PROVIDE THAT THE COMMISSION SHALL PROVIDE CERTAIN PROGRAMS FOR OLDER PERSONS; AMENDING SECTION 67-5009, IDAHO CODE, TO CREATE THE OFFICE OF THE OMBUDSMAN FOR THE ELDERLY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-5010, IDAHO CODE, TO PROVIDE FOR GRANTS FOR DEMONSTRATION PROJECTS THROUGH THE COMMISSION; AND AMENDING THE HEADING FOR CHAPTER 50, TITLE 67, IDAHO CODE.

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

SECTION 1. That Sections 67-5001, 67-5002, 67-5003 and 67-5004, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 50, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 67-5001, 67-5002, 67-5003 and 67-5004, Idaho Code, and to read as follows:

67-5001. CREATION OF COMMISSION ON AGING -- COMPOSITION -- APPOINTMENT. There is hereby established in the executive office of the governor the Idaho commission on aging, hereafter referred to as the "commission," which shall have the duties, powers, and authorities as provided in this act. The commission shall consist of seven (7) members to be appointed by the governor of the state of Idaho, who shall hold office during the pleasure of the governor and who shall be subject to removal by him. No member shall hold any other elective or appointive office, state, county or municipal, or any office in any political party organization. Not more than four (4) members of said commission shall at any time belong to the same political party. At least four (4) members must be age sixty (60) or older. Each of the members of said commission shall be a citizen of the United States, and of the state of Idaho, and shall be appointed to assure appropriate geographic representation of the state of Idaho.

The members of said commission shall be appointed for a term of four (4) years; provided, that in the case of death of any commissioner, or his removal from office as hereinbefore provided, the governor shall appoint a successor from the same geographic area. Commencing July 1, 1995, the governor shall appoint three (3) members for a term of two (2) years, three (3) members for a term of three (3) years, and one (1) member for a term of four (4) years. Thereafter all members shall be appointed for a term of four (4) years. No member shall serve more than two (2) consecutive terms, except that a member appointed to fill an unexpired term may be appointed to two (2) additional full terms.

67-5002. ORGANIZATION -- MEETINGS -- QUORUM -- COMPENSATION -- EXPENSES. (1) The commission shall elect a chairman and vice-chairman

at its first meeting. Thereafter, the chairman and vice-chairman shall be elected during the first meeting of each calendar year. The commission shall meet at least once every three (3) months and at such times as may be called by the chairman. A majority of the commissioners shall constitute a quorum for the transaction of business, or for the exercise of any power.

(2) Each member of the commission shall be compensated as provided in section 59-509(h), Idaho Code.

67-5003. POWERS AND DUTIES OF COMMISSION. The Idaho commission on aging shall have the following powers and duties:

(1) Serve as an advocate within state government and the community for older Idahoans;

(2) Serve as an advisory body regarding state legislative issues affecting older Idahoans;

(3) In accordance with chapter 52, title 67, Idaho Code, promulgate, adopt, amend and rescind rules related to programs and services administered by the commission;

(4) Enter into grants and contracts within the limits of appropriated funds to carry out programs and services for older Idahoans;

(5) Conduct public hearings and evaluations to determine the health and social needs of older Idahoans, and determine the public and private resources to meet those needs;

(6) Designate "planning and service areas" and area agencies on aging in accordance with the older Americans act and federal regulations promulgated thereunder. The commission shall review the boundaries of the "planning and service areas" periodically and shall change them as necessary;

(7) On or before the first day of December in 1995 and each year thereafter, submit a report to the governor and the legislature of its accomplishments and recommendations for improvements of programs and services for older Idahoans;

(8) Administer and perform any other related functions or activities assigned to the commission by the governor.

67-5004. DIRECTOR -- APPOINTMENT AND TERM. An administrator of the commission, known as the director of the Idaho commission on aging, shall be appointed by the governor after considering recommendations from the commission. The appointment shall be subject to confirmation by the senate. The director may be removed by the governor at will. His compensation shall be fixed by the governor within the limits of appropriations available to the office and based upon an annual performance evaluation of the commission.

SECTION 3. That Section 67-5007, Idaho Code, be, and the same is hereby amended to read as follows:

67-5007. GRANTS TO LOCAL AREA AGENCIES. The Idaho-office-on-aging commission shall, based on the recommendations of the local area councils on aging, enter into grants with designated local area agencies, as provided by the Older Americans Act of 1965, as amended, for the purpose of the agencies issuing contracts at the local level to provide the services listed in section 67-5008, Idaho Code. Such grants

shall be subject to performance and financial audit by the agency in conformance with state practices and statutes.

SECTION 4. That Section 67-5008, Idaho Code, be, and the same is hereby amended to read as follows:

67-5008. PROGRAMS FOR OLDER PERSONS. The ~~Idaho office on aging~~ commission shall upon reviewing recommendations from local area councils on aging, as required by the Older Americans Act of 1965, as amended, allocate to local designated area agencies grants for the following purposes:

- (1) Transportation -- For operating expenses only.
- (2) Congregate meals -- For direct costs to provide nutritionally balanced meals to older persons at congregate meal sites.
- (3) In-home services -- For direct provision of case management, homemaker, chore, telephone reassurance, home delivered meals, friendly visiting, shopping assistance, in-home respite and other in-home services to older persons living in non-institutional circumstances. Fees for specific services shall be based upon a variable schedule, according to regulations established by the Idaho office on aging, based upon ability to pay for such services.
- (4) Adult day care -- For direct services to older persons and their care givers.
- (5) Any increases in state funding for the state senior services program after state fiscal year 1982 must be expended for in-home services or adult day care.

SECTION 5. That Section 67-5009, Idaho Code, be, and the same is hereby amended to read as follows:

67-5009. OFFICE OF OMBUDSMAN FOR THE ELDERLY. The office of ombudsman for the elderly is hereby created within the ~~Idaho office on aging~~ commission. The ombudsman shall be responsible for receiving, investigating and resolving or closing complaints made by or in behalf of residents of long-term care facilities or persons aged sixty (60) or older living in the community. No representative of the office shall be liable for the good faith performance of official duties, and willful interference with representatives of the office is unlawful. Long-term care facilities are prohibited from reprisals or retaliation against a resident or employee filing a complaint with, or furnishing information to, the office.

For the purposes of implementing the provisions of this section, the ~~Idaho office on aging~~ commission is hereby authorized as follows:

The director shall hire the state ombudsman for the elderly who shall be a person with the necessary educational background commensurate with the duties and responsibilities of the office of ombudsman and shall be a classified employee subject to the provisions of chapter 53, title 67, Idaho Code.

The ombudsman may delegate to designated local ombudsmen any duties deemed necessary to carry out the purposes of the provisions of this section.

The ombudsman shall establish procedures for receiving and processing complaints, conducting investigations and reporting his find-

ings. He shall have jurisdiction to investigate administrative acts or omissions of long-term care facilities or state or county departments or agencies providing services to older people. An administrative act of a long-term care facility or state or county department or agency may become an appropriate subject for the ombudsman to investigate under certain circumstances. For example, the ombudsman may investigate such an act if it might be contrary to law, unreasonable, unfair, oppressive, capricious or discriminatory. The ombudsman may make a finding for an appropriate resolution to the subject matter of the investigation.

The ombudsman shall investigate any complaint which he determines to be an appropriate subject for investigation under this section.

When the ombudsman investigates a complaint, he shall notify the complainant, if any, of the investigation and shall also notify the long-term care facility or the state or county department or agency affected by the investigation of his intent to investigate. However, if no investigation takes place, he shall inform the complainant of the reasons therefor. Records obtained by the ombudsman shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

In an investigation of any complaint or administrative act of any long-term care facility or state or county department or agency providing services to older people, the ombudsman may undertake, but not be limited to, any of the following actions:

(a) Make the necessary inquiries and obtain such information he deems necessary.

(b) Hold private hearings.

(c) Enter during regular business hours, a long-term care facility or state or county department or agency's premises.

Following the investigation and upon his determination that particular subject matter should be further considered by the long-term care facility or state or county department or agency, and administrative act should be modified or cancelled, a statute or regulation on which an administrative act is based should be altered, reasons should be given for an administrative act, or some other action should be taken by a long-term care facility or state or county department or agency, he shall report his opinions and recommendations to the respective parties. The ombudsman may request the parties affected by such opinions or recommendations to notify him within the specified time of any action taken by such parties on his recommendation.

Following an investigation, the ombudsman shall consult with the particular parties before issuing any opinion or recommendation that is critical to such parties.

The ombudsman shall notify the complainant in writing within a reasonable time from the date the investigation is terminated of any actions taken by him and the long-term care facility, or state or county department or agency to resolve any issues raised by the complaint.

The ombudsman, on December 30 of each year, shall submit to the governor, the director of the ~~Idaho office on aging~~ commission, the state advisory council on aging, the speaker of the house, president of the senate, the department of health and welfare bureau of licensing and certification, the president of the Idaho hospital association and the president of the Idaho health care association a report of the

activities of the ombudsman for the elderly during the prior calendar year. This report shall include, but not be limited to, the number and general patterns of complaints received by the ombudsman, the action taken on such complaints, the results of such action, and any opinions or recommendations which further the state's capability in providing for statutory resolution of complaints.

Nothing in this section shall be construed to be a limitation of the powers and responsibilities assigned by law to other state or county departments or agencies.

Records obtained by the ombudsman shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 6. That Section 67-5010, Idaho Code, be, and the same is hereby amended to read as follows:

67-5010. GRANTS FOR DEMONSTRATION PROJECTS. The ~~Idaho--office--on aging~~ commission may, based on needs identified in Idaho's community based service system for the elderly through its state planning process and at its discretion, enter into contracts with service providers to demonstrate new or more effective methods of delivering the services listed in section 67-5008, Idaho Code. These one (1) time demonstration grants will not adversely affect the grants provided to local area agencies on aging described in section 67-5007, Idaho Code.

SECTION 7. That the heading for Chapter 50, Title 67, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 50
~~IDAHO-OFFICE~~ COMMISSION ON AGING

Approved March 17, 1995.

CHAPTER 190
(S.B. No. 1245)

AN ACT
RELATING TO DRIVING UNDER THE INFLUENCE; AMENDING CHAPTER 80, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-8002B, IDAHO CODE, TO PROVIDE FOR A STAY OF ENFORCEMENT OF ANY SUSPENSION OF DRIVING PRIVILEGES UPON THE FAILURE OF TESTS FOR ALCOHOL CONCENTRATION, THE PRESENCE OF DRUGS OR OTHER INTOXICATING SUBSTANCES, AS PROVIDED IN SECTION 18-8002A, IDAHO CODE, UNTIL JULY 1, 1997; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 80, 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 18-8002B, Idaho Code, and to read as follows:

18-8002B. ENFORCEMENT OF 18-8002A, IDAHO CODE, STAYED. On and after the effective date of this act and until July 1, 1997, no peace officer in the state of Idaho shall enforce the provisions of section 18-8002A, 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 17, 1995.

CHAPTER 191
(S.B. No. 1247)

AN ACT

RELATING TO COUNTY PROSECUTING ATTORNEYS; AMENDING SECTION 31-3113, IDAHO CODE, TO PROVIDE THAT THE COUNTY PROSECUTING ATTORNEY OF PAYETTE COUNTY SHALL DEVOTE FULL TIME TO THE DUTIES OF OFFICE; PROVIDING AN EFFECTIVE DATE AND PROVIDING APPLICATION.

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

SECTION 1. That Section 31-3113, Idaho Code, be, and the same is hereby amended to read as follows:

31-3113. CONTRACTED DUTIES OF PROSECUTING ATTORNEYS WITH CITIES. The prosecuting attorneys in the following counties are required to devote full time to the discharge of their duties: Bannock, Bonner, Bonneville, Canyon, Elmore, Kootenai, Latah, Payette and Twin Falls. With the unanimous approval of the board of county commissioners, and with the consent of the prosecuting attorney, the prosecuting attorney may contract with any city within the county to prosecute nonconflicting misdemeanors in those counties where the prosecuting attorneys are required to devote full time to the discharge of their duties.

SECTION 2. This act shall be in full force and effect on and after January 1, 1996, for all purposes of the 1996 election, and the prosecuting attorney in Payette County shall be a full-time office commencing with the next ensuing term.

Approved March 17, 1995.

CHAPTER 192
(S.B. No. 1249)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Insurance the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
Self-Governing Operating Fund	\$1,210,300	\$ 791,000	\$ 48,500	\$2,049,800
Federal Grant Fund	<u>99,000</u>	<u>49,900</u>		<u>148,900</u>
TOTAL	<u>\$1,309,300</u>	<u>\$ 840,900</u>	<u>\$ 48,500</u>	<u>\$2,198,700</u>
B. REGULATION:				
FROM:				
Self-Governing Operating Fund	\$1,284,600	\$ 724,100	\$ 67,500	\$2,076,200
C. ARSON, FIRE AND FRAUD PREVENTION:				
FROM:				
Self-Governing State Fire Marshal Fund	\$ 417,200	\$ 238,700	\$ 14,000	\$ 669,900
GRAND TOTAL	\$3,011,100	\$1,803,700	\$130,000	\$4,944,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Insurance is authorized no more than sixty-seven and one-half (67.5) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 17, 1995.

CHAPTER 193
(S.B. No. 1250)

AN ACT
APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 1996;
EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDI-
TURES; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Lieutenant Governor the following amounts, to be expended according to designated standard classifications from the listed fund for the period July 1,

1995, through June 30, 1996:

FOR:

Personnel Costs	\$83,900
Operating Expenditures	<u>13,600</u>
TOTAL	\$97,500

FROM:

General Fund	\$97,500
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SECTION 2. It is legislative intent that an amount, not to exceed \$1,000 of the amounts appropriated in Section 1, may be used at the discretion of the Lieutenant Governor to assist in defraying expenses relating to or resulting from the discharge of the Lieutenant Governor's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Office of the Lieutenant Governor is authorized no more than two (2) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 17, 1995.

CHAPTER 194
(S.B. No. 1251)

AN ACT

APPROPRIATING MONEYS FOR THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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 and Visually Impaired the following amounts, to be expended according to the designated standard classifications from the listed funds, for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	\$ 687,500	\$102,100	\$35,000	\$434,500	\$1,259,100
Adaptive Aids and Appliances Fund		32,800			32,800
Randolph Sheppard Fund	32,200	7,000		91,300	130,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Rehabilitation					
Revenue and Refunds					
Fund	41,800	32,500		12,400	86,700
Federal Grant					
Fund	921,500	452,300	24,600	364,600	1,763,000
Miscellaneous Revenue					
Fund		16,600	5,000	8,800	30,400
TOTAL	<u>\$1,683,000</u>	<u>\$643,300</u>	<u>\$64,600</u>	<u>\$911,600</u>	<u>\$3,302,500</u>

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Commission for the Blind and Visually Impaired is authorized no more than forty-one (41) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 17, 1995.

CHAPTER 195
(S.B. No. 1252)

AN ACT
APPROPRIATING MONEYS FOR THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME POSITIONS.

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 standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	\$239,500	\$ 99,200	\$338,700
Professional Services			
Fund	80,000	39,200	119,200
TOTAL	<u>\$319,500</u>	<u>\$138,400</u>	<u>\$457,900</u>

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Endowment Fund Investment Board is authorized no more than five (5) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of

this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 17, 1995.

CHAPTER 196
(S.B. No. 1254)

AN ACT

RELATING TO THE ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION 67-5224, IDAHO CODE, TO SPECIFY WHEN ADMINISTRATIVE RULES BECOME EFFECTIVE; AMENDING SECTION 67-5226, IDAHO CODE, TO PROVIDE AN ADDITIONAL REQUIREMENT FOR TEMPORARY RULES AND TO SPECIFY WHEN TEMPORARY RULES BECOME EFFECTIVE; AND AMENDING SECTION 67-5291, IDAHO CODE, TO REVISE PROCEDURES FOR LEGISLATIVE REVIEW OF ADMINISTRATIVE RULES.

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

SECTION 1. That Section 67-5224, Idaho Code, be, and the same is hereby amended to read as follows:

67-5224. FINAL RULE. (1) Prior to the adoption, amendment, or repeal of a rule, the agency shall consider fully all written and oral submissions respecting the proposed rule.

(2) Subject to the provisions of subsection (3) of this section, the agency shall publish the text of the final rule in the bulletin. In addition, the agency shall publish a concise explanatory statement containing:

- (a) reasons for adopting the final rule; and
- (b) a statement of any change between the text of the proposed rule and the text of the final rule with an explanation of the reasons for any changes.

(3) With the permission of the coordinator, the agency need not publish in full the text of the final rule if no significant changes have been made from the text of the proposed rule as published in the bulletin, but the notice of adoption of the final rule must cite the volume of the bulletin where the text is available and note all changes that have been made.

(4) An agency shall not publish a final rule until at least seven (7) days after the close of all public comment.

(5) When the legislature approves, amends or modifies a rule becomes effective twenty-one (21) days after it has been published in the bulletin pursuant to section 67-5291, Idaho Code, such rule shall become final upon adoption of the concurrent resolution or on such other date as specified in the rule. All agencies are encouraged to promulgate their rules so that they concurrent resolution. Otherwise, except as set forth in sections 67-5226 and 67-5228, Idaho Code, no rule adopted by an agency shall become final until the conclusion of a regular or special legislative session to which such rule has been

submitted for review. Provided however, that except as set forth in sections 67-5226 and 67-5228, Idaho Code, no rule imposing a fee or charge of any kind shall become effective on one (1) of the following dates: January 1, April 1, July 1, or October 1 until it has been approved, amended or modified by concurrent resolution.

SECTION 2. That Section 67-5226, Idaho Code, be, and the same is hereby amended to read as follows:

67-5226. TEMPORARY RULES. (1) If an agency the governor finds that:

- (a) it is reasonably necessary to protect the public health, safety, or welfare; or
- (b) compliance with deadlines in amendments to governing law or federal programs; or
- (c) conferring a benefit;

~~requires adoption of a rule upon fewer days' notice than that otherwise required in sections 67-5221 through 67-5224, Idaho Code, to~~ become effective before it has been submitted to the legislature for review the agency may proceed with such notice as is practicable to and adopt a temporary rule. The agency may make the temporary rule immediately effective. The agency shall incorporate the required finding and a concise statement of its supporting reasons in each rule adopted in reliance upon the provisions of this subsection.

(2) ~~Any temporary A rule adopted pursuant to subsection (1) of this section shall remain in effect no more than eighteen (18) weeks unless during that time the agency provides for the promulgation of the rule as otherwise required in this chapter. In the event that the agency has initiated but not completed the rulemaking process within the eighteen (18) week period, the temporary rule may be extended for an additional period not to exceed nine (9) weeks which imposes a fee or charge may become effective under this section before it has been approved, amended or modified by concurrent resolution only if the governor finds that the fee or charge is necessary to avoid immediate danger which justifies the imposition of such fee or charge.~~

(3) In no case shall a rule adopted pursuant to this section remain in effect beyond the conclusion of the next succeeding regular session of the legislature unless such rule is approved, amended or modified by concurrent resolution, in which case such rule may remain in effect until the time specified in the resolution or until such rule has been replaced by a permanent rule adopted in accordance with the rulemaking requirements of this chapter.

(4) Temporary rules shall be published in the first available issue of the bulletin.

(45) Temporary rules are not subject to the requirements of section 67-5223, Idaho Code.

(6) Concurrently with the promulgation of a rule under this section, or as soon as reasonably possible thereafter, an agency shall commence the promulgation of a permanent rule in accordance with the rulemaking requirements of this chapter.

SECTION 3. That Section 67-5291, Idaho Code, be, and the same is hereby amended to read as follows:

67-5291. LEGISLATIVE REVIEW OF ADOPTED RULES. The standing committees of the legislature may review adopted rules which have been published in the bulletin or in the administrative code. If reviewed, the standing committee which reviewed the rules shall report to the membership of the body its findings and recommendations concerning its review of the rules. If ordered by the presiding officer, the report of the committee shall be printed in the journal. ~~if the committee to which any rule shall have been referred, or any member of the legislature, shall be of the opinion~~ A concurrent resolution may be adopted approving the rule, or rejecting, amending or modifying the rule where it is determined that such rule is violative of the legislative intent of the statute under which such rule was made, ~~or, if where it is determined that~~ any rule previously promulgated and reviewed by the legislature shall be deemed ~~violative of~~ to violate the legislative intent of the statute under which such rule was made; ~~a concurrent resolution may be adopted rejecting, amending or modifying the same.~~ Where an agency submits a rule or part of a rule which has been adopted or which has repealed or amended an already existing rule, the rejection, amendment or modification of the new rule by the legislature via concurrent resolution shall prevent the agency's intended action from remaining in effect beyond the date of the legislative action. It shall be the responsibility of the secretary of state to immediately notify the affected agency of the filing and effective date of any concurrent resolution enacted to approve, amend, modify, or reject an agency rule and to transmit a copy of such concurrent resolution to the director of the agency for promulgation. The agency shall be responsible for implementing legislative intent as expressed in the concurrent resolution, including, as appropriate, the reinstatement of the prior rule, if any, in the case of legislative rejection of the new rule, or the incorporation of any legislative amendments to the new rule. If a rule has been amended or modified by the legislature, the agency shall republish the rule in accordance with the provisions of chapter 52, title 67, Idaho Code, reflecting the action taken by the legislature and the effective date thereof. If a rule has been rejected by the legislature, the agency shall publish notice of such rejection in the bulletin. Except as provided in section 67-5226, Idaho Code, with respect to temporary rules, every rule promulgated within the authority conferred by law, and in accordance with the provisions of chapter 52, title 67, Idaho Code, and made effective pursuant to section 67-5224(5), Idaho Code, shall be remain in full force and effect until the same is rejected, amended or modified by ~~the legislature~~ concurrent resolution, or until it expires as provided in section 67-5292, Idaho Code, or by its own terms.

Approved March 17, 1995.

CHAPTER 197
(S.B. No. 1256)

AN ACT
APPROPRIATING MONEYS FOR THE HUMAN RIGHTS COMMISSION FOR FISCAL YEAR
1996; AND LIMITING THE NUMBER OF FULL-TIME POSITIONS.

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 standard classifications from the listed funds, for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	\$308,900	\$122,900	\$28,800	\$460,600
Federal Grant Fund	105,300	78,700	11,500	195,500
Miscellaneous Revenue Fund		<u>6,500</u>		<u>6,500</u>
TOTAL	<u>\$414,200</u>	<u>\$208,100</u>	<u>\$40,300</u>	<u>\$662,600</u>

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Human Rights Commission is authorized no more than nine (9) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 17, 1995.

CHAPTER 198
(S.B. No. 1258)

AN ACT

APPROPRIATING MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 1996;
EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDI-
TURES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BAL-
ANCES; SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION; AND LIM-
ITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Controller the following amounts, to be expended for the named programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. STATEWIDE ACCOUNTING AND PAYROLL:					
FROM:					
General					
Fund	\$1,253,500	\$ 573,500	\$ 11,400		\$1,838,400
Professional					
Services					
Fund	865,300	2,049,300	12,000		2,926,600
TOTAL	\$2,118,800	\$2,622,800	\$ 23,400		\$4,765,000
B. COMPUTER CENTER:					
FROM:					
Data Processing					
Services					
Fund	\$2,332,200	\$1,829,900	\$858,100		\$5,020,200
C. BOARD OF EXAMINERS:					
FROM:					
General					
Fund				\$7,700	\$ 7,700
GRAND					
TOTAL	\$4,451,000	\$4,452,700	\$881,500	\$7,700	\$9,792,900

SECTION 2. It is legislative intent that an amount, not to exceed \$1,000 of the amounts appropriated in Section 1, may be used at the discretion of the State Controller to assist in defraying expenses relating to or resulting from the discharge of the State Controller's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 3. There is hereby reappropriated to the State Controller, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of any appropriation made to the State Controller for the period July 1, 1994, through June 30, 1995, to be used for nonrecurring expenditures only for the period July 1, 1995, through June 30, 1996.

SECTION 4. The reappropriation granted in Section 3 of this act, shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1995, is zero, the reappropriation in Section 3 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1995, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for the State Controller bears to the total General Fund reappropriation authority granted in all state agencies.

SECTION 5. In accordance with Section 67-3519, Idaho Code, the Office of the State Controller is authorized no more than ninety-seven and fifty-five one hundredths (97.55) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 17, 1995.

CHAPTER 199
(S.B. No. 1259)

AN ACT

APPROPRIATING MONEYS FOR THE STATE INSURANCE FUND FOR FISCAL YEAR 1996; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; 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 standard classifications from the listed funds, for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. WORKERS' COMPENSATION:				
FROM:				
State Insurance Fund	\$6,529,400	\$1,872,500	\$38,000	\$8,439,900
II. PETROLEUM STORAGE TANKS:				
FROM:				
Petroleum Clean Water				
Trust Fund	\$ 626,100	\$ 406,300		\$1,032,400
TOTAL	\$7,155,500	\$2,278,800	\$38,000	\$9,472,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Insurance Fund is authorized no more than one hundred eighty-six (186) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. Moneys appropriated in Section 1 of this act 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 17, 1995.

CHAPTER 200
(S.B. No. 1260)

AN ACT

APPROPRIATING GENERAL FUND MONEYS FOR DEPOSIT IN THE WATER MANAGEMENT FUND; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO UNSPENT BALANCES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO WATER PURCHASES; 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, to be transferred to the Water Management Fund, the sum of one million dollars (\$1,000,000) to be used by the Idaho Water Resources Board for purchasing water for the purpose of providing an artificial recharge of the Snake River Plain Aquifer.

SECTION 2. Of the amount appropriated to the Water Management Fund in Section 1 of this act, an amount not to exceed fifty-five thousand dollars (\$55,000) shall be provided by the Idaho Water Resources Board for a grant to update the study on the Soda Springs Dam site on the Bear River.

SECTION 3. Any unspent and unencumbered balances of the amount appropriated in this act remaining on June 30, 1995, shall be transferred back to the General Fund by the State Controller.

SECTION 4. Water purchases in this act would be made final after agricultural needs are established. Existing uses of water that contribute to aquifer recharge are to be supported and encouraged.

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 17, 1995.

CHAPTER 201
(H.B. No. 60)

AN ACT

RELATING TO CHILD SUPPORT; AMENDING SECTIONS 7-1205 AND 32-1210, IDAHO CODE, TO REDUCE FROM ONE THOUSAND DOLLARS TO A MAXIMUM OF THREE HUNDRED DOLLARS THE PENALTY WHICH MAY BE IMPOSED ON AN EMPLOYER WHO REFUSES TO EMPLOY OR TAKES DISCIPLINARY ACTION AGAINST AN ABSENT PARENT SUBJECT TO AN INCOME WITHHOLDING ORDER.

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

SECTION 1. That Section 7-1205, Idaho Code, be, and the same is hereby amended to read as follows:

7-1205. EMPLOYER LIABLE -- EXCEPTION. (1) Any employer who fails to retain and remit to the bureau an amount pursuant to the withholding order shall be liable for the amount to be retained specified in the withholding order to the bureau unless:

(a) The employer notifies the bureau that the obligor is not in his employ and the bureau upon investigation verifies the obligor's nonemployment with the employer and withdraws its order; or

(b) The obligor's income is not sufficient and therefore the restrictions in section 11-207, Idaho Code, apply and a lesser amount must be withheld.

(2) Any employer who refuses to employ, or takes disciplinary action against any absent parent subject to income withholding required under this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer, shall be subject to a fine of ~~one--thousand~~ up to three hundred dollars (\$~~1,000~~300), which is a debt due and owing to the bureau.

(3) The employer shall notify the state promptly of the termination of the obligor's employment and provide the individual's last known address and the name and address of the individual's new employer, if known.

SECTION 2. That Section 32-1210, Idaho Code, be, and the same is hereby amended to read as follows:

32-1210. EMPLOYER'S DUTIES AND RESPONSIBILITIES -- FEE FOR EMPLOYER. (1) An employer upon whom service of an income withholding order has been made pursuant to this chapter shall answer the order on forms supplied with the order within ten (10) days after the date of service. The employer shall deliver the original answer to the court, and shall mail one (1) copy to the obligee or obligee's attorney, and one (1) copy to the obligor. The answer shall state whether the obligor is employed by or receives earnings from the employer, whether the employer will honor the order, and whether there are multiple child support withholding orders or garnishments against the obligor.

(2) The employer shall deliver a copy of the income withholding

order to the obligor as soon as is reasonably possible.

(3) If the employer possesses any earnings due and owing to the obligor, the earnings subject to the income withholding order shall be withheld immediately upon receipt of the income withholding order. The withheld earnings shall be delivered to the clerk of the court that issued the income withholding order at each regular pay interval, but the first delivery shall occur no sooner than ten (10) days after receipt of the order.

(4) The employer shall continue to withhold the ordered amounts from nonexempt earnings of the obligor until notified by the court that the income withholding order has been modified or terminated. The employer shall promptly notify the court when the employee is no longer employed, and of the employee's last known address, and the name and address of his new employer, if known.

(5) The employer may deduct a processing fee, not to exceed five dollars (\$5.00), to cover the costs of each withholding. Such fee is to be withheld from the obligor's income in addition to the amount to be withheld to satisfy the withholding order, but the total amount withheld, including the fee, shall not exceed fifty percent (50%) of the obligor's disposable income.

(6) The employer may combine amounts withheld from various employees for a particular entity in a pay period into a single payment for that pay period, as long as the portion thereof which is attributable to each individual employee is separately designated.

(7) An employer may not discharge, discipline, or refuse to employ an obligor on the basis of an income withholding order issued under this chapter. If an employer discharges, disciplines, or refuses to employ an obligor because of an income withholding obligation, the obligor shall have a cause of action against the employer. The employer shall be liable for double the amount of lost wages and other damages suffered as a result of the violation and for costs and reasonable attorney fees, and shall be subject to a civil penalty of ~~not more than one thousand~~ up to three hundred dollars (\$~~1,000~~300) for each violation. In addition, the employer may also be ordered to hire, rehire, or reinstate the aggrieved obligor.

(8) An order for income withholding for support entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment, income withholding order, or garnishment for child support.

(9) No employer who complies with an income withholding order issued under this chapter may be liable to the employee for wrongful withholding.

Approved March 17, 1995.

CHAPTER 202
(H.B. No. 173)

AN ACT
RELATING TO MANUFACTURED HOME DEALER AND BROKER LICENSING; AMENDING
SECTION 44-2103, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE

DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES TO ADOPT RULES PROVIDING FOR THE ACCEPTANCE OF A MONEY DEPOSIT IN LIEU OF BOND IN SATISFACTION OF THE BONDING REQUIREMENTS FOR MANUFACTURERS, DEALERS, BROKERS AND INSTALLERS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 44-2103, Idaho Code, be, and the same is hereby amended to read as follows:

44-2103. FEES -- DEPOSIT OF FEES. (1) Fees for licensing of dealers, brokers, manufacturers, salesmen and service companies shall not exceed:

- (a) Manufactured home dealer or broker's license \$250.00
- (b) Manufacturer license \$250.00
- (c) Manufactured home service company/installer \$125.00
- (d) Manufactured home salesman's license \$ 25.00

(2) All license fees collected by the department under the provisions of this chapter shall be paid into the manufactured housing account, which is hereby created in the dedicated fund. The expenses incurred in administering and enforcing the provisions of this chapter shall be paid from the account.

(43) The following performance bonding requirements shall be met before the issuance of these licenses:

- (a) Manufacturer \$20,000 bond
- (b) Manufactured home dealer \$20,000 bond
- (c) Manufactured home broker \$20,000 bond
- (d) Manufactured home service company/installer \$ 5,000 bond

(4) The director is authorized to provide by rule, in accordance with the provisions of section 44-2102, Idaho Code, for the acceptance of a money deposit in lieu of a bond in satisfaction of the bonding requirements of this section.

Approved March 17, 1995.

CHAPTER 203
(H.B. No. 202, As Amended)

AN ACT

RELATING TO THE IDAHO TRANSPORTATION BOARD; AMENDING SECTION 40-302, IDAHO CODE, TO INCREASE THE MEMBERSHIP OF THE BOARD TO SEVEN MEMBERS; AMENDING SECTION 40-303, IDAHO CODE, TO PROVIDE DISTRICTS FOR MEMBERS AND TERMS OF OFFICE; AMENDING SECTION 40-306, IDAHO CODE, TO PROVIDE COMPENSATION AND REIMBURSEMENT FOR EXPENSES; AMENDING SECTION 40-307, IDAHO CODE, TO PROVIDE PROCEDURES FOR THE BOARD; AND AMENDING SECTION 40-308, IDAHO CODE, TO PROVIDE FOR THE CONDUCT AND CONVENING OF MEETINGS.

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

SECTION 1. That Section 40-302, Idaho Code, be, and the same is

hereby amended to read as follows:

40-302. BOARD -- MEMBERSHIP -- APPOINTMENT -- QUALIFICATION. The board shall be composed of three seven (37) members to be appointed by the governor. Not more than two four (24) members shall at any time belong to the same political party. Members shall be well informed and interested in the construction and maintenance of public highways and highway systems, and their selection and appointment shall be made solely with regard to the best interests of the various functions of the board. At least one (1) member shall have special training, experience or expertise in the field of aeronautical transportation. Each member at the time of his appointment shall have been a citizen, resident and taxpayer of the state of Idaho and of the district from which he is appointed for at least five (5) years. During his tenure of office no member shall hold or occupy any federal, state, county, or municipal elective or other appointive office, or any office in any political party.

SECTION 2. That Section 40-303, Idaho Code, be, and the same is hereby amended to read as follows:

40-303. CREATION OF DISTRICTS -- RESIDENCE OF BOARD MEMBERS -- TERM OF OFFICE. (1) For the purposes of selection of members of the board, the state of Idaho shall be divided into three--(3 six (6)) director districts as follows:

(a) District No. 1. The counties of ~~Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power and Teton~~ Benewah, Bonner, Boundary, Kootenai and Shoshone.

(b) District No. 2. The counties of ~~Ada, Adams, Boise, Blaine, Camas, Cassia, Canyon, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Payette, Owyhee, Twin Falls, Valley and Washington~~ Clearwater, Idaho, Latah, Lewis and Nez Perce.

(c) District No. 3. The counties of ~~Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone~~ Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington.

(d) District No. 4. The counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls.

(e) District No. 5. The counties of Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida and Power.

(f) District No. 6. The counties of Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton.

(2) Each of the districts shall be represented by one (1) member appointed from that district. A seventh member of the board shall be appointed from the state at large and shall act as chairman of the board. The governor shall appoint all members and the members are subject to confirmation by the senate for six (6) year terms; the terms to expire on January 31. The chairman of the board shall serve at the pleasure of the governor for an indefinite period. The terms of office of the members of the board representing the six (6) districts are as follows:

(a) One (1) member shall be appointed from district no. 1 to

serve an initial term expiring January 31, 2001, and thereafter the term shall be for six (6) years;

(b) The member of the board from district no. 2 serving on the effective date of this act shall continue in office for the balance of the term to which he was appointed, January 31, 1998, and thereafter the term of office shall be six (6) years;

(c) One (1) member shall be appointed from district no. 3 to serve an initial term expiring January 31, 1997, and thereafter the term of office shall be six (6) years;

(d) The member of the board from district no. 4 serving on the effective date of this act shall continue in office for the balance of the term to which he was appointed, January 31, 2000, and thereafter the term shall be six (6) years;

(e) One (1) member shall be appointed from district no. 5 to serve an initial term expiring January 31, 1999, and thereafter the term shall be for six (6) years; and

(f) The member of the board from district no. 6 serving on the effective date of this act shall continue in office for the balance of the term to which he was appointed, January 31, 1996, and thereafter the term shall be for six (6) years.

The terms of the newly appointed members shall begin immediately upon their appointment and qualification. Each member shall hold office after the expiration of his own term until his successor has been appointed and qualified. Within fifteen (15) days after the expiration of a term, the governor shall appoint a successor and submit that appointment to the senate for confirmation. Should any member of the board resign, die, move from the district from which he was appointed, or be removed from office, the governor shall, within thirty (30) days, appoint a successor with like qualifications to serve for the remainder of the retiring member's unexpired term. If a vacancy occurs within forty-five (45) days after the convening of the legislature and the legislature is still in session, the governor shall make a nomination to fill the vacancy and submit it to the senate for their approval.

SECTION 3. That Section 40-306, Idaho Code, be, and the same is hereby amended to read as follows:

40-306. COMPENSATION AND REIMBURSEMENT FOR EXPENSES. Each member of the board shall be compensated as provided by section 59-509(hi), Idaho Code. The compensation and expenses shall be allowed and paid from the state highway and the state aeronautic's accounts. ~~This section is expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code.~~

SECTION 4. That Section 40-307, Idaho Code, be, and the same is hereby amended to read as follows:

40-307. OFFICE OF BOARD -- ORGANIZATION MEETINGS -- OFFICERS. The permanent offices of the board shall be maintained at Boise City, Idaho, in suitable offices and quarters, with equipment, records and supplies as may be deemed necessary to carry out the provisions of this title. The members of the board shall select ~~a chairman and a~~

vice chairman at the February meeting of each year, and the board shall adopt a seal having upon it the words, "Idaho Transportation Board--State of Idaho." The secretary of the board shall have care and custody of the seal. The board shall appoint a secretary and fix his compensation. The secretary shall hold office subject to the pleasure of the board, and carry out administrative duties as delegated to him. For the administration of their functions the board may employ other employees and personnel as may be deemed necessary, prescribe their duties, and fix their compensation.

SECTION 5. That Section 40-308, Idaho Code, be, and the same is hereby amended to read as follows:

40-308. MEETINGS -- QUORUM. The board shall hold not less than twelve (12) regular meetings each year, on a day of each month as the board shall determine, unless a legal holiday, then on the next ensuing business day, for the purpose of transacting business as may come before it. ~~At the February meeting of each year the board shall elect officers~~ The chairman of the board shall preside over all meetings, except that he shall only be permitted to vote in the case of a tie vote. In the absence of the chairman, the vice chairman shall preside over meetings, except that he shall have full voting privileges. Additional regular meetings may be held as the board shall determine in its by-laws, rules and regulations. Special meetings of the board may be called at any time and from time to time by ~~two~~ four (24) members of the board, and on the written request of the director, showing the necessity and purpose for a meeting. The board chairman may call a special meeting specifying the time, place and purpose of the meeting. The secretary shall cause due notice to be given to each member, either personally or by telephone, mail or telegraph, of the time, place and purpose of all special and regular meetings, and upon his failure so to do, notice may be given either by the chairman or the ~~two~~ four (24) members concurring in calling any meeting. Any meeting of the board at which all of the members are present shall be as valid as if held pursuant to proper notice, and should a meeting be held without notice when all members are not present, if the absent member or members shall have signed a waiver, or shall subsequently sign the minutes of the meeting, it shall be as valid and binding as though called upon due notice. A majority of the members of the board shall constitute a quorum and a majority of all members of the board shall be necessary for the authorization of any act by the board, except as otherwise herein provided.

Approved March 17, 1995.

CHAPTER 204
(H.B. No. 219, As Amended)

AN ACT
RELATING TO THE GRAPE GROWERS AND WINE PRODUCERS COMMISSION; AMENDING
SECTION 54-3607, IDAHO CODE, TO PROVIDE THAT MONEYS OF THE COMMIS-

SION SHALL BE MAINTAINED IN A BANK ACCOUNT AND TO PROVIDE FOR THE DEPOSIT AND DISBURSEMENT OF FUNDS OF THE COMMISSION; AMENDING CHAPTER 36, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-3610, IDAHO CODE, TO PROVIDE FOR IMPOSITION OF A TAX AND LATE FEES UPON GRAPES GROWN IN THE STATE OF IDAHO, ON IDAHO WINERIES OR ON GRAPES PURCHASED FROM OUT OF STATE.

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

SECTION 1. That Section 54-3607, Idaho Code, be, and the same is hereby amended to read as follows:

54-3607. COMMISSION ACCOUNT. (1) The commission may accept tax receipts, grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this act, which may be specified as a condition of any grant, donation or gift. All funds received under the provisions of this act or as provided by law shall be paid to the commission and shall be deposited into a bank account in the name of the Idaho grape growers and wine producers commission. ~~Moneys in the bank account, which is hereby created in the dedicated fund, and are hereby appropriated out of the account~~ are continuously appropriated and made available for defraying the expenses of the commission in carrying out the provisions of this chapter. Immediately upon receipt, all moneys received by the commission shall be deposited in one (1) or more separate accounts in the name of the commission in one (1) 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 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 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 2. That Chapter 36, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-3610, Idaho Code, and to read as follows:

54-3610. IMPOSITION OF TAX AND PROVISION FOR LATE FEES. (1) From and after the first day of July, 1995, there is hereby levied and imposed a tax payable to the commission on all grapes grown in Idaho, for the production of wine, and on grapes purchased outside the state for production of wine in Idaho. The commission shall set the tax by rule and the tax on each acre of grapes grown in Idaho shall not exceed twenty-five dollars (\$25.00) per acre annually. The tax on each winery shall not exceed three hundred dollars (\$300) annually. Grapes purchased from producers outside Idaho shall be taxed in an amount not to exceed twenty-five dollars (\$25.00) per ton. The purchasers of such grapes grown outside the state shall be responsible for submitting the tax to the commission.

(2) Any person or firm who makes payment to the commission at a date later than that prescribed in this section or by rule may be subject to a late payment penalty as set forth by the commission by rule. Such penalty shall not exceed the rate of fifteen percent (15%) per annum on the amount due. In addition to the above penalty, the commission shall be entitled to recover all costs, fees, and reasonable attorney's fees incurred in the collection of the tax and penalty provided for in this section.

Approved March 17, 1995.

CHAPTER 205
(H.B. No. 227)

AN ACT

RELATING TO JUDGMENTS; AMENDING SECTION 19-2702, IDAHO CODE, TO CLARIFY WHEN EXECUTION MAY BE UTILIZED IN COLLECTING JUDGMENTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 19-2702, Idaho Code, be, and the same is hereby amended to read as follows:

19-2702. EXECUTION ON JUDGMENT FOR FINE. If the judgment ~~is for~~ includes the payment of a fine, or costs, or fine and costs, ~~only~~, or other monetary sums, execution may be issued thereon for such sums as on a judgment in a civil action.

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 17, 1995.

CHAPTER 206
(H.B. No. 247, As Amended)

AN ACT

RELATING TO BUSINESS LICENSE TAXES; REPEALING CHAPTER 23, TITLE 63, IDAHO CODE; AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 23, TITLE 63, IDAHO CODE, TO AUTHORIZE THE COUNTY TREASURER TO PREPARE LICENSES, TO REQUIRE THAT A LICENSE BE PROCURED BEFORE COMMENCING BUSINESS, TO REQUIRE A PAWNBROKER'S LICENSE, TO REQUIRE AN AUCTIONEER'S LICENSE, TO AUTHORIZE A BRIDGE AND FERRY LICENSE, TO PROVIDE DISTRIBUTION OF LICENSE RECEIPTS, TO PROVIDE FOR SUITS FOR RECOVERY OF LICENSE TAX, TO REQUIRE PRODUCTION OF A LICENSE AND TO PROVIDE PENALTIES FOR VIOLATIONS.

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

SECTION 1. That Chapter 23, Title 63, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 23, Title 63, Idaho Code, and to read as follows:

CHAPTER 23
LICENSE TAXES

63-2301. LICENSES PREPARED -- PRINTED -- ACCOUNTING. (1) The county treasurer shall issue consecutively numbered licenses for each class provided for in this chapter. The licenses shall have essentially the following information:

- (a) County issuing the license;
- (b) Type of license and amount paid;
- (c) Person or business to whom issued;
- (d) Date of issuance and expiration date;
- (e) Treasurer's signature.

(2) The treasurer shall keep in his office an accounting for all licenses sold by him.

63-2302. LICENSE TO BE PROCURED BEFORE COMMENCING BUSINESS. A license must be procured immediately before the commencement of any business or occupation liable to a license tax from the treasurer of the county where the applicant desires to transact the business which license authorizes the party obtaining it in his city or particular locality in the county to transact the business described in the license. Separate licenses must be obtained for each branch, estab-

lishment or separate house of business located in the same county.

No license issued under this chapter authorizes any person to carry on any business within the limits of any incorporated city having power by its charter to impose or levy city license taxes, unless such person, in addition to the license provided by this chapter, also procures the license required by the ordinances or orders of such city.

63-2303. PAWNBROKER'S LICENSE. Each pawnbroker must obtain a pawnbroker's license from the treasurer and must pay therefor fifty dollars (\$50.00) per calendar quarter.

63-2304. AUCTIONEER'S LICENSE. Every auctioneer, whether commissioned or salaried, must obtain a license from the treasurer and must pay therefor five dollars (\$5.00) per month; provided, that upon the payment of twenty dollars (\$20.00) in advance, an auctioneer may obtain from the treasurer an annual license, which annual license shall date from the first day of March of each and every year, and shall entitle the auctioneer to conduct auction sales in any county in the state of Idaho.

63-2305. BRIDGE AND FERRY LICENSE. Licenses to take tolls on bridges or ferries are fixed annually by the commissioners. The licenses therein provided for must be obtained from the treasurer of the county.

63-2306. MONTHLY SETTLEMENT FOR LICENSES -- APPLICATION OF LICENSE MONEY. On the first Monday in each month the treasurer shall pay into the county treasury all money collected from all licenses sold during the preceding month upon the certificate of the county auditor, and shall file a statement or report each month with the county auditor showing the amount of licenses collected in each school district to be apportioned in the following manner:

(1) If by applicants within an incorporated city or city acting under special charter:

- (a) Thirty percent (30%) to the school district in which the licenses are collected for general revenue purposes;
- (b) Forty percent (40%) for general revenue purposes of the city; and
- (c) Thirty percent (30%) to the county current expense fund.

(2) If by applicants without an incorporated city:

- (a) Fifty percent (50%) to the school district in which the licenses are collected; and
- (b) Fifty percent (50%) to the county current expense fund.

63-2307. SUITS FOR RECOVERY OF LICENSE TAX. Against any person required to take out a license who fails, neglects or refuses to take out such license, or who carries on, or attempts to carry on, business without such license, the treasurer may direct suit in the name of the state of Idaho as plaintiff, to be brought for the recovery of the license tax, and in such case either the treasurer or prosecuting attorney may make the necessary affidavit for a writ of attachment, which may issue without bond being given on behalf of the plaintiff.

In case of a judgment for the plaintiff, five hundred dollars (\$500) therefor and costs must be paid by the defendant into the county current expense fund.

63-2308. PRODUCTION OF LICENSE -- PLEA OF RECOVERY IN CIVIL ACTION. Upon the trial of any action authorized by this chapter, the defendant is deemed not to have procured the proper license unless he either produces it or proves that he did procure it; but he may plead in bar of the action a recovery against him and the payment by him in a civil action of the proper license tax, together with the damages and costs.

63-2309. PENALTY FOR VIOLATIONS. Anyone failing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not exceeding three hundred dollars (\$300) or imprisonment in the county jail for not to exceed six (6) months or by both such fine and imprisonment.

Approved March 17, 1995.

CHAPTER 207
(H.B. No. 269)

AN ACT

RELATING TO PORT DISTRICTS; AMENDING SECTION 9-340, IDAHO CODE, TO EXEMPT FROM DISCLOSURE AS A PUBLIC RECORD FINANCIAL STATEMENTS AND BUSINESS INFORMATION SUBMITTED BY A LEGAL ENTITY TO A PORT DISTRICT IN CONNECTION WITH A BUSINESS AGREEMENT, A DEVELOPMENT PROPOSAL OR A FINANCING APPLICATION FOR BUSINESS ACTIVITY WITHIN A PORT DISTRICT.

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

SECTION 1. That Section 9-340, Idaho Code, be, and the same is hereby amended to read as follows:

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(2) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section 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, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(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, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(27) Records of a person maintained pursuant to chapter 18, title 16, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protec-

tion, welfare and treatment of the child. If the juvenile is fourteen (14) years or older and is adjudicated guilty of an offense which would be a felony if committed by an adult, the name, offense of which the juvenile was adjudicated and disposition of the court shall be subject to disclosure.

(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, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(30) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative council by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

(31) All papers, physical and electronic records and correspondence or other supporting materials comprising the work papers in the possession of the office of the legislative 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.

(41) 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.

(42) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

(43) Financial statements and business information and reports submitted by a legal entity to a port district organized under title 70, Idaho Code, in connection with a business agreement, or with a development proposal or with a financing application for any industrial, manufacturing, or other business activity within a port district.

Approved March 17, 1995.

CHAPTER 208
(H.B. No. 271)

AN ACT

RELATING TO THE SPECIAL COMMITTEE ON PERSONNEL MATTERS; REPEALING SECTION 67-455, IDAHO CODE.

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

SECTION 1. That Section 67-455, Idaho Code, be, and the same is hereby repealed.

Approved March 17, 1995.

CHAPTER 209
(H.B. No. 291)

AN ACT

RELATING TO DUTIES OF THE IDAHO TRANSPORTATION DEPARTMENT; AMENDING SECTION 49-202, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT SHALL INCLUDE INFORMATION ABOUT THE STATE'S OPEN RANGE LAW IN CERTAIN PRINTED MATERIALS.

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

SECTION 1. That Section 49-202, Idaho Code, be, and the same is hereby amended to read as follows:

49-202. DUTIES OF DEPARTMENT. (1) All registration and driver's license records in the office of the department shall be public records and open to inspection by the public during normal business hours. If the department has contracted for a service to be provided by another entity, an additional fee shall be charged by that contractor whether the service is rendered during normal business hours, other than normal business hours or on weekends.

(2) In addition to other fees required by law to be collected by the department, the department shall collect the following:

- (a) For certifying a copy of any record pertaining to any vehicle license, any certificate of title, or any driver's license . \$8.00
- (b) For issuing every Idaho certificate of title \$8.00
- (c) For furnishing a duplicate copy of any Idaho certificate of title \$8.00
- (d) For issuance or transfer of every certificate of title on a new or used vehicle or other titled vehicle in an expedited manner (rush titles), in addition to any other fee required by this section \$15.00
- (e) For furnishing a replacement of any receipt of registration \$3.00
- (f) For answering inquiries as to registration or ownership of motor vehicles or driver's license records, per vehicle registration, accident report records, title or per driver's license record \$4.00
- Additional contractor fee, not to exceed \$4.00
- (g) For services in furnishing copies of files of vehicle or other registrations, vehicle titles, or driver's licenses per hour \$10.00
- (h) Placing "stop" cards in vehicle registration or title files, each \$12.00
- (i) For issuance of an assigned or replacement vehicle identification number (VIN) \$10.00
- (j) For a vehicle identification number (VIN) inspection whether conducted by a city or county peace officer or any other peace officer or designated agent of the state of Idaho, per inspection \$3.00
- (k) For all replacement registration stickers, each \$1.00
- (l) For issuing letters of temporary vehicle clearance to Idaho

based motor carriers \$10.00

(m) For all sample license plates, each \$12.00

(3) The fees required in this section shall not apply when the service is furnished to any federal, state, county or city peace officer when such service is required in the performance of their duties as peace officers.

(4) The department may enter into agreements with private companies or public entities to provide the services for which a fee is collected in subsection (2)(f) of this section. Such private contractor shall collect the fee prescribed and remit the fee to the department. The contractor shall also collect and retain the additional fee charged for his services.

(5) The department shall pay three dollars (\$3.00) of the fee collected by a county assessor or other agent of the department as provided in subsection (2)(a) through (f) of this section, to the county assessor of the county or agent collecting such fee, which shall be deposited with the county treasurer and credited to the county current expense fund. The remainder of the fees collected as provided in that subsection shall be paid by the department to the state treasurer and placed in the state highway account. The fee collected under subsection (2)(j) of this section for a VIN inspection shall be placed in the city general fund if conducted by a city peace officer, in the county current expense fund if conducted by a county peace officer, shall be retained by the special agent authorized to perform the inspection, or paid to the state treasurer and placed to the credit of the department of law enforcement if conducted by the Idaho state police or in the state highway account if conducted by the department.

(6) The department as often as practicable may provide to law enforcement agencies the record of stolen and recovered motor vehicles and suspensions and revocations of driver licenses via the Idaho law enforcement telecommunications system (ILETS).

(7) The department shall provide the forms prescribed in chapter 5 of this title, shall receive and file in its office in Boise, Idaho, all instruments required in chapter 5 of this title to be filed with the department, shall prescribe a uniform method of numbering certificates of title, and maintain in the department indices for such certificates of title. All indices shall be by motor or identification number and alphabetical by name of the owner, and the department shall maintain two (2) separate files on each vehicle, one, a motor or identification number file, the other a file by the name of the owner.

(8) The department shall file each registration received under a distinctive registration number assigned to the vehicle and to the owner thereof, alphabetically under the name of the owner, and numerically and alphabetically under the name of the vehicle.

(9) The department shall not renew a driver's license when fees required by law have not been paid or where fees for past periods are due, owing and unpaid including nonsufficient fund checks.

(10) The department shall not grant the registration of a vehicle when:

(a) The applicant is not entitled to registration under the provisions of this title; or

(b) The applicant has neglected or refused to furnish the depart-

ment with the information required in the appropriate form or reasonable additional information required by the department, or has failed to comply with the provisions of section 49-436, Idaho Code, in past registration periods; or

(c) The fees required by law have not been paid, or where fees for past registration periods are due, owing and unpaid including nonsufficient fund checks.

(11) The department has the authority to request any person, based upon evidence, to submit to medical, highway, or written examinations, to protect the safety of the public upon the highways.

(12) The department shall revoke the registration of any vehicle:

(a) Which the department shall determine is unsafe or unfit to be operated or is not equipped as required by law;

(b) Whenever the person to whom the registration card or registration plate has been issued shall make or permit to be made any unlawful use of the same or permit their use by a person not entitled thereto;

(c) For any violation of vehicle registration requirements by the owner or operator in the current or past registration periods;

(d) Whenever a motor carrier as defined in section 61-801, Idaho Code, has his permit revoked for any cause except at the request of the permit holder, as provided in section 61-808, Idaho Code, or whenever an interstate carrier has his registration revoked by reason of a revocation of his interstate commerce commission operating authority;

(e) For nonpayment by the owner or operator of the vehicle of use fees computed under sections 49-434 and 49-435, Idaho Code;

(f) For failure of the owner or operator to file the reports required or nonpayment of fees assessed against the owner by the department pursuant to audit under the provisions of section 49-436, Idaho Code;

(g) Identified by any city or county administering a program established by ordinance for the inspection and readjustment of motor vehicles (which program is part of an approved state implementation plan adopted by both the state and federal governments under 42 USC section 7410) as having failed to comply with an ordinance requiring motor vehicle emission inspection and readjustment; provided that no vehicle shall be identified to the department under this subsection (g) unless (i) the city or county certifies to the department that the owner of the motor vehicle has been given notice and had the opportunity for a hearing concerning compliance with the ordinance and has exhausted all remedies and appeals from any determination made at such hearing; and (ii) the city or county reimburses the department for all direct costs associated with the registration revocation procedure.

(13) The department shall not reregister or permit a vehicle to operate on a special trip permit until all fees, penalties and interest have been paid.

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

(15) The department shall cancel a driver's license when fees required by law have not been paid or where fees for past periods are due, owing and unpaid including nonsufficient fund checks;

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

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

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

(19) The department shall cooperate with the United States in the elimination of road hazards, whether of a physical, visual or mental character.

(20) The department shall place and maintain traffic-control devices, conforming to the board's manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this title or to regulate, warn, or guide traffic. No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the department except by the latter's permission.

(21) The department may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall find that the structure cannot with safety to itself withstand vehicles traveling at a speed otherwise permissible under this title, shall determine and declare the maximum speed of vehicles which the structure can safely withstand, and shall cause or permit suitable signs stating the maximum speed to be erected and maintained before each end of the structure.

(22) Whenever the department shall determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs.

(23) The department shall regulate or prohibit the use of any controlled-access highway by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

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

(25) Wherever a highway crosses one or more railroads at grade, the department or local authorities within their respective jurisdictions shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when in the determination of public highway agencies the existence of stop signs at a given crossing would constitute a greater hazard than their absence based on a recognized engineering study.

Nothing in this subsection shall be construed as granting immunity to any railroad company as to liability, if any, for an accident which might occur at a crossing where stop signs are erected and in place, but liability, if any, shall be determined as provided by law. Liability on the part of governmental authorities on account of absence of any stop sign at a crossing shall be determined as provided by law.

(26) The department and local authorities are authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of those zones and when signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey those directions.

(27) The department and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this title or title 40, Idaho Code.

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

(29) On any informational material printed after July 1, 1995, by or at the order of the department and distributed to counties, school districts or individuals for the purpose of assisting a person to successfully pass a driver's license test, the department shall include material about the state's open range law and responsibilities, liabilities and obligations of drivers driving in the open range.

Approved March 17, 1995.

CHAPTER 210
(H.B. No. 297)

AN ACT

RELATING TO STATE EMPLOYEES; AMENDING SECTION 67-5335, IDAHO CODE, TO PROVIDE THAT ONLY THE BOARD OF EXAMINERS CAN AUTHORIZE ACCRUAL OF VACATION TIME BEYOND THE LIMITS ESTABLISHED BY LAW.

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

SECTION 1. That Section 67-5335, Idaho Code, be, and the same is hereby amended to read as follows:

67-5335. VACATION TIME -- ELIGIBILITY -- MAXIMUM TIME -- RIGHT TO ANNUAL VACATION. (1) An appointing authority shall permit each officer or employee to take vacation leave to the extent such leave has accrued.

(2) Vacation leave may be accrued and accumulated only as follows, unless amounts in excess of the permitted accumulations have been expressly authorized in writing by the appointing-authority board

of examiners during unusual or emergency situations:

During the first ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of one hundred ninety-two (192) hours;

During the second ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of two hundred forty (240) hours;

During the third ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of two hundred eighty-eight (288) hours;

After thirty-one thousand two hundred (31,200) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of three hundred thirty-six (336) hours.

(3) Vacation leave shall be transferable from department to department only to the extent that it is accrued and accumulated.

(4) Vacation leave shall not be earned, accrued or accumulated during any pay period in which the maximum accruals and accumulations provided by this section have been met.

(5) Vacation leave not taken shall be compensated for at the time of separation only to the maximum accruals and accumulations allowed by this section.

(6) Vacation leave shall be taken on a workday basis. Regularly scheduled days off and officially designated holidays falling within a period of vacation leave shall not be counted against vacation leave. Vacation leave shall not be taken in advance of being earned and shall only be taken in pay periods subsequent to being earned.

Approved March 17, 1995.

CHAPTER 211
(H.B. No. 309)

AN ACT

RELATING TO COLLECTION AGENCIES; AMENDING CHAPTER 22, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2221, IDAHO CODE, TO NAME THE IDAHO COLLECTION AGENCY ACT; AMENDING SECTION 26-2223A, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR OFFICE STAFF FOR PERMITTEES; AMENDING SECTION 26-2224, IDAHO CODE, TO DELETE A REQUIREMENT THAT EACH PLACE OF BUSINESS PROVIDE A STATEMENT OF NET WORTH; AMENDING SECTION 26-2228, IDAHO CODE, TO CHANGE THE DEADLINE FOR EXAMINATION APPLICATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-2229, IDAHO CODE, TO CHANGE THE DATE FOR PERMIT EXPIRATION; AMENDING SECTION 26-2229A, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR THE COLLECTION INTEREST AND CHARGES; REPEALING SECTION 26-2230, IDAHO CODE; AMENDING CHAPTER 22, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2230, IDAHO CODE, TO ADDRESS BRANCH OFFICES; AMENDING SECTION 26-2233, IDAHO CODE, TO REQUIRE DEPOSIT OF FUNDS BY PERMITTEES INTO TRUST ACCOUNTS; AND AMENDING SECTION 26-2250, IDAHO CODE, TO STATE REQUIREMENTS FOR FOREIGN PERMITTEES.

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

SECTION 1. That Chapter 22, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2221, Idaho Code, and to read as follows:

26-2221. SHORT TITLE. This act shall be known as the "Idaho Collection Agency Act."

SECTION 2. That Section 26-2223A, Idaho Code, be, and the same is hereby amended to read as follows:

26-2223A. OFFICE TO BE MAINTAINED IN STATE -- DESIGNATION OF RESPONSIBLE PERSON. Every permittee under this chapter must maintain an office in the state of Idaho, staffed with at least one (1) natural person who passed the examination required in section 26-2229, Idaho Code, or is exempt from the provisions of this chapter pursuant to section 26-2239(1), Idaho Code, at each location-for-which-a-permit-is issued branch or facility. Each permittee must have a listed Idaho telephone number and must be open to the public during normal business hours on each business day, provided, however, that the director may in his discretion approve a request for opening at hours other than normal business hours or a portion of a business day. A business day within the meaning of this section does not include Saturdays, Sundays, or legal holidays. Each permittee under this chapter must designate a natural person, who need not be a resident of the state of Idaho, to be responsible for the business carried on at the office and who has passed the examination for a permit required by section 26-2229, Idaho Code. If the person designated by the permittee to be responsible for business carried on at the office is not normally available in the Idaho office, then the permittee's collection activities with debtors must begin with a written notice to each debtor setting forth a mailing address and a toll-free telephone number whereby a debtor may contact the designated responsible person during normal business hours.

SECTION 3. That Section 26-2224, Idaho Code, be, and the same is hereby amended to read as follows:

26-2224. FORM OF APPLICATION. Every applicant for such permit shall file in the department of finance an application in form to be prescribed by the director setting forth:

(1) The name of the applicant if an individual; if the applicant is a corporation a list of its officers and directors and their addresses. If the applicant is a partnership, then a list of the members of said partnership and their addresses must be filed with the application. Every partnership in its application for a permit shall designate and appoint one (1) or more of its members, and every corporation in its application for a permit shall designate and appoint one (1) or more of its officers or employees who shall submit to the examination hereinafter required. No permit shall be issued to any partnership or corporation unless and until the persons and officers so

designated by the partnership or corporation shall submit to and pass the examination required by this act.

(2) The location of the principal office or place of business of the applicant.

(3) Other names, if any, by which the applicant conducts, engages in or solicits business.

(4) The names of all persons and organizations with which the applicant is affiliated in such business, and the location of the principal office or place of business of each such affiliation.

(5) A complete description of the business to be conducted, or plan of operation contemplated, by the applicant in this state.

(6) A list of all papers and filings used by the applicant which must accompany the application and be identified as exhibits by number.

(7) A financial statement showing the applicant to have a financial net worth of not less than two thousand five hundred dollars (\$2,500) ~~for each place of business for which a permit is sought~~, which statement shall be subject to disclosure according to chapter 3, title 9, Idaho Code. The financial statement shall specify assets and liabilities, providing detailed reference to each item listed to inform the director of the nature and extent of such assets and liabilities. This financial statement shall be signed by the applicant or its proper agent. The net worth shall not include any notes, accounts, bills, and judgments held for collection by the applicant nor shall it include good will or other assets the value of which is speculative and not susceptible to prompt liquidation.

(8) Such other information concerning the applicant's business as the director may reasonably require. Such application shall be executed and verified by the applicant or applicants personally, or by the president or secretary where the applicant is an association or corporation.

SECTION 4. That Section 26-2228, Idaho Code, be, and the same is hereby amended to read as follows:

26-2228. POWERS OF THE DIRECTOR. The director shall have the power to provide the manner and method for conducting examinations. Applications for examination shall be filed with the director at least ~~thirty~~ ten (310) days prior to the examination date.

The examination shall be uniformly given, may be written or oral or a combination of both and shall be practical in nature. The examination may include questions on bookkeeping, credit adjusting, business law, collection procedure, business ethics, agency, debtor and creditor relationship, trust funds, creditors' funds, business funds, fiduciary relationships, and the provisions of this act and the rules ~~and regulations~~ duly issued by the director pursuant to this act, and such other subject matter as the director by rule ~~or regulation~~ may specify. The examination shall be given twice each year or at such more frequent intervals as the director may direct.

SECTION 5. That Section 26-2229, Idaho Code, be, and the same is hereby amended to read as follows:

26-2229. EXAMINATION -- PERMIT. (1) The director shall examine each application for a permit and accompanying papers and investigate the qualifications of the applicant and if he finds therefrom that the same are in proper form, that the literature proposed to be circulated does not tend to conceal or misrepresent any fact to the detriment of any person dealing with the applicant, that the contract or contracts proposed to be entered into for the collection or payment or prorating of accounts, bills, claims or other indebtedness by the applicant, or prorating or receiving money for payment to creditors are equitable, fair and reasonable, and that the applicant meets all other requirements and qualifications of this act, he shall examine the applicant if an individual, or the designated officer or officers or employees of any corporation and the designated member or members of any partnership, in the manner described in section 26-2225, Idaho Code, and if such applicant or designee passes a satisfactory examination, he shall cause a permit to be issued authorizing the applicant to conduct such a business in this state subject to the provisions of this act, until the ~~thirty-first~~ fifteenth day of ~~December~~ March next thereafter.

(2) If the director finds that the applicant does not qualify under the provisions of this act, the application shall be denied. If he finds the applicant is qualified he must issue a permit upon the filing of the bonds required by this act and the payment of an annual permit fee as fixed by the director, but not to exceed one hundred dollars (\$100), except that no permit fee need be paid by a nonprofit corporation or association conducting credit counseling or debt prorating activities.

No collection contract shall be deemed equitable, fair or reasonable within the meaning of this section which in substance either:

(1a) Permits the applicant to retain any sums due the creditor on any account, bill, claim or other indebtedness collected for him by the applicant on account of, or as a setoff against, any fee, commission, charge, expense or compensation claimed, other than the regular collection fees or commissions, to be due from such creditor on any other account whatever.

(2b) Penalizes the creditor for failure to produce evidence in support of any account, bill, claim or item of indebtedness placed with the applicant for collection in addition to that delivered upon the execution of such contract.

(3c) Penalizes such creditor for any unintentional error, mistake or omission in furnishing to the applicant the correct name or address of any debtor.

(4d) Stipulates, directly or indirectly, for the payment of any fee, commission or compensation in excess of fifty per cent (50%) of the amount actually collected on any account, bill, claim or other indebtedness entrusted to the applicant for collection, provided, however, that in the case of interest collected by a permittee, the creditor and the permittee by agreement between them may provide for division of such interest between them without such percentage limitation; and provided further that in the case of collection of checks dishonored by nonacceptance or nonpayment the creditor and the permittee by written agreement between them may provide, in place of a percentage fee, for the payment of a

set dollar amount collection fee not to exceed ten dollars (\$10.00) which shall not be subject to the fifty per cent (50%) limitation.

(3) A permit or license holder, engaging in the business of receiving money from debtors for application to or payment or prorating the account or accounts of any creditor or creditors of such debtor, for compensation or otherwise, or in the business of acting as the assignee for the benefit of creditors as a primary or secondary object, shall not take or receive for services performed by such permit or license holder for any one (1) person more than fifteen per cent (15%) of the amount received by it at any one (1) time from or on behalf of that person for payment or prorating to creditors and no other charges shall be made or received for any such service.

SECTION 6. That Section 26-2229A, Idaho Code, be, and the same is hereby amended to read as follows:

26-2229A. REQUIREMENT OF FAIR, OPEN AND HONEST DEALING. (1) Every permittee, foreign permittee and licensee shall deal openly, fairly, and honestly without deception in the conduct of the collection agency business. When not inconsistent with the statutes of this state, the provisions of the federal fair debt collection practices act, 15 U.S.C. section 1692, et seq., as amended, may be enforced by the director against licensees, permittees and foreign permittees under the provisions of this chapter.

(2) In any and every instance where the permittee has a managerial or financial interest in the creditor, or where the creditor has a managerial or financial interest in the permittee, disclosure of such interest must be made on each and every contact with a debtor in seeking to make a collection of any account, claim, or other indebtedness where such interest or relationship exists between creditor and permittee.

(3) No permittee, foreign permittee or licensee shall collect or attempt to collect any interest or other charges, fees, or expenses incidental to the principal obligation unless such interest or incidental fees, charges, or expenses are:

(a) Expressly authorized by statute; or

(b) Allowed by court rule against the debtor; or

(c) Have been judicially determined; or

(d) Are provided for in a written form agreement, to be signed by both the debtor and the permittee, and which has the prior approval of the director with respect to the terms of the agreement and amounts of the fees, interest, charges and expenses.

(4) No person shall sell, distribute or make use of collection letters, demand forms or other printed matter which are made similar to or resemble governmental forms or documents, or legal forms used in civil or criminal proceedings.

(5) No person shall use any trade name, address, insignia, picture, emblem or any other means which creates any impression that such person is connected with or is an agency of government.

SECTION 7. That Section 26-2230, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Chapter 22, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2230, Idaho Code, and to read as follows:

26-2230. BRANCH OFFICES. (1) The director may authorize a permittee, upon request, to conduct collection activities authorized in this chapter at additional locations. The additional locations shall be considered branches of the permittee. The director shall be informed of the opening and closing of all branch locations operated by permittees.

(2) The director may authorize a permittee, upon written request, to conduct limited collection activities at locations other than the principal location of the permittee or branches. The facilities may be at the domiciles of the individuals licensed under section 26-2240, Idaho Code. Collection activities at facilities shall be limited to telecommunications with creditors, clients, debtors, and the permittee's offices and branches. The director shall be informed of the opening and closing of all facility locations operated by permittees.

SECTION 9. That Section 26-2233, Idaho Code, be, and the same is hereby amended to read as follows:

26-2233. PERMITTEE ACCOUNTS REQUIRED. A permittee shall in its own name:

(1) Establish and maintain a separate creditors' trust account for deposit and remittance of creditors' funds for each permit held, in a bank or savings and loan association in the state of Idaho.

(2) Establish and maintain a separate business account for the business funds and moneys for each permit, in a bank or savings and loan association in the state of Idaho.

SECTION 10. That Section 26-2250, Idaho Code, be, and the same is hereby amended to read as follows:

26-2250. FOREIGN PERMITTEES. Notwithstanding any other provision of this chapter, if a permittee meets the conditions of subsection (1) of this section, it shall be exempt, as a foreign permittee, from the requirements of this chapter as provided in subsection (2) of this section.

(1) To be a foreign permittee, a collection agency must:

(a) Be qualified to do business in the state of Idaho;

(b) Be the holder of a valid permit or license to do business as a collection agency in the state where it has its principal place of business, or holds a license in another state if the state where its principal place of business is located does not require licenses to operate collection agencies;

(c) Certify in its application for a permit and each annual renewal that it will not solicit any creditor client which has its principal place of business in this state;

(d) Maintain a bond substantially similar, as determined by the director, to the bond required by subsection (b) of section

26-2232, Idaho Code;

(e) Maintain no agent or place of business in this state;
 (f) Conduct its business in this state exclusively by mail or telecommunications; and
 (g) Maintain its books and records in accordance with generally accepted accounting practices. The director or his duly authorized representatives may make an annual examination, or more frequent in the director's discretion, of the principal place of business of a foreign permittee outside the state of Idaho, and for that purpose the director shall have free access to the offices and places of business, books, creditors' accounts, trust accounts, business accounts, records, papers, files, safes and vaults of all such permittees. The actual cost of examination for the first annual examination each year and any investigation shall be paid to the director by each permittee so examined or investigated. The director may maintain an action for the recovery of such costs against the foreign permittee.

(2) A foreign permittee is exempt from the requirements that it:

- (a) Maintain either an agent or an office in this state;
- (b) Maintain a trust account in a bank in this state; and
- (c) Arrange that employees collecting accounts from debtors in this state be licensed by the director.

(3) The director shall examine each application for a foreign permit hereunder in the manner provided in section 26-2229, Idaho Code, and if the applicant is found to be qualified under the provisions of this chapter, shall cause a permit to be issued authorizing the applicant to conduct a business in this state as a foreign permittee. An applicant who has been issued a foreign permit pursuant to this chapter shall be known as a "foreign permittee." If the director finds that the applicant does not qualify under the provisions of this chapter, the application shall be denied.

(4) The failure of a permittee to comply with the provisions of this section shall constitute grounds for denial, revocation or suspension of a foreign permit pursuant to section 26-2235, Idaho Code.

Approved March 17, 1995.

CHAPTER 212
 (H.B. No. 310, As Amended)

AN ACT

RELATING TO THE SALE OF SECURITIES; AMENDING SECTION 30-1403A, IDAHO CODE, TO REQUIRE DELIVERY OF A CURRENT PROSPECTUS NO LATER THAN THE EARLIER OF THE CONFIRMATION OF THE SALE OF A SECURITY OR DELIVERY OF SUCH SECURITY TO THE PURCHASER, AND PROVIDING THE CONDITIONS UNDER WHICH A PRELIMINARY PROSPECTUS MAY BE USED.

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

SECTION 1. That Section 30-1403A, Idaho Code, be, and the same is hereby amended to read as follows:

30-1403A. PROSPECTUS OR OFFERING CIRCULAR REQUIRED BEFORE SALE OF SECURITIES DELIVERY REQUIREMENT. (1) It is unlawful for any broker-dealer or salesman-agent registered under this act to fail to deliver to each purchaser of a security a current prospectus or offering circular to any offeree in connection with the offer or sale of any security registered under this act or required to be registered under this act before or concurrently with the first written or oral offer made to him, other than by means of a public advertisement approved by the director no later than the earlier of:

- (a) The confirmation of such sale; or
- (b) Delivery of such security to the purchaser.

(2) This section shall not be construed to preclude the use or distribution of a preliminary prospectus, provided:

(a) An application to register the securities is pending with the director; and

(b) The outside front cover page of such prospectus bears, in red ink, the caption "Preliminary Prospectus," the date of issuance, and the following statement printed in boldface type: "A REGISTRATION STATEMENT RELATING TO THESE SECURITIES HAS BEEN FILED WITH THE IDAHO DEPARTMENT OF FINANCE, BUT HAS NOT YET BECOME EFFECTIVE. INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION OR AMENDMENT. THESE SECURITIES MAY NOT BE SOLD NOR MAY OFFERS TO BUY BE ACCEPTED PRIOR TO THE TIME THE REGISTRATION BECOMES EFFECTIVE. THIS PROSPECTUS SHALL NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY."

Approved March 17, 1995.

CHAPTER 213
(H.B. No. 311)

AN ACT

RELATING TO FRATERNAL BENEFIT SOCIETIES; REPEALING CHAPTER 32, TITLE 41, IDAHO CODE; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 32, TITLE 41, IDAHO CODE, TO DEFINE FRATERNAL BENEFIT SOCIETIES, TO DEFINE LODGE SYSTEM, TO DEFINE REPRESENTATIVE FORM OF GOVERNMENT, TO PROVIDE ADDITIONAL DEFINITIONS, TO PROVIDE FOR PURPOSES AND POWERS OF A SOCIETY, TO PROVIDE QUALIFICATIONS FOR MEMBERSHIP, TO PROVIDE FOR OFFICE LOCATION, MEETINGS, COMMUNICATIONS TO MEMBERS AND GRIEVANCE PROCEDURES, TO EXEMPT FROM PERSONAL LIABILITY OFFICERS AND MEMBERS OF THE SUPREME GOVERNING BODY OR SUBORDINATE BODY OF A SOCIETY, TO PROVIDE FOR WAIVER OF SOCIETY LAWS BY A SUBORDINATE BODY, TO PROVIDE FOR ORGANIZATION OF A DOMESTIC SOCIETY, TO PROVIDE FOR AMENDMENT OF A DOMESTIC SOCIETY'S LAWS, TO PROVIDE FOR A SOCIETY'S OWNERSHIP OR OPERATION OF INSTITUTIONS, TO PROVIDE FOR REINSURANCE, TO PROVIDE FOR CONSOLIDATIONS AND MERGERS, TO PROVIDE FOR CONVERSION OF A FRATERNAL BENEFIT SOCIETY INTO A MUTUAL LIFE INSURANCE COMPANY, TO PROVIDE FOR BENEFITS, TO PROVIDE FOR BENEFICIARIES, TO PROVIDE THAT BENEFITS ARE NOT ATTACHABLE, TO PROVIDE FOR THE BENEFIT CONTRACT, TO PROVIDE FOR NONFORFEITURE BENEFITS, CASH SURRENDER VALUES, CERTIFICATE

LOANS AND OTHER OPTIONS, TO PROVIDE FOR INVESTMENTS, TO PROVIDE FOR CREATION OF FUNDS, TO PROVIDE FOR EXEMPTION FROM TAXATION, TO PROVIDE FOR VALUATION OF CERTIFICATES, TO PROVIDE FOR REPORTS, TO REQUIRE LICENSURE OF SOCIETIES, TO PROVIDE FOR EXAMINATION OF SOCIETIES, TO PROVIDE FOR ADMISSION AND LICENSURE OF A FOREIGN OR ALIEN SOCIETY, TO PROVIDE FOR ISSUANCE OF AN INJUNCTION AGAINST, LIQUIDATION AND RECEIVERSHIP OF A DOMESTIC SOCIETY, TO PROVIDE FOR SUSPENSION, REVOCATION OR REFUSAL OF A LICENSE OF A FOREIGN OR ALIEN SOCIETY, TO REQUIRE APPLICATION FOR AN INJUNCTION BY THE ATTORNEY GENERAL, TO PROVIDE FOR LICENSING OF AGENTS, TO PROVIDE FOR UNFAIR METHODS OF COMPETITION AND UNFAIR AND DECEPTIVE ACTS AND PRACTICES, TO PROVIDE FOR SERVICE OF PROCESS, TO PROVIDE FOR FEES, TO PROVIDE PENALTIES, TO PROVIDE FOR EXEMPTION OF CERTAIN SOCIETIES, TO PROVIDE FOR JUDICIAL REVIEW, AND TO PROVIDE APPLICABILITY OF OTHER PROVISIONS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 32, Title 41, Idaho Code, be, and the same is hereby repealed.

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 32, Title 41, Idaho Code, and to read as follows:

CHAPTER 32
FRATERNAL BENEFIT SOCIETIES

41-3201. FRATERNAL BENEFIT SOCIETIES. Any incorporated society, order or supreme lodge, without capital stock, including one exempted under the provisions of section 41-3237(1)(b), Idaho Code, whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and which provides benefits in accordance with this chapter, is hereby declared to be a fraternal benefit society.

41-3202. LODGE SYSTEM. (1) A society is operating on the lodge system if it has a supreme governing body and subordinate lodges into which members are elected, initiated or admitted in accordance with its laws, rules and ritual. Subordinate lodges shall be required by the laws of the society to hold regular meetings at least once in each month in furtherance of the purposes of the society.

(2) A society may, at its option, organize and operate lodges for children under the minimum age for adult membership. Membership and initiation in local lodges shall not be required of such children, nor shall they have a voice or vote in the management of the society.

41-3203. REPRESENTATIVE FORM OF GOVERNMENT. A society has a representative form of government when:

(1) It has a supreme governing body constituted in one (1) of the following ways:

- (a) Assembly. The supreme governing body is an assembly composed of delegates elected directly by the members or at intermediate assemblies or conventions of members or their representatives, together with other delegates as may be prescribed in the society's laws. A society may provide for election of delegates by mail. The elected delegates shall constitute a majority in number and shall not have less than two-thirds (2/3) of the votes and not less than the number of votes required to amend the society's laws. The assembly shall be elected and shall meet at least once every four (4) years and shall elect a board of directors to conduct the business of the society between meetings of the assembly. Vacancies on the board of directors between elections may be filled in the manner prescribed by the society's laws.
- (b) Direct election. The supreme governing body is a board composed of persons elected by the members, either directly or by their representatives in intermediate assemblies, and any other persons prescribed in the society's laws. A society may provide for election of the board by mail. Each term of a board member may not exceed four (4) years. Vacancies on the board between elections may be filled in the manner prescribed by the society's laws. Those persons elected to the board shall constitute a majority in number and not less than the number of votes required to amend the society's laws. A person filling the unexpired term of an elected board member shall be considered to be an elected member. The board shall meet at least quarterly to conduct the business of the society.
- (2) The officers of the society are elected either by the supreme governing body or by the board of directors;
- (3) Only benefit members are eligible for election to the supreme governing body and the board of directors; and
- (4) Each voting member shall have one (1) vote; no vote may be cast by proxy.

41-3204. TERMS USED. Whenever used in this chapter:

- (1) "Benefit contract" shall mean the agreement for provision of benefits authorized by section 41-3216, Idaho Code, as that agreement is described in section 41-3219(1), Idaho Code.
- (2) "Benefit member" shall mean an adult member who is designated by the laws or rules of the society to be a benefit member under a benefit contract.
- (3) "Certificate" shall mean the document issued as written evidence of the benefit contract.
- (4) "Director" shall mean the director of the department of insurance of this state.
- (5) "Laws" shall mean the society's articles of incorporation, constitution and bylaws, however designated.
- (6) "Lodge" shall mean subordinate member units of the society, known as camps, courts, councils, branches or by any other designation.
- (7) "Premiums" shall mean premiums, rates, dues or other required contributions by whatever name known, which are payable under the certificate.
- (8) "Rules" shall mean all rules, regulations or resolutions

adopted by the supreme governing body or board of directors which are intended to have general application to the members of the society.

(9) "Society" shall mean fraternal benefit society, unless otherwise indicated.

41-3205. PURPOSES AND POWERS. (1) A society shall operate for the benefit of members and their beneficiaries by:

(a) Providing benefits as specified in section 41-3216, Idaho Code; and

(b) Operating for one (1) or more social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic or religious purposes for the benefit of its members, which may also be extended to others. Such purposes may be carried out directly by the society, or indirectly through subsidiary corporations or affiliated organizations.

(2) Every society shall have the power to adopt laws and rules for the government of the society, the admission of its members and the management of its affairs. It shall have the power to change, alter, add to or amend such laws and rules and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

41-3206. QUALIFICATIONS FOR MEMBERSHIP. (1) A society shall specify in its laws or rules:

(a) Eligibility standards for each and every class of membership, provided that if benefits are provided on the lives of children, the minimum age for adult membership shall be set at not less than age fifteen (15) years and not greater than age twenty-one (21) years;

(b) The process for admission to membership for each membership class; and

(c) The rights and privileges of each membership class, provided that only benefit members shall have the right to vote on the management of the insurance affairs of the society.

(2) A society may also admit social members who shall have no voice or vote in the management of the insurance affairs of the society.

(3) Membership rights in the society are personal to the member and are not assignable.

41-3207. LOCATION OF OFFICE, MEETINGS, COMMUNICATIONS TO MEMBERS, GRIEVANCE PROCEDURES. (1) The principal office of any domestic society shall be located in this state. The meetings of its supreme governing body may be held in any state, district, province or territory wherein such society has at least one (1) subordinate lodge, or in such other location as determined by the supreme governing body, and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this state. The minutes of the proceedings of the supreme governing body and of the board of directors shall be in the English language.

(2) (a) A society may provide in its laws for an official publication in which any notice, report, or statement required by law to be given to members, including notice of election, may be pub-

lished. Such required reports, notices and statements shall be printed conspicuously in the publication. If the records of a society show that two (2) or more members have the same mailing address, an official publication mailed to one (1) member is deemed to be mailed to all members at the same address unless a member requests a separate copy.

(b) Not later than the first day of June of each year, a synopsis of the society's annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society or, in lieu thereof, such synopsis may be published in the society's official publication.

(3) A society may provide in its laws or rules for grievance or complaint procedures for members.

41-3208. NO PERSONAL LIABILITY. (1) The officers and members of the supreme governing body or any subordinate body of a society shall not be personally liable for any benefits provided by a society.

(2) Any person may be indemnified and reimbursed by any society for expenses reasonably incurred by, and liabilities imposed upon, such person in connection with or arising out of any action, suit or proceeding, whether civil, criminal, administrative or investigative, or threat thereof, in which the person may be involved by reason of the fact that the person is or was a director, officer, employee or agent of the society or of any firm, corporation or organization which he served in any capacity at the request of the society. A person shall not be so indemnified or reimbursed: (a) in relation to any matter in such action, suit or proceeding as to which he shall finally be adjudged to be or have been guilty of breach of a duty as a director, officer, employee or agent of the society; or (b) in relation to any matter in such action, suit or proceeding, or threat thereof, which has been made the subject of a compromise settlement; unless in either such case the person acted in good faith for a purpose the person reasonably believed to be in or not opposed to the best interests of the society and, in a criminal action or proceeding, in addition, had no reasonable cause to believe that his conduct was unlawful. The determination whether the conduct of such person met the standard required in order to justify indemnification and reimbursement in relation to any matter described in subpoints (a) or (b) of the preceding sentence may only be made by the supreme governing body or board of directors by a majority vote of a quorum consisting of persons who were not parties to such action, suit or proceeding or by a court of competent jurisdiction. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of no contest, as to such person shall not in itself create a conclusive presumption that the person did not meet the standard of conduct required in order to justify indemnification and reimbursement. The foregoing right of indemnification and reimbursement shall not be exclusive of other rights to which such person may be entitled as a matter of law and shall inure to the benefit of his heirs, executors and administrators.

(3) A society shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the society, or who is or was serving at the request of the

society as a director, officer, employee or agent of any other firm, corporation, or organization against any liability asserted against such person and incurred by him in any such capacity or arising out of his status as such, whether or not the society would have the power to indemnify the person against such liability under this section.

(4) No director, officer, employee, member or volunteer of a society serving without compensation, shall be liable, and no cause of action may be brought, for damages resulting from the exercise of judgment or discretion in connection with the duties or responsibilities of such person for the society unless such act or omission involved willful or wanton misconduct.

41-3209. WAIVER. The laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws of the society. Such provision shall be binding on the society and every member and beneficiary of a member.

41-3210. ORGANIZATION. A domestic society organized on or after the effective date of this act shall be formed as follows:

(1) Seven (7) or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may make, sign and acknowledge before some officer competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:

(a) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing;

(b) The purposes for which it is being formed and the mode in which its corporate powers are to be exercised. Such purposes shall not include more liberal powers than are granted in this chapter;

(c) The names and residences of the incorporators and the names, residences and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be elected by the supreme governing body, which election shall be held not later than one (1) year from the date of issuance of the permanent certificate of authority.

(2) Such articles of incorporation, duly certified copies of the society's bylaws and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within one (1) year shall be filed with the director, who may require such further information as the director deems necessary. The bond with sureties approved by the director shall be in such amount, not less than three hundred thousand dollars (\$300,000), nor more than one million five hundred thousand dollars (\$1,500,000), as required by the director. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the director shall

so certify, retain and file the articles of incorporation and shall furnish the incorporators a preliminary certificate of authority authorizing the society to solicit members as hereinafter provided.

(3) No preliminary certificate of authority granted under the provisions of this section shall be valid after one (1) year from its date or after such further period, not exceeding one (1) year, as may be authorized by the director upon cause shown, unless the five hundred (500) applicants hereinafter required have been secured and the organization has been completed as herein provided. The charter and all other proceedings thereunder shall become null and void in one (1) year from the date of the preliminary certificate of authority, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business as hereinafter provided.

(4) Upon receipt of a preliminary certificate of authority from the director, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one (1) regular monthly premium in accordance with its table of rates, and shall issue to each such applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of such advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any benefit to any person until:

(a) Actual bona fide applications for benefits have been secured on not less than five hundred (500) applicants, and any necessary evidence of insurability has been furnished to and approved by the society;

(b) At least ten (10) subordinate lodges have been established into which the five hundred (500) applicants have been admitted;

(c) There has been submitted to the director, under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and number of the subordinate lodge of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

(d) It shall have been shown to the director, by sworn statement of the treasurer, or corresponding officer of such society, that at least five hundred (500) applicants have each paid in cash at least one (1) regular monthly premium as herein provided, which premiums in the aggregate shall amount to at least one hundred fifty thousand dollars (\$150,000). Said advance premiums shall be held in trust during the period of organization and if the society has not qualified for a certificate of authority within one (1) year, as herein provided, such premiums shall be returned to said applicants.

(5) The director may make such examination and require such further information as the director deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, the director shall issue to the society a certificate of authority to that effect and that the society is authorized to transact business pursuant to the provisions of this chapter. The certificate of authority shall be prima facie evidence of the existence of the society at the date of such certificate. The director

shall cause a record of such certificate of authority to be made. A certified copy of such record may be given in evidence with like effect as the original certificate of authority.

(6) Any incorporated society authorized to transact business in this state at the time this act becomes effective shall not be required to reincorporate.

41-3211. AMENDMENTS TO LAWS. (1) A domestic society may amend its laws in accordance with the provisions thereof by action of its supreme governing body at any regular or special meeting thereof or, if its laws so provide, by referendum. Such referendum may be held in accordance with the provisions of its laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members or by the vote of local lodges. A society may provide for voting by mail. No amendment submitted for adoption by referendum shall be adopted unless, within six (6) months from the date of submission thereof, a majority of the members voting shall have signified their consent to such amendment by one (1) of the methods herein specified.

(2) No amendment to the laws of any domestic society shall take effect unless approved by the director who shall approve such amendment if the director finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this state or with the character, objects and purposes of the society. Unless the director shall disapprove any such amendment within sixty (60) days after the filing of same, such amendment shall be considered approved. The approval or disapproval of the director shall be forwarded in writing, and mailed to the secretary or corresponding officer of the society at its principal office. In case the director disapproves such amendment, the reasons therefor shall be stated in such written notice.

(3) Within ninety (90) days from the approval thereof by the director, all such amendments, or a synopsis thereof, shall be furnished to all members of the society either by mail or by publication in full in the official publication of the society. The affidavit of any officer of the society or of anyone authorized by it to mail any amendments or synopsis thereof, stating facts which show that same have been duly addressed and mailed, shall be prima facie evidence that such amendments or synopsis thereof, have been furnished the addressee.

(4) Every foreign or alien society authorized to do business in this state shall file with the director a duly certified copy of all amendments of, or additions to, its laws within ninety (90) days after the enactment of same.

(5) Printed copies of the laws as amended, certified by the secretary or corresponding officer of the society shall be prima facie evidence of the legal adoption thereof.

41-3212. INSTITUTIONS. (1) A society may create, maintain and operate, or may establish organizations to operate, not for profit institutions to further the purposes permitted in section 41-3205(1)(b), Idaho Code. Such institutions may furnish services free or at a reasonable charge. Any real or personal property owned, held or leased by the society for this purpose shall be reported in

every annual statement but shall not be allowed as an admitted asset of such society.

(2) No society shall own or operate funeral homes or undertaking establishments.

41-3213. REINSURANCE. (1) A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer (other than another fraternal benefit society) having the power to make such reinsurance and authorized to do business in this state, or if not so authorized, one which is approved by the director, but no such society may reinsure substantially all of its insurance in force without the written permission of the director. It may take credit for the reserves on such ceded risks to the extent reinsured, but no credit shall be allowed as an admitted asset or as a deduction from liability, to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming effective after the effective date of this act, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society.

(2) Notwithstanding the limitation in subsection (1) of this section, a society may reinsure the risks of another society in a consolidation or merger approved by the director under section 41-3214, Idaho Code.

41-3214. CONSOLIDATIONS AND MERGERS. (1) A domestic society may consolidate or merge with any other society by complying with the provisions of this section. It shall file with the director:

(a) A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger;

(b) A sworn statement by the president and secretary or corresponding officers of each society showing the financial condition thereof on a date fixed by the director, but not earlier than December 31 next preceding the date of the contract;

(c) A certificate of such officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds (2/3) vote of the supreme governing body of each society, such vote being conducted at a regular or special meeting of each such body, or, if the society's laws so permit, by mail; and

(d) Evidence that at least sixty (60) days prior to the action of the supreme governing body of each society, the text of the contract has been furnished to all members of each society either by mail or by publication in full in the official publication of each society.

(2) If the director finds that the contract is in conformity with the provisions of this section, that the financial statements are correct, and that the consolidation or merger is just and equitable to the members of each society, the director shall approve the contract and issue his certificate to such effect. Upon such approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other state or territory. In such event the consolidation or merger shall

not become effective unless and until it has been approved as provided by the laws of such state or territory and a certificate of such approval filed with the director of this state, or, if the laws of such state or territory contain no such provision, then the consolidation or merger shall not become effective unless and until it has been approved by the director of insurance of such state or territory and a certificate of such approval filed with the director.

(3) Upon the consolidation or merger becoming effective as herein provided, all the rights, franchises and interests of the consolidated or merged societies in and to every species of property, real, personal or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument, except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this state in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the society resulting from or remaining after such consolidation or merger.

(4) The affidavit of any officer of the society or of anyone authorized by it to mail any notice or document, stating that such notice or document has been duly addressed and mailed, shall be prima facie evidence that such notice or document has been furnished the addressees.

41-3215. CONVERSION OF FRATERNAL BENEFIT SOCIETY INTO A MUTUAL LIFE INSURANCE COMPANY. Any domestic fraternal benefit society may be converted and licensed as a mutual life insurance company by compliance with all the applicable requirements of section 41-2820, Idaho Code (initial requirements -- domestic mutuals). A plan of conversion shall be prepared in writing by the board of directors setting forth in full the terms and conditions of conversion. The affirmative vote of two-thirds (2/3) of all members of the supreme governing body at a regular or special meeting shall be necessary for the approval of such plan. No such conversion shall take effect unless and until approved by the director who may give such approval if the director finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

41-3216. BENEFITS. (1) A society may provide the following contractual benefits in any form:

- (a) Death benefits;
- (b) Endowment benefits;
- (c) Annuity benefits;
- (d) Temporary or permanent disability benefits;
- (e) Hospital, medical or nursing benefits; and
- (f) Monument or tombstone benefits to the memory of deceased members; and
- (g) Such other benefits as authorized for life insurers and which are not inconsistent with this chapter.

(2) A society shall specify in its rules those persons who may be issued, or covered by, the contractual benefits in subsection (1) of this section, consistent with providing benefits to members and their

dependents. A society may provide benefits on the lives of children under the minimum age for adult membership upon application of an adult person.

41-3217. **BENEFICIARIES.** (1) The owner of a benefit contract shall have the right at all times to change the beneficiary or beneficiaries in accordance with the laws or rules of the society unless the owner waives this right by specifically requesting in writing that the beneficiary designation be irrevocable. A society may, through its laws or rules, limit the scope of beneficiary designations and shall provide that no revocable beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the benefit contract.

(2) A society may make provision for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, provided the portion so paid shall not exceed the sum of five hundred dollars (\$500).

(3) If, at the death of any person insured under a benefit contract, there is no lawful beneficiary to whom the proceeds shall be payable, the amount of such benefit, except to the extent that funeral benefits may be paid as hereinbefore provided, shall be payable to the personal representative of the deceased insured, provided that if the owner of the certificate is other than the insured, such proceeds shall be payable to such owner.

41-3218. **BENEFITS NOT ATTACHABLE.** No money or other benefit, charity, relief or aid to be paid, provided or rendered by any society, shall be liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society.

41-3219. **THE BENEFIT CONTRACT.** (1) Every society authorized to do business in this state shall issue to each owner of a benefit contract a certificate specifying the amount of benefits provided thereby. The certificate, together with any riders or endorsements attached thereto, the laws of the society, the application for membership, the application for insurance and declaration of insurability, if any, signed by the applicant, and all amendments to each thereof, shall constitute the benefit contract, as of the date of issuance, between the society and the owner, and the certificate shall so state. A copy of the application for insurance and declaration of insurability, if any, shall be endorsed upon or attached to the certificate. All statements on the application shall be representations and not warranties. Any waiver of this provision shall be void.

(2) Any changes, additions or amendments to the laws of the society duly made or enacted subsequent to the issuance of the certificate, shall bind the owner and the beneficiaries, and shall govern and control the benefit contract in all respects the same as though such

changes, additions or amendments had been made prior to and were in force at the time of the application for insurance, except that no change, addition or amendment shall destroy or diminish benefits which the society contracted to give the owner as of the date of issuance.

(3) Any person upon whose life a benefit contract is issued prior to attaining the age of majority shall be bound by the terms of the application and certificate and by all the laws and rules of the society to the same extent as though the age of majority had been attained at the time of application.

(4) A society shall provide in its laws that if its reserves as to all or any class of certificates become impaired its board of directors or corresponding body may require that there shall be paid by the owner to the society the amount of the owner's equitable proportion of such deficiency as ascertained by its board, and that if the payment is not made either: (a) it shall stand as an indebtedness against the certificate and draw interest not to exceed the rate specified for certificate loans under the certificates; or (b) in lieu of or in combination with (a), the owner may accept a proportionate reduction in benefits under the certificate. The society may specify the manner of the election and which alternative is to be presumed if no election is made.

(5) Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions thereof.

(6) No certificate shall be delivered or issued for delivery in this state unless a copy of the form has been filed with the director in the manner provided for like policies issued by life and disability insurers in this state. Every life, accident and sickness, health or disability insurance certificate and every annuity certificate issued on or after one (1) year from the effective date of this act must be filed with the director and shall meet the standard contract provision requirements not inconsistent with this chapter for like policies issued by life and disability insurers in this state, except that a society may provide for a grace period for payment of premiums of one (1) full month in its certificates. The certificate shall also contain a provision stating the amount of premiums which are payable under the certificate and a provision reciting or setting forth the substance of any sections of the society's laws or rules in force at the time of issuance of the certificate which, if violated, will result in the termination or reduction of benefits payable under the certificate. If the laws of the society provide for expulsion or suspension of a member, the certificate shall also contain a provision that any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentation in the application for membership or insurance, shall have the privilege of maintaining the certificate in force by continuing payment of the required premium. Any filing made hereunder shall be deemed approved unless disapproved within sixty (60) days from the date of such filing.

(7) Benefit contracts issued on the lives of persons below the society's minimum age for adult membership may provide for transfer of control of ownership to the insured at an age specified in the certificate. A society may require approval of an application for membership in order to effect this transfer, and may provide in all other

respects for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith. Ownership rights prior to such transfer shall be specified in the certificate.

(8) A society may specify the terms and conditions on which benefit contracts may be assigned.

41-3220. NONFORFEITURE BENEFITS, CASH SURRENDER VALUES, CERTIFICATE LOANS AND OTHER OPTIONS. (1) For certificates issued prior to one (1) year after the effective date of this act, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall comply with the provisions of law applicable immediately prior to the effective date of this act.

(2) For certificates issued on or after one (1) year from the effective date of this act for which reserves are computed on the commissioner's 1941 standard ordinary mortality table, the commissioner's 1941 standard industrial table or the commissioner's 1958 standard ordinary mortality table, or the commissioner's 1980 standard mortality table, or any more recent table made applicable to life insurers, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the corresponding amount ascertained in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits based upon such tables.

41-3221. INVESTMENTS. A society shall invest its funds only in such investments as are authorized by the laws of this state for the investment of assets of life insurers and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state, district, territory, country or province in which it is incorporated, shall be held to meet the requirements of this section for the investment of funds.

41-3222. FUNDS. (1) All assets shall be held, invested and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment on the surrender of any part thereof, except as provided in the benefit contract.

(2) A society may create, maintain, invest, disburse and apply any special fund or funds necessary to carry out any purpose permitted by the laws of such society.

(3) A society may, pursuant to resolution of its supreme governing body, establish and operate one (1) or more separate accounts and issue contracts on a variable basis, subject to the provisions of law regulating life insurers establishing such accounts and issuing such contracts. To the extent the society deems it necessary in order to comply with any applicable federal or state laws, or any rules issued thereunder, the society may adopt special procedures for the conduct of the business and affairs of a separate account, may, for persons having beneficial interests therein, provide special voting and other rights, including, without limitation, special rights and procedures relating to investment policy, investment advisory ser-

vices, selection of certified public accountants, and selection of a committee to manage the business and affairs of the account, and may issue contracts on a variable basis to which subsections (2) and (4) of section 41-3219, Idaho Code, shall not apply.

41-3223. TAXATION. Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal and school tax other than taxes on real estate and office equipment.

41-3224. VALUATION. (1) Standards of valuation for certificates issued prior to one (1) year after the effective date of this act shall be those provided by the laws applicable immediately prior to the effective date of this act.

(2) The minimum standards of valuation for certificates issued on or after one (1) year from the effective date of this act shall be based on the following tables:

(a) For certificates of life insurance -- the commissioner's 1941 standard ordinary mortality table, the commissioner's 1941 standard industrial mortality table, the commissioner's 1958 standard ordinary mortality table, the commissioner's 1980 standard ordinary mortality table or any more recent table made applicable to life insurers;

(b) For annuity and pure endowment certificates, for total and permanent disability benefits, for accidental death benefits and for noncancellable accident and health benefits -- such tables as are authorized for use by life insurers in this state.

All of the above shall be under valuation methods and standards (including interest assumptions) in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits.

(3) The director may, in his discretion, accept other standards for valuation if the director finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard herein prescribed. The director may, in his or her discretion, vary the standards of mortality applicable to all benefit contracts on substandard lives or other extra hazardous lives by any society authorized to do business in this state.

(4) Any society, with the consent of the director of insurance of the state of domicile of the society and under such conditions, if any, which the director may impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any benefit member shall not be affected thereby.

41-3225. REPORTS. Reports shall be filed in accordance with the provisions of this section.

(1) Every society transacting business in this state shall annually, on or before the first day of March, unless for cause shown such time has been extended by the director, file with the director a true statement of its financial condition, transactions and affairs for the

preceding calendar year and pay the fee specified in section 41-3235, Idaho Code, for filing same. The statement shall be in general form and context as approved by the national association of insurance commissioners for fraternal benefit societies and as supplemented by additional information required by the director.

(2) As part of the annual statement herein required, each society shall, on or before the first day of March, file with the director a valuation of its certificates in force on December 31 last preceding, provided the director may, in his discretion for cause shown, extend the time for filing such valuation for not more than two (2) calendar months. Such valuation shall be done in accordance with the standards specified in section 41-3224, Idaho Code. Such valuation and underlying data shall be certified by a qualified actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

(3) A society neglecting to file the annual statement in the form and within the time provided by this section may be subject to a fine of one hundred dollars (\$100) for each day during which such neglect continues, and its authority to do business in this state may be suspended by the director while such default continues.

41-3226. LICENSE. (1) No fraternal benefit society shall transact business in this state without a license therefor issued by the director. Such a license issued under this code shall continue in force for as long as the society is entitled thereto under this chapter and until suspended or revoked by the director, or terminated at the request of the society; subject, however, to continuance of the license by the society each year by:

(a) Payment prior to March 1 of the continuation fee provided in section 41-3235, Idaho Code, (fees); and

(b) Due filing by the society of its annual statement for the calendar year preceding as required under section 41-3225, Idaho Code.

(2) If not so continued by the society, its license shall expire at midnight on the March 31 next following such failure of the society to continue it in force. The director shall promptly notify the society of the occurrence of any failure resulting in impending expiration of its license.

(3) The director may, in his discretion, upon the society's request made within three (3) months after expiration, reinstate a license which the society has inadvertently permitted to expire, after the society had fully cured all its failures which resulted in the expiration, and upon payment by the society of an additional fee for reinstatement specified in section 41-3235, Idaho Code (fees). Otherwise the society shall be granted another license only after filing application therefor and meeting all other requirements as for an original license.

(4) For each license the society shall pay the director the fee prescribed in section 41-3235, Idaho Code.

(5) A duly certified copy or duplicate of the license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

41-3227. EXAMINATION OF SOCIETIES -- NO ADVERSE PUBLICATIONS. (1) The director, or any person he may appoint, may examine any domestic, foreign or alien society transacting or applying for admission to transact business in this state in the same manner as authorized for examination of domestic, foreign or alien insurers. Requirements of notice and an opportunity to respond before findings are made public as provided in the laws regulating insurers shall also be applicable to the examination of societies.

(2) The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued, upon statements furnished by the director.

41-3228. FOREIGN OR ALIEN SOCIETY -- ADMISSION. No foreign or alien society shall transact business in this state without a license issued by the director. Any such society desiring admission to this state shall comply substantially with the requirements and limitations of this chapter applicable to domestic societies. Any such society may be licensed to transact business in this state upon filing with the director:

(1) A duly certified copy of its chapters of incorporation;

(2) A copy of its bylaws, certified by its secretary or corresponding officer;

(3) A power of attorney to the director as prescribed in section 41-3234, Idaho Code;

(4) A statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the director, duly verified by an examination made by the supervising insurance official of its home state or other state, territory, province or country, satisfactory to the director;

(5) Certification from the proper official of its home state, territory, province or country that the society is legally incorporated and licensed to transact business therein;

(6) Copies of its certificate forms; and

(7) Such other information as the director may deem necessary; and upon a showing that its assets are invested in accordance with the provisions of this chapter.

41-3229. INJUNCTION -- LIQUIDATION -- RECEIVERSHIP OF DOMESTIC SOCIETY. (1) When the director upon investigation finds that a domestic society:

(a) Has exceeded its powers;

(b) Has failed to comply with any provision of this chapter;

(c) Is not fulfilling its contracts in good faith;

(d) Has a membership of less than four hundred (400) after an existence of one (1) year or more; or

(e) Is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business;

the director shall notify the society of such deficiency or deficiencies and state in writing the reasons for his dissatisfaction. The director shall at once issue a written notice to the society requiring that the deficiency or deficiencies which exist are corrected. After such notice the society shall have a thirty (30) day period in which

to comply with the director's request for correction, and if the society fails to comply the director shall notify the society of such findings of noncompliance and require the society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of shall have been corrected, or why an action in quo warranto should not be commenced against the society.

(2) If on such date the society does not present good and sufficient reasons why it should not be so enjoined or why such action should not be commenced, the director may commence an action to enjoin the society from transacting business or in quo warranto.

(3) The court shall thereupon notify the officers of the society of a hearing. If after a full hearing it appears that the society should be so enjoined or liquidated or a receiver appointed, the court shall enter the necessary order. No society so enjoined shall have the authority to do business until:

(a) The director finds that the violation complained of has been corrected;

(b) The costs of such action shall have been paid by the society if the court finds that the society was in default as charged;

(c) The court has dissolved its injunction; and

(d) The director has reinstated the certificate of authority.

(4) If the court orders the society liquidated, it shall be enjoined from carrying on any further business, whereupon the receiver of the society shall proceed at once to take possession of the books, papers, money and other assets of the society and, under the direction of the court, proceed forthwith to close the affairs of the society and to distribute its funds to those entitled thereto.

(5) No action under this section shall be recognized in any court of this state unless brought by the director. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the director of insurance as such receiver.

(6) The provisions of this section relating to hearing by the director, hearing by the court, injunction and receivership shall be applicable to a society which shall voluntarily determine to discontinue business.

41-3230. SUSPENSION, REVOCATION OR REFUSAL OF LICENSE OF FOREIGN OR ALIEN SOCIETY. (1) When the director upon investigation finds that a foreign or alien society transacting or applying to transact business in this state:

(a) Has exceeded its powers;

(b) Has failed to comply with any of the provisions of this chapter;

(c) Is not fulfilling its contracts in good faith; or

(d) Is conducting its business fraudulently or in a manner hazardous to its members or creditors or the public;

the director shall notify the society of such deficiency or deficiencies and state in writing the reasons for his dissatisfaction. The director shall at once issue a written notice to the society requiring that the deficiency or deficiencies which exist are corrected. After such notice the society shall have a thirty (30) day period in which to comply with the director's request for correction, and if the society fails to comply, the director shall notify the society of such

findings of noncompliance and require the society to show cause on a date named why its license should not be suspended, revoked or refused. If on such date the society does not present good and sufficient reason why its authority to do business in this state should not be suspended, revoked or refused, the director may suspend or refuse the license of the society to do business in this state until satisfactory evidence is furnished to the director that such suspension or refusal should be withdrawn or the director may revoke the authority of the society to do business in this state.

(2) Nothing contained in this section shall be taken or construed as preventing any such society from continuing in good faith all contracts made in this state during the time such society was legally authorized to transact business herein.

41-3231. INJUNCTION. No application or petition for injunction against any domestic, foreign or alien society, or lodge thereof, shall be recognized in any court of this state unless made by the attorney general upon request of the director.

41-3232. LICENSING OF AGENTS. Agents of societies shall be licensed in accordance with the provisions of chapter 10, title 41, Idaho Code. Except, that no such license shall be required as to members of societies which provide benefits in case of death or disability resulting solely from accident, and which do not obligate themselves to pay natural death or sick benefits, which members procure other members and receive no compensation therefor other than awards or merchandise nominal in value.

41-3233. UNFAIR METHODS OF COMPETITION AND UNFAIR AND DECEPTIVE ACTS AND PRACTICES. Every society authorized to do business in this state shall be subject to the provisions of chapter 13, title 41, Idaho Code, relating to trade practices and frauds; provided however, that nothing therein shall be construed as applying to or affecting the right of any society to determine its eligibility requirements for membership, or be construed as applying to or affecting the offering of benefits exclusively to members or persons eligible for membership in the society by a subsidiary corporation or affiliated organization of the society.

41-3234. SERVICE OF PROCESS. (1) Every society authorized to do business in this state shall appoint in writing the director and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in such writing that any lawful process against it which is served on such attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by the director, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.

(2) Service shall only be made upon the director, or if absent, upon the person in charge of his office. It shall be made in duplicate

and shall constitute sufficient service upon the society. When legal process against a society is served upon the director, he shall forthwith forward one (1) of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. No such service shall require a society to file its answer, pleading or defense in less than thirty (30) days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner herein provided.

(3) At the time of serving any process upon the director, the plaintiff or complainant in the action shall pay to the director the fee prescribed in section 41-3235, Idaho Code.

41-3235. FEES. (1) The director shall collect in advance from fraternal benefit societies the licenses and fees, in addition to fees connected with the licenses of agents, as otherwise provided by rule.

(2) The director shall transmit and report all fees so collected by him as provided in section 41-406, Idaho Code.

41-3236. PENALTIES. (1) A person who shall knowingly or willfully make any false or fraudulent statement or representation in or relating to any application for membership or for the purpose of obtaining money from or a benefit in any society, shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or imprisoned in the county jail not less than thirty (30) days nor more than one (1) year, or both.

(2) Any person who willfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized in this chapter, or of any material fact or thing contained in a sworn statement concerning the death or disability of an insured for the purpose of procuring payment of a benefit named in the certificate, shall be guilty of perjury and shall be subject to the penalties therefor prescribed by law.

(3) Any person who solicits membership for, or in any manner assists in procuring membership in, any society not licensed to do business in this state shall upon conviction, be subject to the penalties prescribed in section 41-117A, Idaho Code.

(4) Any person guilty of a willful violation of, or neglect or refusal to comply with, the provisions of this chapter for which a penalty is not otherwise prescribed, shall upon conviction, be subject to the penalty prescribed in section 41-117, Idaho Code.

41-3237. EXEMPTION OF CERTAIN SOCIETIES. (1) Nothing contained in this chapter shall be so construed as to affect or apply to:

(a) Grand or subordinate lodges of societies, orders or associations now doing business in this state which provide benefits exclusively through local or subordinate lodges;

(b) Orders, societies or associations which admit to membership only persons engaged in one (1) or more crafts or hazardous occupations, in the same or similar lines of business; and the ladies societies or ladies auxiliaries to such orders, societies or associations;

(c) Domestic societies which limit their membership to employees

of a particular city, designated firm, business house or corporation which provide for a death benefit of not more than four hundred dollars (\$400) or disability benefits of not more than three hundred fifty dollars (\$350) to any person in any one (1) year, or both;

(d) Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than four hundred dollars (\$400) or for disability benefits of not more than three hundred fifty dollars (\$350) to any one (1) person in any one (1) year, or both.

(2) Any such society or association described in subparagraphs (1)(c) and (1)(d) of this section which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in subparagraph (1)(d) of this section which has more than one thousand (1,000) members, shall not be exempted from the provisions of this chapter but shall comply with all requirements thereof.

(3) No society which, by the provisions of this section, is exempt from the requirements of this chapter, except any society described in subparagraph (1)(b) of this section, shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

(4) Every fraternal benefit society heretofore organized and incorporated and which provides exclusively for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits shall have all of the privileges and be subject to all the applicable provisions of this chapter except that the privileges thereof relating to medical examination, valuations of benefit certificates, and incontestability shall not apply to such society.

(5) The director may require from any society or association, by examination or otherwise, such information as will enable the director to determine whether such society or association is exempt from the provisions of this chapter.

(6) Societies exempted under the provisions of this section shall also be exempt from all other provisions of the insurance laws of this state.

41-3238. REVIEW. All decisions and findings of the director made under the provisions of this chapter shall be subject to review by proper proceedings in any court of competent jurisdiction in this state.

41-3239. OTHER PROVISIONS APPLICABLE. (1) Except as herein provided, societies shall be governed by this chapter and shall be exempt from all other provisions of the insurance laws of this state, not only in governmental relations with this state, but for every other purpose, and no law hereafter enacted shall apply to them, unless expressly designated therein.

(2) The following chapters and provisions of this code shall also apply to fraternal benefit societies (who for the purpose shall be deemed also to be "insurers") to the extent so applicable and not inconsistent with the express provisions of this chapter and the rea-

sonable implications of such express provisions:

- (a) Chapter 1 (scope of code);
- (b) Chapter 2 (the director of insurance);
- (c) Section 41-308(2) (general eligibility for certificate of authority), and for the purpose the annual license of a fraternal benefit society is deemed to be its "certificate of authority";
- (d) Sections 41-1201 (representing or aiding unauthorized insurer prohibited), 41-1202 (penalty), and 41-1203 (suits by unauthorized insurer prohibited);
- (e) The following sections of chapter 18 (the insurance contract):
 - (i) Section 41-1828 (payment discharges insurer -- payment to marital community);
 - (ii) Section 41-1829 (minor may give acquittance);
 - (iii) Section 41-1830 (life policy as separate property of married woman);
 - (iv) Section 41-1838 (venue of suits against insurers);
 - (v) Section 41-1839 (allowance of attorney fees in suits against insurers);
- (f) Section 41-1934 (prohibited policy plans);
- (g) Section 41-2837 (prohibited pecuniary interest of officials);
- (h) Chapter 33 (rehabilitation and liquidation);
- (i) Section 41-332 (foreign insurers exempt from corporation laws governing admission of foreign corporations);
- (j) Section 41-2141 (coordination with social security benefits);
- (k) Section 41-1927A (standard nonforfeiture law for individual deferred annuities); and
- (l) Chapter 46 (long-term care insurance).

SECTION 3. This act shall be in full force and effect on and after January 1, 1996.

Approved March 17, 1995.

CHAPTER 214
(H.B. No. 312)

AN ACT

RELATING TO TRUSTS FOR MINORS AND INCOMPETENT PERSONS; AMENDING TITLE 68, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE 68, IDAHO CODE, TO PROVIDE FOR COURT ORDERED PAYMENT AND COURT CONTROL OF MONEY OR PROPERTY PAID TO OR AWARDED TO A MINOR OR INCOMPETENT PERSON, TO LIMIT THE APPLICATION OF THE CHAPTER, TO PROVIDE FOR COURT ORDERS DIRECTING PAYMENT OF EXPENSES, COSTS AND FEES, TO PROVIDE FOR TREATMENT OF THE BALANCE OF MONEY OR PROPERTY REMAINING AFTER PAYMENT OF EXPENSES, COSTS AND FEES, DEFINING INCOMPETENT PERSON AND TO PROVIDE FOR THE CREATION OF SPECIAL NEEDS TRUSTS WHEN CERTAIN CONDITIONS ARE SATISFIED; AMENDING SECTION 15-5-409, IDAHO CODE, TO PROVIDE FOR THE CREATION OF A SPECIAL NEEDS TRUST; AMENDING SECTION 15-5-409a, IDAHO CODE, TO PROVIDE FOR COURT APPROVAL OF A COMPROMISE OF A DISPUTED CLAIM OF A MINOR;

AND AMENDING SECTION 56-214, IDAHO CODE, TO PROVIDE THAT MONEY OR PROPERTY HELD IN OR TRANSFERRED TO A SPECIAL NEEDS TRUST SHALL NOT BE CONSIDERED BY THE STATE DEPARTMENT OF HEALTH AND WELFARE IN DETERMINING WHETHER THE APPLICANT IS ELIGIBLE FOR PUBLIC ASSISTANCE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Title 68, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 14, Title 68, Idaho Code, and to read as follows:

CHAPTER 14

COURT APPROVED PAYMENTS OR AWARDS TO MINORS OR INCOMPETENT PERSONS

68-1401. APPLICATION. The provisions of this chapter apply when:

(1) A court approves a compromise of a judgment on a disputed claim of a minor or incompetent person, the execution of a release of a claim or covenant not to enforce a judgment on a claim of a minor or incompetent person, a compromise of a pending action or proceeding to which a minor or incompetent person is a party, or when a court awards judgment for a minor or incompetent person; and

(2) The compromise, release, covenant or judgment provides for the payment or delivery of money or property for the benefit of the minor or incompetent person.

68-1402. ORDER DIRECTING PAYMENT OF EXPENSES, COSTS AND FEES. (1) As part of the order approving a compromise, release, covenant or judgment pursuant to this chapter, the court shall also order that the reasonable and necessary expenses of the minor or incompetent person including, but not limited to, medical expenses, reimbursement to a parent, guardian, or conservator, and attorney's fees and costs approved by the court, shall be paid from the money or property to be paid or delivered for the benefit of the minor or incompetent person.

(2) The order for payment of expenses may be directed to the following:

(a) A parent or guardian of a minor or incompetent person or a guardianship or conservatorship of the estate of a minor or incompetent person; or

(b) The payor of money or property pursuant to the compromise, covenant, or judgment for the benefit of the minor or incompetent person.

68-1403. DISPOSITION OF BALANCE. (1) If there is no guardianship or conservatorship of the estate of the minor or incompetent person, the balance of the money or property, after payment of all expenses approved by the court pursuant to this chapter, shall be paid, delivered or deposited in the manner the court determines in its discretion is in the best interest of the minor or incompetent person, including the creation of a special needs trust.

(2) Except as provided in this section, if there is a guardianship or conservatorship of the estate of the minor or incompetent person, the balance of the money or property remaining after payment of

expenses approved by the court pursuant to this chapter shall be paid or delivered to the guardian or conservator of the estate.

(3) Upon an ex parte petition filed by the guardian, conservator or any person interested in the guardianship or conservatorship estate, the court making an order or awarding judgment pursuant to this chapter may for good cause shown, order either or both of the following:

(a) That, after payment of expenses, all or part of the balance of money or property shall not become part of the guardianship or conservatorship estate and instead shall be deposited in an insured account in a financial institution in Idaho, or in a single premium deferred annuity, subject to withdrawal only when authorized by the court.

(b) If there exists a guardianship of the estate of the minor, the court may order that, after payment of expenses, all or part of the balance of money or property not become part of the guardianship estate and instead be transferred to a custodian for the benefit of the minor under the Idaho uniform transfers to minors act, chapter 8, title 68, Idaho Code.

(4) Upon a petition by the guardian, conservator, or any person interested in the guardianship or conservatorship estate, the court making an order or awarding judgment pursuant to this chapter may order that, after payment of expenses, all or part of the balance of money or property not become part of the guardianship or conservatorship estate and instead be paid to a special needs trust.

(5) Notice of the time and place of hearing on a petition filed pursuant to this section, and a copy of the petition, shall be mailed to the director of the Idaho department of health and welfare at least fifteen (15) days before the hearing.

68-1404. INCOMPETENT PERSONS. References in this chapter to "incompetent person," shall be deemed to include persons for whom a conservator may be appointed pursuant to section 15-5-401, Idaho Code.

68-1405. SPECIAL NEEDS TRUSTS -- REQUIREMENTS -- JURISDICTION OF COURT -- COURT ORDERS. (1) If a court orders that money of a minor or incompetent person be paid to a special needs trust, the terms of the trust shall be reviewed and approved by the court and shall satisfy the requirements of this section. The trust shall be subject to the continuing jurisdiction of the court, and is subject to court supervision to the extent determined by the court. The court may transfer jurisdiction to the court in the county where the minor or incompetent person resides.

(2) A special needs trust may be established and continued under this section only if the court determines all of the following:

(a) That the minor or incompetent person has a disability that substantially impairs the individual's ability to provide for the individual's own care or custody and constitutes a substantial handicap;

(b) That the minor or incompetent person is likely to have special needs that will not be met without the trust; and

(c) That money to be paid to the trust does not exceed the amount that appears reasonably necessary to meet the special needs of the

minor or incompetent person.

(3) If at any time it appears that:

(a) Any of the requirements of this section are not satisfied or the trustee refuses without good cause to make payments from the trust for the special needs of the beneficiary; and

(b) That the Idaho department of health and welfare or a county or city in this state has a claim against trust property, then the Idaho department of health and welfare, the county or the city may petition the court for an order terminating the trust.

(4) A court order for payment of money or property to a special needs trust shall include a provision that all statutory liens properly perfected at the time of the court's order, and in favor of the Idaho department of health and welfare or any county or city of this state, shall be satisfied first.

SECTION 2. That Section 15-5-409, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-409. PROTECTIVE ARRANGEMENTS AND SINGLE TRANSACTIONS AUTHORIZED. (a) If it is established in a proper proceeding that a basis exists as described in section 15-5-401 of this Part for affecting the property and affairs of a person the court, without appointing a conservator, may authorize, direct or ratify any transaction necessary or desirable to achieve any security, service, or care arrangement meeting the foreseeable needs of the protected person. Protective arrangements include, but are not limited to, payment, delivery, deposit or retention of funds or property, sale, mortgage, lease or other transfer of property, entry into an annuity contract, a contract for life care, a deposit contract, a contract for training and education, or addition to or establishment of a suitable trust.

(b) When it has been established in a proper proceeding that a basis exists as described in section 15-5-401 of this Part for affecting the property and affairs of a person the court, without appointing a conservator, may authorize, direct or ratify any contract, trust or other transaction relating to the protected person's financial affairs or involving his estate if the court determines that the transaction is in the best interests of the protected person.

(c) Before approving a protective arrangement or other transaction under this section, the court shall consider the interests of creditors and dependents of the protected person and, in view of his disability, whether the protected person needs the continuing protection of a conservator. The court may appoint a special conservator to assist in the accomplishment of any protective arrangement or other transaction authorized under this section who shall have the authority conferred by the order and serve until discharged by order after report to the court of all matters done pursuant to the order of appointment.

(d) If it is established in a proper proceeding that a basis exists as described in section 15-5-401 of this Part for affecting property and affairs of a person, the court may in its discretion, without appointing a conservator, order the establishment or continuation of a special needs trust as provided in chapter 14, title 68, Idaho Code.

SECTION 3. That Section 15-5-409a, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-409a. COMPROMISE OF DISPUTED CLAIM OF MINOR -- PROCEDURE. When a minor shall have a disputed claim for money against a third person, the father or mother or both with whom the minor resides and who has the care and custody of such minor shall have the right to compromise such claim, but before the compromise shall be valid or of any effect the same shall be approved by the court of the county where the minor resides upon a verified petition in writing, regularly filed with said court. If the court approves such compromise he may direct the money paid to the father or mother of said minor subject to the provisions of section 15-5-103, Idaho Code, or he, or any other court of competent jurisdiction, may direct the money be paid subject to the provisions of an appropriate protective order which he, or any other court of competent jurisdiction, may issue, or he may require that the money be paid to a conservator appointed pursuant to chapter 5, part 4, of this code; or he may approve the compromise under the provisions of chapter 14, title 68, Idaho Code. No filing fee shall be charged for the filing of any petition for leave to compromise as provided herein.

SECTION 4. That Section 56-214, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

(c) there is a showing that the subsistence and medical care costs of such person, according to the department's assistance standard, subsequent to such assignment or transfer, equal or

exceed the market value of the property so assigned or transferred.

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

(3) Eligibility for medical assistance under section 56-209b, Idaho Code, shall continue to apply the regulations rules of the director of the department of health and welfare concerning transfer of property as such regulations rules read on October 29, 1988 to transfers that occur prior to July 1, 1989, to persons other than to the spouse of the person receiving or applying for medical assistance, and to interspousal transfers that occur prior to October 1, 1989.

(4) The provisions of section 1917(c) of the social security act as amended by public law 100-360 and further amended by public law 100-485 and as hereafter amended shall apply as of July 1, 1989, to transfers of assets other than to the spouse, and as of October 1, 1989, to transfers between spouses, except that such provisions shall not apply either to transfers that occurred before July 1, 1988, or to transfers that have been fully accounted for under subsection (3) of this section.

(5) Any funds, securities, accounts, contracts and all other property held in or transferred to a special needs trust as provided in chapter 14, title 68, Idaho Code, section 15-5-409, Idaho Code, and section 15-5-409a, Idaho Code, shall not be considered by the state department in determining whether the applicant is eligible for public assistance under the provisions of this act, so long as the action is permitted under the provisions of section 1917(c) and (d) of the social security act, as amended.

(6) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provisions or applications, and to this end the provisions of this section are severable.

Approved March 17, 1995.

CHAPTER 215
(H.B. No. 316)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-116, IDAHO CODE, TO CLARIFY THE USE OF SATURDAYS IN COMPUTING TIME; AMENDING SECTION 34-407, IDAHO CODE, TO REVISE REGISTRATION PROCEDURES; AMENDING SECTION 34-408A, IDAHO CODE, TO PROVIDE APPLICATION TO TITLE 34, SCHOOL DISTRICT AND MUNICIPAL ELECTIONS; AMENDING SECTION 34-410, IDAHO CODE, TO REVISE MAIL REGISTRATION PROCEDURES; REPEALING SECTION

34-410A, IDAHO CODE; AMENDING CHAPTER 4, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-410A, IDAHO CODE, TO PROVIDE FOR ABSENTEE REGISTRATION FOR UNIFORMED AND OVERSEAS CITIZENS; AMENDING SECTION 34-411, IDAHO CODE, TO REVISE THE CONTENTS OF APPLICATION FOR REGISTRATION; AMENDING SECTION 34-412, IDAHO CODE, TO REVISE QUALIFICATIONS FOR REGISTRATION; AMENDING SECTION 34-413, IDAHO CODE, TO PROVIDE THAT AN ELECTOR WHO MOVES TO ANOTHER COUNTY WITHIN THE STATE OR TO ANOTHER STATE WITHIN THIRTY DAYS PRIOR TO ANY ELECTION SHALL BE PERMITTED TO VOTE IN THE ENSUING ELECTION BY ABSENTEE BALLOT; REPEALING SECTIONS 34-414, 34-415, 34-421, AND 34-423, IDAHO CODE; AMENDING SECTION 34-435, IDAHO CODE, TO PROVIDE FOR CANCELLATION OF REGISTRATION OF AN ELECTOR WHO DID NOT VOTE AT ANY PRIMARY OR GENERAL ELECTION IN THE PAST FOUR YEARS; AMENDING SECTION 34-1002, IDAHO CODE, TO REVISE REQUIREMENTS FOR APPLICATION FOR ABSENTEE BALLOTS; AMENDING SECTION 34-1005, IDAHO CODE, TO PROVIDE FOR VERIFICATION OF THE AUTHENTICITY OF THE AFFIDAVIT; AMENDING SECTION 34-1008, IDAHO CODE, TO REVISE PROCEDURES FOR DEPOSIT OF ABSENTEE BALLOTS; AMENDING SECTION 34-1202, IDAHO CODE, TO PROVIDE FOR COMPARISON OF POLL LISTS AND BALLOTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-116, Idaho Code, be, and the same is hereby amended to read as follows:

34-116. CALENDAR DAYS USED IN COMPUTATION OF TIME. Calendar days shall be used in all computations of time made under the provisions 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, Saturdays and legal holidays shall be included, but if the time for any act to be done shall fall on Sunday, Saturday or a legal holiday, such act shall be done upon the day following such Sunday, Saturday or legal holiday.

SECTION 2. That Section 34-407, Idaho Code, be, and the same is hereby amended to read as follows:

34-407. PROCEDURE FOR REGISTRATION. (1) Any county clerk or official registrar shall register without charge any elector who personally appears in the office of the county clerk or before the official registrar, as the case may be, and requests to be registered.

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

~~(3) At any place where examinations for drivers' licenses are issued, the county sheriff and deputies shall make voter registration materials available to any person who is a resident of the county, who is at least eighteen (18) years of age and who personally appears for a state identification card or for a driver's license issuance;~~

~~renewal or correction. The materials shall briefly explain the opportunity to register to vote and the location of the county clerk's office.~~

~~(4) In counties where driver's license issuance is done in a building different from or not adjacent to the building where voter registration is done, a voter registration card prescribed by the county clerk shall be made available by the county sheriff and his deputies. In such case, the completed card may be left at the office of the sheriff to be recovered by the county clerk, who shall register such person, if qualified.~~

~~(5) Compliance with the registration application procedure established in this section shall satisfy the attestation requirements of this chapter.~~

~~(6) The willful making of any false statement which is required by the provisions of this chapter for voter registration is perjury and is punishable as such.~~

SECTION 3. That Section 34-408A, Idaho Code, be, and the same is hereby amended 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 registered 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 conducted under title 34, Idaho Code, and to school district and municipal elections. In those political subdivisions that do not vote by precinct a voter who is registered in the political subdivision may vouch for an election day registrant as provided in subsection (4) of this section.~~

An individual who is eligible to vote may also register, upon providing proof of residence, at the "absent electors' polling place" provided in section 34-1006, Idaho Code.

SECTION 4. That Section 34-410, Idaho Code, be, and the same is hereby amended 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 such form is postmarked not later than twenty-five (25) days prior to the--close of registration an election.

The county clerk shall prepare and issue by first class nonforwardable mail to each elector registering by mail a verification of registration containing the name and residence of the elector and the name or number of the precinct in which the elector resides.

A verification returned undeliverable shall cause the county clerk to remove the elector's card from the register of electors.

SECTION 5. That Section 34-410A, Idaho Code, be, and the same is hereby repealed.

SECTION 6. 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 34-410A, Idaho Code, and to read as follows:

34-410A. ABSENTEE REGISTRATION FOR UNIFORMED AND OVERSEAS CITIZENS. Whenever provision is made for absentee voting by a statute of the United States, including the "Uniformed and Overseas Citizens Absentee Voting Act" (42 U.S.C. 1973 ff.), an application for an absentee ballot made under that law may be given the same effect as an application for an absentee ballot made under chapter 10, title 34, Idaho Code.

SECTION 7. That Section 34-411, Idaho Code, be, and the same is hereby amended to read as follows:

34-411. APPLICATION FOR REGISTRATION -- CONTENTS. (1) Each elector who requests registration shall supply the following information under oath or affirmation:

- (a) His full name and sex.
- (b) His mailing address, his residence address or any other necessary information definitely locating his residence.
- (c) The period of time preceding the date of registration during which he has resided in the state.

(d) Whether or not he is a citizen.

(e) That he is under no legal disqualifications to vote.

(f) The county and state where he was previously registered, if any.

(g) Date of birth.

(1) Any elector who shall supply any information under subsection (1) of this section, knowing it to be false, is guilty of perjury.

(3) Each elector who requests registration may, at the elector's option, supply the following information:

(a) ~~Rate of birth;~~

(b) Social security number; and

(c) Home telephone number. If the home telephone number is supplied by the elector, the home telephone number shall be available to the public.

SECTION 8. That Section 34-412, Idaho Code, be, and the same is hereby amended to read as follows:

34-412. QUALIFICATIONS FOR REGISTRATION. (1) The qualifications of any person who requests to be registered shall be determined in the first instance by the registering official from the evidence before him. ~~The registering official shall require proof of residence by requesting the following:~~

~~(a) Any document which will definitely locate a person's residence within the precinct.~~

If the registering official determines that such person is not qualified, he shall refuse to register the person.

(2) A person refused registration under subsection (1) of this section may make application to the county clerk for a hearing on his qualifications. Not more than ten (10) days after the date he receives such application, the county clerk shall hold a hearing on the qualifications of the applicant and shall notify the applicant of the place and time of such hearing. At such hearing the applicant may present evidence as to his qualifications, provided that no hearing shall be held subsequent to any election which is held within said ten (10) day period. If the county clerk determines that the applicant is qualified, the county clerk shall register the applicant immediately upon the conclusion of the hearing.

SECTION 9. That Section 34-413, Idaho Code, be, and the same is hereby amended to read as follows:

34-413. REREGISTRATION OF ELECTOR WHO CHANGES RESIDENCE. ~~An elector who changes his residence shall reregister; provided that any elector who moves from one (1) precinct to another precinct within the same county, within ten (10) days prior to any election shall be permitted to vote in the ensuing election if he obtains a certificate of registration from the county clerk. Upon delivery of the certificate to the chief judge of election at the time he votes, the elector shall be permitted to vote the entire ballot or ballots issued to that precinct, in which he is currently a resident.~~ An elector who moves to another county within the state or to another state within thirty (30) days prior to any election shall be permitted to vote in the ensuing

election by absentee ballot.

SECTION 10. That Sections 34-414, 34-415, 34-421 and 34-423, Idaho Code, be, and the same are hereby repealed.

SECTION 11. That Section 34-435, Idaho Code, be, and the same is hereby amended to read as follows:

34-435. CANCELLATION OF REGISTRATIONS FOLLOWING ANY GENERAL ELECTION OF THOSE NOT VOTING FOR FOUR YEARS. Within one hundred and twenty (120) days following the date of the general election in 1978 and every general election thereafter, the county clerk shall examine the election register and the signed statements of challenge made at that election. After this examination, the county clerk shall immediately cancel the registration of any elector who did not vote at any primary or general election for--which-registration-is-required in the past four (4) years.

This section shall be construed as to provide for a uniform four (4) year registration period for all electors.

SECTION 12. 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 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA, 42 U.S.C. 1973 ff, et seq.). A properly executed federal 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 general 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 13. That Section 34-1005, Idaho Code, be, and the same is hereby amended to read as follows:

34-1005. RETURN OF ABSENTEE BALLOT. The return envelope shall be mailed or delivered to the officer who issued the same; provided, that an absentee ballot must be received by the issuing officer by 8 p.m. on the day of election before such ballot may be counted.

Upon receipt of an absent elector's ballot the county clerk of the county wherein such elector resides shall verify the authenticity of the affidavit and shall write or stamp upon the envelope containing the same, the date and hour such envelope was received in his office and, if the ballot was delivered in person, the name and address of the person delivering the same. He shall safely keep and preserve all absent electors' ballots unopened until the time prescribed for delivery to the judges in accordance with this act.

SECTION 14. That Section 34-1008, Idaho Code, be, and the same is hereby amended to read as follows:

34-1008. DEPOSIT OF ABSENTEE BALLOTS. Between the opening and closing of the polls on such election day the judges of election of such precinct shall open the carrier envelope only, announce the absent elector's name, ~~and compare the signature upon the return envelope with the elector's registration card,~~ and in the event they find such ~~signatures to correspond and the~~ applicant to be a duly registered elector of the precinct and that he has not heretofore voted at the election, they shall open the return envelope and remove the ballot envelopes and deposit the same 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 15. That Section 34-1202, Idaho Code, be, and the same is hereby amended to read as follows:

34-1202. COMPARISON OF ~~POLLISTS,~~ POLL LISTS AND BALLOTS AND REGISTRATION CARDS -- VOID BALLOTS. The counting must commence by comparison of the ~~marked registration cards~~ ballots 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~~ The ballot 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.

When duplicate ballot boxes are used in a precinct, the duties herein prescribed shall be done after all of the votes have been tallied.

SECTION 16. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after passage and approval.

Approved March 17, 1995.

CHAPTER 216
(H.B. No. 337)

AN ACT

RELATING TO GRAND THEFT; AMENDING SECTION 18-2408, IDAHO CODE, TO PROVIDE FOR PUNISHMENT OF A SERIES OF THEFTS OCCURRING AS A RESULT OF A COMMON SCHEME OR PLAN; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 18-2408, Idaho Code, be, and the same is hereby amended to read as follows:

18-2408. PUNISHMENT FOR THEFT. (1) Grand theft committed in a manner prescribed in subsection (1)(a) of section 18-2407, Idaho Code, is a felony punishable by fine not exceeding ten thousand dollars (\$10,000) or imprisonment in the state prison for not less than one (1) year nor more than twenty (20) years, or by both such fine and imprisonment.

(2) (a) Grand theft committed in a manner prescribed in subsection (1)(b)1. 2. 3. 4. 5. ~~or 6.~~ or 8. of section 18-2407, Idaho Code, is a felony punishable by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in the state prison for not less than one (1) year nor more than fourteen (14) years, or by both such fine and imprisonment.

(b) Grand theft committed in a manner prescribed in subsection (1)(b)7. of section 18-2407, Idaho Code, is a felony punishable by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), and the minimum fine shall not be suspended or withheld, or by imprisonment in the state prison for not less than one (1) year nor more than fourteen (14) years, or by both such fine and imprisonment. In addition, the court shall assess civil damages as provided in section 25-1910, Idaho Code.

(3) Petit theft is a misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding one (1) year or by both.

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 17, 1995.

CHAPTER 217
(H.B. No. 345)

AN ACT

RELATING TO PESTICIDE APPLICATORS; AMENDING CHAPTER 34, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-3417A, IDAHO CODE, TO PROVIDE LIMITATION ON LIABILITY FOR NOISE OF AERIAL APPLICATIONS OF PESTICIDES NEAR RATITE FARMS UNDER CONDITIONS SPECIFIED, WITH EXCEPTIONS; AND DECLARING AN EMERGENCY.

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 22-3417A, Idaho Code, and to read as follows:

22-3417A. LIABILITY LIMITED. There shall be no liability on the part of and no action for damages against any aerial pesticide applicator for the noise of application in the vicinity of a ratite farm if the applicator notifies the owner of the ratites not less than twenty-four (24) hours nor more than forty-eight (48) hours prior to the application. Provided however, that the applicator shall follow all federal aviation administration rules and regulations and all state statutes and rules regarding aerial applications. The provisions of this section shall not limit liability for harassment or willful violations of state or federal law or rules or regulations promulgated pursuant to those laws.

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 17, 1995.

CHAPTER 218
(H.B. No. 350)

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING SECTION 9-340, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE, TO PROVIDE PROPER NOMENCLATURE, AND TO PROVIDE FOR THE RELEASE OF JUVENILE RECORDS MAINTAINED UNDER THE JUVENILE CORRECTIONS ACT TO A SCHOOL DISTRICT WHERE THE

JUVENILE IS ENROLLED OR IS SEEKING ENROLLMENT.

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

SECTION 1. That Section 9-340, Idaho Code, be, and the same is hereby amended to read as follows:

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(2) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section 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, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are neces-

sary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(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, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(27) Records of a person maintained pursuant to chapter ~~185~~, title ~~1620~~, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the child juvenile. If the juvenile is fourteen (14) years or older and is adjudicated guilty of an offense which would be a felony if committed by an adult, the name, offense of which the juvenile was adjudicated and disposition of the court shall be subject to disclosure. Additionally, facts contained in any records of a juvenile maintained under chapter 5, title 20, Idaho Code, shall be furnished upon request to any school district where the juvenile is enrolled or is seeking enrollment.

(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, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(30) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative council by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

(31) All papers, physical and electronic records and correspondence or other supporting materials comprising the work papers in the possession of the office of the legislative 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.

(41) 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.

(42) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

Approved March 17, 1995.

CHAPTER 219
(H.B. No. 301)

AN ACT

RELATING TO TAX EXEMPTIONS; AMENDING SECTION 67-4917B, IDAHO CODE, TO EXEMPT SALES OF ROOMS BY THE IDAHO RONALD MCDONALD HOUSE FROM THE HOTEL/MOTEL SALES TAX; AMENDING SECTION 67-4711, IDAHO CODE, TO FURTHER DEFINE THE TERM SALE; AMENDING SECTION 63-36220, IDAHO CODE, TO PROVIDE A SALES TAX EXEMPTION FOR SALES TO, DONATIONS TO AND PURCHASES BY AND THE RENTING OF ROOMS BY, THE IDAHO RONALD MCDONALD HOUSE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-4917B, Idaho Code, be, and the same is hereby amended to read as follows:

67-4917B. HOTEL/MOTEL ROOM SALES TAX. The board shall have power and authority to levy a sales tax of not to exceed five per cent (5%) of the receipts derived by hotels and motels within the district from the furnishing of hotel and motel rooms, except no tax shall be imposed where residence therein is maintained continuously under the terms of a lease or similar agreement for a period in excess of thirty (30) days, and except that no tax shall be charged on the sale of rooms by the Idaho Ronald McDonald House. The levy and collection of said sales tax shall not be subject to the limitations or other provisions of sections 67-4913, 67-4914, 67-4915 and 67-4916, Idaho Code. The revenues received by the district from such sales tax shall be deposited in the depository of the district. Promptly following the adoption by the board of the resolution to levy such tax, the secretary of the board shall certify to the state tax commission that such levy has been adopted and shall state the effective date thereof and shall transmit to the commission a certified copy of such resolution. The effective date of any such levy shall not be earlier than the first day of the month not less than sixty (60) days following certification of such levy to the commission.

SECTION 2. That Section 67-4711, Idaho Code, be and the same is hereby amended to read as follows:

67-4711. DEFINITIONS. As used in this act, unless the context requires otherwise:

(1) "Campground" means any privately owned business which rents areas or places used for camping or parking campers, travel trailers, motorhomes or tents.

(2) "Council" means the state of Idaho travel and convention industry council.

(3) "Department" means the department of commerce.

(4) "Hotel/Motel" means an establishment which provides lodging to members of the public for a fee, and shall include condominiums, townhouses or any other establishment which makes a sale as herein defined.

(5) "Planning regions" mean those seven (7) districts which shall be designated by number and shall embrace the several counties as follows:

No. 1. The counties of Benewah, Bonner, Boundary, Kootenai and Shoshone.

No. 2. The counties of Clearwater, Idaho, Latah, Lewis and Nez Perce.

No. 3. The counties of Adams, Canyon, Gem, Payette, Washington, Ada, Owyhee, Elmore, Boise and Valley.

No. 4. The counties of Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls.

No. 5. The counties of Bannock, Caribou, Bear Lake, Franklin, Oneida, Power and Bingham.

No. 6. The counties of Clark, Jefferson, Fremont, Madison, Teton and Bonneville.

No. 7. The counties of Blaine, Camas, Lemhi, Custer and Butte.

(6) "Sale" means the renting of a place to sleep, to an individual by a hotel, motel, or campground for a period of less than thirty-one (31) continuous days. "Sale" shall not include the renting of a place to sleep to an individual by the Idaho Ronald McDonald House.

SECTION 3. That Section 63-36220, Idaho Code, be, and the same is hereby amended to read as follows:

63-36220. NONPROFIT ORGANIZATIONS. (1) There are exempted from the taxes imposed by this chapter sales to, donations to, and purchases by food banks or soup kitchens, sales of clothes to, donations of clothes to and purchases of clothes by nonsale clothiers, and sales to or purchases by hospitals, health-related entities, educational institutions, forest-protective associations and canal companies which are nonprofit organizations. As used in this subsection, these words shall have the following meanings:

(a) "Educational institution" shall mean nonprofit colleges, universities, primary and secondary schools, the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.

(b) "Hospital" shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions.

(c) "Health-related entities" shall mean the Idaho Cystic Fibrosis Foundation, Idaho Epilepsy League, Idaho Lung Association, March of Dimes, American Cancer Society, Mental Health Association, The Arc, Idaho Heart Association, Idaho Ronald McDonald House, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, Easter Seals, and Idaho Special Olympics, together with said entities'

local or regional chapters or divisions.

(d) "Canal companies" shall include nonprofit corporations which are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.

(e) "Forest protective associations" shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and suppression of forest or range fires. Forest protective associations shall include only those associations with which the state of Idaho has contracted or become a member of pursuant to chapter 1, title 38, Idaho Code.

(f) "Food banks or soup kitchens" shall mean the Idaho Foodbank Warehouse, Inc. and any nonprofit corporation or association one of whose primary purposes is the furnishing or providing of food or food products to others without charge.

(g) "Nonsale clothier" shall mean any nonprofit corporation or association one of whose primary purposes is the furnishing or providing of clothes to others without charge.

(h) "Clothes" shall mean garments in general, designed or intended to be worn by humans and shall include footwear in addition to wearing apparel.

(2) There is exempted from the taxes imposed in this chapter, the renting of a place to sleep to an individual by the Idaho Ronald McDonald House.

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

Approved March 20, 1995.

CHAPTER 220
(H.B. No. 198)

AN ACT

RELATING TO PROPERTY EXEMPT FROM TAXATION; AMENDING CHAPTER 1, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-105EE, IDAHO CODE, TO PROVIDE THAT REAL AND PERSONAL PROPERTY WHICH HAS BEEN DAMAGED BY AN EVENT CAUSING CASUALTY LOSS TO ALL OR A PORTION OF THE PROPERTY MAY BE EXEMPT FROM TAXATION ON A CASE BY CASE BASIS AND TO PROVIDE PROCEDURES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 1, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-105EE, Idaho Code, and to read as follows:

63-105EE. PROPERTY EXEMPT FROM TAXATION -- CASUALTY LOSS. The following property is exempt from taxation: real and personal property which has been damaged by an event causing casualty loss to all or a portion of the property. The board of equalization on a case by case basis shall determine whether to grant an exemption.

An exemption granted under this section shall be for all tax years in which the real or personal property have been destroyed and have not been replaced. Claimants seeking exemption under this section must apply to the board of equalization in accordance with the procedure prescribed in section 63-107, Idaho Code. If an exemption is granted, the taxes that shall be paid shall be upon those improvements for that portion of the calendar year in which they were in existence and usable. The tax imposed shall be an amount equal to the proportion of ad valorem taxes which would have been paid on the property had it been on the assessment rolls January 1 prorated for that portion of the calendar year for which the structure was in existence. For real or personal property to be granted an exemption pursuant to this section it shall not have been used by any person as a residence, it shall not have been used for any business or commercial purpose unrelated to the construction of the property or it shall not have been used for any possessory use for which the owner received any compensation or consideration.

The board of equalization may sit and grant such claim for exemption at any time within the limits allowed in this section, and if granted, either in whole or in part, shall order all necessary adjustments made in the tax records of the various county officers and taxing districts. The granting of an exemption for taxes which have become delinquent shall annul and cancel only those taxes exempted by order of the board of equalization, and all interest and penalty charges on such taxes.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval and retroactively to January 1, 1995.

Approved March 20, 1995.

CHAPTER 221
(H.B. No. 282)

AN ACT

RELATING TO JOINT COUNTY AND CITY HOSPITAL AUTHORITIES; AMENDING SECTION 31-3701, IDAHO CODE, TO AUTHORIZE THE CREATION OF A JOINT COUNTY-CITY HOSPITAL AUTHORITY BY AGREEMENT BETWEEN A COUNTY AND A CITY; AMENDING SECTION 31-3704, IDAHO CODE, TO PROVIDE FOR A BOARD OF TRUSTEES OF A JOINT COUNTY-CITY HOSPITAL AUTHORITY; AMENDING SECTION 31-3705, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT AND REMOVAL OF THE BOARD OF TRUSTEES OF A JOINT COUNTY-CITY HOSPITAL BOARD; AMENDING SECTION 31-3706, IDAHO CODE, TO PROVIDE FOR THE POWERS OF HOSPITAL BOARDS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-3701, Idaho Code, be, and the same is hereby amended to read as follows:

31-3701. ACQUISITION AND OPERATION AUTHORIZED. Any county and city located in such county are hereby authorized to create a joint county-city hospital authority, to jointly purchase, build, maintain and operate hospitals, hospital grounds, nurses homes, superintendent's quarters and any other necessary buildings and equipment, on such terms and paying for the same in such proportions as such governing bodies of such county and city may determine upon, and may jointly operate any hospital or hospitals which are separately owned by the county or the city as a joint county-city hospital authority. A joint county-city hospital authority may be created under this chapter by joint agreement approved by resolution of the board of county commissioners of the county and the city council of the city. A joint county-city hospital authority created under this chapter shall be an independent legal entity with the powers set forth in this chapter.

SECTION 2. That Section 31-3704, Idaho Code, be, and the same is hereby amended to read as follows:

31-3704. HOSPITAL BOARD. The management and operation of any hospital which is jointly owned by any county and city in this state may, by resolution of the board of county commissioners of such county and the city council of such city in all cases where both county and city are engaged in the joint operation of such hospital, and in other cases by resolution of either the board of commissioners of the county or the council of the city which is operating such hospital, be delegated to and vested in a board composed of five (5) electors of such county, to be known and designated as the "Hospital Board of County."

The management and operation of any hospital or hospitals jointly owned or jointly operated by a joint county-city hospital authority shall be vested in a board of trustees consisting of not less than five (5) nor more than ten (10) members, as shall be specified in the agreement between the county and city creating such joint county-city hospital authority, which board of trustees shall be appointed and shall be subject to removal in the manner set forth in section 31-3705, Idaho Code.

SECTION 3. That Section 31-3705, Idaho Code, be, and the same is hereby amended to read as follows:

31-3705. APPOINTMENT AND REMOVAL OF BOARD MEMBERS -- OFFICERS -- MEETINGS. In cases where the city and county are jointly operating such hospital, and where a hospital or hospitals are being operated by a joint county-city hospital authority, the members of said hospital board or board of trustees shall be appointed by the board of county commissioners and the city council in such manner as may be agreed between them, and where either county or city is alone operating the

jointly owned hospital, by the board of county commissioners of the county or the council of the city which is so operating the same. All members of the board shall be subject to removal at any time by the body appointing them, but unless removed shall hold office until the second Monday in the first month of the hospital's fiscal year next following the date of their appointment and until their successors are appointed and qualified; provided, that members of the board of trustees of a joint county-city hospital authority may be removed only for conviction of a felony, mental incapacity, failure to attend meetings of the board as required in the bylaws of the board, or other good and sufficient cause.

The officers of the hospital board shall be a president, secretary and treasurer and such other officers as the board shall designate, all of whom shall be elected by such board. The president must be a member of the board but the secretary and treasurer need not be. It shall be the duty of the secretary of the board to keep an accurate and complete record of all acts and proceedings of the board. It shall be the duty of the treasurer to have custody of all funds coming into the custody of the board and he shall perform such other duties as are herein specified, and he shall give bond in such amount as shall be fixed by the board in the same manner and on the same terms and conditions as required for the official bonds of county officers. All officers of the hospital board shall be subject to removal by said board at any time. The hospital board and any of its officers or members may be paid reasonable compensation as shall be authorized by the board and/or council authorized to appoint the members of the board.

Meetings of the hospital board shall be held at such time and place and under such rules and regulations as the board may establish. A majority of the board shall constitute a quorum for the transaction of business, and a majority vote of the members present at any meeting properly called shall govern as to all questions coming before the meeting.

SECTION 4. That Section 31-3706, Idaho Code, be, and the same is hereby amended to read as follows:

31-3706. POWERS OF HOSPITAL BOARD -- EXPENSES OF OPERATION. All hospital boards, including boards of trustees of joint county-city hospital authorities, so appointed are authorized, subject to such special regulations as may be from time to time imposed by the county commissioners and/or city council appointing said board, or, in the case of joint county-city hospital authorities, as may be provided in the agreement creating such authority:

1. To take entire charge of and run, manage and operate the hospital for which they were appointed.

2. To promulgate such rules and regulations for the management and operation of such hospital and the conduct of its business and the business of the board as they may deem expedient, not inconsistent with law or the special regulations imposed by the county commissioners and/or city council appointing the board, or, in the case of a county-city hospital authority, with the agreement creating such authority.

3. To employ such persons as they may deem necessary for or in

the operation of said hospital and/or the conduct of the business of the board, to fix their compensation and to discharge them at pleasure.

4. To collect and receive all funds accruing from the operation of said hospital and all those appropriated or provided for the management, operation and/or conduct thereof by the city and/or county, and all such funds shall be paid over to the hospital board and held and disbursed by it as herein provided.

5. To exercise such other powers as the appointing authority may delegate to the board.

Said hospital board shall allow and pay all expenses for the management, maintenance and operation of said hospital and the expenses of said board from such funds or any other funds in said board's control, without allowance by either the board of county commissioners or the city council, but no funds in the custody of said hospital board or its treasurer shall be paid out except on order of such hospital board, and said board shall not, without special authorization of the board of county commissioners, create any debt or debts chargeable against the county, nor without special authorization of the city council create any debt or debts chargeable against the city, exceeding in the aggregate the total of the cash in the custody of the hospital board and the appropriations previously made by the city and/or county, available for the payment thereof.

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

Approved March 20, 1995.